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HOW WOULD MILLIONS OF GUEST WORKERS IMPACT WORKING AMERICANS AND AMERICANS SEEKING EMPLOYMENT?

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

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HOW WOULD MILLIONS OF GUEST WORKERS IMPACT WORKING AMERICANS AND AMERICANS SEEKING EMPLOYMENT?

WEDNESDAY, MARCH 24, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:04 a.m., in Room 2141, Rayburn House Office Building, Hon. John N. Hostettler (Chair of the Subcommittee) presiding.

Mr. HOSTETTLER. The Subcommittee will come to order.

There has recently been much discussion of the creation of an expansive new guest worker program to meet the needs of employers for low-skilled workers. A number of plans have been proposed that would allow the employers of the estimated 5.7 million illegal aliens working in the U.S. to sponsor the aliens for guest worker status. In addition, the plans would allow employers to import, as guest workers, an unlimited number of aliens living outside the U.S. who could work in any occupation as long as they were paid at least the minimum wage.

This hearing will consider the impact that such mass guest worker programs could have on American workers and unemployed Americans. We already have evidence of the impact that low-skilled immigration has had on American workers. Harvard's George Borjas estimates that the immigrant influx since 1980 has decreased the wages of the average native worker by 3.2 percent and the average native worker without a high school degree by 8.9 percent. Steve Camarota from the Center for Immigration Studies estimates that current immigration policy has resulted in a reduction of the average wage of a native worker in a low-skilled occupation by 12 percent or a little over $1,900 a year.

Think just of teenagers. The Boston Globe recently ran an article finding that, quote, for people of all ages, the current U.S. job market is a tough one. For teenagers, it is brutal. The weak economy has forced adults to seek the low-skill, low-wage jobs that teens usually occupy. On top of that, a continuing inflow of immigrants has created still more competition at the bottom of the job market. The net result? Teenagers are being elbowed aside.

The youth labor market is in a depression, said Neil Sullivan, president of the Boston Private Industry Council, a group that finds jobs for young people. According to a new study by Andrew

Sum, a professor at the Center for Labor Market Studies at Northeastern University in Boston, the percentage of 16- to 19-year-olds holding jobs in the United States is the lowest it has been since the Government began tracking statistics in 1948. For middle class youth, having no job may mean there is less money for clothes and cars. For poor teenagers, the loss is more serious, end quote.

One could say that wages for American workers have already been depressed as a result of competition with millions of illegal alien workers and that legalizing the illegal aliens would have no further negative effect. This would be a plausible argument if one has forever given up on returning these illegal aliens to their homes.

Of course, we have an untried alternative: simply to enforce employer sanctions that would, year-by-year, brighten the prospects for American workers. But put amnesty aside, for example. A guest worker program would accomplish much more than legalizing illegal aliens. It would also allow employers to fill literally every job vacancy in America with aliens as long as they could find prospects abroad who would accept the minimum wage, while American workers refuse to work for such a sum.

And it would allow those same employers to dismiss any American worker who was unwilling to work for $5.15 an hour. Suddenly, American workers would be faced with the prospect of hundreds of millions of new potential replacements. Most threatened are the almost 12 million native-born workers who do not have high school degrees plus the millions of such Americans who are unemployed or who have abandoned the work force altogether.

But many more are at risk. Although we are told that native born Americans won't work in service jobs, 79 percent of the 23 million workers in such jobs are native-born Americans. Although we are told that native born Americans won't work in construction jobs, 81 percent of the 6 million workers in such jobs are native-born Americans. Although we are told that native-born Americans won't work in production jobs, 77 percent of the 10 million workers in such jobs are native-born Americans.

How many of these native born workers will lose their jobs to recruits from abroad if we create a massive guest worker program? Currently, 90 percent of workers in service jobs, 99 percent of workers in construction jobs and 99 percent of workers in production jobs earn more than the minimum wage. How many of these workers will lose their jobs to recruits from abroad or be forced to accept drastically lowered wages if we create a mass guest worker program?

We might see more and more occupations suffer the fate of meat packing. A few decades ago, meat packing jobs were some of the highest-paying blue collar jobs around. I think we can all remember Sylvester Stallone working in a Philadelphia meat packing plant as he trained to take on Apollo Creed. But today, meat packing jobs are not only low-paying but they are also some of the most dangerous jobs in America. Not coincidentally, this has been accompanied by a large flow of immigrant workers.

Can we at least be sure that in times of recession, guest workers will have to go home before American workers will lose their jobs? Not if we rely on the experience of the economic downturn that

started in 2000. From 2000 to 2003, the number of employed native-born workers dropped by 769,000, while the number of employed foreign born workers increased by over 1.6 million. American workers, it seems, bore the brunt of the recession.

Before we embark on the journey toward a mass guest worker program, let us view the destination through the eyes of those it is our job to protect.

At this time, I would like to recognize that the Ranking Member, Sheila Jackson Lee, is actually going to be managing a bill on the floor of the House very shortly, and that is why she was absent, but the Chair will recognize her when she returns for her opening statement.

At this time, the Chair recognizes, on the minority side, Ms. Sánchez or Mr. Berman for an opening statement.

Mr. BERMAN. Well, I don't have a prepared opening statement, but as I heard the Chairman's opening statement, there are certain ironies that I can't help myself but pointing out.

I'm not a big fan of guest worker programs. But as I listened to the Chairman cite the statistics regarding the displacement of U.S. workers, the thing I did not hear him say was this had nothing to do with guest worker programs. I find it interesting when the people who are most—where you start sort of shapes how you define this issue. People who oppose increases in the minimum wage law, extension of unemployment insurance benefits, stripping overtime pay from large numbers of people, have generally been hostile to efforts to reform and strengthen our labor laws to enhance the power of workers to attain better wages bemoan the role that guest worker programs play in depressing wages and displacing U.S. workers from jobs, notwithstanding their opposition to all of the legislative efforts that I just mentioned.

On the same—and the other irony is that some of the people who are most strongly supporting guest worker programs never want to acknowledge the potential that it has not simply for filling urgent labor needs where there are shortages but in actually displacing and deterring people in the United States from taking those jobs, even as they advocate those programs on behalf of workers generally.

The fact is, if you have meaningful enforcement, one could structure guest worker programs very readily to deal with situations where there are key labor shortages and provide the kinds of protections that ensured that employers were not incentivized to go to guest workers before they exhausted the supply of U.S. workers, but the people who oppose guest worker programs never entertain the idea of supporting meaningful protections in the guest worker programs that exist now.

And the fact is that a relatively small number of workers in the U.S. come from legal guest worker programs. The issue of job displacement has essentially hardly anything to do with the existing guest worker programs, and I just find it interesting to hear the concern about the plight of U.S. workers expressed by people opposed to the Administration's proposal and others—and I have my own very strong concerns about what I view as the ineffectiveness of the Administration's proposals, but and then are so hostile to any efforts to try and protect U.S. workers.

And with those comments, I'll yield back.

Mr. HOSTETTLER. I thank the gentleman.

The Chair now recognizes the gentleman from Arizona, Mr. Flake, for an opening statement.

Mr. FLAKE. I thank the Chairman.

I just want to register my objection, to begin with, with the structure of this hearing. We have hearing after hearing on the immigration issue, and unless the minority party is able to get somebody who has a different opinion, those of us in the majority party who have a differing view aren't really represented or don't have witnesses to actually speak to other parts of the issue.

And so, I feel that we're not going to hear a representative view today; the title of the hearing, "How would millions of guest workers impact working Americans and Americans seeking employment," sounds like an ominous kind of warning about what's going to come. And I have to tell you, it's already here. Those who worry about the Bush plan and those who call it an amnesty, which it is not, are not recognizing that we have a de facto amnesty at present. Once you get past the border, and I can say that from an Arizona perspective, you are home free.

We have a situation where the border leaks heavily still, but it only leaks one way. It used to be that the average stay of a migrant worker in Arizona was about 2 years; now, it's about 10, because it is tough to cross that border. It is expensive. It is dangerous. And they figure I only want to do it once, and they come and stay, and they typically now bring their families, which imposes huge costs on the State of Arizona and its taxpayers in health care and education and criminal justice.

We will never enforce the law like we need to do unless we recognize that we have the need for labor. I just want to take issue with a few things said. We were told that native-born Americans will not take work in construction or in the hospitality industry or in agriculture. I don't think we've ever been told that. I mean, I grew up in agriculture. I took that job when it was forced upon me, at least.

But there are a lot of native-born Americans. The problem is there aren't a sufficient number of them. And anybody who speaks to contractors and others in Arizona will find that out very quickly: the restaurant association and the construction trades, there simply aren't a sufficient number of Americans willing to take those jobs. And it's not because they're minimum wage jobs. Few of them are. In fact, some of them are paying much higher, double, triple the minimum wage and still have difficulty filling those jobs.

Under the guest worker plan, the temporary worker plan that myself and Congressman Kolbe and Senator McCain have offered, it would protect American workers in that in order to have somebody come in on what we call an H–4A visa, the employer would have to pay a $500 fee in order to be able to import somebody. That is a pretty good deterrent against importing somebody, I would believe, and the employers that I talked to would all much rather have a native-born American fill those jobs if they can do it.

So there is plenty of deterrent there from doing it. I just do not accept the premise that there are some people will say, well, there are 10 million unemployed, and there are 10 million foreign work-

ers in the country. Do the math; just replace one with the other. That assumes that it is the Federal Government's job to say to an unemployed school teacher in Maine, you have got to go roof houses in Arizona or an unemployed mill worker in Ohio to say you've got to go pick lettuce in Yuma.

It is just—unless you accept that that is the Federal Government's role, then, you are going to have pockets with labor shortages at different times, and we ought to have a program, and I believe the President's plan is a step forward in the right direction in actually addressing that, to actually recognize that we're not going to enforce the law until we recognize we need a law that can be reasonably enforced.

Enforcing employer sanctions at the moment is like trying to enforce a 20 mile an hour speed limit on a freeway. You're simply not going to do it. We do not have the political will or wherewithal to do it. And unless we get a law reasonable enough to enforce, we're not going to enforce the law, and so, that's why I say let's recognize that we have a need, and that's what I want to hear from the witnesses today: is there a recognition that there is a need, or are we just simply going to dismiss that and say hey, we're going to deport everybody who's here?

Some worker who has been in the country for a couple of years who has kids that are born here who can legally stay, are we going to send them back to Guatemala or El Salvador or Mexico? And with the child here, are we really going to do that? Absent that, what is the solution? What can we do?

So I would like to hear some real solutions and not just explanations of the problem; believe me, coming from Arizona, we know the problem. We're paying for it disproportionately. Our citizens are taxed heavily to do so. So we have got to find a solution, and that is what we are looking for, and with that, I would yield back.

Mr. HOSTETTLER. The gentleman's time has expired.

In response to the gentleman, I have spoken about the issue of this hearing and the perspective of the majority witnesses; however, I will note that it is my observation of the other chamber's proceedings and the emanations from the Administration that I am not sure that the other perspective is not represented in the debate today, and so, it is my desire here to potentially be a voice crying out in the wilderness with another point of view.

That being said, the Chair now recognizes the gentleman from Utah. Oh, I am sorry; the gentleman from Michigan, the Ranking Member of the full Committee wish to be recognized?

Mr. CONYERS. Thank you, Mr. Chairman.

I won't delay the witnesses. I've been told there have been some very excellent opening statements. And I've never done this before, but I'd like to associate myself with the remarks of Mr. Flake. I hope it does not—— [Laughter.]

Mr. CANNON. Would the gentleman yield? Because I would like to associate myself with the remarks of Mr. Flake as well, and it is good company; thank you.

Mr. CONYERS. Right, because this is an issue that smashes together some very important and different considerations, and it's an enormous task, and I think that he's looking at it from the point

of view of the importance of separating them out, and that's what I'm trying to do as well.

Immigration, our domestic economy, where this new plan of letting everybody in for 3 years and seriously expect them to leave is a real test on our powers of belief. And so, I come to this with this one consideration to the witnesses: You know, we have an agricultural system that calls for everybody in the world doing the dirty work but us. We don't want to pay them. We don't want them, sure, to stay in town. Please leave as soon as you've done the stoop labor.

And of course, we're not really that happy to make you citizens. And we have an agriculture, one of the biggest subsets of our economy, that's dependent on all, mostly, immigrant labor. And it presents several different kinds of problems that you can't solve by one quick happy bill to fit everybody. And I hope the distinguished witnesses will keep this in mind as we go forward.

And I thank the Chairman for allowing this intervention.

Mr. HOSTETTLER. I thank the gentleman.

The Chair now recognizes the gentleman from Utah, Mr. Cannon, for 5 minutes for an opening statement.

Mr. CANNON. Thank you, Mr. Chairman.

May I inquire, do we expect to do a couple of rounds of questioning today?

Mr. HOSTETTLER. Yes.

Mr. CANNON. Great; thank you.

Let me just point out that the Chairman talked about a lot of statistics relating to jobs, and I'd like to share an anecdote from my district to point out that we do not live in a statistical world; that individuals make individual decisions with individual opportunities, and so we actually sort of live in an anecdotal world as opposed to a statistical world.

I have a dairy that was in my district before it was redistricted, but I still stay in touch with these folks, and I was visited the other day by—in fact this is several months ago—by the owner of the dairy who told me that he is—actually, I raised the topic, because I wondered what was going on in our labor markets in Utah, and I asked him how much he paid, and he said, well, we pay $12 cash, but with benefits and housing, our cost per employee is about $18 an hour.

That was a pretty stunning number. And so, I have been accosted at least three times by mothers who are complaining about their sons not being able to get jobs. I suppose daughters are not part of the equation when it comes to immigration. But in any event, I have pointed out to all three of these women that there is a job nearby that pays essentially $18 an hour.

I have not had one of them respond that—in fact, I know that none of their sons have tried to get a job there. I suspect that's because working in a dairy is actually hard work. We have about 650,000 farms in the United States that hired labor, and $1 of every $8 of farm production expenses is spent on hired labor. We have approximately 2.5 million people working in the United States who are engaged in hired agricultural work, and conservative estimates are that 65 to 75 percent of them are in the U.S. illegally.

We have a legal program, the H–2A program, for admitting and employing aliens in seasonal agricultural jobs in the United States, and it's currently employing about 30,000 workers. There is something radically wrong with this picture. We have an illegal guest worker program that is providing nearly three-quarters of the agricultural labor employed in this country and a dysfunctional legal guest worker program that is providing less than 2 percent, or fewer than 2 percent, of the agricultural labor that is employed in the country.

There are more than three times as many Americans with good jobs in agriculture and in the up and downstream jobs, food processing, transportation, farm credit, et cetera, supported by American agriculture than there are illegal aliens employed in U.S. agriculture. These are the working Americans and Americans seeking employment who will be adversely affected by the failure of this Congress to enact the agricultural labor and guest worker reform.

Their jobs or the prospect of getting jobs are dependent on our fixing this broken system and preserving agricultural production in this country. I will submit for the record a statement that discusses in detail the impact of guest workers on agriculture and American agricultural jobs and why it is essential that we enact H.R. 3142, Ag Jobs, the agricultural immigration reform legislation that I have introduced.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. HOSTETTLER. I thank the gentleman.

The Chair now recognizes the gentleman from Iowa, Mr. King, for 5 minutes for an opening statement.

Mr. KING. Thank you, Mr. Chairman.

I sincerely appreciate your holding this hearing today, and I want to tell you that I support an immigration policy that are designed to enhance the economic, the social, and the cultural wellbeing of the United States of America. That should be the purpose for immigration policies. And I cannot and will not support a guest worker program that gives mass amnesty to people who violate our immigration laws.

Immigrants have made and will continue to make valuable contributions to our nation. I will work to develop an immigration policy that aids in the assimilation of newcomers by ensuring that the United States does not admit more immigrants than it can reasonably accommodate and assimilate.

Assimilation is valuable to immigrants as much as it is to the native-born Americans. Immigrants benefit from our shared American culture of personal responsibility, freedom and patriotism. The values shared by our civilization, founded on a heritage of Western civilization, religious freedom and free enterprise capitalism serve immigrants and native born alike. I'm concerned that the recent rise in immigration levels in this country will make it difficult for newcomers to assimilate and to find jobs, but we must assure cultural continuity for our great nation. That's the key word is cultural continuity.

I believe we must enforce immigration laws currently on our books rather than hold out the prospect of legal status or citizenship to immigrant lawbreakers. We must increase immigration law enforcement not only at our borders but in our interior, and we

must make it more costly for lawbreakers to disregard our immigration laws. It is unjust to reward people who break our immigration laws and while many potential immigrants outside the United States are waiting to be admitted to the United States lawfully.

If we allow people who break rules by entering the United States illegally to go to the front of the immigration line, it's a slap in the face to law-abiding immigrants and potential guest workers. I owned and operated a construction business for over 28 years and met payroll for over 1,400 consecutive months, and I empathize with the plight of employers who do all they can to comply with the laws but must compete with businesses who do not obey the laws, businesses who hire illegals and thus gain an additional competitive advantage.

We've got to give employers the tools they need to find out whether a potential employee is allowed to work in the United States, and we must make sure that any temporary guest worker program is effective. Finally, we must give some relief to employers who comply with our immigration laws but are constantly disadvantaged by competitors who do not.

Now, in the construction industry, in the agricultural industry, I look, too, and I see that there are jobs, as Mr. Flake said, that there's hardly you can describe that some Member of Congress has not done; not always by choice but some by assignment. And there is a preference by employers for illegals, because illegals aren't going to cause you the problems. They're not going to go and file a lawsuit, and they are not going to raise an employment problem, and they are not going to have a bad back on certain days.

They're not going to take those days off and game the system. And so not only are they cheaper to hire, but they're cheaper to maintain. And that is an advantage that is just a common calculus. This is a free enterprise economy. That's why it is that way. I'm not blaming the employers. I am blaming the policy that we have out here and our unwillingness to enforce the policy. So it's the market's job to attract employees. I remember a situation, a story written in Milwaukee some years ago, about six blocks by six blocks, 36 square blocks, where there was not a single employed male head of household. Those people had moved up from the South, and 30, 40, 50 years ago to take the brewery jobs in Milwaukee, and when those jobs disappear, they find themselves unemployed and living there.

But because we have a system that funds people who stay in those homes, they did not migrate then and take the next wave and go where the jobs were. The market has got to attract people, and we should not be attracting them at a cheaper rate from a foreign country and ignoring our laws.

And by the way, where I come from, we had 11 illegals who died tragically in a train car that arrived at Denison, Iowa. And that affected our entire community and our entire State in the Midwest, and it affects the policy in the United States. And the people who go out and move illegals into this country and profit from it are the most despicable variety of criminal. And we have a circumstances, when we deal with coyotes, where I come from, we just skin them.

So, thank you, Mr. Chairman.

Mr. HOSTETTLER. I thank the gentleman.

The chair now recognizes the gentlelady from California, Ms. Sánchez, for an opening statement.

Ms. SÁNCHEZ. Thank you.

And I thank the Chairman and the Ranking Member for convening another Subcommittee hearing to examine an important issue that is related to immigration. Today, we are going to be looking at the issue of how guest workers impact American workers and Americans looking for jobs. And it is interesting because this hearing brings together two issues that are extremely important to me, immigration and labor.

I believe that hardworking law-abiding people who immigrate to this country should have every opportunity to work so that they can provide for their families, and if they choose to, to America their new home. I also feel that undocumented immigrants who have been in this country for years contributing to American businesses and to our economy should have a chance to earn legal status and a stake in this country so that they can contribute to the United States permanently.

I just want to remind everybody here that we should not forget that immigrant labor is what helped to build this country and what continues to help build our economy. Obviously, however, American workers helped build and sustain this country as well. You will not find a stronger advocate for American workers than myself. I'm a proud member of the International Brotherhood of Electrical Workers, and I'm a co-chair and founding member of the Congressional Labor and Working Families Caucus.

Simply put, I fully support American workers and want their jobs and their families to be protected. I am confident that we can create a guest worker program that makes sure that American jobs are secure and also lets law-abiding immigrants work toward earned legalization in this country. As this Subcommittee and this Congress work on immigration reform and specifically guest worker reform, we have to take the rights and the needs of both immigrant workers and American workers into consideration.

The enhanced temporary worker program that is part of the Democratic principles on immigration reform accomplishes these goals. The Democratic principles create a guest worker program that lets immigrant workers move back and forth between their home country and the United States so they can fill open job opportunities and provide for their families. The Democratic guest worker program will also protect the immigrant workers from abusive employers, exploitation and unfair wages, and this is extremely important because if shady employers can abuse immigrant workers, it undermines the labor conditions for American workers as well and makes it easier for employers to demand that they accept lower wages and poor working conditions.

Another way to protect American workers is to make the guest worker program market-focused so that U.S. workers do not lose their jobs. All of these concerns must be addressed to have a guest worker program that benefits immigrants and protects American workers. We must remember that the guest worker program has to be part of the comprehensive immigration reform plan that lets immigrants work their way to legal status and also lets immigrant families stay together.

We need to completely overhaul our immigration system and guest worker laws to improve the labor market system so that it can help foster growth in jobs and the economy. I look forward to hearing from the witnesses today, and I thank them for taking the time to come to testify before the Subcommittee and answer our questions. I hope they can find ways to create a workable, enhanced guest worker program that benefits both immigrants and American workers. And I yield back the balance of my time.

Mr. HOSTETTLER. I thank the gentlelady.

The Chair now recognizes that Members of the Judiciary Committee are managing bills, managing legislation on the floor of the House of Representatives. As a result of the rules of the Committee, the Subcommittee must, for the time being, recess subject to the call of the chair until such time as the Judiciary Committee has ended its management of legislation on the floor of the House.

I apologize to members of the panel and Members of the Subcommittee. My understanding is that this will not be a very long recess, but we will have to recess for the time being. And we will contact all of you when we will reconvene.

The Subcommittee is in recess.

[Recess.]

Mr. HOSTETTLER. The Subcommittee will come to order.

At this time, the Chair recognizes the gentleman from Texas, Mr. Smith, for 5 minutes for an opening statement.

Mr. SMITH. Thank you, Mr. Chairman.

I ought to say at the outset that earlier in the day, before we started the hearing, you were discouraging opening statements. But it is sort of like the border: once you start crossing that threshold, there is almost no stopping all the Members of Congress. [Laughter.]

Mr. Chairman, what I'd like to do is to thank you for having this hearing, which I consider to be one of the most important we've ever held, and I say that because it involves not only immigration policy, but it involves American workers' jobs and the wages that they receive, and I think nothing could be more important than that subject.

While the hearing itself is not specifically on the Administration's guest worker program, clearly, that is inferred by the subject of the hearing. So I just wanted to say briefly again what the Administration guest worker program involves that so concerns many of us. First of all, the Administration has proposed a guest worker plan that opens up every job in America, not just ag jobs, not just low-skilled jobs, but opens up every job in America to foreign workers, foreign guest workers. Everything from a high tech job to an ag worker job only has to be paid the minimum wage in order for them to be eligible for any job in America.

And I find that a little scary. An employer, supposedly, has to make an effort to try to find an American worker, but we do not know what is required by that effort. We don't know if it's a bona fide effort or not, but we do know that it would be very easy for an employer to say, well, I cannot find anybody here, so I am going to take the other route, which is cheap foreign labor, and I think that's the great temptation.

Another aspect of the Administration's plan concerns me, and it is this: that they have said in a briefing, after the Administration unveiled their guest worker program, that if you already are hiring illegal immigrants, you don't have to make an effort to find an American for those jobs. That is also scary when it comes to worrying about American jobs and American wages.

It seems to me that given that any job is now eligible; that you only have to pay the minimum wage; that unless we repeal common sense and the law of supply and demand, you are inevitably going to displace American workers and depress American wages, and that should be unacceptable to any policy maker in America.

We really have two choices, Mr. Chairman. We can either give up, surrender, or we can enforce the law. And the analogy that I like best is that if we were living in a house that was regularly burglarized; say, every month, our house is broken into, well, we can leave the front door unlocked, or we can pass out keys to the would-be burglars or we can get better locks and ask the police to patrol the neighborhood a little bit more frequently.

I think we should do the latter. I think we should enforce the law, not give up, not surrender and, in effect, open up every job in America to anybody who is willing to work for a minimum wage.

Lastly, Mr. Chairman, I find it interesting if not ironic that many of the individuals who support guest worker programs otherwise often profess to be on the side of low-income workers and minorities. And yet, almost every study that I am aware of by conservative or liberal think tanks have said that it is exactly those workers, the minorities and the low-skilled workers, who are disproportionately and adversely impacted by guest workers. So I am surprised by the position that some individuals take in support of the guest worker programs when, in effect, the people that they profess to care the most about are the ones that are most often hurt.

Mr. Chairman, that is enough said; and I'll yield back the balance of my time.

Mr. HOSTETTLER. I thank the gentleman.

The Chair will now introduce members of the panel before us.

Mark Krikorian is currently the executive director of the Center for Immigration Studies, a nonpartisan research organization devoted exclusively to research and policy analysis of the economic, social and other impacts of immigration on the United States. Mr. Krikorian frequently testifies before Congress and has published articles in the Washington Post, the New York Times, Commentary, National Review and other publications.

He has also appeared on 60 Minutes, Nightline, the News Hour with Jim Lehrer, CNN, National Public Radio and many other television and radio programs. Mr. Krikorian holds a master's degree from the Fletcher School of Law and Diplomacy and a bachelor's degree from Georgetown University. Before joining CIS in 1995, Mr. Krikorian worked in the editorial and writing fields.

Dr. Frank Morris presently serves as the chairman of the board for the Diversity Alliance for a Sustainable America. Dr. Morris had a distinguished career in academia and was most recently a visiting professor of social sciences at the University of Texas at Dallas. In 1995, Dr. Morris retired as the dean of graduate studies

and research at Morgan State University in Baltimore, Maryland. He was involved in development for historically black colleges and universities' graduate programs.

Dr. Morris has also worked in various nonacademic capacities, including experience as executive director of the Congressional Black Caucus Foundation and as a senior foreign service officer at the U.S. Agency for International Development. Dr. Morris received his B.A. with high honors from Colgate University, a master's in public administration from the Maxwell School at Syracuse University, and a Ph.D. in political science from the Massachusetts Institute of Technology.

Roy Beck is the executive director of the NumbersUSA Education and Research Foundation. Mr. Beck is founder of the NumbersUSA Foundation and was labeled as, quote, one of the five leading thinkers in the national immigration debate, end quote, by the Houston Chronicle. He has authored four public policy books and has contributed to many major newspapers. Mr. Beck's career in journalism spanned three decades and won him nearly two dozen awards, including a citation from the Encyclopedia Britannica for one of the five most important writings of 1994 with his investigative report, Ordeal of Immigration in Wausau.

Roy Beck was formerly chief Washington correspondent for Booth Newspapers. Mr. Beck received a Bachelor of Journalism from the University of Missouri School of Journalism.

Muzaffar Chishti is director of the Migration Policy Institute or MPI, offices at New York University School of Law. He focuses on U.S. immigration policy and its relation to labor and immigration laws, civil liberties and immigrant integration. Prior to joining MPI, Mr. Chishti was director of the Immigration Project of the Union of Needle Traders, Industrial and Textile Employees. Mr. Chishti has testified extensively on immigration and refugee legislation and, in 1992, assisted the Russian parliament as part of a U.S. team in drafting Russian legislation on immigrants and refugees.

For his efforts, he was awarded the New York State Governor's Award for Outstanding Americans in 1994, and he is also a 1995 recipient of the Ellis Island Medal of Honor. Mr. Chishti studied at St. Stephen's College in Delhi, the School of Law at the University of Delhi, Cornell Law School and the Columbia School of International Affairs.

Gentlemen, thank you for your appearance today. Without objection, all of your written statements will be entered into the record, and Mr. Krikorian, you are recognized for 5 minutes for an opening statement.

STATEMENT OF MARK KRIKORIAN, EXECUTIVE DIRECTOR, CENTER FOR IMMIGRATION STUDIES

Mr. KRIKORIAN. Thank you for the opportunity to appear before the Committee.

I want to address some of the assumptions that underlie guest worker programs, not any specific legislative proposal. And I am going to examine three assumptions, but let me first start with one that I'm not going to examine and that is that guest workers will actually go home. Nothing in human history contradicts the insight

that there is nothing more permanent than a temporary worker, and this is why none of the guest worker programs before Congress really even pretends to be a temporary worker program; rather, they are simply avenues for permanent immigration.

The three assumptions I want to examine briefly are these: first, that immigration is an unstoppable force that we have to accommodate one way or another. The second assumption that underlies support for guest worker programs is that foreign workers are essential, because there is work that won't be done without them. And third is the assumption that the Federal Government actually has the capacity to properly manage whatever kind of guest worker program we put into effect.

Let me begin with the first one: Is immigration inevitable? Is it really like the weather or the tides that we have to accommodate, either ignoring it, and it will come in illegally, or deal with it in a legal way and turn it into a guest worker program. The fact is that immigration is not like the weather. It is not an inevitable force. People usually discuss immigration in terms of pushes and pulls, poverty in the sending country, prosperity and liberty in our country.

But the fact is that something has to connect those two countries. There have to be networks. Nobody wakes up in Timbuktu and says this morning, I will move to Buffalo. People go where they have relatives, where they have friends, where they have connections, and Government policy creates those connections. Specifically with regard to Mexico, the Bracero Program, which was the guest worker program we ran for about 20 years starting in World War II set in motion, created the networks and set in motion the illegal immigration that we have been dealing with ever since. The IRCA amnesty of 1986 refreshed and expanded those networks, and the Federal Government's abandonment of interior immigration enforcement has again further strengthened those networks that cause immigration.

And the result is that the Mexican immigrant population has grown from 800,000 in 1970 to 10 million today. And in dealing with that, I will be happy to elaborate on in questions, we can in fact control this through attrition, through ordinary law enforcement causing the illegal population to shrink over time rather than look at only the two options of amnesty or mass roundups.

The second assumption is that immigrants do jobs that Americans won't do is the way it is usually put, although I appreciate Congressman Flake's insight that there in fact is no such thing as a job that an American won't do; that there are some 17 million Americans of working age who have less than a high school education.

But the fact remains, as Mr. Flake said, that a teacher in Maine is probably not going to be doing roofing in Arizona, if that's what happens. So the question is what happens if we don't have a guest worker program and we do enforce the immigration laws? And employers would respond in two ways: one, they would increase wages, benefits and change working conditions to get more people to work for them, and that would have a significant effect. The other thing they would do is find ways of making their existing

workers more productive, so that a smaller number of workers would be able to do more work.

I would commend to you a story in the New York Times, the front page of the New York Times Monday which described this process in agriculture, and the reverse of this is very important to keep in mind, and that is that immigration, high levels of immigration, whether it is illegal immigration or guest worker programs, actually slow the process of productivity improvements, such that a guest worker program, whether it's illegal immigration, which is a kind of de facto program, or a formal guest worker program is actually a threat to the long-term viability, the long-term competitive position of American business, and this is not merely in agriculture.

In garment manufacturing, for instance, Southern California Edison did a report about how apparel manufacturers in Southern California had become inordinately dependent on cheap labor. And this had caused them to ignore investments in technology that even their low cost competitors overseas were making. So a guest worker program is potentially a serious threat to American business.

And the third assumption is administrative feasibility, that the Federal Government, regardless of the economic and other arguments, that the Federal Government actually has the ability to manage a guest worker program properly, and this clearly does not exist. The immigration authorities have a backlog of more than 6 million applications of various kinds they have to deal with. This backlog has increased by some 60 percent just in 2 years. The immigration service is being instructed by this body, and appropriately so, to implement vast new tracking systems for foreign visitors and foreign students.

There is a reorganization process where the new Homeland Security Department is still being put together. And the Labor Department would have to manage any worker protections or wage protections which would end up in any guest worker program, which would inevitably be there in anything that was passed.

The fact is that none of those things could be managed properly by an overwhelmed agency, and the result would be massive fraud, as we saw with a similar vast program managed by an overwhelmed agency, the INS, in the amnesty in 1986, which gave legal status to Mahmud Abouhalima, an illegal alien in New York who applied for and got a green card, something the immigration service was not really able to vet and prevent because it was overwhelmed.

And the result was not just Mr. Abouhalima but dozens of terrorists have used our overwhelmed immigration system to enter the country. Now, the existence of an illegal alien terrorist does not delegitimize immigration as such, but what it tells us is that our mechanism for controlling and screening immigration simply is not up to the job, and a guest worker program would, and I say this as a certainty, and please quote me, it is guaranteed to admit terrorists into the United States because of our administrative incapacity.

I've gone over time. I will be happy to take questions.

[The prepared statement of Mr. Krikorian follows:]

PREPARED STATEMENT OF MARK KRIKORIAN

Thank you, Mr. Chairman and members of the subcommittee, for the opportunity to speak before you. Rather than discuss the many specific guestworker proposals that have been introduced in this Congress, I'd like to take this opportunity to examine some of the premises underlying guestworker programs in general. In other words, what things must be true in order for a guestworker program to be advisable? If those things are not true, then the adoption of a guestworker program would be a mistake.

There are many premises or assumptions behind support for a guestworker program, but I will examine only three of the more important ones. I will not examine the assumption that guestworkers will actually return home; every example in human history has shown that to be false, because there is nothing more permanent than a temporary worker. It is perhaps for that reason that none of the guestworker programs before Congress even pretends to be a temporary worker program; instead, all of them provide for permanent immigration.

The assumptions I will examine are three: 1) Immigration is an unstoppable force that we have to accommodate one way or another; 2) Foreign workers are essential because there is work that simply cannot be done without them; and 3) The federal government has the capacity to manage a guestworker program properly.

IS IMMIGRATION INEVITABLE?

The bedrock assumption underlying the debate of the last several years over guestworker programs is that the flow of workers from Mexico and elsewhere is unstoppable—a natural phenomenon like the weather or the tides, which we are powerless to stop. Therefore, it is said, managing the flow in an orderly and lawful manner is preferable to the alternative. As one observer recently said, "The mission to Mars is probably easier than the attempt to control the border."

On the surface, the flow of Mexican immigration, in particular, may indeed seem inevitable; it is very large, rapidly growing, and spreading throughout the country. But a longer view shows that this flow has been created in large part by government policies, both in the United States and Mexico. And, government policy having created the migration flows, government policy can interrupt the flows, though a social phenomenon like this is naturally more difficult to stop than to start.

Migration is often discussed in terms of pushes and pulls—poverty, corruption, oppression, and general societal dysfunction impel people to leave their homelands, while liberty, high wages, and expanded economic and social opportunities attract people to this country. While true, this analysis is incomplete because it overlooks the connection between the sending country and the receiving country.

No one wakes up in Timbuktu and says, "Today I will move to Buffalo!"—migration takes place by way of networks of relatives, friends, acquaintances, and fellow countrymen, and few people immigrate to a place where these connections are absent. Consider two countries on the other side of the planet—the Philippines and Indonesia. Both have large, poor populations, they are neighbors and share many cultural similarities, yet there are more than one million Filipino immigrants in the United States and only a handful of Indonesians, and annual immigration from the Philippines is routinely 40–50 times greater than immigration from Indonesia. Why? Because the ties between the United States and the Philippines are numerous and deep, our having colonized the country for 50 years and maintained an extensive military presence there for another 50 years. On the other hand, the United States has very few ties to Indonesia, whose people tend to migrate to the Netherlands, its former colonial ruler.

At the end of the Mexican War in 1848, there were only a small number of Mexican colonists living in the Southwest, many of whom soon returned to Mexico with the Mexican government's assistance. The migration of Mexican workers began in a small way with the construction of the railroads beginning in the 1870s and later with the expansion of other industries. But the process of mass migration northward to the United States, and the development of the networks which made further immigration possible, began in earnest during the Mexican Revolution of 1910–1920. The Cristero rebellion of the late 1920s was the last major armed conflict in Mexico and was centered in the states of west-central Mexico; partly to prevent further trouble, the newly consolidated Mexican regime adopted a policy of encouraging emigration from these very states. The power of government-fostered migration networks is clear from the fact that even today these same states account for a disproportionate share of Mexican immigrants to the United States.

On the U.S. side, federal policies that established migration networks between the United States and Mexico arguably began in the 1920s, when Congress specifically excluded the Western Hemisphere from the newly enacted immigration caps so as

not to limit the flow of Mexican immigrants. Then in 1942, the Bracero Program to import Mexican farmworkers was started under the cover of World War II, and it continued until 1964. About 4.6 million contracts were issued to Mexican workers (many were repeat contracts for workers who returned several times, so that an estimated one to two million individuals participated). By creating vast new networks connecting the United States and Mexico, the Bracero Program launched the mass illegal immigration we are still experiencing today. Illegal immigration networks were reinforced by the IRCA amnesty of 1986, which granted legal status to nearly three million illegal aliens, at least two-thirds of whom were Mexican. This new legal status conferred by the federal government generated even more immigration, legal and illegal, as confirmed by a 2000 INS report. And the federal government's effective abandonment of the ban on hiring illegal aliens has served to further promote immigration from Mexico.

As a result of this series of government decisions, the flow of Mexican immigration to the United States is quite large. The totlal Mexican immigrant population (legal and illegal) ballooned from less than 800,000 in 1970 to nearly eight million in 2000, and is around 10 million today, most having arrived since 1990. This rapid growth has created a snowball effect through the reinforcement of old networks and the establishment of new ones. If present trends continue, within a few years Mexico will have sent more immigrants to the United States in 100 years than Germany (currently the leading historical source of immigrants) has in more than 200 years.

So, far from being an inevitable process with deep historical roots, mass immigration from Mexico is a relatively recent phenomenon created by government policies. This is even more true for other sources of immigration to the United States, such as Cuba, India, Central America, Russia, Vietnam, and elsewhere.

Even though the federal government is responsible for creating the illegal immigration wave, perhaps the toothpaste is out of the tube, perhaps it is too late to do anything about it now. There is no question that interrupting migration networks is harder than creating them. It is not, however, impossible—after all, the trans-Atlantic immigration networks from the turn of the last century were successfully interrupted, and atrophied completely. And, to move beyond theory, the few times we actually tried to enforce the immigration law, it has worked—until we gave up for political reasons.

During the first several years after the passage of the IRCA, illegal crossings from Mexico fell precipitously, as prospective illegals waited to see if we were serious. Apprehensions of aliens by the Border Patrol—an imperfect measure but the only one available—fell from more than 1.7 million in FY 1986 to under a million in 1989. But then the flow began to increase again as the deterrent effect of the hiring ban dissipated, when word got back that we were not serious about enforcement and that the system could be easily evaded through the use of inexpensive phony documents.

After 9/11, the immigration authorities conducted a "Special Registration" program for visitors from Islamic countries. The affected nation with the largest illegal-alien population was Pakistan, with an estimated 26,000 illegals here in 2000. Once it became clear that the government was actually serious about enforcing the immigration law—at least with regard to Middle Easterners—Pakistani illegals started leaving in droves on their own. The Pakistani embassy estimated that more than 15,000 of its illegal aliens left the U.S., and the Washington Post reported last year the "disquieting" fact that in Brooklyn's Little Pakistan the mosque is one-third empty, business is down, there are fewer want ads in the local Urdu-language paper, and "For Rent" signs are sprouting everywhere.

And in an inadvertent enforcement initiative, the Social Security Administration in 2002 sent out almost a million "no-match" letters to employers who filed W–2s with information that was inconsistent with SSA's records. The intention was to clear up misspellings, name changes, and other mistakes that had caused a large amount of money paid into the system to go uncredited. But, of course, most of the problem was caused by illegal aliens lying to their employers, and thousands of illegals quit or were fired when their lies were exposed. The effort was so successful at denying work to illegals that business and immigrant-rights groups organized to stop it and won a 90 percent reduction in the number of letters to be sent out.

Immigration control is not a pipe dream, or achievable only with machine guns and land mines on the border. We need only the political will to uphold the law using ordinary law-enforcement tools, and to resist measures that make things worse, such as new guest-worker programs. Once the message gets out that it's no longer business as usual, the illegal population will shrink through attrition, reducing the problem over several years to a manageable nuisance rather than a crisis.

JOBS AMERICANS WON'T DO?

A second premise of a guestworker program is that there are essential jobs Americans simply won't do, and foreigners, either as illegal aliens or as guestworkers, must be imported to do them.

It is indeed likely that middle-class Americans would not be interested in most of the jobs held by Mexican immigrants, because they are generally low-paying jobs done by unskilled workers. However, it is also clear that there are millions of Americans who are already doing precisely these kinds of jobs. In March 2003, there were 8.8 million native-born adults without a high-school education who were employed, 1.3 million native-born dropouts unemployed, and a further 6.8 million not even in the work force. There is a good deal of evidence that these Americans—nearly 17 million people—are in direct competition with Mexican immigrants—i.e., these are jobs that Americans will do and are doing already.

With the exception of agricultural labor, Mexican-born workers and unskilled native-born workers have a similar distribution across occupations. Thus, natives who lack a high school education and Mexican immigrants appear to be doing the same kind of jobs and are therefore in competition with one another. Another way to think about whether Mexican immigrants compete with unskilled native-born workers is to look at their median wages. If Mexican immigrants were employed in jobs that offered a very different level of pay than native-born dropouts, then it would imply that the two groups do very different kinds of work. But, in fact, the median wage of Mexican immigrants and native-born high school dropouts is very similar; the median weekly wage for native-born high school dropouts who work full time is $350, while the median weekly wage for full-time Mexican immigrants is $326. Like their distribution across occupations, the wages of the two groups seem to indicate that they hold similar jobs. Indeed, a 1995 report by the Bureau of Labor Statistics concluded that native-born and immigrant high school dropouts are almost perfect substitutes for one another in the labor market.

The idea, then, that there are "jobs Americans won't do" is simply false. But what would be the result of reducing illegal immigration without replacing it with a guestworker program? In other words, what would happen if there were fewer of the people industry lobbyists have labeled "essential workers"?

Elementary economics gives us the answer. Employers would respond in two ways to a tighter labor market; first, they would raise wages, increase non-cash benefits, and change working conditions in order to recruit and retain a sufficient workforce. And second, they would look for ways of making their available workers more productive so as to make up for some of the jobs previously done by foreign labor. The result would be a smaller number of unskilled workers, each earning higher wages.

As to the first part of the employer response: The employment prospects of the 17 million working-age native-born high-school dropouts mentioned above would improve dramatically. In fact, employers would begin to look more favorably upon any potential worker not currently in the mainstream of the economy—former welfare recipients, teenagers, young mothers looking for part-time work, the handicapped, ex-convicts, the elderly, et al. Adam Smith expressed it with an 18th-century candor unlikely to be heard today: "The scarcity of hands occasions a competition among masters, who bid against one another, in order to get workmen, and thus voluntarily break through the natural combination of masters not to raise wages."

There would clearly appear to be a need for this first part of the employer response. The inflation-adjusted wages of full-time workers with less than a high school education actually declined more than 7 percent during the booming 1990s. The drop in wages was even more pronounced among the subset of the low-skilled workforce which would be most immediately affected by a guestworker program—farmworkers. According to a March 2000 report from the Department of Labor, the real wages of farmworkers fell from $6.89 per hour in 1989 to $6.18 per hour in 1998—a drop of more than 10 percent.

Nor would higher wages for the unskilled fuel inflation to any significant degree. Since all unskilled labor—from Americans and foreigners, in all industries—accounts for such a small part of our economy, perhaps four percent of GDP, we can tighten the labor market without any fear of sparking meaningful inflation. Agricultural economist Philip Martin has pointed out that labor accounts for only about ten percent of the retail price of a head of lettuce, for instance, so even doubling the wages of pickers would have little noticeable effect on consumers.

So the first part of the employer response to a tighter labor market would be that the poor would see their wages increase due to the natural workings of the free market. The second part of the employer response would be to find ways of doing the same work as before with fewer workers, thus making each worker more productive. Again, this is elementary economics. In a sense, a reduction in illegal immi-

gration (absent a guestworker program) would serve as the free-market equivalent of increasing the minimum wage through legislative fiat. And, as the Cato Institute has written, "higher minimum wages go hand-in-hand with substantial declines in the employment of low-productivity workers." Unlike minimum wage laws, however, which may price low-productivity *American* workers out of the market, tighter immigration laws would simply eliminate the unnecessary jobs that we are now importing foreign workers to fill.

Conversely, instituting a guestworker program would lower wages, increase the employment of low-productivity workers (whom we would import), and thus slow the process of technological innovation and increased productivity. A 2001 report by the Federal Reserve Bank of Boston highlights this problem by warning that a new wave of low-skilled immigrants over the course of this century may slow growth in U.S. productivity.

That this is so should not be a surprise. Julian Simon, in his 1981 classic, *The Ultimate Resource*, wrote about how scarcity leads to innovation:

> It is all-important to recognize that discoveries of improved methods and of substitute products are not just luck. They happen in response to scarcity—a rise in cost. Even after a discovery is made, there is a good chance that it will not be put into operation until there is need for it due to rising cost. This point is important: Scarcity and technological advance are not two unrelated competitors in a Malthusian race; rather, each influences the other.

This is true not only for copper or oil, but also for labor; as wages have risen over time, innovators have devised ways of substituting capital for labor, increasing productivity to the benefit of all.

For instance, the period from 1960 to 1975 (roughly from the end of the Bracero Program to the beginning of today's mass illegal immigration) saw considerable mechanization in agriculture. Despite claims by California farmers that "the use of braceros is absolutely essential to the survival of the tomato industry," the end of the program created the incentives that caused a quintupling of production for tomatoes grown for processing, an 89 percent drop in demand for harvest labor, and a fall in real prices.

But a continuing increase in the acreage and number of crops harvested mechanically did not materialize as expected, in large part because the supply of workers was artificially large (and thus wages artificially low) due to growing illegal immigration—the functional equivalent of a guestworker program.

An example of a productivity improvement that "will not be put into operation until there is need for it due to rising cost," as Simon said, is in raisin harvesting. The production of raisins in California's Central Valley is one of the most labor-intensive activities in North America. Conventional methods require bunches of grapes to be cut by hand, manually placed in a tray for drying, manually turned, manually collected.

But starting in the 1950s in Australia (where there was no large supply of foreign farm labor), farmers were compelled by circumstances to develop a laborsaving method called "dried-on-the-vine" production. This involves growing the grapevines on trellises, then, when the grapes are ready, cutting the base of the vine instead of cutting each bunch of grapes individually. This new method radically reduces labor demand at harvest time and increases yield per acre by up to 200 percent. But this high-productivity, innovative method of production has spread very slowly in the United States because the mass availability of foreign workers has served as a disincentive to farmers to make the necessary capital investment.

And, despite the protestations of employers, a tight low-skilled labor market can spur modernization even in the service sector: automated switches have replaced most telephone operators, continuous-batch washing machines reduce labor demand for hotels, and "fast-casual" restaurants need much less staff than full-service ones. Unlikely as it might seem, many veterans' hospitals are now using mobile robots to ferry medicines from their pharmacies to various nurse's stations, eliminating the need for a worker to perform that task. And devices like automatic vacuum cleaners, lawn mowers, and pool cleaners are increasingly available to consumers. Keeping down low-skilled labor costs through a guestworker program would stifle this ongoing modernization process.

ADMINISTRATIVE FEASIBILITY

In any large government program, plans on paper must translate into policies on the ground. Any guestworker program would require extensive background checks of prospective workers as well as simple management of the program—checking arrivals, tracking whether a worker is still employed, enforcing the departure of those

who are supposed to leave. Supporters of guestworker programs seldom address this question but assume implicitly that the government has the administrative capacity to carry out whatever plans they can devise.

But it is not explained how the immigration bureaus within the Department of Homeland Security are supposed to be able to accomplish these goals. The service and enforcement bureaus are already groaning under enormous workloads. The General Accounting Office reported recently that the backlog of pending immigration applications of various kinds was at 6.2 million at the end of FY 2003, up 59 percent from the beginning of FY 2001.

What's more, the immigration bureaus are implementing vast new tracking systems for foreign students and visitors. The crush of work has been so severe, that many important deadlines established by Congress have already been missed.

And the context for all this is a newly created Department of Homeland Security, which incorporates pieces of the old Immigration and Naturalization Service and many other agencies in various combinations. The reorganization process is still very new (the department having coalesced only in March 2003), and it is extremely unlikely that any new guestworker program could be effectively managed in the midst of a thoroughgoing institutional overhaul.

Another aspect of inadequate administrative capacity is in the Labor Department. Any guestworker plan that would actually be passed by Congress would inevitably contain some kind of nominal protections for American workers, though none exist in the current proposals. But such protections would mirror the current labor certification process, whereby certain categories of permanent and temporary visas have prevailing-wage and labor-market tests. The problem is that the Labor Department can't carry out these duties adequately now, let alone when millions of additional assignments a year are added to the heap. What's more, the very idea carries a whiff of the command economy about it; I mean no disrespect toward federal employees, but if it were possible for bureaucrats to determine prevailing wages and labor-market conditions in an accurate and timely fashion, then the Soviet Union would never have collapsed.

The result of overloading administrative agencies with the vast and varied new responsibilities of a guestworker program would be massive fraud, as overworked bureaucrats start hurrying people through the system, usually with political encouragement. A January 2002 GAO report addressed the consequences of such administrative overload. It found that the crush of work has created an organizational culture in the immigration services bureau where "staff are rewarded for the timely handling of petitions rather than for careful scrutiny of their merits." The pressure to move things through the system has led to "rampant" and "pervasive" fraud, with one official estimating that 20 to 30 percent of all applications involve fraud. The GAO concluded that "the goal of providing immigration benefits in a timely manner to those who are legally entitled to them may conflict with the goal of preserving the integrity of the legal immigration system."

Although we are not discussing amnesty programs, the amnesty included in the Immigration Reform and Control Act (IRCA) of 1986 is a case study of how administrative overload leads to massive fraud. The part of the amnesty called the Special Agricultural Worker (SAW) program was especially outrageous in this regard. There were nearly 1.3 million applications for the SAW amnesty—double the total number of foreign farm workers usually employed in the United States in any given year, and up to six times as many applicants as congressional sponsors of the scheme assured skeptics would apply. INS officials told The New York Times that the majority of applicants in certain offices were clearly fraudulent, but that they were approved anyway, since the INS didn't have the administrative wherewithal to prove the fraud. Some women came to interviews with long, painted nails, while others claimed to have picked strawberries off trees. One woman in New Jersey who owned a five-acre garden plot certified that more than 1,000 illegal aliens had worked on her land.

Such fraud is a problem not just because it offends our sensibilities but because any large guestworker program would enable ineligible people to get legal status—people like Mahmud "the Red" Abouhalima, an Egyptian illegal-alien cabbie in New York, who got amnesty as a farmworker under the 1986 law and went on to help lead the first World Trade Center attack. Having an illegal-alien terrorist in your country is bad; having one with legal status, even as a temporary worker, is far worse, since he can work and travel freely, as Abouhalima did, going to Afghanistan to receive terrorist training only after he got amnesty.

Nor can we assume that guestworkers from Mexico would necessarily be harmless, and therefore not need to be scrutinized closely. Iraqi-born alien smuggler George Tajirian, for instance, pled guilty in 2001 to forging an alliance with a Mexican immigration officer to smuggle Middle Eastern illegals into the United States

via Mexico. And late last year the former Mexican consul in Beirut was arrested for her involvement in a similar enterprise. It is, therefore, certain—certain—that terrorists would successfully sneak operatives into the United States by way of a guestworker program managed by our overwhelmed bureaucracy.

To sum up: None of the commonly held assumptions underlying support for a guestworker program is valid. There may well be other reasons to support such a program—a desire by employers to force down the wages of their employees and prevent unionization, for instance, or a desire by immigrant-rights groups to increase the size of their ostensible constituencies. But none of the reasons usually presented by proponents is grounded in fact.

Mr. HOSTETTLER. Thank you very much.

The chair now recognizes Dr. Morris for 5 minutes.

STATEMENT OF FRANK MORRIS, CHAIRMAN OF THE BOARD, DIVERSITY ALLIANCE FOR A SUSTAINABLE AMERICA

Mr. MORRIS. Thank you, Mr. Chairman and Members of the Committee.

The focus of my remarks are twofold. The first focus is the real plight of working Americans. I didn't mention it in my written testimony, but I would like to refer to David K. Shipler's Pulitzer Prize-winning book on The Working Poor. This and other books have really pointed out the tremendous factors that are impacting working poor already under current conditions, much less additional conditions.

One of the assumptions which I make, and I think it's almost inevitable without debate, is that a guest worker program will bring additional low-wage, low-income, less-educated workers—and as Congressman Smith and as others have noted, higher-educated workers into the United States. But I want to focus on the low income workers. I hope we will have another opportunity to talk about the impact on high-wage workers. But it is the low-wage workers that particularly I'm concerned about, because many African-Americans are disproportionately reflected in that.

And it is these other kinds of factors which are working on the working poor that we should be concerned about including the increase in the supply of additional workers that will bring additional competition. One, of course, is the fact of our decline in our manufacturing jobs. We are well aware that our proportion of the work force employed in manufacturing has dropped from 30 percent in the sixties down to 11 percent now. But there are other workers, too, that I would hope we would be concerned about the working poor.

One impact of welfare reform is that many single women have once again been moved into the work force. Current studies show that of the nearly 3 million women who left the welfare rolls, at any given time, only about 1.8 million of them or about 60 percent have jobs on any given day. The rest are out there looking for jobs and in competition, increasingly difficult competition with other low-wage workers, and they don't need any more competition.

One of the other kinds of workers that I would be concerned about is the fact of that we have released from prisons each year almost 600,000 people. A high proportion of these are African-Americans. These folks often get the opportunities for employment only when other sources are not available. And to increase the supply has tremendously difficult social costs that don't get factored

into many kinds of considerations about increase in supply that will inevitably happen with guest workers.

One of the things that also, I think we need to talk about; we don't often talk about it, is that one of the reasons why low-wage workers, and I associate my comments with Congressman King, too, low-wage workers, and particularly the working poor, are in difficulty is for the increasing preference of employers and not just—of all races, including immigrant employers, for workers other than, for instance, African-Americans.

I have pointed to this as the last-hired, first-fired effect. I have mentioned it before, but now, we even have scholars such as William Julius Wilson of Harvard who has noted it. He noted in his analysis that when the black unemployment rate in Boston dropped to 7 percent during the boom, and when it went up, now, after the boom, it has been pretty clear, he says, that one of the reasons is the preference of employers for immigrants over African-American workers.

In my statement, and you will see the evidence which I point out that shows that the high-immigrant categories of the work force have had tremendously negative effects and displacement effects for African-Americans, in janitorial work, in construction, in hospitality. These are serious displacement effects that economists are finally beginning to recognize. Although there is macro evidence of the preference for immigrants; one of the things that we see is the labor force participation data showing that for the first time, the rate of foreign-born participation tops local participation by 79, almost 80 percent to 73.4 percent.

One of the other things we see is that during the last recession, we see that from 2000 on, when we had a net increase in foreign born adults holding jobs, they grew by 1.7 million, while we saw the number of native workers, American workers, dropping by 800,000. This is tangible kinds of evidence that we shouldn't ignore. One of the things that I have also pointed out is an interesting study that's by the Community Service Society in New York about the plight of African-American workers in New York City.

It looks not just at the unemployment figures but the ratio of those working to the total population and found devastating results. I found that about half the black men ages 16 to 64 in New York City held jobs, compared to 75 percent for white Americans, 65 percent for Hispanics. These are devastating kinds of figures that cries out that the situation not be made any worse.

One of the other areas of contemporary issues for consideration, of course, is the public health issues. In the guest worker programs, who will be responsible for the public health costs of the guest workers? Our county hospitals in Dallas—Congressman Lee has left; same problem in Houston, L.A., many places are under tremendous strains from the costs of care that's not currently addressed. This can only make the situation worse.

I can go on to point out, as I have in my paper, that in times when we're faced with tremendously high both current accounts and fiscal deficits, does it really make sense for guest workers who will be sending money home for remittances instead of spending that money in the United States to generate additional economic activity here, does it make sense? I think it doesn't.

And so, without dealing with a specific proposal, at this particular time, anything that will additionally increase the competition and the supply of already vulnerable workers should be carefully considered and I hope not enacted at this time. The working poor in America do not need an additional supply or anything that will increase the supply of those who will bring in further competition.

[The prepared statement of Mr. Morris follows:]

PREPARED STATEMENT OF FRANK L. MORRIS, SR.

Mr. Chairman and members of the Subcommittee , it is my pleasure to testify on the subject of the impact of a large guest worker program on working Americans and Americans seeking employment.

I would like to suggest that this topic requires a hearing devoted to the specific interests of both the low wage and low educated worker and another hearing to the needs of the higher educated, higher paid American worker. Unfortunately although the situations differ, the laws of supply and demand work the same for both sets workers as it does for the rest of society. When you greatly increase the labor supply whether by guest worker, or by immigration you increase the likelihood of either some workers (in this case foreign workers) being substituted for American workers or simply by increasingly lowering the rewards of wages to American workers. In my presentation I will focus upon less educated and lower wage American workers, many of whom are disproportionally of African American descent. I will point out that we should have a common national interest in reversing what I believe are incentives to give preferences to foreign workers over low skilled American workers. I will then discuss some of the reasons why this is particularly not a good time to be bringing additional foreign workers into the low wage, low education, portion of our American labor force.

Is Any Guest Worker Program in our American National Interest Under Current and Immediate future labor Market Conditions?

Whenever we use the term national interest, we must try to clearly define what we are talking about when we are talking about it in the context of the American economy. Briefly I define it as whether the economic benefits to American workers, employers and citizens are greater than the costs of the program. We run into difficulty because often in these cost benefit calculations there are costs outside of the immediate market transactions that are not part of the calculation (often because more than the parties in the market transactions are paying the costs). Other costs are left out because they are difficult to measure or because we do not agree on weights. Although the calculations and agreements are so difficult it still should help our considerations if we begin to think of benefits or costs that we would not otherwise consider.

The benefits of lower labor costs are greater profits to investors and likely cheaper products to American and world consumers. These benefits have helped to lower our American cost of living and helped keep our inflation in check. These significant benefits have been the driving force behind guest worker proposals.

My first contention is that there are some economic conditions where the payoff from guest workers is less than it would be under other conditions. I wish to point out that we currently have a very high trade deficit plus extremely high budget fiscal deficits that should be a consideration in our guest worker deliberations.

It almost goes without saying that it is likely that a high portion of a guest worker's wages will be sent home as remittances which will exacerbate our balance of payments deficit. This could also be a factor in the considerations by the Federal Reserve to increase US interest rates, especially if foreign holders of our equity and other assets feel the dollar is not appropriately valued. These are some of the costs in guest worker programs that do not seem to be part of the debate often.

We all know that since our economy is 2/3s driven by consumer demand it should be seen as clearly in our national interest to maximize the dollars in American workers to stimulate the American economy rather than having it sent outside of the US in generating demand driven economic activity that primarily benefits Americans.

It is also a well known if hard to calculate fact that the extensive availability of low wage foreign workers (who tend to get lower wages than American workers) may delay the introduction of more efficient , productive and more capital intensive investments that are increasingly necessary in a competitive global economy.

Reports from Reuters and the Los Angeles times have quoted Border Control Officers as contending that just the discussion of a guest worker program creates an incentive to get into the US as soon as possible to get better knowledge and presumably a better status to qualify for the program. They estimate that they get a 10- 15% increase in illegal alien apprehensions just because a proposal is being considered.

A guest worker program should not be a high priority for a Congress that values the non governmental intervention in free markets. Any guest worker program is an adverse governmental induced market distortion against the bargaining interests of lower wage, lower educated, American workers. Just as adverse government intervention in the market is not good for business, it should also be resisted for labor to benefit from free markets.

Last but not least it is important that the non federal costs of guest workers are taken into consideration so that our states and local governments are not hit with an additional unfunded federal mandate at a time when their budgets are under severe strain. I will later point out that whomever pays the health costs of guest worker should be clearly spelled out beforehand because many public health systems are currently under severe strain exacerbated by a great deal of care to our 47 million uninsured.

The Timing of a Guest Worker Program

There are a number of factors that are currently coming together to make the current time and the immediate future a very bad and unfair time to subject low income American workers to increased competition from foreign low income workers because there is already intense competition among low income workers for less jobs. I will look at some of the evidence to support this contention.

Competition and Concerns Among Low income Low Skilled American Workers

The following are all areas where jobs are either in decline or where there already is intense low wage worker competition.

The decline of US manufacturing jobs has been well documented and the decline will continue unless there is a rapid and steep devaluation of the US dollar. The proportion of the workforce employed in manufacturing has fallen from 30% in the mid 1960s to 11% currently and the loss rate has increased in the last few years.[1] These were once jobs that less skilled workers including young less skilled African American workers could do and get without a lot of education. Some manufacturing jobs with high immigrant participation (such as butchering and meat packing) have suffered from wage depression and increasingly are not available to American low wage workers.

The welfare reform act has placed another large supply of American low wage workers in the labor market and many of them are struggling to find and keep employment. Of the nearly 3 million women who left the welfare rolls, only about 1.8 million or 60% have jobs on any given day. Because of low wage worker competition, many are worse off in real terms than they were before reform.

> "In the late 1990's the percentage of working single mothers shot up from59 to 70%. Less impressive is the fact that most are low wage , often part time jobs, and many are not better off , especially when they take into account the child care and other costs of working.
>
> And although some former recipients of welfare may have sporadic work in the course of a year, there are more than a million of them, parents of more than two million children, who, on any given day, have neither job or cash assistance. Their situation is why the poorest of the poor-----those with incomes of about

[1] Louis Uchitelle, "As Factories Move Abroad So Does U.S. Power," New York Times, August 17, 2003.

> $7,500 for a family of three---have a lower average income than they had when the law was passed."[2]

Another reason we should not be considering a guest worker program is because American employers tend to prefer immigrants to American workers or specifically African American low wage workers. I have contended this in testimony before Congressional committees before. Now this is also the opinion of William Julius Wilson the Harvard University professor who is probably the most distinguished expert on the urban poor. Wilson said "Black men have suffered most because employers prefer immigrants and women over black males."[3] He came to that conclusion in seeking to help understand a surge in African American unemployment after it had fallen to a record low of 7% during the economic boom of the 1990s.

In an investigative article favorable to illegal aliens two investigative reporters candidly reported on the difficulty an African American worker had trying to find employment in immigrant dominated industries...

> "Employers complain about the difficulty of finding native-born workers . But Darrell Clayborn a 45 year old unemployed Dallas man says he would take "the crumbs" of a janitorial job. He has even gone to a Plano day labor site trying to get hired. But he seldom gets picked." If you are not a Mexican, you do not go out and work" says Mr. Claborne. . Clayborn, who is black. "There are a lot of black guys out there , and they just quit looking for work," Mr. Claborn says.[4]

Illegal immigrants seem to have redefined (lower) pay scales in industries such as janitorial services, construction and hospitality.

> In the 1980s and 1990s America's janitorial forces began to change. Prior to that janitors were better paid when there were more native born members including many American blacks says Steven Lerner of the Service employees International Union. But through the 1980s and 1990s janitorial crews became more immigrant heavy.
> There are only a handful of cities in America where immigrants are not the dominant group Mr. Learner says."[5]

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[2] Peter Edleman, "Is Anyone watching as Welfare Becomes Unfair?/ Washington Specctator, Vol.29 # 15, August 1, 2003, p2.
[3] Don Wycliff. "Curbing the influx of immigrants..." Chicago Tribune, July 10, 2003 p. c23.
[4] Dianne Solis and Ernesto Londono. "Immigrant's Work Illegal In Demand" Dallas Morning News,January 6, 2004 pp1, 8a.
[5] Ibid.

More evidence of employer preference for immigrants is the Department of labor data showing that the foreign born labor participation rate tops the native born labor participation rate 79.6% to 73.4%[6]

The increasing immigrant labor preference holds even during our last recession the net increase in foreign born adults holding a job grew 1.7 million while the number of native workers fell by 800,000.[7]

The preference for foreign born employees holds even within the Hispanic community and the preference is for the less educated employees.[8]

There is another source of American labor that is in our collective interest to provide more employment opportunity for before we consider additional guest worker programs. I am referring to the almost 600,000 prisoners released from state and federal prisons each year. They do not need new guest worker competition for a declining number of low wage jobs which are an important factor in keeping recidivism rates down.

Studies across the united States show African American males have a difficult time finding employment especially in places that are losing manufacturing jobs. A recent study in New York City found that just 51.8%of Black men from ages 16 to 64 held jobs in New York City, compared to 75.7% for white men and 65.7% for Hispanic men. This low employment population ration for black men was the lowest since they have been keeping figures dating back to 1979.[9] Clearly people in this situation who are already finding it difficult to find jobs, do not need more competition from a new guest worker program.

I could not find agreement on the loss of outsourcing jobs overseas.[10] Some of these jobs are also the low level customer service jobs that were another potential job source to low wage workers that is now at risk.

Other timing concerns are recent data from the U.S. Department of Labor. Last month (February 2004) an additional 400,000 Americans dropped out of the labor force. Currently our labor force participation rate is at 65.9% a 15 year low.[11]

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[6] Ibid.

[7] Steven A Camarota , "Immigration in a Time of recession: An examination of Trends since 2000, Center For Immigration Studies, November 2003.

[8] Rakesh Kochhar. " Latina Labor Report, 2003: Strong but uneven Gains in Employment," Pew Hispanic Center, washington D.C. February 2004

[9] Mark Levitan, " A Crisis of Black Male Employment : Unemployment and joblessness in New York City, 2003," Community Service Society New York, February, 2004

[10] Louis Uchitelle, " A Missing statistic: U.S. Jobs that have Moved overseas," New YorkTtimes October 5, 2003, p21.

[11] Danielle DiMartino. "Behind Jobless Numbers, the Picture looks even Worse." Dallas Morning News March 8th 2004, p4d.

Why would we be considering reinforcing guest workers when our countrymen are so vulnerable?

We should be clear in any future guest worker program who will be responsible for paying the health related costs for guest workers. Public hospitals and health facilities in Dallas and Houston are already straining to meet the costs of health costs for the uninsured. One third of our immigrants do not have health insurance a rate 2.5 times the rate for native born Americans. Immigrants and their U.S. born children account for 95% (7.5 million) of the 7.8 million increase in the size of the uninsured population since 1989.[12]

Last but not least many American foresee a rise in U. S. unemployment over the next 6 months according to a Gallup poll. When Americans are becoming increasingly worried about the so called jobless economy does not seem to be the best time to be thinking about new guest worker programs.

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[12] Steven A. Camarota. "Immigrants in the United States –2002," Center for Immigration Studies, November, 2002.

Mr. HOSTETTLER. Thank you, Dr. Morris.

The Chair now recognizes Mr. Beck for 5 minutes for his statement.

STATEMENT OF ROY BECK, EXECUTIVE DIRECTOR, NUMBERSUSA EDUCATION AND RESEARCH FOUNDATION

Mr. BECK. We thank the Chairman for this hearing and for placing such focus on the American worker.

As we heard from the opening statements, it makes a lot of difference what paradigm you're looking at this issue in. But I think this is the most important paradigm. There are three large groups of Americans and noncitizen immigrants who deserve your top priority attention when dealing with all immigration proposals and all current immigration policies.

The first group: Nearly 15 million American workers who would like full-time jobs cannot find one. The second group: Millions more Americans who once were part of the work force have given up and dropped out entirely. As is often the case, the worst damage can be seen among African-American men. The Washington Post recently released, really, a shocking statistic that 40 percent of all African-American men throughout the United States do not have a job. Forty percent do not have a job. There is a huge untapped work force among Americans of all races and ethnicities who no longer look for jobs but who need jobs. The third group: Still more millions of Americans who have full time jobs live in or near poverty, the working poor. Most of them are in occupations that once paid at least lower middle class incomes with benefits, but these are what I call collapsed occupations.

My written testimony refers to several case studies of occupational collapse over the last few decades and the role of foreign workers in those collapses. And it reports the work of distinguished economic historians who find that the effect of flooding occupations with foreign workers recently has been similar to every time we ran high immigration in the past.

Over the last 30 years of massive increases in legal and illegal foreign workers, the occupations where those workers have settled have seen wages plummet, benefits disappear and working conditions deteriorate. Many of the pressing social problems that Congress is tackling right now are directly related to the collapse of whole occupations into subsistence or poverty-level jobs. Americans are not nearly so much in need of more Federal programs and assistance as they are in need of higher wages that would allow them to raise families in dignity.

The economic laws of supply and demand as well as our economic history indicate that adopting a program for hundreds of thousands of more guest workers a year would almost guarantee falling wages, even with stringent safeguards attached. Most guest worker proposals would open up every occupation up and down the economic ladder. Nearly every American would have to compete with every worker in the world.

Now, this is a world that has 4.6 billion people who are in countries with incomes that are below those in Mexico. Most of the proposals only require that jobs be advertised at a minimum wage. A group of businesses and others fighting for more lower-educated

foreign workers calls itself the Essential Workers Coalition. And they note that the work performed by lower-educated workers is essential to the U.S. economy and to the comfort of most Americans. I agree. These are essential workers, essential jobs.

But why fill these jobs with foreign workers? Alan Greenspan said last month America has an oversupply of low-skilled, lower-educated workers. Official unemployment rates for Americans without a high school diploma are nearly twice that as for other Americans, and that doesn't include all of the Americans who have dropped out of the work force. Unfortunately, a new study has found that our school systems are pouring more and more high school dropouts into the work force. About half of all Hispanic, Black and Native American high school freshmen do not finish high school, do not graduate, do not get a diploma.

They are the Americans who must compete the most directly with the next imported foreign work force. The country is awash in lower-educated American workers who have no jobs. While we may lament that so many American workers are so poorly educated, it hardly seems fitting for Congress to punish those American workers by giving away their jobs or by depressing their wages. The dirty little secret of our society over the last decades is that many of these jobs have deteriorated so far in wages, benefits and standards that many jobless Americans will not take them any more.

As long as the Federal Government allows the importation and the illegal migration of almost 2 million foreign workers a year from countries that pay less than 10 percent of our wages, essential jobs that do not require much education will be priced at levels below lives of dignity. Adding more foreign workers by greatly expanding our present guest worker programs will ensure that those essential jobs never pay an American wage or offer American working conditions.

In a free market without massive foreign labor flows, essential jobs that are really tough to do and hard to fill would pay fairly high wages. I was pleased to hear about the wages in the dairies in Utah, but that is an anomaly for low-educated workers.

But in our economy, the harder the work, the less you get paid, in general. In our economy, the more essential your low-skilled job may be, the less likely you will be paid wages that allow you to raise your family in dignity. It doesn't have to be that way. And I'll finish by just noting that the economist Harry T. Oshima has described a virtuous circle. We know in economics there's the vicious cycle. He's talking about the economic—a virtuous circle that has driven our middle class economy.

And he notes that when immigration was drastically reduced during World War I and then later after 1924, this virtuous circle went to work. It caused employers, with a tighter labor market, to increase the wages. And because they had to increase the wages, they had to make major advances in mechanization. In that situation, the resulting technological applications of gasoline and electric machines made it possible to mechanize enough unskilled operations and handwork to release many workers into skilled jobs. Parents realized that they needed to educate their kids for those skilled jobs that were paying better.

Because of the demand for skilled workers, in the end, productivity was increased; wages went up, and what happened in this cycle of productivity and wage gains, each feeding on the other, the United States became a middle-class nation. That was the nation that I happened to be born in as a baby boomer in the forties, fifties, sixties. We were a fully—almost a fully—middle class society. We have been moving backwards ever since we began flooding the labor markets with foreign workers.

We could do the virtuous circle again. We have stopped—the importation of foreign workers has stopped the economic virtuous circle. We could do it again if we would trust the free market and trust our own workers.

Thank you.

[The prepared statement of Mr. Beck follows:]

PREPARED STATEMENT OF ROY BECK

Perhaps the first and most important question to ask about any proposed large-scale foreign guestworker program is what will be its effect on the nearly 15 million American workers who would like a full-time job but cannot find one.[1]

Just how much of a worker shortage can there be when so many Americans cannot find a full-time job?

And the available pool of American workers is actually much larger than that 15 million figure which includes people who are actively looking or just recently gave up reporting to the unemployment office. Millions of other Americans who once were part of the workforce and who once were interested in remaining in it have dropped out of the labor force entirely.

As is often the case, the worst damage can be seen among African-American men. The Washington Post recently reported the astounding statistic that 40 percent of black men throughout America do not have a job.[2] In New York City where the importation of foreign workers is at one of the highest rates in the nation, 50 percent of black men are no longer employed.[3]

The competition from the expanded guestworker force would be fiercest with the lower-skilled and lower-educated jobless American workers. But let it be noted that most of the expanded guestworker proposals now before Congress would open every American occupation up and down the economic ladder to competition from the global labor force.

Americans too qualified to do "essential" jobs?

One of the arguments for importing more foreign workers even with such high numbers of Americans out of the job market is that the labor shortages are in very low-skilled and low-paid occupations and that most of the jobless Americans are simply overqualified for those jobs.

But Alan Greenspan last month said America has an oversupply of low-skilled, low-educated workers.[4] In fact the Bureau of Labor Statistics reports that the rolls of millions of unemployed Americans include a disproportionate number of workers who do not have a high school diploma.[5] Official unemployment rates for Americans without a diploma are nearly twice as high as for other Americans.

In other words, this country is awash in lower-educated American workers and no jobs. Yet, the primary purpose of these expanded guestworker proposals is to import low-educated, low-skilled foreign workers for jobs that require no more than low education and low skills.

Now, those jobs are not unimportant. These are jobs essential to Americans' every day life. A group of businesses and others fighting for more foreign workers calls itself the "Essential Workers Coalition." These ARE essential jobs. And it makes no sense to move our own essential American workers to the sideline while giving the jobs to foreign workers.

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[1] David Streitfeld, "Jobless Counts Skip Millions," *Los Angeles Times*, 29 December 2003, A1.

[2] David Finkel, "The Hard Road to A Paycheck," *Washington Post*, 4 November 2003, A01.

[3] Michael Powell, "In New York City, Fewer Find They Can Make It," *Washington Post*, 14 March 2004, A01.

[4] Nell Henderson, "Greenspan Calls for Better-Educated Workforce," *Washington Post*, 21 February 2004, E01.

[5] Ibid.

While we may lament that so many American workers are poorly educated, it hardly seems fitting for Congress to punish those workers by giving away their jobs.

Who would be most hurt by expanded guestworker programs for "essential" jobs? We got a stark view late last month from a new report by the Urban Institute and the Civil Rights Project at Harvard University. Entitled "Losing Our Future: How Minority Youth Are Being Left Behind by the Graduation Rate Crisis," the study concludes that barely half of the black, Hispanic and Native American youth who enter high school in this country earn a diploma.[6] The rates for the three groups are nearly identical.

That report lets us know of the colossal failure throughout our society in engaging and properly educating these youth. Much needs to be done. Much has been attempted. But while the education establishment tries to figure out how to deal with these incredible drop-out rates, millions of young adults who did drop out of high school in the past need an opportunity to earn a living. Unfortunately, jobs for which a high-school drop-out are suited are being earmarked by leaders of both political parties for foreign guestworkers eager to underbid the price of labor.

Adding further to the incongruity of all this talk about the need for lower-educated guestworkers is the President's State of the Union call for assuring better job possibilities for inmates as they finish their prison sentences. The President said that some 600,000 inmates a year leave prison desperately needing a job to start a new kind of life. Most of them are qualified for the same kinds of "essential" jobs that all these pieces of guestworker legislation are designed to fill with foreign laborers.

BUT WILL AMERICANS DO JOBS THAT ARE THIS HARD AND PAY THIS LITTLE?

For 13 years as an author on these issues, I have done scores of radio shows and have consistently been told by callers identifying themselves as business owners that these jobless, lower-educated American workers are too lazy, too soft and too demanding to take these "essential" jobs. On NPR the other morning, I even heard a business owner say that his jobs were just too hard for Americans to do and paid too little.

Of course, we all know that is the secret ingredient in why we have so many Americans unemployed and yet so much talk of job shortages. As long as the federal government allows the importation and the illegal migration of almost two million foreign workers a year from countries that pay less than a tenth of our wages, "essential" jobs that don't require much education will be priced at levels at which American workers cannot live in an American lifestyle and will be offered with benefits and working conditions also unacceptable to Americans.

Greatly expanding our present guestworker programs will ensure that those "essential" jobs never pay an American wage or offer American working conditions. That's the way the free market operates.

Alan Greenspan in his speech to the Greater Omaha Chamber of Commerce last month decried the inability of our lower-educated American workers to earn a dignified income. His solution was for great new investments to further educate them for better jobs. Members of this Congress responded in the news media by wondering where all that money was coming from. But a better question is this: If we supposedly have large numbers of "essential" jobs desperately needing workers to fill them and not requiring high education, why don't we fill those jobs with our own lower-educated workers?

And if these jobs are so "essential" and so tough to do, shouldn't the market be forced to raise wages to a level that can attract American workers to fill them? Why shouldn't workers doing jobs that are "essential" to our economy and to our comfort be paid wages that allow them to raise their families in dignity? One answer is that many in this government do not want "essential" workers to earn middle-class wages. They are addicted to an economy that depends on poorly paid workers who must be subsidized by taxpayers.

For 40 years, this government has systematically gutted lower-middle-class occupations of their dignity, of their decent wages, of their safe working conditions and of their American benefits by flooding those occupations with foreign workers. We don't have to wonder what expanded guestworker programs would do to American workers; we have a lot of recent history to show us quite explicitly.

Expanded foreign guestworkers programs would just add to the already long list of "Occupation Collapses" created by 40 years of radically increased mass immigration, illegal migration and guestworker programs.

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[6] Linda Perlstein, "Report Disputes U.S. High School Graduation Rates," *Washington Post*, 26 February 2004, A03.

"OCCUPATION COLLAPSE" HAS LONG U.S. HISTORY TIED TO HIGH IMMIGRATION

"Occupation Collapse" has been one of the gravest blows and continuing threats to America's working class households over the last couple of decades.

By "Occupation Collapse," I mean the process of wages plummeting, benefits disappearing and working conditions deteriorating in whole occupations.

The evidence of recent history and of 150 years of U.S. economic history suggests that the initiation of a large-scale foreign guestworker program would expand Occupation Collapse into as yet untouched localities and occupations—both unskilled and skilled—in our country.

Many of the pressing social problems Congress is tackling recently are directly related to the collapse of whole occupations from middle-class and lower-middle-class incomes, benefits and working conditions into near-poverty and below-poverty wages.

Look at some of the issues the federal government is trying to resolve for large numbers of Americans: lack of health insurance, inadequate health care, over-crowded and substandard housing, poor education, neighborhoods torn by crime, overloaded jails and prisons. In every one of those problems, you will find a disproportionate population of households who are connected to collapsed occupations. These Americans simply can't earn enough money to afford the goods and services that make for a life of dignity.

Why have these occupations collapsed? There have been many reasons. In some cases, the collapse has happened only regionally; in others, nationally. But one of the most common ingredients is the large-scale entry of foreign workers into those occupations—through the million legal immigrants a year, through nearly that many illegal aliens settling each year and through a few hundred thousand guest workers each year. These add up to numbers that are six to eight times higher traditional levels in this country.

Americans are not nearly so much in need of more federal programs and assistance as they are in need of higher wages. Current high levels of legal and illegal immigration are a serious barrier to those higher wages. Adopting a program for hundreds of thousands or more guestworkers a year would almost guarantee falling wages, even with stringent safeguards attached.

To imagine what would happen to American jobs and workers under a new, greatly enlarged guestworker program, we can start by looking at what the great increase in foreign workers over the last couple of decades has already done. The primary effect of all forms of adding foreign workers to the domestic labor market has been to distort the way the free market sets the value of labor by legislatively increasing supply.

EXAMPLES OF OCCUPATIONAL COLLAPSE UNDER THE WEIGHT OF HEAVY FOREIGN-WORKER INFLUX

By the 1970s, menial jobs such as janitorial work had become middle-class occupations in many cities. The overwhelming majority of American workers of all kinds were able to live at least modest middle-class lives. That was before the advent of our new governmental ethic that some jobs are just too low-class to deserve decent wages.

Cleaning office buildings was an essential task in this economy, and the economy rewarded many of those who did the task with livable wages and dignified working conditions. But a GAO study found that as federal policies allowed tens of thousands of foreign workers to enter those cities, their presence in the janitorial occupations led to a collapse of wages, benefits and working conditions.[7]

An especially dramatic example can be found in Miami where occupations began to collapse earlier due to earlier mass flows of foreign workers into the job market. Sociologists Guillermo Grenier and Alex Stepick found that before the 1970s, construction workers earned middle-class wages with middle-class benefits and lived middle-class lives. But the influx of foreign workers led to a series of changes that collapsed a large number of the construction jobs into little more than minimum-wage labor with few employee protections that had previously existed.[8]

By now, we can find construction occupational collapse in parts of nearly every state as foreign labor has swelled in local job markets.

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[7] Government Accounting Office, *Illegal Aliens: Influence of Illegal Workers on Wages and Working Conditions of Legal Workers* (Washington, D.C.: U.S. Government Accounting Office, March 1988).

[8] Alex Stepick and Guillermo Grenier, "Brothers in Wood," in *Newcomers in the Workplace: Immigrants and the Restructuring of the U.S. Economy*, Louise Lamphere, Alex Stepick, and Guillermo Grenier, eds. (Philadelphia: Temple University Press, 1994), pp. 148–9, 161.

Perhaps nowhere is the role of foreign labor importation in collapsing an occupation more vivid than the meatpacking industry. Numerous studies have detailed how jobs in this industry by the 1970s were high-middle-class industrial jobs with great safety protections and benefits that allowed the employees to raise families on one income, take vacations and send children to college (many of whom came back to work in the plants because of the high income).[9]

Today, after 25 years of pouring foreign workers into the occupation, nearly every journalist and politician commenting on these jobs calls them "jobs that Americans won't do" because the pay is so low that taxpayers have to provide public assistance to many of them, and the accident rate is among the worst in the nation.

And in occupations that always were fairly poorly paid—such as poultry processing, farm labor, hotel and restaurant work—the influx of large numbers of foreign workers has generally driven real wages downward even further.

One does not have to focus entirely on lower-skilled jobs to find Occupational Collapse. Under the combination of the dot.com bubble burst, overseas outsourcing and the presence of hundreds of thousands of foreign workers, the information-technology occupation is indeed in the middle of a collapse. Besides having an extraordinarily high unemployment rate, America's information-technology workers have seen their wages plummet, with large portions now working at two-thirds, one-half and even one-third their incomes a few years ago. Although their wages surely would have fallen some even without the various existing foreign guestworker programs, adding around a million foreign workers over the last four years severely worsened the supply-demand ratio in the occupation.

HISTORICAL PRECEDENCE FOR FOREIGN WORKERS COLLAPSING WAGES

In his presidential address to the American Economic Association in 1955, Simon Kuznets laid out a theory about rising and falling income inequality in capitalist societies. Many economists since then have sought to quantify the factors that, in different countries and different decades, have depressed earnings for the lower working class while increasing the wealth of the affluent and skilled.

One renowned economist who has spent a career exploring these issues is Jeffrey Williamson of Harvard. Delivering the Kuznets Memorial Lecture at Harvard, Prof. Willison showed how economic inequality in America was greatest from 1820 to 1860 and from the 1890s until World War I. Those periods coincided with the two greatest waves of immigration prior to the present unprecedented wave.

According to Williamson, the occurrence of high immigration and high levels of economic inequality at the same time was not happenstance: immigration fosters income inequality. Despite having democratic institutions, abundant land, and a reputation as a workingman's country, America during those periods of nineteenth-century immigration surges was a land of jarring inequality.

The economist Peter H. Lindert has noted in his writing that American inequality has lessened when immigration was curtailed. When World War I abruptly cut off most immigration to the United States, the huge gap between rich and poor closed incredibly fast: "Within three years' time, pay gaps dropped from historic heights to their lowest level since before the Civil War."[10] But just as quickly, inequality grew as soon as mass immigration resumed after World War I, so that later in the 1920s, "income looked as unequal as ever," Lindert said.

Once Congress curtailed immigration in 1924, the middle class grew again and inequities receded to historic low levels by the early 1950s. America finally had become a paradise for the common workingman and woman.

Lindert found it peculiar that America would have such a robust march toward middle-class equality during a period that included widely varying external events, such as the nation's deepest depression, a sudden wartime recovery and moderate postwar growth: "This timing suggests that the explanation of this drop in inequality must go beyond any simple models that try to relate inequality to either the upswing or the downswing of the business cycle."[11]

In the egalitarianism of the era after the 1924 curtailment of mass immigration, the economic bottom of society gained on the middle, and the middle gained on the top. The closing of the gap in wages had as much of an effect in enlarging the middle class as did all the transfer taxes and programs of President Franklin D. Roosevelt's governmental activism combined, according to Lindert and Williamson.

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[9] Roy Beck, "Jobs Americans Will Do" in *The Case Against Immigration* (New York/London: W. W. Norton & Co., 1996) 100–135.

[10] Peter H. Lindert, *Fertility and Scarcity in America* (Princeton, N.J.: Princeton University Press, 1977), p. 233.

[11] Ibid., p. 234.

Several factors caused the fluctuations in inequality during U.S. history. But the "central role" has been played by the change in labor supply, claims Lindert. The rise of powerful unions during that period also played an important role in moving larger and larger numbers of laborers into the middle class. But Lindert concluded that the unions were able to gain their power because low immigration and low population growth kept the size of the labor force smaller while the demand for labor remained high. Not surprisingly, unions have withered in workforce participation during the wave of mass immigration since 1965.

Contrary to superficial thinking, a tightened labor pool that forces employers to pay more for scarce labor does not necessarily hurt business nor the economy. It can be a great stimulator of a country's creativity. The economist Harry T. Oshima has helpfully described the "virtuous circle" that occurs in an economy that is far different from our own very loose labor market with surpluses of workers.[12] He has particularly studied the mid-1910s and the mid-1920s when immigration was seriously restricted. He notes that during that time, employers were forced to raise wages. That induced the employers to press for major advances in mechanization. The resulting new technological applications of gasoline and electric machines made it possible to mechanize enough unskilled operations and hand work to release many workers into more skilled jobs. Growth in output per worker hour was phenomenal. That made it possible to raise wages still further. Because of the increasing demand for skilled workers, American parents realized they would need to spend more money to help each child gain a better education. This contributed to lower birth rates, and thus to slower labor-force growth, and thus to tighter labor markets, and thus to higher wages, which pushed manufacturers to push the skill levels of their workers up even further. In this cycle of productivity and wage gains—each feeding on the other—the United States became a middle-class nation!

What we have had for three decades in this nation is the opposite of that economic "virtuous circle;" we have had the "vicious cycle." The availability of larger and larger numbers of foreign workers has led employers to substitute labor for capital development and innovation. A key example is the atrophy in our agricultural industry which relies on incredibly low-wage labor instead of continuing its once global leadership in innovation and technology.

And, of course, the rising incomes of American workers during a "virtuous circle" economy drives consumer purchasing and business success.

FUNDAMENTALLY CHANGING THE ECONOMIC AND SOCIAL STRUCTURE OF OUR SOCIETY

At stake is whether the United States manages to remain a middle-class culture or becomes what I would call a "servant culture" more on the line of Europe or even third world nations—a path we are currently traversing.

Europe is a continent that long has had a servant class. When it began to find it difficult to keep its nationals in those poorly paid servile roles, it imported foreign workers to "do the dirty work."

In the United States, however, we long have been a culture in which most people live middle-class lives. People may have servants but they are expected to pay them wages that allow for at least lower middle-class conditions. If there was dirty work to do that the genteel didn't care to do, the folks who did the dirty work tended to get paid a decent wage for their trouble. Witness the meatpacking industry jobs in all their disgusting sights, sounds, smells and squishiness before our immigration policy collapsed the occupation. The people who did that work got some of the best semi-skilled manufacturing wages in the country.

But most of these expanded guestworker proposals would guarantee that whole occupations would be considered "foreigner work," always paid below American standards with below American benefits and below American working conditions. Those Americans whose wages are not pulled below middle-class by the presence of the guestworkers would be able to revel in status found in so many countries in the world of having their own peasant class.

These massive guestworker programs are about assigning a certain portion of our economy to a new foreign peasant class. And inadvertently, they are about creating a much larger permanent underclass of American natives largely dependent upon taxpayers and ever-increasing government programs.

Mr. HOSTETTLER. Thank you, Mr. Beck.

The Chair now recognizes Mr. Chishti for 5 minutes.

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[12] Harry To. Oshima, "The Growth of U.S. Factor Productivity: The Significance of New Technologies in the Early Decades of the Twentieth Century," *Journal of Economic History*, vol. 44 (March 1984).

STATEMENT OF MUZAFFAR CHISHTI, DIRECTOR, MIGRATION POLICY INSTITUTE, NEW YORK UNIVERSITY SCHOOL OF LAW

Mr. CHISHTI. Thank you, Mr. Chairman and other distinguished Members of the Committee. Thanks for the invitation to testify this morning on this extremely important issue.

The President himself has opened an extremely important political space for us to have a serious discussion about immigration. The President was honest in admitting that our present immigration system is broken. It is a system where it is not legality but illegality that has become the norm. It is a system that has turned integrated labor markets into black markets. It is a system that rewards smugglers and producers of fraudulent documents. It is a system that forces people to cross borders at huge risks to their lives. It is a system that encourages exploitation of workers and some of the most vulnerable workers in our country. It's a system, clearly, we cannot be proud of.

To fix this broken system, we need a comprehensive approach. And I believe there are at least three fundamental elements of the comprehensive approach: first, it must squarely address the present dilemma of the existing undocumented population in the United States; two, we must introduce a reasonably-tailored, highly-regulated labor migration program for future flows of workers to meet the labor needs of the country; and third, we must immensely and significantly improve the protections of both U.S. workers and foreign workers.

Let me just take these one at a time. The existing undocumented population: as I think we all know, whatever the numbers are, they range from 8 to 12 million. This is a group of people that is now embedded in our economy and our society. They have deep roots from their family connections, and they are performing some of the most essential jobs in important sectors of our economy. It is simply not possible for us to round up this group of people without hugely disrupting our economy and without exacting huge prices in civil liberties which I think none of us are prepared for.

We have got to be honest about it. We do not have the moral will, we don't have the political will, and we certainly don't have the resources to deport this bunch of people. So both policy and pragmatism dictate that we should legalize this population. And if the goal is to clean the slate here and make these people fully integrated in our society, then, the emphasis should be on full and maximum compliance. The only way to guarantee full compliance is to give these people the best incentive, which is to give them permanent residence at the end of the road.

We do not have to do this in one step, Mr. Chairman. We can devise a couple of steps for this process of legalization, and there are many bills that have now been introduced that offer models to go in this direction.

For the future flows, I think for the first time, many people in this country are willing to look at temporary worker programs as a route to do that. We know that temporary worker programs in this country have a huge legacy of abuse and exploitation. But just because they have a history of abuse and exploitation in the past does not mean that there is not scope for a reformed temporary worker program. To me, the essential elements of a reformed tem-

porary probably, number one is that workers should be able to move from one employer to the other. They cannot be tied to an employer. That is an extremely unequal relationship.

Two, they must have access to our court system, and they must be able to bring private causes of action against employers who abuse them. Third, they must at some point have the access to turn their temporary residence to permanent residence. And for those who want to return to their countries of origin, we must provide them incentives to do that.

A new approach to future flows through a temporary worker program must begin with one fundamental assumption: that U.S. workers come first. No temporary worker should be allowed to come to the U.S. at the expense of a U.S. worker's job or by undermining U.S. wages and working conditions. Therefore, some important protections for U.S. workers have to be included in a temporary worker program. For me, that's numerical limitations. I do not think we can have an unlimited program. Numbers are important.

Second is that we should carve out occupations and regions of the country where we have demonstrated labor shortages, and those are the occupations and locations alone where guest workers should be allowed to come. We should have labor market tests. This is one of the most difficult public policy issues we have faced. The current labor market test does not work very well, but I think we can have better labor market tests in which employer groups, unions, independent analysts can help us gauge areas and pockets of economy where there is shortage.

Foreign workers must have the same protections of our labor laws and remedies as U.S. workers have. And finally, they must be paid at least the prevailing wage, and employers who systematically abuse that system should not be allowed to get foreign temporary workers in the future. And last element on this, we must immensely increase the funding for enforcement agencies of our Government, because without that, we will not be able to have an effective program.

Mr. Chairman, you have a huge opportunity to write the next chapter of immigration history in our country. Our President has provided us an outline. I suggest that as you fill in those outlines, you fill it with the strong acknowledgement that immigrants have been hugely important to our history, and they will be important to our future, and we will do it with a sense of optimism and not pessimism.

Thank you.

[The prepared statement of Mr. Chishti follows:]

PREPARED STATEMENT OF MUZAFFAR A. CHISHTI

Mr. Chairman, Congresswoman Jackson Lee, and other distinguished members of the sub-committee.

My name is Muzaffar Chishti, and I direct the Migrations Policy Institute's office at New York University School of Law.

One must assume that the backdrop of today's oversight hearing is a proposal for a temporary worker ("guest worker") program that President Bush announced on January 7th of this year. The President's high profile and well orchestrated announcement has generated considerable controversy. It has been attacked from both sides of the political spectrum for doing "too much" or "too little". The timing of the President's announcement may have had something to do with the electoral consid-

erations of this year. But the reaction to his proposal, once again, establishes that immigration reform—complex in any season—is intensely contentious in an election year. The President, it seems, did not need any help from the members of his opposing party to abandon any attempts at legislation this year to pursue his proposal; influential voices within his own party have offered strong opposition.

Whatever the President's motivations, credit must be given where it is due. The need for a fundamental revision and reform of our immigration policy has been evident for close to two decades. However, the prospect for such a reform has been elusive. Political events and calculations of the 1990s left little appetite for any immigration reform legislation. A slow momentum toward a fresh engagement of the debate was brought to a halt by the tragic events of September 11th. Immigration reform certainly became one of the casualties of the terrorist attacks.

The President's announcement of January 7th, is ,thus, a bold move at creating a new political space for a serious deliberation of immigration reform. He has put the subject—complex, divisive, and emotionally charged as it is—at the center stage of our political discourse. For that he deserves due credit.

Important as the President's proposal is, it is sketchy on details. Some would say that it is deliberately vague. It is incomplete, and many aspects of it are problematic. But simply opening the door for reform creates a big opportunity for Congress—and all of us interested in the future of our country—to craft the details of a legislative framework that does justice to the importance of the challenge of true immigration reform. Perhaps it is for the best that no legislation can be enacted in the heat of an election. That gives us time to be thoughtful and responsible.

A thoughtful and responsible reform package must accomplish a few things: a) it must address the dilemma of the existing immigrant population in our country; b) it must regulate future flows of immigrants consistent with our labor market needs and economic interests in an increasingly inter-dependent world: and c) it must advance the protection of both U.S. and foreign workers. And it must ultimately reflect the deeply engrained American value of fairness.

UNDOCUMENTED WORKERS CURRENTLY IN THE US

The outline of a true reform package must begin with the honest admission of the facts regarding the current undocumented population. No one knows for sure, but estimates of the undocumented population range from eight to twelve million. Even if we make the removal of this population the exclusive priority of our law enforcement agencies, it would take us years to deport them. It would cause massive dislocation to our economy, and exact unacceptable price in the loss of civil liberties. Simple honesty compels us to conclude that we do not have the moral will, the political will, and certainly not the resources to round up this size of a population for deportation. If we acknowledge this central reality, the responsible course of action is to offer the undocumented an opportunity to regularize their status. Many of them have become important participants in our society and economy. Many have spent years in our country, are parents of U.S. citizen children, are performing jobs that are essential to our economic productivity and lifestyle, are paying taxes, and building stable communities. Many have been unable to regularize their status because unconscionable bureaucratic backlogs would not allow their applications for immigration benefits to be processed. (There are currently 6.2 million un-adjudicated applications for various immigration benefits in DHS pipelines). It is simply unfair and unrealistic to ask these people to uproot themselves and return to their countries of origin. They must have the opportunity to earn permanent resident status. The President's proposal especially falls short with respect to this population. His proposal would offer them opportunity to enroll only as temporary workers, with no real prospects of permanent residence. A program that only offers temporary residence is unlikely to generate full participation. Maximum compliance should be the goal of any successful regularization program—especially a program that has the stated additional objective of responding to the post September 11th security imperatives.

In addition, simple pragmatism argues against temporary status. We cannot expect people who have lived for years in the U.S. to return to their countries of origin after an interim lawful temporary period of three (or six) years. The tendency to revert back to undocumented status would be strong.

As we design a mechanism for regularizing the existing undocumented population, we should learn from the lessons of the past: especially lessons from our 1986 legalization program. By introducing cutoff dates for eligibility that are further away from the dates of enactment, we only invite fraud. Proving long periods of residence inevitably gives rise to a cottage industry in fraudulent documents. Similarly, immediate members of the family of legalized population should also be extended the ben-

efits of legalization. When families are apart, the impulse to unite illegally is strong and natural.

The status of permanent residence need not be granted in one step. It is perfectly rational to make it a two-step process. In the first instance, the current undocumented population, by coming forward, would receive a conditional lawful status. They would then "earn" permanent resident status by meeting a combination of criteria: work, payment of taxes, civic participation, gaining English proficiency, and a "good citizen" crime-free behavior. Such a two-step process would lend both integrity and a special meaning to the process of legalization.

Future Flows

While there is a much broader consensus on the treatment of the current undocumented population, the policy toward future flows of immigrants has generated far more controversy and anxiety. Many proposals, including the President's, would rely on a temporary worker program to respond to these future flows. Opponents of a temporary worker program see it simply as a way to legitimize a pool of cheep exploitable workers for the benefit of organized employer groups. It is a difficult issue, which merits serious debate.

To be fair, the skepticism about temporary worker programs is well founded. They come with a troubling legacy of abuse and exploitation by employers. From the infamous "bracero" program that ended in the 1960s to the current H–2A temporary agricultural worker program, these programs have been stacked against real protections for foreign workers.

But, the legacy of these programs must not foreclose the possibility of their reform. Historical positions must be reviewed in the context of present reality. There are a few central elements of this reality:

- The 1986 legalization program taught us important lessons. Though the program provided a remedy for the undocumented who were already in the country, it ignored the fact that undocumented workers would continue to come to the U.S. to meet the demands for their labor in various segments in the labor market. In the absence of legal channels, the undocumented population mushroomed, confronting us with a problem that we face today. We must learn from the lessons of the past.
- The absence of legal avenues for labor migration often forces people into desperate and dangerous acts. In last year alone, more then 400 people died trying to cross the US-Mexico border; the death toll since 1994 is over 2600. The human toll of illegal border crossings cannot be ignored.
- The views of the undocumented workers deserve to be heard. As they have frequently told credible researchers, they would rather have the status of temporary, or "guest workers" with some basic rights, than be undocumented with no rights and live with constant fear.
- We must recognize that, given a choice, many foreign workers may prefer to work in the U.S. for a short period of time and then return to their home countries. We must not assume that permanent residence in the U.S. is the only goal of foreign workers. This is much more true in today's inter-connected world where people—even low wage workers—are comfortable in living in more than one place.

PROTECTIONS FOR FOREIGN WORKERS

There are good arguments for revisiting the historical (and principled) positions against the idea of temporary worker programs. But, on the other hand, endorsing a temporary worker program in principle today does not mean accepting elements that have discredited past programs. Indeed, if we make the philosophical shift and acknowledge that these programs can be an appropriate vehicle to regulate and manage future flows of labor migrants, we may have a unique opportunity to fundamentally reform temporary worker programs as we know them. The following would be the elements of a reformed temporary worker program:

- The foremost is the ability of workers to change employers. Under most temporary worker programs, a foreign worker is tied to his/her sponsoring employer, establishing an inherently unequal relationship. This can be remedied by allowing the worker to move to a comparable job with a different employer without jeopardizing his/her visa status.
- Foreign workers must have full access to and protection of our court system. Workers must be allowed to bring private causes of action against employers for violations of their contractual or statutory rights, and be entitled to lawyers' fees. Under existing temporary worker programs, workers' exclusive

remedies are complaints to regulatory bodies that lack adequate resources and appropriate remedies.

- Temporary workers must have the option, over time, to earn permanent resident status in the US. Prescribed periods of employment in the US maybe a requirement for attaining such status. The option of permanent residence is also to acknowledge the social phenomenon of migration: that workers may have US born children, or develop other close family ties in the US. For this population, the temporary workers status thus becomes a path—or a transitional status—toward permanent residence.
- However, permanent residence may not be the preferred option for all temporary residents. Those who wish to return to their countries should not be adversely affected—either in their ability to move between the US and their countries of origin, or in their eligibility to participate in temporary worker programs in the future. In this regard, bi-lateral arrangements like transfer of social security payments to the workers' home countries (suggested in the President's proposal) are worth exploring. Such arrangements remove the disincentive for those workers who may want to return to their home countries.

PROTECTING US WORKERS

Important as the protections of foreign workers are, a reformed temporary worker program must ultimately protect US workers. Temporary worker programs must not be used to displace US workers or undermine the wages and working conditions of US workers. This is, unfortunately, easier said than done. There is a strong need for some fresh, new thinking on a number of interconnected issues: on gauging the labor markets needs of employers, on testing the labor market to identify qualified US workers, in devising an enforcement mechanism that provides real incentives to hire such qualified workers, and in designing an efficient process that allows employers to hire foreign workers when no US workers are available. It is universally conceded that the present system of the labor market test, i.e. the labor certification process, is too cumbersome, is ineffective in protecting the US interests of US workers, and does not meet the legitimate needs of employers seeking to hire foreign workers. However, as we move toward new and expanded temporary worker programs, the following are some ideas to consider as we develop a framework for protecting US workers.

- There must be numerical limits on the number of temporary workers who are admitted to the US each year. These numbers could vary depending on the state of the economy, and the conditions of the labor market.
- Admission of temporary workers should be confined to certain occupations, industries or to geographic locations where there is a demonstrated shortage of US workers.
- Temporary workers must be paid at least a prevailing wage. Prevailing wage should be determined by local standards and where appropriate, by national standards. Where appropriate, standard employee benefits should also be made available to foreign workers.
- Temporary workers must be entitled to the same workplace rights and remedies as US workers, including the right to collective bargaining.
- Simple attestations of an employer (as envisaged in the President's proposal) cannot be accepted as the test of the labor market. A labor market test that merely relies on the word of an employer lacks credibility. The labor condition attestation (LCA) system contemplated in the President's proposal is close to the existing attestation system for H–1B applications. The present H–1B attestation system—which is done online—only ascertains the completeness of an application. There is no scope even for determining the accuracy of information provided by an employer. The present LCA system is too loose a mechanism on which to build a new and enlarged program of temporary workers.
- If the individual labor certification process cannot be streamlined, it is worth exploring certification of specific occupations, sectors of the labor market or geographical areas as open to admission of temporary foreign workers. Unions, employer groups or independent experts (perhaps even jointly) may have a role to play in such certification process. State and local governments may, similarly, seek greater role in determining access to labor markets by temporary workers in their states.

- Certain occupations may lend themselves only to local labor market tests, while for others, it may be more appropriate to extend recruitment efforts regionally or even nationally.
- Employers found guilty of violating any of the provisions designed to protect foreign workers or US workers should be precluded from access to temporary foreign workers in the future.

While these elements of a comprehensive immigration reform are being designed, there already are some legislative initiatives pending in Congress that deserve special attention. The AgJobs bill is the most significant of these because it addresses the special plight of agricultural workers. Agricultural workers are in a class by themselves. The importance of the AgJobs bill cannot be overstated. A compromise on an agricultural worker bill has eluded us for a long time. Finally, an unusual coalition of major growers' organizations, labor unions, and agricultural worker advocates, supported by an equally unusual bi-partisan cast of legislators has agreed on a legislative compromise that goes a long way to improving the status quo regarding agricultural workers. It deserves passage by this Congress.

Even beyond the AgJobs bill, various legislative initiatives have introduced concepts that contain some important elements of what should form the basis for a comprehensive immigration reform. These include bills introduced by Senators Daschle and Hagel, by Senator McCain, and by Congresswoman Jackson Lee. We have a number of exceptionally good ideas on the table.

The President has opened the door for a tough but necessary debate on immigration reform. We may not have legislation enacted this year. But there is no going back. It is our combined obligation to improve on the President's proposal and fill in the important and necessary details in his outline. As we fill in those details, we must acknowledge the unique importance of immigrants in our history and for our future. And we must reflect the sense of optimism that defines the spirit of our country. This committee has an extraordinary opportunity to do that.

Mr. HOSTETTLER. Thank you, Mr. Chishti.

And I wanted to ask you the first question with regard to maybe clarification of your testimony in light of the context of the hearing. You suggest a guest worker program must be incentivized by legal permanent resident status. That is no longer a guest worker or temporary worker program, would you not admit?

Mr. CHISHTI. Well, I'm making a distinction between existing population, which I think the only way to deal with the existing population is to give them permanent residence. I do not advocate a guest worker program for the existing population. I'm suggesting that for future flows, we should allow a program which will be mostly a guest worker program but which will have some provision for those people who have employers who can sponsor them for permanent jobs to be able to stay in the United States.

Mr. HOSTETTLER. Thank you; thank you.

Mr. Krikorian most temporary workers that I am familiar with require that alien workers be paid the prevailing wage or higher in order to reduce the possibility that programs will negatively impact native-born American workers. What do you think would be the result of a mass guest worker program where the floor would actually be the minimum wage, given that 90 percent of workers in service occupations currently make above the minimum wage? How many of these do you think would be at risk from a mass guest worker program?

Mr. KRIKORIAN. Well if, in fact, the Congress passed and the President signed legislation as the President outlined it, where the minimum wage was the only wage or labor market protection, all employment, every job in the United States, would be open to competition, and quite frankly, the Mexican illegal immigrant working in agriculture ought to be the first person concerned about the pro-

gram, because he may be picking tomatoes for $8 an hour, but there are 100 million people in China willing to do it for $7.

So at the low end, it potentially creates new jobs that Americans, jobs perhaps that Mexicans won't do is what they'll turn into. And so, only Bangladeshis or Chinese, for instance, may be imported, depending on how the dynamics work. But then, at the higher end of the labor market, likewise, occupations would be exposed. And the two that I think would be, as the economists say, colonized first, in other words, the two occupations that would become jobs Americans won't do would be nursing and teaching.

I would be willing to bet within 5, at most 10, years, there would be only a handful of Americans still working in the nursing and teaching professions, because why bother with better pay, better benefits, continuing education opportunities, and all of that, when there are enormous pools of people from overseas who have English language abilities, from the Philippines, India, et cetera, who can do that work cheap, for minimum wage, conceivably?

So the potential effects of what the President outlined are devastating.

Mr. HOSTETTLER. Thank you.

Dr. Morris, a recent article, as I mentioned earlier, in the Boston Globe stated that the percentage of 16- to 19-year-olds holding jobs in the U.S. is the lowest it has been since the Government first started tracking these statistics in 1948. Do you think that immigration policy has been a cause of this phenomenon? And how does this lack of teen employment affect especially inner-city communities?

Mr. MORRIS. It has a devastating impact on inner-city communities. This was—I quoted William Julius Wilson, who has pointed out that one of the impacts of that has been the preference of some employers for immigrant labor certainly over not only teen labor but older labor of African-Americans.

The immigration policy as a guest worker policy has the fact of bringing additional people who will, in fact, be in competition. Now, you say what's wrong with that? Shouldn't that be the free market? Well, this is sort of a distortion of the free market. The free market should permit folks to be able to gain maximum kind of benefit under existing conditions. When you increase, when you change those conditions radically, or it's changed by lack of control, that increases greatly the supply and reduces the bargaining power. Not only do you have wage depression, but for African-Americans, we have displacement, because there are preferences. Others are preferred over our labor supply.

This is, I think, the most difficult and devastating impact.

Mr. HOSTETTLER. Thank you.

Mr. Beck, you say in your testimony that Chairman Alan Greenspan of the Federal Reserve said that America has an oversupply of low-skilled labor. Could you elaborate on that? Could you give the context of his statement? That is pretty incredible.

Mr. BECK. Well, I'm not a personal acquaintance, but the Washington Post reported his speech to the Omaha Chamber of Commerce last month, and he was lamenting the fact that we have so many lower-educated American workers who just can't make enough money. And he was talking about the need to provide more

education to these workers so they could get jobs that paid more. My disagreement with that is that those are just the facts as he was stating them. My disagreement with the Chairman's analysis, though, is that although it would be great for those 17 million—I believe someone said 17 million American workers without high school diplomas—for them to get more education, and there are a lot of efforts to try to make that happen, but they aren't happening, it also would be great for those workers who are needed to be paid a living wage right now.

The Chairman was acknowledging that the low-skilled, low-educated jobs don't pay a living wage. And that is really the question, I think, before us is what kind of a society or economy do we want? Do we want to have sort of a peasant economy in which some jobs are just known as, "this is foreign work, this is peasant work?" Or do we want to go back to the forties, fifties, sixties, whenever most jobs were known as American jobs, middle class jobs?

Mr. HOSTETTLER. Thank you.

The Chair now recognizes——

Mr. GALLEGLY. Mr. Chairman, could I ask unanimous consent to place my opening statement into the record? I have another meeting and——

Mr. HOSTETTLER. Without objection.

The Chair now recognizes the gentlelady from Texas, the Ranking Member, Ms. Jackson Lee, for a 5-minute opening statement and questions.

Ms. JACKSON LEE. I thank the gentleman very much.

Let me first of all, to the panel, thank you for your presentation and to the Chairman and thank my Members, the Members of the Committee from the Democratic caucus for their presence here and just to indicate to them that my inability to be at the beginning of this hearing is in no way diminishing the crucialness of this hearing. As we speak, the 9/11 proceedings are going on, and I was engaged very much in discussions dealing with the cause of 9/11 as well as the Iraq war and terrorism as a Member of the Homeland Security Committee and had the responsibility of managing legislation on the floor and as we speak, there is a meeting going on about the Haitian crisis. So please accept my apologies.

Mr. Chairman, I am going to articulate partly my opening statement, but I would ask your permission that I have the entire statement be submitted into the record; I ask unanimous consent.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. Let me offer a policy or a promotion or a pronouncement that I would hope that we could rid immigration policy of all of its partisan politics and just deal with common sense. Let me cite an example for you: I joined with then-Chairman Lamar Smith to try to write a common sense H–1B initiative, Mr. Morris, because I concede the fact that we must be concerned about employment.

And in that legislation, we had laid out a defined job recruitment, training to recruit American workers and to insist that American workers would be utilized before we managed to take those high-paying technology jobs outside of our country. We were insistent on that. Let me just say that for lack of a nicer word, the

bill was kidnapped, and as it went to the floor of the House, a lot of that very good language was taken out.

So, I join you in trying to find better ways to address this question. But let me offer to some of you my underlying premise as relates to minority workers and as relates to American workers. Infused in the difficulty of finding employment is still the issue of racism and discrimination. And so, we can't hang on the hats of immigrants. Many of us have come to this country, whether we be black or white or brown or Asian, to look for better opportunities. And they have heard me say that many of us, Mr. Morris, that come from our heritage came here in a slave boat.

But the point is that racism is very intimately involved in this. The other point that I would like to make is that I don't deny that porous borders, wherever they are, Europe, South America or the United States, have the possibility to allow in in this new climate, terrorists. But let me make it very clear: when you begin to randomly and recklessly suggest that immigration equates to terrorism, I'm going to take you on, because it does not equate to terrorism at all.

So we need to get partisan politics, hysterical politics, out of this question dealing with immigration. Now, I take issue with the President's guest worker program for this reason, because I think it is unrealistic to think if you open the door and say jobs available, after 3 years, anybody is going to leave. Likewise, I think it's unrealistic that 8 to 14 million that are here, and I think that Mr. Chishti is going to, at least in our last opportunity to deal with his position, it will take eons, years into infinity, to actually bus out, fly out, send out the 8 to 14 million that are already here.

So let me try to raise some questions, as it's part of my opening statement, Mr. Chairman, that I am doing. First of all, let me say that I proudly—my mother and my grandmother and parents used to always chide me to make sure that I bring home those As. And I think I stay pretty close to that challenge. But I am proud to have an F grade in the pronouncement of the NumbersUSA Education and Research Foundation. I am sorry that I got a B and a C. That means I am really going up. But I basically got an F.

And that's because I believe in common sense, Mr. Beck, in dealing with immigration. I'm not sure what this means about reducing illegal immigration, reducing chain migration, but let me tell you the legislation that I am offering, and I would offer you to respond to this: do I have an F because I believe in reunification of families under 245(i)? Do I have an F for that reason? Do I have an F because I believe a guest worker program has no sense whatsoever and that we should put people on the pathway to legalization, not terrorists, but individuals who have been in the country for 5 years, have no criminal background, can be familiar with the culture and get them on a list so that we know who is a terrorist and who is not?

Do I get an F because there are students who were not born here who want a better life and therefore should be allowed to access our institutions? Do I get an F to try and address the question of the Haitians' equality to Cubans? Do I get an F to deal with Liberians? Do I get an F because I want to protect those children who

have been here and age out while they have been waiting in line to access benefits, do I get an F?

To Mr. Krikorian, would he join me in an amendment that would help to reduce the line of those who are in line legally to access legalization? We are spending all of this money on enforcement. We have a backlog of 6 million people, and would Mr. Krikorian support me in providing those resources so we can get those people who are legally engaged?

Do I get an F for the legislation that I have just offered that has in there recruitment of American workers first and retaining American workers and training American workers so that we are not opening the door and putting those who have come into this country first but realizing that they have come into this country for an opportunity?

So, first of all, to Mr. Beck: you've talked about all of this illegal population, et cetera. My question to you is explain how you're going to work with a population of undocumented aliens, 14 million of them, how you're going to get them out of town, if you will, out of Dodge, without some common sense approach to dealing with these individuals.

Mr. Chishti, would you likewise just repeat what you had said to me earlier, the enormity, if you will, of deporting people out of this country and the common sense way that we should be able to do that? And the question to Mr. Beck.

Mr. BECK. Yes, thank you.

I don't believe there probably is a common sense way to deport 14 million illegal aliens——

Ms. JACKSON LEE. We've got agreement, my friend.

Mr. BECK. —out of the country this year. The answer is attrition; that is, the problem for our American workers is the presence of all of these people in their labor markets, and it is their labor markets. And what we do is first of all, we start doing some real enforcement; maybe double the deportation, which is not that much, and start to give people a sense that actually, if they do run into their police officers, they might get deported.

Second, we do a force multiplier for our Government by mandating that the Federal Government always come to the aid of a local government that says we have this illegal worker population. Thirdly, we make the very wise decision that you all made last fall to expand the voluntary workplace verification system nationwide. We make that as soon as it is in place and shows that it works; that is, that it is not stopping people wrongly, we make that mandatory.

Ms. JACKSON LEE. Do you have a guesstimate of how long it will take to get to the 14 million and get them out by attrition?

Mr. BECK. I think it might take as much as 10, 15 years.

Ms. JACKSON LEE. Mister——

Mr. BECK. But the most important thing is not to keep adding more millions of illegal workers to the economy.

Ms. JACKSON LEE. We have a consensus on the guest worker program, which I think you are speaking to. We have a consensus. My bill speaks to earned access to legalization, which does not speak to a guest worker program. I am not supporting that, because I be-

lieve it is a flat earth theory. But could you give me, Mister—am I—is that——

Mr. CHISHTI. Chishti.

Ms. JACKSON LEE. Mr. Chishti with a C-H? I am sorry; I just want to——

Mr. CHISHTI. Yes.

Ms. JACKSON LEE. Thank you, sir. Would you give me a realistic idea of deporting 14 million, and is attrition realistic? And would you comment is race a factor, still, in hiring American workers in this country, if you have some——

Mr. CHISHTI. On the numbers, I think it's a pipe dream for anyone to believe that we can deport this large a population. Even if we had the moral will to do this, we just simply do not have the resources to do this. We would have to turn our country into Fortress America, and no one is prepared to do that. We will have to put cops at every street corner to find undocumented workers, many of whom, by now, have U.S.-born kids; many of them have permanent resident spouses; many of them have other close members of the society, and most importantly, many of them are extremely important members of our economy. And I think it will cause a huge disruption for us to do that.

And then we——

Ms. JACKSON LEE. You gave me a figure before; you calculated something that——

Mr. CHISHTI. Well I think people—if you just look at, you know, even if we started deporting, like, rounding up 500 people a month, I mean, this would take more than 20 years to do it, not to mention, then, how long it would take in the court process for people who decide to challenge those proceedings and sort of logjam our court system.

So on a variety of fronts, it's just simply not possible for us to do it. That is why I think the cleanest way to deal with this is to acknowledge the reality of this population and say that let's give these people a one-time opportunity to adjust their status. And I think your bill, which actually does, I think, very rightly talk about family reunification in this context is extremely important, because if you do not let people rejoin with their families, it is only going to create an incentive for them to bring those people illegally, which is just going to increase undocumented immigration in the future.

Ms. JACKSON LEE. Mr. Chairman, could Mr. Krikorian just answer yes or no on the adding to help facilitate those who are legally here, Mr. Krikorian——

Mr. KRIKORIAN. Sure.

Ms. JACKSON LEE. Who are in line, who have been waiting, as you may know, for years to provide resources to get them moving on?

Mr. KRIKORIAN. Whatever our immigration policy is, it ought to be properly funded, professionally run, so that it works the way that it should. And Government does not have to work this badly. DMVs in various States have become increasingly professionalized and efficient. And that's why what you're describing is an indication of how we have an anti-immigrant policy of mass immigration,

as opposed to the direction I try to make the case for, which is a pro-immigrant policy of low immigration.

So, yes, I would agree that whatever our system is, it needs to function professionally and expeditiously, and we don't have that now.

Ms. JACKSON LEE. And with the right resources.

Mr. KRIKORIAN. Yes, with the right resources.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

Mr. HOSTETTLER. I thank the gentlelady.

The Chair now recognizes the gentleman from Arizona, Mr. Flake, for 5 minutes.

Mr. FLAKE. Thank you, Mr. Chairman.

Mr. Krikorian, I was interested in your analysis of the national security issue. You mentioned near the end of your testimony that surely, we're guaranteed to admit terrorists in the program. I don't disagree at all, whatever system you have, that's going to happen. I think the question is, is that more likely under a structured program of legal immigration or the current de facto amnesty that we have?

Mr. KRIKORIAN. Leaving things as they are, with illegal immigration explicitly permitted by the Federal Government once you pass the border, there's no question that's a security problem. My problem is that enforcing traditional immigration law, in other words, ordinary, across the board immigration law enforcement is a powerful tool for homeland security. The fact is we traced the 48 al-Qaeda-related operatives. From the hijackers a decade back, there were 48 of them; about half had violated immigration law at one point or another, and almost certainly, others had as well. We just weren't able to get the documentation on that.

So the fact is that immigration law is not really not just a tool as it is used now, an additional tool to go after terrorists. Unfortunately, that's the main way it's been used. In other words, going after Al Capone for not paying his taxes, but ordinary immigration enforcement can, in fact, disrupt terrorist conspiracies and would have had we been doing it.

Mr. FLAKE. Just yes or no, do you feel that we have a law that can reasonably, politically or otherwise, be enforced today?

Mr. KRIKORIAN. Sure, yes, absolutely.

Mr. FLAKE. All right.

Mr. KRIKORIAN. I mean, that doesn't mean that we don't need legal changes, but yes, we can, in fact, enforce the law, and without machine guns and land mines; with normal law enforcement tools, yes.

Mr. FLAKE. Mr. Morris, your Website mentions—says DASA supports replacement-level fertility, on average of two children per family, and replacement-level immigration. In what way do you support that two children per family? Is that like China's one child policy or——

Mr. MORRIS. No, no, no, no; in fact, that is what America has really, actually, moving toward. But we have a disproportionate amount of our increased population comes from demographics—from immigration-driven demographics. In other words, most industrial societies, as the income goes up, as the society gets more

advanced industrial, you find a natural dropping off of the replacement, and as education rises, et cetera, et cetera.

Mr. FLAKE. So you're not advocating any——

Mr. MORRIS. No, no, no.

Mr. FLAKE. Good.

Mr. MORRIS. What I am advocating is that we really move toward, as we had been, a middle class society and the—one of the benefits that comes from that is, you know, higher incomes, greater education, and, you know, less children by choice.

Mr. FLAKE. Along those lines, you mentioned high immigration contributing to our Social Security problems. If you look in countries that don't have high immigration or don't—or are pursuing a two-child family, Japan, for example, or what Rumsfeld calls Old Europe, there are massive problems in the future with pension benefits, and we face those same struggles here.

Mr. MORRIS. I don't think we do; not with the rate of immigration that we've had.

Mr. FLAKE. Well, that's what I'm saying. But if we had a policy like you're advocating, then, we, in fact, would face substantial problems in that area. As it stands, there's between, I think, $28 billion and $30 billion over the last decade being paid into Social Security that isn't paid out in benefits because it's paid into fraudulent accounts. And I'm not saying that's a good thing, but I'm saying that's the reality of unless you have a good number of workers to follow, if you say simply we're just going to stop, no more immigrants, just very few, just replacement level, we're going to have a massive problem, I would suggest, in a number of years.

Mr. MORRIS. You know, I think that was the goal, Congressman. I don't think that we urged this immediately happen. That's where we really want to go, not that there is any, there should be any steps to do that with any kinds of things right away. And I didn't mention Social Security in my discussions.

Mr. FLAKE. There's a part of your Website that mentions it.

Mr. MORRIS. Oh, okay.

Mr. FLAKE. Mr. Beck, you mentioned the idyllic forties, fifties and sixties as if there was no imported labor for anything. You're familiar, I'm sure, with the Bracero Program that happened prior to that; a number of decades before, the Transcontinental Railway. If I remember my history right, that wasn't exactly built with domestic workers. Do you have any comments?

Mr. BECK. Well, that happened during the great wave of immigration that you're talking about. But during the thirties, forties, actually, from 1924 until the seventies, there was what the economists called the great compression. That was the time when the lower class gained a lot on the middle class, and the middle class gained on the upper class. Yes, there was the Bracero Program. It was one that just kind of sneaked in in the middle of World War II. There was no sign that the country needed those workers, but some of the lobbyists for some of the agribusinesses managed to sort of persuade them to do that.

But for the most part, we had very low immigration. We had a very tight labor market in the fifties and sixties, and that propelled us toward a great middle class economy.

Mr. FLAKE. And that does not exist today; no need for labor today?

Mr. BECK. There's plenty of need for labor but no need for imported labor, yes.

Mr. FLAKE. Thank you, Mr. Chairman.

Mr. HOSTETTLER. The Chair now recognizes the gentlelady from California, Ms. Sánchez, for 5 minutes.

Ms. SÁNCHEZ. Thank you, Mr. Chairman.

First, I want to ask unanimous consent that a letter from MALDEF be entered into the record as part of the written——

Mr. HOSTETTLER. Without objection.

Ms. SÁNCHEZ. Thank you.

Second, I just wanted to make a couple of points before I get down to some questions. We had a Subcommittee meeting, I believe it was either last week or week before last, where we had somebody estimate that if we were to deport 500 out of this 8 to whatever million undocumented workers that are in this country—the number seems to rise with people's, you know, depending on who's using the number to meet their needs for argument, 500 people a day were to be deported and given 400 days in a year, and we know that there are less than that, but just for simple mathematics sake, it would take 50 years to deport all of the workers that are currently in this country.

So when we talk about immigration reform, we need to do something to address that in a comprehensive way, and I think that there can be a way that guest worker programs can be structured to alleviate some of that problem and to put people on the path to citizenship. These are workers that are integral parts of our economy that have been working here and living here, raising families here, contributing to taxes, contributing to our Social Security system, and I might suggest that the idyllic, you know, 1940's and fifties labor market, when we talk about a lack of jobs in this country, something that has glaringly been omitted from everybody's testimony is the fact that we continue to export jobs overseas and that our labor standards here, while they look wonderful on paper, the enforcement mechanism for them is very low as well.

So there are a number of other factors that play very heavily into this lowered working conditions and lowered wages and lower standards for American workers, and I do believe that Ms. Jackson Lee was correct in saying that you cannot hang all of those problems in the necks of immigrant labor.

Mr. Beck, in your testimony, you talk about occupation collapse, where wages plummet, benefits disappear, and working conditions deteriorate, which you claim threatens American lower middle class jobs. If a guest worker program included prevailing wage provisions to ensure that wages didn't plummet, that guaranteed secured benefits and demanded solid working conditions to a particular labor market, wouldn't those protections prevent that occupation from, in fact, collapsing?

Mr. BECK. The kind of protections that you're talking about and Mr. Chishti talked about, none of them are in any of the proposals that are being talked about: not the President's proposals, not the Democratic leadership's proposals. It would be helpful, if someone were serious about guest worker programs, to actually put forth

one that would try to meet Mr. Chishti's standards, that is, someone who actually supports guest worker programs, says they support them, to protect American workers.

I do not believe, we do not believe the information is there—the studies are there—to show that we actually need these people. But I think that, yes, if you would put all of those truly enforceable provisions in place, you could probably prevent occupational collapse. What you would get is not a race to the bottom but a gradual decline. Remember prevailing wages don't stop wages from declining, but they do stop them from collapsing.

Ms. SÁNCHEZ. I understand, so if those protections could be included in a guest worker program——

Mr. BECK. Truly enforceable, we probably would not see collapse.

Ms. SÁNCHEZ. And our Government was serious about enforcing them, then, we would not see that collapse in occupations.

Mr. Chishti, do you believe that ensuring employers pay the prevailing wage and provide the adequate benefits is a way to ensure that both American workers and guest workers are protected?

Mr. CHISHTI. It's absolutely essential, because otherwise, there will be huge incentives to continue to hire undocumented workers.

Ms. SÁNCHEZ. And those of us who do advocate for meaningful immigration reform and immigrants' rights, we always talk about legalization, earned legalization through guest worker proposals as a part of our proposals. Would you give your thoughts, please, on why legalization is an important and integral part of protecting American workers and immigrant workers in this country?

Mr. CHISHTI. Because right now, whatever, as you said, we don't know the numbers; whatever the numbers, 8 to 12 million people, these are people who are part of our labor market. In many places, they're working in the same factory as a U.S. worker. They certainly are working in comparable occupations. If you have a pool of people which is exploitable and constantly exploited on a daily basis in this country because of their status, that provides a huge downward pressure on wages and therefore affects U.S. workers.

So the only way to improve the conditions of U.S. workers is to establish a parity between them and the foreign workers who are right now getting exploited, and frankly, the only sure way of doing that is to give them a legal status.

Ms. SÁNCHEZ. Thank you very much; I appreciate your comments, and I yield back.

Mr. HOSTETTLER. I thank the gentlelady.

The Chair now recognizes the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH. Mr. Chairman, looks like all we have is 5 minutes. I am going to split my time, Mr. Chairman, with the gentleman from Iowa, Mr. King, who had a noon conflict and now has a vote conflict as well.

I want to make a couple of points. First of all, I'd like to point out that there was a recent poll in Texas this last week that was absolutely amazing to me. This was a Scripps-Howard Texas Poll. Eighty-six percent of those surveyed said illegal immigration is a very serious or somewhat serious problem, and 69 percent of Texans said the U.S. Government is not doing enough to stop unauthorized immigration.

Mr. Chairman, there is no reason we can't enforce our immigration laws. Clearly, there is a public support for it. It is politically sustainable and supportable. It may not be politically correct, but it shows that the American people want their Government to do more than it is right now to reduce illegal immigration.

Mr. Krikorian, I'm not going to ask you a question, but I just want to say I agree with what you said in your testimony. I also happen to agree with what Ms. Jackson Lee said awhile ago, but we come to different conclusions. And that is if you have a guest worker program as the Administration has proposed, which says to an individual we're going to give you a job, we're going to let you bring your family into the United States, we're going to let you stay here for six or more years and perhaps choose a citizenship track, that there is a very small likelihood that these individuals are going to return home.

Now, that concerns me as opposed to makes me want to give everybody citizenship, which is how some feel. But anyway, I agree with your point there.

Mr. Morris and Mr. Beck, a quick question for you: who gets hurt the most by a guest worker program?

Mr. MORRIS. In my testimony, I think I generally—low-wage workers. And all of my academic life, it's been pretty clear, when we're talking low-wage, low-educated workers in America, we're talking about a disproportional number of those who are African-Americans, because as Congressman Jackson Lee, in addition to being low-income, low-educated, you have clear racism and clear nonpreferences as the last hired and first fired.

Mr. SMITH. Mr. Beck?

Mr. BECK. Same answer except to emphasize that Hispanics are greatly affected. There are some studies that suggest that Hispanic Americans are more disproportionately impacted negatively.

Mr. SMITH. And, Mr. Beck, on the basis of your testimony, would you agree that if there were fewer guest workers, wages would rise, and if wages rose, more American workers would be likely to take those jobs?

Mr. BECK. Yes, it's the virtuous circle.

Mr. SMITH. Thank you.

Mr. Chairman, I'll yield to the gentleman from Iowa.

Mr. KING. Thank you, Mr. Smith, I appreciate your yielding.

In the narrow time that we have here, I want to try to roll out one piece of philosophy and try to get a response to that, and it is that the statement has been made that we can't logistically deport 14 million illegals in this country, and there's some discussion on whether we could actually do that or not, and we couldn't do that in a year; we couldn't do it in 2 years; we might be able to do it in 10 years.

But I think there's another way to approach this, and certainly, with regard to the necessity to enforce our borders and the necessity to enforce internally, but it's to remove the jobs magnet. And that's really the attraction here. And we talked about the competition piece of this, we don't have the enforcement by the INS, and then, when they do come in, and they do raid a factory that has a lot of illegal workers, they tend to call ahead and let the word be leaked out, and those folks don't show up for work that day.

So what I'm suggesting is this: that we look at this another way, and that is employers are, willingly and some unknowingly, hiring illegals for the reasons that we know: the economic incentives are there. Now, just suppose that the deductibility, Federal deductibility for wages and benefits paid to illegals were no longer deductible. Just suppose the IRS could come in and audit any company that had access to our computer database now where they can verify by Social Security number whether they in fact have a legal worker on their hands in their employment or not, and so, we can start within the next couple of years once we verify that system. And the IRS could come out, then, and do the auditing and make the verification and do the appropriate billing of removing that deductibility so that an employer, then, would be liable for wages and benefits and penalty on the deductions they've made to illegals?

What effect do you believe that that would have on the numbers of illegal workers that we have in this country, and I would direct initially to Mr. Beck.

Mr. BECK. Well, that's the first I've heard that idea, so I can't give a full thought on it. But on first thought, it sounds like a very useful tool. And I think in order to deal with illegal immigration, we need lots and lots of tools working all at once. We have parts of Government that pretend like they aren't noticing laws broken. So I think anything that further discourages businesses from hiring and makes life tougher for illegal aliens is helpful. Sounds good.

Mr. KING. Thank you, Mr. Beck.

Could I ask unanimous consent for one more minute?

Mr. HOSTETTLER. The Chair recognizes the gentleman for one more moment, and we will be recessing after this minute of questions.

Mr. CANNON. Mr. Chairman, may I make a suggestion? Not objecting, but if I am willing to miss this series of votes, if you are willing to let me take the chair so that everybody else can go over and vote and come back?

Mr. HOSTETTLER. Without objection.

Mr. CANNON. That way, I'll defer my questions and withdraw any——

Mr. HOSTETTLER. The Chair now recognizes the gentleman from Iowa.

Mr. KING. Thank you, Mr. Chairman.

I'm directing it to Dr. Morris, and that would be there are quite a number of Members of this Congress who represent minority Congressional districts, and they seem to also be representing or at least speaking on behalf of illegal aliens in this country and their employability. Can you explain to me that phenomenon as to why representatives of the minority community might also be defenders of illegal immigration?

Mr. MORRIS. Well, one of the things that happens is that in our African-American communities, especially from our churches, there is a tremendous often sympathy for the underdog. There is a realization that not only are African-Americans under duress and under strain; our history of our experience in this country leads us and leads many of us to identify with those others who may be under strain.

Now, as to the representatives, I let them sort of speak for themselves. But I think that increasingly, the statistics show that there is concern among our African-American population, concerns that are not reflected in legislation, concerns about—because many of them about competition, not only low-wage competition; about the lack of seeing African-Americans in the services. If you've gone around anywhere in African-American fraternities, sororities, when you go to service establishments, to know that African-Americans can do this and not see it.

So there has been a great deal of discussion. The only other explanation I can say is that our African-American Representatives are not unlike the other Representatives here; that there are issues where they differ from their constituency. The Center for Immigration Studies published a study from the Council on Foreign Relations that shows that on immigration, there is this—the difference is greatest of all between the views of some of the constituents and some of the elites. With all due respects, you are all elite, and I think that this is a reflection of that, too.

Mr. KING. Thank you, Dr. Morris.

Thank you, Mr. Chairman.

Mr. CANNON. [presiding.] I sort of like this chair. [Laughter.]

I actually thought this was going to be my chair at this point in time.

Would you like to—the Chair yields to the gentlelady from Texas for 5 minutes or so much time as she may consume.

Ms. JACKSON LEE. I thank the distinguished gentleman very much. I will be yielding to the Chairman, because I will be going to the floor to vote, and I thank him for his graciousness and his respect for the time of the panelists here to sacrifice and to remain in the chair, and maybe if he remains, he will continue to remain in the chair, but we certainly appreciate his leadership and the leadership of Chairman Hostettler as well.

Let me, Mr. Morris, focus on questions or a point of Mr. King. Let me just say to you that I proudly joined with the nation's unions when they joined in in a collaborative effort to deal with what we call access to legalization. I happen to have a majority minority district, but I happen to have a very eclectic, diverse district, Hispanics, African-Americans, Asians, others and Native Americans, and in Texas, we say Anglos.

I think it is—I think we should not be debating and discussing this issue when it relates to both Hispanics and African-Americans without keenly focusing on race. And why do I say that? I'll try to be as brief as I can. Before the wave of immigration came into this country, there was a decided society of black and white. We didn't do what we needed to do with the African-American community post-civil rights era, 1964 and 1965, in infusing capital into inner cities and rural areas with job training, with educational opportunities, and therefore, in the pecking order just like the wave of immigrants that came in into the 1800's, Irish, Italians, early 1900's, their boats rose, they left those jobs, and then, a new wave of immigrants came in.

In actuality, because of the economics of this country, we built our economy on immigrant labor over the years. What happened with African-Americans is that, unfortunately, racism kept them in

a divided community, and their boat did not lift exponentially the way it should have been lifted. The representation that minorities or minority Congresspersons or Representatives support illegal immigration is an outrage, because what is being supported is the existence of individuals in your community, putting them on a track to become citizens, and, as you have heard me say, I am not a fan of the guest worker program; do not believe it has any substance to it whatsoever.

But what I would like to see any immigration bill have retainment of American workers, training of American workers, recruitment of American workers, promotion of American businesses to hire them but at the same time recognize the roles and opportunities for immigrant workers.

Can you not deny that race is a deciding factor and that when we look at immigration, we should track alongside of it the whole job training and education aspect to it?

Mr. MORRIS. Undoubtedly, it is, Congresswoman. But one of the things that also stands out is that education does not explain, I mean, that African-Americans who have better education, who are better educated, better English proficiency, are still not preferred in the low wage job market. So, you know, it's just—I just want to caution you that it's not education and training that are the reasons why there are these African-American deficits that run throughout the labor market.

Ms. JACKSON LEE. Then I would say to you that race still remains a factor, even at that level, and that is our responsibility in Congress not to mix apples and oranges, whether it's Hispanics who are being discriminated against on the basis of language or whether it is an African-American, there is the factor of race or distinction. And what I am saying is because this immigration issue is so sensitive, we must reinforce the civil rights responsibility of this Government, because I've heard that, and I am against low wage minority workers being discriminated against. It all goes down to a factor in some sense on this question of race, which we have not ridded ourselves of. When we talk about improving or clarifying immigration issues, we have got to go and penetrate the fact that race is a dividing factor in this country.

Mr. MORRIS. No doubt about that, that that is a real concern. But I would also hope that when you are looking at ways of reforming immigration that you would also look for ways of reinforcing citizenship also, incentives, especially economic incentives that will generate citizenship and encourage American employers to hire Americans. The economic incentives are some of the greatest incentives.

Ms. JACKSON LEE. We may come at it a different way, and thank you, Mr. Chairman, but we may get to the same point.

My concluding remark is immigration does not equate to terrorism, and this nation is a nation of immigration and a nation of laws, and I think we must find the balance and not run hysterically into the wind to do something, to try to do something that we just cannot do. And I thank the Chairman.

Mr. CANNON. Would the gentlelady yield?

Ms. JACKSON LEE. Be happy to yield.

Mr. CANNON. I'm just wondering if you will interpret Texan for me. Does Anglo mean Anglo-Saxon, or does that include the Celts as well? [Laughter.]

Ms. JACKSON LEE. The Celts have distinguished themselves, but we broadly use Anglo as Anglo-Saxon, but we also broadly use it in Texas since we are loose with our words as the caucasian population. But I would beg to say to you that our distinctive communities under the Anglo umbrella make it very clear that they are this and that and this. That's why we are a nation of immigrants, Mr. Chairman.

Thank you very much, and I respect that diversity. Thank you.

Mr. CANNON. I thank the gentlelady. In fact, we are a nation of immigrants. We are a nation of diverse cultures. I think we have done remarkably well together, and I think that we have a significant problem right now. Thank you. I thank the gentlelady.

First of all, I'd like to thank Mr. Krikorian and Mr. Beck for being here again. You've been here in the past. I appreciate the forthcomingness of your answers in the past. Mr. Krikorian, we were talking a little earlier; I appreciate that, and Mr. Beck, I just read the transcript of the last hearing that we had, and you were very thoughtful and very forthcoming, and I appreciate that.

Most of my questions are going to be for the two of you. We were talking at the break, Mr. Krikorian and I, about the Wall Street Journal article which he disputes and points out that that is guilt by association, but in fact, what I would like to explore is the association of groups, how they work together. This is what we talked about, I think, a little bit before, Mr. Beck; a lot of information, I think, that has become public since then, some of it in articles, and I don't suggest that journalists are all that reliable sometimes, so we're not going to hold anybody to a journalistic standard.

But there are some things that I would like to understand, and let me just start off with the context that we're facing right now in America. One of the major national environmental associations is under, as Business Week and Time, and I think there was also an article in Newsweek that said, under assault by forces who want to limit immigration. And so, you have on the board of the Sierra Club currently Dr. John Tanton, and you have seeking membership on the board former Governor Dick Lamm along with two others, and all of these articles have been consistent that there would be a coalition which would include two other people who are People for the Ethical Treatment of Animals types and therefore would ultimately control the Sierra Club and an organization that has a budget of $95 million.

Mr. Morris, you are obviously anxious about this. Would you like to say something?

Mr. MORRIS. Thank you, Congressman, because I'm a candidate for the Sierra Club board who has been defamed by this kind of activity.

Mr. CANNON. Are you one of those people that Dick Lamm would say is running?

Mr. MORRIS. Yes, yes, yes.

Mr. CANNON. Well, great, we'll have a discussion about it.

Mr. MORRIS. Yes, I would be delighted to have a discussion. [Laughter.]

Since it was claimed that I am——

Mr. CANNON. Pardon me, Mr. Morris, let me just take a few more steps, and then, you can actually be responsive to some questions, because I think it is fair. Now, I have been quite careful to only give the characterization of this that *Time* and *Newsweek*—in fact,

Business Week had a couple of articles, I think. So, in fact, I'm only saying what's said, and we'd like the response on that.

But in particular, I'd like to pursue what these relationships are and associations are and funding relations are. So I am going to ask the questions of who is funding your organizations, and I hope that you'll be forthcoming with that.

But that said, I think the question is, as one of the three, and I did not realize you were one, because they have only mentioned Dick Lamm.

Mr. MORRIS. Yes.

Mr. CANNON. You need to be governor of a State, I suppose, to get the kind of attention.

Mr. MORRIS. I guess that's right, yes.

Mr. CANNON. But is there not a view that the three of you who are running together with the PETA folks would dominate the policy of the Sierra Club?

Mr. MORRIS. That is totally unfounded, sir.

Mr. CANNON. It's founded, because it is published everywhere, but if you explain why that is not the case, I'd appreciate it.

Mr. MORRIS. Well, I'd like to explain why. We've had almost unprecedented violation of Sierra Club rules, elections where you have the executive director, Mr. Pope, getting actively involved in a board election. You know, after Sarbanes-Oxley, you would really wonder about that. My own particular run for the board goes almost back to the days when I served with the Congressional Black Caucus Foundations, when I saw that there was Sierra Club activities from progressive Members of the Congressional Black Caucus and others, but I didn't see the reciprocal response of the Sierra Club to the kinds of health and environmental issues that disproportionately impacted low wage African-American and other kinds of communities.

So my early involvement went with the Global Tomorrow Coalition and then my church, the United Church of Christ, we funded the initial studies that showed a disproportional location of toxic waste dumps in low wage communities and so forth. So it wasn't until later that the Sierra Club began to get involved.

So the real issue here is the fact that there is a fear of loss of control. Some of us are running for the board because we feel the Sierra Club has not been as effective as it should be, a, that there is an issue of $100 million of anonymous donations that goes to the club that influences policies greatly, and those anonymous donors are not even known to members of the board.

There are issues of outreach. The Sierra Club has not had effective outreach into minority communities. Some of us feel that we know how to do that. These are the reasons why we're running for the board. But to run for the board, then, to have—to be slandered by saying that, you know, that those supporters——

Mr. CANNON. In fairness, there are two kinds of groups out there, if it is slander, of course. Slander is not true. But one of them is

the current leadership of the Sierra Club. You're certainly threatening them, are you not?

Mr. MORRIS. Yes, that is correct.

Mr. CANNON. And they are the guys who are planning to——

Mr. MORRIS. They don't want to lose control. That is exactly right.

Mr. CANNON. But do you support Dick Lamm's views?

Mr. MORRIS. Do I support—Dick Lamm has his own views, sir, and I have my own views.

Mr. CANNON. But are you running together?

Mr. MORRIS. No, sir; no, we are not, but we have similar views. We have similar views on a number of things. One of the things we share is a concern about sustainability.

Mr. CANNON. You know, there are a lot of things that the Sierra Club does that I don't care very much about. I do care about population right now. It is at least said in the press, and maybe coming from the current leadership of the Sierra Club, is the allegation that many, many hate groups, white supremacist groups and racist groups are supporting Dick Lamm and his slate, which, according to the press, would include you. [Laughter.]

The question is not do they support you. The question is are there—is it true that you have these hate groups that are coming in, joining the Sierra Club, and voting in this election?

Mr. MORRIS. I don't believe that is true at all. We've asked them to give evidence of that, and they do not because they cannot. What that charge wants to do is to say that anybody who is really concerned about population stabilization and the impact of immigration on that must be identified with hate groups.

One of the things that I've had the privilege of doing, and I am going, in a letter to the New York Times, it will come out clearly, that the position which I hold on immigration is the position that's been held by the most distinguished African-American leaders of the past centuries, from Frederick Douglass to W.E.B. DuBois to Booker T. Washington to Marcus Garvey to A. Philip Randolph.

To say that these positions, which are also held by the majority of African-Americans and on concerns about immigration by the majority of Americans are held by—are positions that are engendered by nationalism or racism is just absurd, and it's vicious, and it is just simply very much unfair.

Mr. CANNON. Now, you've been around the community for a long time.

Mr. MORRIS. Yes.

Mr. CANNON. Are there not groups out there funding these various organizations that have a wide interest which, in fact, are tied to funding groups that fund racist groups?

Mr. MORRIS. I think that's absolutely not correct. I'm intimately familiar with both DASA, which has sometimes been charged with that. I am very familiar with the Center and Mark here, who also has been charged with that charge, and that's just simply not true, sir.

Mr. CANNON. It's not true that you have groups out there that are funding racist organizations and the group of associated organizations that are promoting immigration control and population control?

Mr. MORRIS. All I can say——

Mr. CANNON. Well, let me ask some specific questions.

Mr. MORRIS. Sure, go ahead.

Mr. CANNON. Because generalities don't help. Let me talk about, since Governor Lamm is now the issue, let me read two or three quotes from Governor Lamm and just get your personal, your organizational responses to those. In 1986, Governor Lamm said, "I never did believe in that give me your tired, your poor," quoting from Emma Lazarus' poem on the Statue of Liberty. Do you and your organizations associate yourself with such remarks?

Mr. Krikorian?

Mr. KRIKORIAN. What was the remark, now, again? What about Emma Lazarus?

Mr. CANNON. "I never did believe in that give me your tired, your poor stuff."

Mr. KRIKORIAN. I'm not really sure what the poem means; I'm not sure what the Governor meant when he said it. So, do I endorse cliches? I don't know. I mean, give me a substantive statement, and I will tell you whether I am for it or not.

Mr. CANNON. How about in 1984, Governor Lamm stated "terminally ill people have a duty to die and get out of the way."

Mr. KRIKORIAN. That I can answer.

Mr. CANNON. Yes, sir.

Mr. KRIKORIAN. CIS does not now nor has it ever supported a duty to die, because it is not an immigration issue, and therefore, we take no position on any nonimmigration issues.

Mr. CANNON. You don't take a position on immigration or population control.

Mr. KRIKORIAN. CIS takes positions on immigration specifically. We have no—CIS is not now nor has it ever been in favor of abortion. CIS is not now nor has it ever been in favor of Government policies to control the population.

Mr. CANNON. Have you taken money from organizations that propose those theories?

Mr. KRIKORIAN. CIS is not now nor has it ever been a recipient of funds from the Pioneer Fund, which is apparently the group that everybody is——

Mr. CANNON. Well, there are actually a number of groups out there. Can you tell us who you have received funds from?

Mr. KRIKORIAN. We get funds from a variety of groups on the right, the left and the center. I can list some of them. The Scafe and Olan Foundations and Bradley on the right. Among liberal groups, the Weeden Foundation is a conservation-oriented group, and then, in sort of the middle or nonpolitical groups, the Hewlett Foundation and the German Marshall Fund. These are all pretty mainstream outfits.

Mr. CANNON. What percentage of your funding do those groups account for?

Mr. KRIKORIAN. Most of it; I mean, we don't have any direct mail stuff. So I don't know the numbers, but the majority, the overwhelming majority of it comes from foundations.

Mr. CANNON. Let me—do you, Mr. Morris, do you agree with that statement about people having a duty to die?

Mr. MORRIS. No, but that's, you know——

Mr. CANNON. Do you find it offensive?

Mr. MORRIS. I don't know the context, sir, I really don't know the context. You know, we all are going to die. I just would like to know the context.

Mr. CANNON. The context was we need to reduce the population, I think. Does your group believe that we need to reduce the population?

Mr. MORRIS. Of the United States?

Mr. CANNON. Yes, of the United States.

Mr. MORRIS. Yes, through natural means, through means of increased economic development. And the population was dropping by natural means. Immigration is really what stimulates—and it continues to stimulate our population growth much disproportionately. The United States, like other advanced industrial countries, had been, you know, stabilizing, had been moving toward stabilization.

Mr. CANNON. And do you think that's a good thing?

Mr. MORRIS. Yes, I do. Yes, I do. I think that one of the things that—when industrial countries move toward stabilization, it's often accompanied with increases in many of the kinds of benefits: increases in education, increases in wealth; you know, that's one of the things that differentiates industrial countries, advanced industrial countries, from those that are not. And I want us to be among the best.

Mr. CANNON. I think that you need population to be the best, and we have the best tools. But we differ on that point.

Mr. Beck, do you agree with that?

Mr. MORRIS. Excuse me; can I just say—we are not arguing not having population. I think we are talking about the degree of magnitude of increase, aren't we?

Mr. CANNON. Well, let me get through another couple of questions so we have some context.

Mr. Beck, do you agree with that quote by Governor Lamm?

Mr. BECK. Which quote?

Mr. CANNON. That is that people have a duty to die and get out of the way?

Mr. BECK. I can't really comment very well, because NumbersUSA does not deal with those issues. But I do remember as a newspaper reporter at the time when that quote was made, and as I recall, I believe if you will check, I believe it has nothing to do with population. I think it has everything to do with health care costs.

Mr. CANNON. Well, he did talk about—let me just give you another quote here. The best thing that could happen—this is 1985—"the best thing that could happen to this country is for a whole bunch of hospitals to go broke." And I think the context of that was if hospitals go broke, people die, and we have a smaller population.

Mr. BECK. I don't believe that that was really the context. But as I say, NumbersUSA doesn't take positions on those kinds of things. We are not involved in health care.

Mr. CANNON. Who funds NumbersUSA?

Mr. BECK. Pretty much the same funders as when I answered your questions 3 years ago.

Mr. CANNON. We never got to that. We never got the answer. Unfortunately, we lost my time, and I couldn't——

Mr. BECK. There was a very long list, and I submitted them to you. But we have a number of foundations but primarily individuals. That is, the majority of our money comes from individuals. We have about—it's about 25,000 active members.

Mr. CANNON. And how much do they pay per member? What is the cost of membership?

Mr. BECK. There is no cost of membership. It's pass the collection plate.

Mr. CANNON. What proportion of your funding comes from the "collection plate" of many members or in small contributions, and what portion comes from larger contributors?

Mr. BECK. To give you an accurate answer, I really should get back to you, but I believe it's about 60 percent comes from the collection plate.

Mr. CANNON. Okay; and does, Mr. Krikorian, you mentioned the Pioneer Fund. Does the Pioneer Fund give money to your group?

Mr. BECK. No, it does not. Never has.

Mr. CANNON. Never has? Great. Mr. Krikorian what is your relationship with Dr. Tanton? What has it been historically?

Mr. KRIKORIAN. You mean personally or institutionally?

Mr. CANNON. Both; let's go with institutional.

Mr. KRIKORIAN. In either case, none. Dr. Tanton has never been on the board of CIS. He wrote us a check, I think it was a year ago. It was the first check I have seen from him in 9 or 10 years. It was $100. I didn't think to send him a questionnaire before I cashed his check, but that's about it. We have no institutional relationship with him one way or the other.

Mr. CANNON. On January 11, 1986, he wrote—he had been the founder of FAIR, as you recall, and he wrote a memo stating, To expand our fundraising machine, we created the Center for Immigration Studies last year. We need to get CIS fully funded and entrenched as a major Washington think tank, one that can venture into issues which FAIR is not ready to raise."

Mr. KRIKORIAN. We were indeed a spinoff of FAIR, a kind of spinoff. Not a spinoff like Mr. Chishti's group is a spinoff of the Carnegie Endowment, where it actually was sort of an incubator, grew there, and then became a separate organization. We were a spinoff in sort of the minimal sense in that we were under FAIR's nonprofit tax status. If you know how 501(c)(3)s work, we were under the umbrella of their nonprofit IRS ruling for a few months until our independent status came through. And since then, we have had no institutional or financial relationship. They do their thing, we do ours.

Mr. CANNON. But they created—FAIR, led by Dr. Tanton at that point in time, created your organization as part of FAIR; had a theoretical concept of where CIS should go and what gap it would fill in an overall set of activities, and you don't—I'm sorry; you don't see that as an important relationship?

Mr. KRIKORIAN. CIS was necessary because there was no think tank on the side, the sort of critics of immigration side, the low immigration side. There were merely political advocacy groups. And so it filled the role and continues to fill the role of a——

Mr. CANNON. A role which he identified as very important.

Mr. KRIKORIAN. Sure; yes, he did seem to identify it. A lot of people identified it. There was one member of their board who joined our board. We have one of our board members who is no longer on our board but who was on our board for a number of years and chairman of our board that was the, you know, that was the extent, frankly, of the relationship.

Mr. CANNON. But you are now a separate 501(c)(3) organization?

Mr. KRIKORIAN. Have been for 17 or 18 years, something like that, yes.

Mr. CANNON. Mr. Beck, as I understand it, and we were just at this point where we didn't quite clarify it when we had our last hearing, NumbersUSA is what Mr. Krikorian characterized as a project under FAIR. You are currently a project, as I understand it, under US, Inc.?

Mr. BECK. No.

Mr. CANNON. Would you explain what your legal organizational status is?

Mr. BECK. NumbersUSA is a separate 501(c)(3) with a separate board of directors.

Mr. CANNON. How long has it been separate?

Mr. BECK. It has been since, I guess, January of '02.

Mr. CANNON. So recently. Prior to that, it was——

Mr. BECK. We were not quite as quick to fly the nest as CIS. I did a book tour from my W.W. Norton book in 1996. As a result of that tour, I started an organization called NumbersUSA and looked for a place to hang the hat and worked inside US, Inc., which is basically an umbrella organization for about three dozen different nonprofits. It allows you to be able to share legal and accounting facilities. And so, we operated as a programmatically autonomous organization from 1997 until January of 2001.

Mr. CANNON. And now, you are actually an

independent——

Mr. BECK. Yes.

Mr. CANNON. —legally organized separate organization?

Mr. BECK. Yes.

Mr. CANNON. But you have had a long and intimate relationship with Dr. Tanton, US, Inc. and the other allied groups, of which I think there are 20 or 30 out there that exist together to accomplish various objectives that he and others likeminded have.

Mr. BECK. Well, I think I would like the definition of intimacy before saying yes on that. But I have known—as I explained last time—as a reporter, Dr. Tanton, when I was a reporter in Michigan and Dr. Tanton was a newsmaker. I covered him in the seventies; I covered him in the eighties, so yes, I have known Dr. Tanton a long time.

Mr. CANNON. And you worked under his aegis for a very long time?

Mr. BECK. Aegis being defined?

Mr. CANNON. Cloak, the coverage of his views of the world.

Mr. BECK. The umbrella.

Mr. CANNON. The umbrella.

Mr. BECK. The legal umbrella, yes, sir.

Mr. CANNON. But beyond just an umbrella that keeps the IRS off your head, this is rather a close personal relationship where you guys share ideas, and you perform functions that he thinks are important.

Mr. BECK. No, that would suggest that he would be my supervisor, no, he doesn't.

Mr. CANNON. Prior to the time you split off organizationally, he signed your paychecks, didn't he? Essentially, did the organization that he headed, that he chaired, signed your paychecks?

Mr. BECK. Because all of the financial things were done inside there. But I don't want to——

Mr. CANNON. But he wouldn't have signed your paychecks if you didn't agree with him, if you were going contrary to him.

Mr. BECK. Of course. I don't want to make—I'm just trying to answer your questions precisely. But I don't want to make it seem like, for some reason, that there is any defensiveness about knowing John Tanton or having been connected with John Tanton or with groups that he is associated with. I am just explaining what the organic relationship——

Mr. CANNON. No, I understand the nature of the organic relationship.

Mr. BECK. As I explained 3 years ago both orally and with the written answers to your questions, I have known Dr. Tanton for three decades, and I would not be able to tell you how many times I have talked to him.

Mr. CANNON. And Dr. Tanton has a vision of what ought to happen in America related to immigration and other associated ideas like the environment?

Mr. BECK. He does but I have a vision also.

Mr. CANNON. And there are many groups that perform discrete functions within the context of what his ideas of what ought to be done are, is that not true?

Mr. BECK. No, that would not be true.

Mr. CANNON. Why not? He certainly calls himself the founder of many, many groups. You are aware of the various groups, because you've reported on him, that he's founded.

Mr. BECK. I once as a newspaperman began an article saying that Dr. John Tanton of Petoskey is a Petoskey—no, excuse me, is a Petoskey ophthalmologist who is an obstetrician of national, local and State nonprofit organizations. So yes, he is a prolific father of many organizations.

Mr. CANNON. And you hold views that he thinks are important in the area where NumbersUSA is operating and you are operating?

Mr. BECK. I would assume so.

Mr. CANNON. And he paid your salary for many, many years?

Mr. BECK. No, I raised my salary.

Mr. CANNON. US, Inc. paid your salary.

Mr. BECK. No, I raised my salary. US, Inc., cut the checks.

Mr. CANNON. When people made checks to pay your salary, did they write US, Inc. or did they write Project USA?

Mr. BECK. We're NumbersUSA.

Mr. CANNON. I'm sorry; NumbersUSA. Project USA is the group that's put—the 501(c)(3) that's put billboards up in my district, you

know, odd coincidence, funded by many of the people who fund your organizations, by the way.

But at any rate, when they made out checks, did they make them out to Project USA or to—I'm sorry; here, we go again. I'm obsessed with these people. They say that I am for amnesty. I'm not for amnesty. Let me just be very clear for the record. But for NumbersUSA, how did they make those checks?

Mr. BECK. Yes, they made out.

Mr. CANNON. To?

Mr. BECK. To—actually, they did not make out checks at all to NumbersUSA. They paid our bills.

Mr. CANNON. I'm sorry; who paid your bills?

Mr. BECK. US.

Mr. CANNON. Okay; right, but you raised money——

Mr. BECK. Yes.

Mr. CANNON. For your project.

Mr. BECK. And put the money——

Mr. CANNON. When the donors made out checks, did they make out the checks to NumbersUSA?

Mr. BECK. Yes, to NumbersUSA.

Mr. CANNON. And so, NumbersUSA had a bank account.

Mr. BECK. Yes.

Mr. CANNON. And that bank account was controlled by whom?

Mr. BECK. By me.

Mr. CANNON. In the context of an organization that was a 501(c)(3), US, Inc.

Mr. BECK. Yes. And then the accountants for the umbrella group cut the checks, made the decisions on cutting the checks.

Mr. CANNON. Exactly; in other words, you brought the money in; they said NumbersUSA, but they went into a bank account controlled by the accountants who worked for US, Inc.

Mr. BECK. Okay.

Mr. CANNON. Meaning that when you raised money, you were raising money in the context of US, Inc. and its allied groups, of which you performed a narrow part; is that not correct?

Mr. BECK. I don't think that's precise.

Mr. CANNON. You have to be precise in this room, and I'm not trying to catch you. I want to know what the relationships are, and I'd like you to state them precisely.

Mr. BECK. NumbersUSA was a project which I attached to US, Inc., which is an umbrella organization. There's a number of recycling groups, foreign language study groups, book groups.

Mr. CANNON. All the groups that Dr. Tanton was the obstetrician for.

Mr. BECK. No, no, actually, quite a number of them were ones that were started by other people and, like I, attached themselves under that umbrella. This is a very common practice in 501(c)(3)s.

Mr. CANNON. Right, sure.

Mr. BECK. I raised the money for covering NumbersUSA. The accountants and the auditors who were hired by US, Inc. were the ones that took charge of that bank account, in terms of that I did not have personal access to that bank account. That would not have been good fiduciary responsibility. I think maybe you're trying

to get at the question if, does Dr. Tanton agree with what we've done? I'd say yes, for the most part, he does.

But it was a situation which we were a programmatically autonomous group within that organization. He and his board would not have allowed us in that organization, under that umbrella, if they didn't substantially agree with what we were doing. And we were very thankful for——

Mr. CANNON. Did you meet with other autonomous programmatic groups under that umbrella occasionally?

Mr. BECK. No, I attended, once a year, I attended a board meeting in Michigan.

Mr. CANNON. Did you go to lunch with the other folks that were associated with that umbrella organization?

Mr. BECK. Oh, my.

Mr. CANNON. What we're talking about here is what is the relationship? You are asking like it is—you are talking as if it was somehow sterile. This is not sterile. This is not ophthalmologic surgery. We are talking about ideology and communicating ideological ideas and donors who would come in and support those.

Mr. BECK. I would request the opportunity to revise and extend this response, but I don't believe I ever had lunch with anybody who was associated with any of the US, Inc. organizations.

Mr. CANNON. You had lunch with John Tanton, I'm sure, did you not at some point?

Mr. BECK. No, I think I've had dinner a couple of times.

Mr. CANNON. Lunch, dinner; dinner, is that what you've had—is dinner what you do in New York—in the evening?

Mr. BECK. That's right.

Mr. MORRIS. Sir, do you want any questions of me? I never met Mr. Tanton; don't know him. I think when I was—I remember getting a note when I was on the Jesse Jackson Show of a commendation but that's the extent. And no funding from DASA or anything like that.

Mr. CANNON. We appreciate your contribution to that fact. [Laughter.]

Do you know, a guy named Donald Mann? He is the founder of Negative Population Growth, who had his offices at a time in FAIR's D.C. Washington office, and, of course, FAIR is: you have US, Inc., and you have FAIR, the Federation for American Immigration Reform, and therefore both are very tightly tied to Dr. Tanton. He said we should give incentives to low-income people who agree to sterilization. We should make available free abortion to low income people on demand, and companies should cut back or deny maternity leave to women who have more than two children. Tanton and Dan Stein, FAIR's executive director, lavished praise on Mann's group. Stein said "NPG is one of the few serious, courageous, meaningful population control groups that's seriously dealt with immigration."

I take it, Mr. Krikorian, from your earlier statement, you don't agree with that personally, and your organization doesn't.

Mr. KRIKORIAN. Let me repeat, the Center for Immigration Studies does not now nor has it ever supported sterilization, abortion. And in fact, the use of immigration policy for purposes of social engineering, either to increase or decrease population is something

that we reject altogether. We think that Americans should decide how many kids they have, not Congress, not anybody else.

Mr. CANNON. Mr. Beck, do you agree with that statement, Dan Stein's praise of NPG?

Mr. BECK. NumbersUSA has never had a comment about that organization or really, I think, most others. We don't take a stand on those issues. We just don't deal with them.

Mr. CANNON. But the organization that you were part of for a very long time with a series of other related organizations all moved forward with John Tanton behind the curtain guiding and directing where you're going in your independent activities. Is that an unfair thing to say?

Mr. BECK. Yes, I think it is.

Mr. CANNON. Why?

Mr. BECK. Because you're ascribing a management pattern that just didn't exist and doesn't exist.

Mr. CANNON. I'm not talking about management. I'm talking about relationships, about friends, people who talk to each other, people who know what they're doing and coordinating what they're doing with other folks.

Mr. BECK. You're talking about what effect that John Tanton as an individual has on all of these organizations, and that would suggest that he was, you know, actually in control of these organizations. The only organization he is in control of is US, Inc.

Mr. CANNON. John Tanton is in control of US, Inc.

Mr. BECK. Yes.

Mr. CANNON. How does he control that corporation?

Mr. BECK. He's the executive director, and he's the chairman of the board.

Mr. CANNON. And does he have the right to name people to the board based upon the by-laws of that organization?

Mr. BECK. I don't think so. I believe it's board-elected.

Mr. CANNON. How would you describe his relationship with FAIR?

Mr. BECK. He's a member of the board. But FAIR is not a part of US, Inc.

Mr. CANNON. I understand that.

Mr. BECK. Yes.

Mr. CANNON. But it is a part of the family of Tanton groups.

Mr. BECK. That's right.

Mr. CANNON. And while he's a member of that board, you're aware of it obviously, do you think that he asserts significant control or direction of FAIR?

Mr. BECK. It's really not appropriate for me as part of another organization to talk about—I mean, you really need to have people in from FAIR if you want to talk about how FAIR's organization works.

Mr. CANNON. Do you know people at FAIR?

Mr. BECK. Yes, I know people at FAIR.

Mr. CANNON. Do you talk to them about what their organization is doing? I'm not asking you for what's in their brains. I'm asking you for what they've said to you.

Mr. BECK. Yes, I talk to people at FAIR.

Mr. CANNON. And have they indicated to you that Dr. Tanton controls FAIR?

Mr. BECK. No, I never heard that.

Mr. CANNON. Have they indicated that he's highly persuasive in the direction of FAIR?

Mr. BECK. I've never heard that.

Mr. CANNON. Have you ever heard any of them talk about the American Patrol?

Mr. BECK. No.

Mr. CANNON. It is a racist group that tries to capture people sneaking across the border. Are you familiar with them at all?

Mr. BECK. I am very familiar. Read the papers.

Mr. CANNON. That's another group that has been—Mr. Tanton sits on the advisory board of that group.

Mr. BECK. Who's on the advisory board?

Mr. CANNON. Dr. Tanton, so just another one of his little—one of the babies to which he gave birth as an obstetrician, apparently. Not as a mother, apparently.

Mr. BECK. No, I do have to say, I do know that the American Patrol, you should check with them, but they began on their own. That's a California organization.

Mr. CANNON. Associated with the California Coalition for Immigration Reform.

Mr. BECK. Not organically, I don't think.

Mr. CANNON. Associated, yes. But they have been classified as a racist hate group by the Southern Poverty Law Center.

Mr. BECK. I imagine you have been, too. I mean, I'm serious. They spread it pretty thick.

Mr. CANNON. No, I am actually the object of the American Patrol's love. I think they call me Jabba the Hut or something like that. I took that, as a mesomorph, pretty personally, frankly.

I assume you're aware of the numerous articles and links on your NumbersUSA Website that reference polls prepared for NPG and that are paid for and prepared for by the Negative Population Growth group.

Mr. BECK. We have a page that has probably 60 polls on there, and I think there are a couple of Roper polls that were sponsored by NPG.

Mr. CANNON. Let's see. Dr. Tanton and his Social Contract published your video, Immigration by the Numbers; is that true?

Mr. BECK. No, actually, NumbersUSA published it.

Mr. CANNON. And distributed it? Was there any relationship with the Social Contract Press on that?

Mr. BECK. Yes, I mean, the Social Contract Press is one of the groups under the US umbrella and operates the warehouse. And so, our videotapes were housed in that warehouse.

Mr. CANNON. Okay; but they didn't do anything other—they didn't promote them, send them out, do anything else, pay for the postage?

Mr. BECK. The tapes were listed in their brochure about all of the products that they sold. We sold them. We sold them to US, Inc., and US, Inc. sold them on consignment.

Mr. CANNON. Did you independently sell them to direct purchasers——

Mr. BECK. Yes.

Mr. CANNON. —or groups that took them?

Did the Social Contract Press fulfill those orders when you sent them?

Mr. BECK. Yes, I mean, we would have been happy if they had done more, but they, yes, they were helpful.

Mr. CANNON. Are you familiar, Mr. Beck, with the word eugenics; for those who aren't, eugenics is the study of hereditary improvement of the human race by controlling selective breeding.

Mr. BECK. I am.

Mr. CANNON. And are you aware that the Pioneer Fund, which has been roundly distanced from your various organizations today, has given money to FAIR? Are you aware of that?

Mr. BECK. I've read that in the newspapers.

Mr. CANNON. Any reason to think it's untrue?

Mr. BECK. What I've read in the newspapers is that FAIR said they did.

Mr. HOSTETTLER. Mr. Cannon, we have returned. Thank you very much.

Mr. CANNON. The gentleman reclaims his chair. I think I have 5 minutes remaining, don't I? [Laughter.]

Mr. HOSTETTLER. [presiding.] You don't have 5 minutes in about eight more hearings. [Laughter.]

Mr. CANNON. As I grab my papers together here, let me just thank you for your participation today. Gentlemen, it has been interesting.

Mr. HOSTETTLER. I thank the panel for your indulgence. I apologize for my absence. I just have one more question myself.

And Mr. Krikorian, I probably ask you this question if you could respond, and that is we've heard a lot of discussion about sealing the borders and the cost of deportation and this sort of thing, and if you could answer this question, I would be most appreciative. How would the cost to seal the borders and enforce our immigration laws to end the rise in illegal immigration after a guest worker program has been put in place, because that's what we're told by everyone that supports such a program, that after we put this in place, we will enforce immigration laws? How would that compare to the cost today without a guest worker program?

Mr. KRIKORIAN. Well, if a guest worker program were to be combined with an effort to actually make it work properly by enforcing the borders, enforcing the time limits, enforcing the whole myriad labor protections and everything that would be included in such a program, the infrastructure, the immigration infrastructure required would have to be hugely increased; I mean, massively increased, because without an enormous increase in resources, a guest worker program would be nothing other than a way to supercharge illegal immigration.

So if we want an immigration system that works, one way or the other, we're going to have to spend more money. The question is do we spend more money to control the immigration flow both internally by enforcing the laws inside the country and at the border without a guest worker program, or do we have a guest worker program with that? I would have to say the second alternative would likely be much, much more expensive than anything I could ever

propose to control the immigration system without a guest worker program.

In other words, a guest worker program would make the whole thing cost vastly more than it would cost otherwise.

Mr. HOSTETTLER. To put it in the context of previous comments, would we have the moral will, the political will, the budgetary will to——

Mr. KRIKORIAN. Spend that kind of money.

Mr. HOSTETTLER. Spend that kind of money then as opposed to now?

Mr. KRIKORIAN. If we're not doing it now, I don't see where the commitment to enforcement would come then, and so, what the result would be is that a guest worker program would do nothing but grease the skids for hugely increased illegal immigration.

Mr. HOSTETTLER. As some might argue the 1986 amnesty did.

Mr. KRIKORIAN. But this probably be even worse than that, almost certainly.

Mr. HOSTETTLER. Well, thank you. I want to once again thank the members of the panel. I appreciate your appearance here, your indulgence and remind the Subcommittee that all members shall have seven legislative days to revise and extend and enter extraneous material into the record.

The Committee business being completed, we are adjourned.

[Whereupon, at 12:59 p.m., the Subcommittee adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

MATERIAL SUBMITTED BY THE HONORABLE CHRIS CANNON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

LETTER OF SUPPORT FOR S. 1645 AND H.R. 3142

February 12, 2004

Dear Member of Congress:

The undersigned organizations representing a broad cross-section of America join together to support enactment of S. 1645 and H.R. 3142, the Agricultural Job, Opportunity, Benefits and Security Act (AgJOBS). This landmark bipartisan legislation would achieve historic reforms to our nation's labor and immigration laws as they pertain to agriculture. The legislation reflects years of negotiations on complex and contentious issues among employer and worker representatives, and leaders in Congress.

A growing number of our leaders in Congress, as well as the President, recognize that our nation's immigration policy is flawed and that, from virtually every perspective, the status quo is untenable. Nowhere is the status quo more untenable than in agriculture. America needs reforms that are compassionate, realistic and economically sensible—reforms that also enhance the rule of law and contribute to national security. AgJOBS represents the coming together of historic adversaries in a rare opportunity to achieve reforms supportive of these goals, as well as our nation's agricultural productivity and food security.

AgJOBS represents a balanced solution for American agriculture, a critical element of a comprehensive solution, and one that can be enacted now with broad bipartisan support. For these reasons, we join together to encourage the Congress to enact S. 1645 and H.R. 3142, the Agricultural Job, Opportunity, Benefits, and Security Act of 2003, before the 2004 Congressional April Recess.

Sincerely,

AGRICULTURE COALITION FOR IMMIGRATION REFORM
AMERICAN FARM BUREAU FEDERATION
NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS
AFL-CIO
U.S. CHAMBER OF COMMERCE
U.S. HISPANIC CHAMBER OF COMMERCE
NATIONAL COUNCIL OF LA RAZA (NCLR)
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (MALDEF)
LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC)
WILLIAM C.VELASQUEZ INSTITUTE
UNITED FARM WORKERS (UFW)
NATIONAL CATTLEMEN'S BEEF ASSOCIATION
NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE
CATHOLIC CHARITIES USA
THE EPISCOPAL CHURCH, USA
FARMWORKER JUSTICE FUND (FJF)

AMERICAN NURSERY & LANDSCAPE ASSOCIATION
AMERICANS FOR TAX REFORM (ATR)
ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS (AFOP)
BIRDS EYE FOODS
DEERE & COMPANY
TYSON FOODS INC.
UNION OF NEEDLETRADES, INDUSTRIAL AND TEXTILE EMPLOYEES (UNITE)
UNITED EGG PRODUCERS
NATIONAL CHRISTMAS TREE ASSOCIATION
UNITED FOOD AND COMMERCIAL WORKERS UNION (UFCW)
UNITED FRESH FRUIT & VEGETABLE ASSOCIATION
U.S. APPLE ASSOCIATION
U.S. CUSTOM HARVESTERS, INC.
WESTERN GROWERS ASSOCIATION
WESTERN RANGE ASSOCIATION
WESTERN UNITED DAIRYMEN
ESSENTIAL WORKER IMMIGRATION COALITION
SERVICES EMPLOYEES INTERNATIONAL UNION (SEIU)
A. DUDA & SONS
EVANGELICAL LUTHERAN CHURCH IN AMERICA
AMERICAN HORSE COUNCIL
GENERAL BOARD OF CHURCH AND SOCIETY, THE UNITED METHODIST CHURCH
AGRICULTURAL AFFILIATES
AGRI-PLACEMENTS INTERNATIONAL
AL FRENCH, FORMER USDA DIRECTOR OF AG LABOR RELATIONS
NATIONAL IMMIGRATION FORUM
NATIONAL POTATO COUNCIL
NEW ENGLAND APPLE COUNCIL
COBANK
FIRST PIONEER FARM CREDIT
FARM LABOR ORGANIZING COMMITTEE, AFL-CIO (FLOC)
NATIONAL ASSOCIATION OF ELECTED AND APPOINTED LATINO OFFICIALS (NALEO)
AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA)
NATIONAL CHICKEN COUNCIL
NATIONAL COUNCIL OF CHURCHES
NATIONAL MILK PRODUCERS FEDERATION
SOUTH EAST DAIRY FARMERS ASSOCIATION
NORTH EAST DAIRY PRODUCERS ASSOCIATION
NORTHWEST HORTICULTURAL COUNCIL
WINEAMERICA, THE NATIONAL ASSOCIATION OF AMERICAN WINERIES
WINEGRAPE GROWERS OF AMERICA
AMERICAN JEWISH COMMITTEE (AJA)
AMERICAN MUSHROOM INSTITUTE
CAMPAIGN FOR LABOR RIGHTS
COOPERATIVE PRODUCERS, INC.
COOPERATIVE THREE, INC.
COUNCIL OF NORTHEAST FARMER COOPERATIVES
DAIRYLEA COOPERATIVE
AMERICAN FROZEN FOOD INSTITUTE
NATIONAL MIGRANT AND SEASONAL HEAD START ASSOCIATION
FOR OUR GRANDCHILDREN
GULF CITRUS GROWERS ASSOCIATION
GULF HARVESTING, INC.
LABOR COUNCIL FOR LATIN AMERICAN ADVANCEMENT (LCLAA)
NATIONAL LEGAL AID & DEFENDER ASSOCIATION (NLADA)
LEADERSHIP CONFERENCE ON CIVIL RIGHTS (LCCR)
MOARK LLC
TURFGRASS PRODUCERS INTERNATIONAL

SOCIETY OF AMERICAN FLORISTS
MAFO
MONROVIA GROWERS (CA, OR, GA, NC)
NATIONAL ASIAN PACIFIC AMERICAN LEGAL CONSORTIUM (NAPALC)
NATIONAL EMPLOYMENT LAW PROJECT
ARAB AMERICAN INSTITUTE (AAI)
NATIONAL FARM WORKER MINISTRY
NATIONAL KOREAN AMERICAN SERVICE & EDUCATION CONSORTIUM (NAKASEC)
NORTHEAST FARM CREDIT REGIONAL COUNCIL
OFA—AN ASSOCIATION OF FLORICULTURE PROFESSIONALS
PAN AMERICAN RECRUITING
NORTHWOODS AGRI WOMEN
SALVADORAN AMERICAN NATIONAL NETWORK
PEOPLE FOR THE AMERICAN WAY
PERENNIAL PLANT ASSOCIATION
POLISH AMERICAN CONGRESS
PACIFIC EGG AND POULTRY ASSOCIATION
SOUTHERN NURSERY ASSOCIATION
TOGETHER IN AMERICA
WESTERN CAROLINAS HORTICULTURAL ALLIANCE
YANKEE FARM CREDIT
TELAMON CORPORATION
SOUTHERN POVERTY LAW CENTER
CATHOLIC MIGRANT FARMWORKER NETWORK
HOUSING ASSISTANCE COUNCIL

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ALABAMA NURSERY & LANDSCAPE ASSOCIATION
AMANECER (AZ)
ARIZONA NURSERY ASSOCIATION
AGRICULTURAL COUNCIL OF ARKANSAS
ARKANSAS GREEN INDUSTRY ASSOCIATION
ALLIED GRAPE GROWERS (CA)
ALMOND HULLERS AND PROCESSORS (CA)
CALIFORNIA ASSOCIATION OF NURSERIES AND GARDEN CENTERS
CALIFORNIA ASSOCIATION OF WINEGRAPE GROWERS
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CALIFORNIA GRAIN AND FEED ASSOCIATION
CALIFORNIA GRAPE & TREE FRUIT LEAGUE
CALIFORNIA INSTITUTE FOR RURAL STUDIES
CALIFORNIA LANDSCAPE CONTRACTORS ASSOCIATION, INC
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CALIFORNIA SEED ASSOCIATION
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CENTRAL AMERICAN RESOURCE CENTER (CA)
LA CLINICA DE LA RAZA (CA)
COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES (CHIRLA)
FRANCISCAN FRIARS OF ST. BARBARA PROVINCE (CA)
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LASSEN CANYON NURSERY, INC. (CA)
LOS ANGELES COALITION TO END HUNGER & HOMELESSNESS
MARIN INTERFAITH TASK FORCE FOR THE AMERICAS
NISEI FARMERS LEAGUE (CA)
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VENTURA COUNTY (CA) FARM BUREAU
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UNIVERSAL IMMIGRATION SERVICE (CA)
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COLORADO SUGAR BEET GROWERS ASSOCIATION
ESTES VALLEY MULTICULTURAL CONNECTIONS (CO)
NORTHERN COLORADO ONION ASSOCIATION
SISTERS OF LORETTO (CO)
CONNECTICUT FARM BUREAU
CONNECTICUT NURSERY & LANDSCAPE ASSOCIATION
CONNLEAF, INC (CT)
H.F. BROWN INC. (CT)
THE LYMAN FARM, INC. (CT)
DELAWARE NURSERY & LANDSCAPE ASSOCIATION
LATIN AMERICAN COMMUNITY CENTER (DE)
LATIN AMERICAN YOUTH CENTER (DC)
MIGRANT LEGAL ACTION PROGRAM (DC)
BIG CYPRESS HOUSING CORPORATION (FL)
CENTRO CAMPESINO (FL)
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CARIBBEAN IMMIGRANT SERVICES INC. (FL)
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COALITION OF FLORIDA FARMWORKER ORGANIZATIONS
EVERGLADES COMMUNITY ASSOCIATION, INC.
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FAIR FOOD AMERICA (FL)
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FLORIDA CATHOLIC CONFERENCE
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FLORIDA IMPACT
FLORIDA FRUIT AND VEGETABLE ASSOCIATION
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FUNDACION SALVADORENA DE LA FLORIDA
GUATEMALAN UNITY INFORMATION CENTER (FL)
IMMOKALEE MULTICULTURAL MULTIPURPOSE COMMUNITY ACTION AGENCY, INC. (FL)
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PINELLAS SUPPORT COMMITTEE (FL)

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GEORGIA GREEN INDUSTRY ASSOCIATION
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IDAHO COMMISSION ON HISPANIC AFFAIRS
IDAHO COMMUNITY ACTION NETWORK
IDAHO FARM BUREAU
IDAHO FOOD PRODUCERS
IDAHO GRAIN PRODUCERS ASSOCIATION
IDAHO GROWER SHIPPERS ASSOCIATION
IDAHO MIGRANT COUNCIL
IDAHO NURSERY & LANDSCAPE ASSOCIATION
POTATO GROWERS OF IDAHO
SNAKE RIVER FARMERS ASSOCIATION (ID/MT)
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CONGUATE (IL)
DISCIPLES JUSTICE ACTION NETWORK (DISCIPLES OF CHRIST) (IL)
HEARTLAND ALLIANCE FOR HUMAN NEEDS & HUMAN RIGHTS (IL)
HISPANIC LAWYER'S ASSOCIATION OF ILLINOIS
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ILLINOIS MIGRANT COUNCIL
ILLINOIS NURSERYMENS' ASSOCIATION
IMMIGRATION PROJECT (IL)
INSTITUTO DEL PROGRESO LATINO (IL)
KOREAN AMERICAN RESOURCE & CULTURAL CENTER (KRCC), CHICAGO
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THE RESURRECTION PROJECT IN CHICAGO
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INDIANA NURSERY & LANDSCAPE ASSOCIATION
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IMMIGRANT RIGHTS NETWORK OF IOWA AND NEBRASKA
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IOWA PROJECT
SISTERS OF CHARITY (IA)
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KANSAS FARM BUREAU
KANSAS NURSERY & LANDSCAPE ASSOCIATION
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FARM CREDIT OF MAINE
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BELL NURSERY (MD)
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QUINN'S KINGSVILLE FARMS (MD)
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SPEAKMAN NURSERIES, INC. (MD)
CENTRO PRESENTE (MA)
IRISH IMMIGRATION CENTER (MA)
MASSACHUSETTS FARM BUREAU
MASSACHUSETTS IMMIGRANT AND REFUGEE ADVOCACY COALITION
MASSACHUSETTS NURSERY & LANDSCAPE ASSOCIATION
EASTERN MICHIGAN UNIVERSITY'S BILINGUAL BICULTURAL EDUCATION TEACHER TRAINING PROGRAM
MICHIGAN FARM BUREAU
MICHIGAN MIGRANT LEGAL ASSISTANCE PROJECT
MICHIGAN NURSERY & LANDSCAPE ASSOCIATION
LEITZ FARMS LLC (MI)
ZELENKA NURSERY, LLC (MI)
JEWISH COMMUNITY ACTION (MN)
MINNESOTA NURSERY & LANDSCAPE ASSOCIATION
ST. JOSEPH THE WORKER CHURCH (MN)
CENTRO SAN MARTIN DEPORRES (MS)
MISSISSIPPI IMMIGRANT RIGHTS ALLIANCE (MIRA!)
OFFICE OF HISPANIC MINISTRY, CATHOLIC DIOCESE OF JACKSON (MS)
RICH SMITH, PASTOR OF ST. ANN CATHOLIC CHURCH, PAULDING, MS
THE SOCIAL CONCERNS COMMITTEE OF THE CATHOLIC COMMUNITY OF ST. FRANCIS OF ASSISI (MS)
DAUGHTERS OF CHARITY IN ST. LOUIS (MO)
HUMAN RIGHTS ACTION SERVICE. ST.LOUIS (MO)
LATIN AMERICAN ACTION TEAM, GIDDINGS-LOVEJOY PRESBYTERY (MO)
MISSION EFFECTIVENESS, SCHOOL SISTERS OF NOTRE DAME, ST. LOUIS
MISSOURI NURSERY & LANDSCAPE ASSOCIATION
MONTANA NURSERY & LANDSCAPE ASSOCIATION
NEBRASKA APPLESEED CENTER FOR LAW IN THE PUBLIC INTEREST
NEBRASKA NURSERY & LANDSCAPE ASSOCIATION
CULINARY WORKERS UNION, LOCAL 226—NEVADA
NEVADA LANDSCAPE ASSOCIATION
COMITE DE APOYO A LOS TRABAJADORES AGRICOLAS (NJ)
IRRIGATION ASSOCIATION OF NEW JERSEY
MEXICAN AMERICAN ASSOCIATION OF SOUTHERN NEW JERSEY
MIGRATION AND REFUGEE SERVICES DIOCESE OF TRENTON
NEW JERSEY FARM BUREAU FEDERATION
NEW JERSEY IMMIGRATION POLICY NETWORK, INC.
NEW JERSEY NURSERY & LANDSCAPE ASSOCIATION
RURAL HOUSING INCORPORTED (NM)
BRENNAN CENTER FOR JUSTICE AT NEW YORK UNIVERSITY SCHOOL OF LAW
CABRINI IMMIGRANT SERVICES (NY)
CAYUGA MARKETING, LLC (NY)
CENTRO HISPANO CUZCATLAN (NY)
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CENTRO SALVADORENO, INC. (NY)
CHRISTIAN BROTHERS (NY)
COMMISSION ON PEACE AND JUSTICE OF THE ROMAN CATHOLIC DIOCESE OF ALBANY, NY
EMPIRE STATE COUNCIL OF AGRICULTURAL ORGANIZATIONS (NY)
FARM CREDIT OF WESTERN NEW YORK
FARMWORKER LEGAL SERVICES OF NEW YORK
LAKE PLACID GROVES LLC (NY)
NEW YORK ASSOCIATION FOR NEW AMERICANS
NEW YORK FARM BUREAU
NEW YORK STATE HORTICULTURAL SOCIETY

NEW YORK STATE APPLE GROWERS ASSOCIATION
NEW YORK STATE CHERRY GROWERS ASSOCIATION
NEW YORK STATE NURSERY & LANDSCAPE ASSOCIATION
NEW YORK STATE VEGETABLE GROWERS ASSOCIATION
PRO-FAC COOPERATIVE (NY)
PUBLIC POLICY COMMITTEE, ROMAN CATHOLIC DIOCESE OF ROCHESTER, NY
RURAL AND MIGRANT MINISTRY (NY)
TORREY FARMS (NY)
WILLET DAIRY(NY)
WORKPLACE PROJECT (NY)
YKASEC—EMPOWERING THE KOREAN AMERICAN COMMUNITY (NY)
EL PUEBLO, INC (NC)
EPISCOPAL FARMWORKER MINISTRY (NC)
HIGH COUNTY AMIGOS INC. (NC)
IMMACULATE CONCEPCION CHURCH (NC)
LATINO COMMUNITY CREDIT UNION (NC)
NASH PRODUCE COMPANY, INC. (NC)
NORTH CAROLINA ASSOCIATION OF NURSERYMEN
NORTH CAROLINA FARM BUREAU
NORTH CAROLINA JUSTICE AND COMMUNITY DEVELOPMENT CENTER
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STUDENT ACTION WITH FARMWORKERS (NC)
TRIANGLE FRIENDS OF THE UNITED FARMWORKERS (NC)
VITALINK (NC)
ZELENKA NURSERY, LLC (NC)
ADVOCATES FOR BASIC LEGAL EQUALITY (OH)
EN CAMINO, MIGRANT AND IMMIGRANT OUTREACH, DIOCESE OF TOLEDO
HIGH STAKES FARMS (OH)
IMMIGRANT WORKER PROJECT (OH)
NORTHERN OHIO GROWERS ASSOCIATION
OFFICE OF HISPANIC MINISTRY, CATHOLIC DIOCESE OF CLEVELAND
OHIO FARM BUREAU FEDERATION, INC.
OHIO FRUIT GROWERS SOCIETY
OHIO LANDSCAPERS ASSOCIATION
OHIO NURSERY & LANDSCAPE ASSOCIATION
OHIO VEGETABLE & POTATO GROWERS ASSOCIATION
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VLASIC PICKLE GROWERS (OH)
ASIAN AMERICAN COMMUNITY SERVICE ASSOCIATION, INC
OKLAHOMA NURSERY & LANDSCAPE ASSOCIATION
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HOOD RIVER GROWER-SHIPPER ASSOCIATION (OR)
NORTHWEST WORKERS' JUSTICE PROJECT (OR)
OREGON ASSOCIATION OF NURSERIES
OREGON FARM BUREAU
OREGON FARM WORKER MINISTRY
OREGON LAW CENTER
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PENNSYLVANIA IMMIGRATION AND CITIZENSHIP COALITION
PENNSYLVANIA LANDSCAPE & NURSERY ASSOCIATION
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TEXAS VEGETABLE ASSOCIATION
TURFGRASS PRODUCERS OF TEXAS
UTAH FARM BUREAU
UTAH NURSERY & LANDSCAPE ASSOCIATION
CATHOLIC DIOCESE OF RICHMOND, VIRGINIA
HAMPTON ROADS COALITION FOR WORKERS' JUSTICE
HISPANIC COMMITTEE OF VIRGINIA
REFUGEE AND IMMIGRATION SERVICES, CATHOLIC DIOCESE OF RICHMOND
SOUTHWEST VIRGINIA NURSERY AND LANDSCAPE ASSOCIATION
VIRGINIA GREEN INDUSTRY COUNCIL
VIRGINIA COUNCIL OF CHURCHES
VIRGINIA JUSTICE CENTER FOR FARM AND IMMIGRANT WORKERS
VIRGINIA NURSERY & LANDSCAPE ASSOCIATION
EL CENTRO DE LA RAZA (WA)
GRUPO MEXICO OF WASHINGTON STATE
LUTHERAN PUBLIC POLICY OFFICE OF WASHINGTON STATE
MARSING AGRICULTURAL LABOR SPONSOR COMMITTEE (WA)
UNDERWOOD FRUIT AND WAREHOUSE COMPANY (WA)
WASHINGTON ASSOCIATION OF CHURCHES (WA)
WASHINGTON GROWERS CLEARING HOUSE ASSOCIATION
WASHINGTON GROWERS LEAGUE
WASHINGTON POTATO & ONION ASSOCIATION
WASHINGTON STATE COMMISSION ON HISPANIC AFFAIRS
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OFFICE OF INTL. STUDENT SERVICES, UNIV. OF WISCONSIN-PLATTEVILLE
SOUTH CENTRAL FEDERATION OF LABOR, AFL-CIO (WI)
UMOS (WI)
WISCONSIN COUNCIL OF CHURCHES
WISCONSIN LANDSCAPE CONTRACTORS ASSOCIATION
WISCONSIN LANDSCAPE FEDERATION
WISCONSIN NURSERY ASSOCIATION
WISCONSIN SOD PRODUCERS
IVAN KOHAR PARRA, EXECUTIVE DIRECTOR, LATINO COMMUNITY DEVELOPMENT CENTER (WI)

PREPARED STATEMENT OF BOB STALLMAN

AMERICAN FARM BUREAU FEDERATION®
www.fb.org
600 Maryland Ave., SW • Suite 800 • Washington, DC 20024 • (202) 406-3600

September 23, 2003

Statement by Bob Stallman, President, American Farm Bureau Federation, Regarding Introduction of H-2a Reform Bill

"The American Farm Bureau Federation applauds Sens. Larry Craig and Ted Kennedy, and Reps. Chris Cannon and Howard Berman for introducing AgJOBs, a comprehensive measure to reform the H-2a agricultural guest worker program.

"The H-2a program is broken, its minimum wage is out of control, and this is having serious impacts on American agriculture's ability to secure a legal workforce. Passing AgJOBS is vital to addressing this country's widespread farm labor shortage, and also keeping America from losing more of our safe, domestic food supply to imports.

"AgJOBs streamlines H-2a, moves toward a market-based wage, and provides one opportunity for experienced farm workers to earn an adjustment of status if they continueworking in agriculture. These provisions will be paramount in maintaining the security of our nation's food supply and will be extremely beneficial to America's farmers and ranchers.

"Farm Bureau urges the Senate and House to pass AgJOBS quickly. It is important to American agriculture and U.S. food security."

AMERICANS FOR TAX REFORM (ATR) LEGISLATIVE ALERT

AMERICANS FOR TAX REFORM

LEGISLATIVE ALERT

1920 L STREET, N.W. - SUITE 200 - WASHINGTON, D.C. 20036 - 202-785-0266 - HTTP://WWW.ATR.ORG

Support Legislation to Provide a Safe Food Supply and Reform Outdated Immigration Laws

On Tuesday September 23, 2003 Subcommittee Chairman Christopher Cannon (R-UT) introduced H.R. 3142, the Agricultural Job Opportunity, Benefits and Security Act, or AgJobs Act. The legislation is a critical component of homeland security and it reforms the outdated and unworkable agricultural workers program in the United States.

Because the legislation includes both legal ways for employers to hire foreign workers, when U.S. workers are not available, and provides a method to legitimize the status of those immigrants who have been supporting our industries and economy with their labor, Americans for Tax Reform (ATR) strongly supports the AgJobs Act.

The AgJobs Act reforms the current agricultural guest worker program, allowing agricultural employers unable to find American workers to hire immigrant farm workers. In Addition, the AgJobs Act allows 500,000 workers to legally earn the right to work in America.

As current efforts show, boosting enforcement of federal immigration and employment documentation laws have failed, rendering the laws outdated and ineffective. While workers are rarely deported, farms are routinely disrupted leading to a loss in productivity and workers. A growing number of farms are closing shop because growers cannot secure a legal workforce. Overbearing immigration laws are forcing Americans to trade their own, safe domestic food supply for imported goods.

It is time for Congress to reform the current agricultural guest worker program and provide an earned adjustment program for undocumented agricultural workers already in this country. The legislation represents a notable agreement among all parties on an important issue for the future of the United States.

The AgJobs Act is supported by a number of agriculture groups, including the National Council of Agricultural Employers, the Farm Bureau, and the American Nursery and Landscape Association, along with dozens of other agricultural groups. Additionally, a number of business and labor groups support the legislation, including the U.S. Chamber of Commerce and the Essential Worker Immigration Coalition, a coalition of over 30 national businesses, trade associations, and other organizations.

LETTER FROM ROBERT GUENTHER

United Fresh Fruit &
Vegetable Association

September 22, 2003

Congressman Chris Cannon
US House of Representatives
118 Cannon House Office Building
Washington, DC 20515

Congressman Howard Berman
US House of Representatives
2221 Rayburn House Office Building
Washington, DC 20515

Dear Congressmen Cannon and Berman:

United Fresh Fruit and Vegetable Association thanks you for your had work and dedication to developing comprehensive bipartisan legislation to reform our nation's agricultural labor system. Your efforts are crucial to the members of the produce industry across the United States.

Founded in 1904, United is the national trade organization representing the interests of producers and distributors of commercial quantities of fresh fruits and vegetables. United represents the business interests of growers, shippers, processors, brokers, wholesalers and distributors of produce, working together with our customers at retail and foodservice, our suppliers at every step in the distribution chain, and our international partners.

As we have debated this issue for many years, we understand the importance of your legislation and the strong bipartisan support that is necessary to make the needed reforms to the H-2A guest worker program and status adjustment for current workers. United supports your AgJOBS legislation and we look forward to working with you on passage of this legislation.

Sincerely,

Robert Guenther
Vice President, Public Policy

Headquarters: 1901 Pennsylvania Ave. NW, Suite 1100 • Washington, DC 20006 • Tel: (202) 303-3400 • Fax: (202) 303-3433 • www.uffva.org
Western Regional Office: 512 Pajaro Street • Salinas, CA 93901 • Tel: (831) 422-0940 • Fax: (831) 422-2892

RELEASE FROM THE U.S. CHAMBER OF COMMERCE

FOR IMMEDIATE RELEASE – Sept. 23, 2004 Contact: Linda Rozett/Eric Wohlschlegel

Chamber Applauds Bipartisan Agricultural Workers Bill

Employers and Unions Take First Step in Immigration Reform

WASHINGTON, D.C. – The United States Chamber of Commerce applauded the introduction of the "Agricultural Job Opportunity Benefits and Security Act" as an important first step in immigration reform.

"This legislation represents an historic agreement between business and labor on an important issue for the future of our country – reform of immigration rules to address our current and future workforce needs," said Bruce Josten, the Chamber's executive vice president for Government Affairs. "The excellent work of members of Congress on both sides of the aisle to achieve this result should be commended."

The legislation, worked out over years of negotiations between agricultural employers, farm worker unions and immigrant rights groups – and led by a bipartisan group of members of Congress, including Senators Larry Craig (R/ID) and Edward Kennedy (D/MA) and Representatives Chris Cannon (R–3/UT) and Howard Berman (D–28/CA) – would reform the current agricultural guestworker program and provide an earned adjustment program for undocumented agricultural workers already in this country.

"This comprehensive bill recognizes that immigration reform must include both legal ways for employers to hire foreign workers when U.S. workers are not available, and a path to legitimize the status of those immigrants that have been supporting our industries and economy with their labor," continued Josten. "While the needs of the agricultural community are unique, we hope that this approach can help pave the way for legislation to address the needs of the broader business community for essential workers."

The U.S. Chamber of Commerce is the world's largest business federation representing more than three million businesses and organizations of every size, sector and region.

www.uschamber.com # # # 03-144

The Weekly Standard Article

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The Weekly Standard

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LENGTH: 1508 words

HEADLINE: Barely Illegal
From the January 19, 2004 issue: In defense of Bush's immigration proposal.

BYLINE: Cesar **Conda** and Stuart Anderson

BODY:
IT WAS HARD TO TELL from the headlines and instant controversy, but President Bush's January 7 immigration speech was not about granting amnesty to illegal aliens. Instead, the president has proposed a measure that would dramatically curtail illegal immigration. However, to the consternation of critics, he favors a method--temporary worker visas--that anti-immigration members of Congress and their allies despise.

Under President Bush's plan, immigrant workers would no longer need to evade Border Patrol agents or die trying. Moreover, recognizing reality, the president would allow those now working illegally in this country to pay a fine and obtain a temporary visa, good for three years but renewable. Crucially, the president recognizes that "our current limits on legal immigration are too low," and he pledged to work with Congress "to increase the annual number of green cards."

A little background helps explain why this last point is so important. Contrary to some perceptions, current law is in practice highly restrictive in offering opportunities for U.S. employers to hire immigrants to work legally in agriculture and other non-professional fields. While H-2A visas for agricultural workers are uncapped, the procedure for obtaining them is so cumbersome and litigation-prone that fewer than 30,000 such visas are issued annually, while several hundred thousand immigrants work in the fields illegally. Though individuals may work in non-agricultural jobs under the H-2B visa, restrictive interpretations of the statute have generally prevented employers from hiring individuals for jobs other than those that are seasonal or of very short duration. In addition, that category is capped at 66,000 annually. An even lower cap limits sponsorship for permanent residence (green cards) to 10,000 per year for immigrants coming here to work who possess less than an undergraduate degree.

The absence of avenues to work legally in the United States is a primary reason for the current levels of illegal immigration. This can be seen clearly by looking back at the bracero program, which allowed foreign agricultural workers easier access to U.S. jobs.

As the bracero program expanded in the 1950s, INS apprehensions of illegal immigrants

fell from the 1953 level of 885,587 to as low as 45,336 in 1959--a 95 percent reduction in the flow of illegal immigration into the United States. From 1964--when the bracero program ended--to 1976, INS apprehensions increased from 86,597 to 875,915 (and have remained at roughly that level or higher ever since).

This is not to say that workers who entered the bracero program did not experience problems or even hardships. The point is that when legal entry to work was widely permitted, illegal entry to the United States was an order of magnitude lower. And immigration enforcement officials understood this. At a congressional hearing in the 1950s, a top INS official was asked about stopping illegal immigration if Mexican agricultural workers could no longer come in legally. He replied, "We can't do the impossible, Mr. Congressman."

Congress can certainly choose to maintain the status quo, which is an enforcement-only approach. However, the evidence is strong that current policies--or even more hardened versions of them--are ineffective. From 1990 to 2000, illegal immigration increased by 5.5 million as the number of U.S. Border Patrol agents rose from 3,600 to nearly 10,000.

Existing policies also contribute to two unintended consequences: (1) More than 300 young men and women die each year trying to cross dangerous terrain or wade rivers. (2) The difficulty of an illegal crossing causes more migrants to stay in the United States after making it, rather than work for a short time and return to Mexico.

One needs a scorecard to follow the politics of immigration. But one thing worth remembering is that the main anti-immigration groups that feed information to Capitol Hill are neither conservative, Republican, nor genuinely interested in stopping illegal immigration. The politically potent groups are on the left, both unions and the anti-immigration groups, including the radical wing of the environmental movement, which favors sharp reductions in the population levels of the United States to as low as 150 million. Since newcomers increase the U.S. population or maintain it at its current size, these latter groups do not want anyone coming here legally either, no matter how helpful that would be in reducing illegal entry.

Meanwhile, Bush's critics on the right, led in the House by Colorado Republican Tom Tancredo, are wrong on key aspects of the president's proposal.

This is not an amnesty. The definition of an amnesty is an unconditional pardon. Bush's proposal requires the payment of a fine and does not guarantee a green card to anyone. In contrast, the 1986 amnesty signed by President Reagan allowed permanent residence for anyone present in the country within certain dates.

The proposal is not a repeat of the 1986 law. In 1986, Congress largely wiped the slate clean but failed to provide any new mechanisms for individuals to enter and work legally, thus ensuring another buildup of the illegal population.

This is not the end of the American worker. Any temporary worker program will contain

labor protections. Moreover, Americans who may now feel they compete unfairly with someone here illegally (who is thus too scared to make problems for the boss) will no longer face that problem.

THE POLITICS for the administration are complicated but not daunting. Critics say the president is proposing immigration reform for political reasons and at the same time argue that most Americans oppose it. Both can't be true. In fact, President Bush started working on this issue as early as February 2001 and neared completion of a proposal prior to the September 11 attacks, which delayed consideration of the initiative. Moreover, the polling data on this issue are so ambiguous that no one can say it's a clear vote-getter, even among Hispanics. Despite the cynicism that greets almost any proposal emanating from Washington, one should not discount the most obvious explanation for the initiative: The president believes it's good for the country.

Another political wrinkle: While the proposal is said to upset the president's ideological base, in fact, there are many conservative enthusiasts, including senators Larry Craig and John McCain and congressmen Chris Cannon, Jeff Flake, and Jim Kolbe, who have called for a "market-based solution to a market-based problem." Moreover, the business community strongly supports immigration reform, and pro-immigrant groups like the National Immigration Forum have made positive statements. This will enable the administration to make the Democrats play policy, not politics--or face public criticism from pro-immigrant groups.

Still, there is room for the president to improve his proposal and at the same time increase the prospects for genuine reform.

First, he can actively engage on his call for legal immigration increases, which would largely eliminate criticism from the left that the proposal does not provide a realistic path to permanent residence for workers. Large, multiyear increases in the "Other Workers" employment category is one approach to take, which means workers with less than a bachelor's degree could receive green cards if sponsored by their employers. Another approach would be to remain open to some form of "earned legalization" concept, requiring prospective work in the country for a period of years. (Such a concept is already contained in two existing congressional measures, the McCain-Kolbe-Flake bill and the AgJobs Act.)

Second, the administration can closely monitor support for more modest legislation, such as for agricultural guest workers, and see whether taking a bite out of the apple first will make it easier to then move a larger initiative.

Third, if the path to permanent residency becomes more realistic as part of a bipartisan agreement, the White House will have to keep its eye on the centerpiece--establishing a flexible temporary worker program for employers--making sure that later agency regulations do not destroy the utility of the visas, as has happened before.

By combining enforcement with new temporary worker visas, the president's plan carries with it a tremendous opportunity to reduce illegal entry into the United States, freeing Border Patrol agents to focus on more serious concerns like terrorism. It would make controlling the border far more manageable and make known to authorities anyone seeking legal status. Now, who was saying that the president no longer had a domestic agenda?

Cesar **Conda,** who served as Vice President Dick Cheney's domestic policy adviser, is a board member of Empower America. Stuart Anderson, former staff director of the Senate Immigration Subcommittee, is executive director of the National Foundation for American Policy.

RELEASE FROM THE ESSENTIAL WORKER IMMIGRATION COALITION (EWIC)

EWIC Essential Worker Immigration Coalition

For Immediate Release: September 23, 2003
Contact: John Gay at 202/289-3123 or Laura Reiff at 703/749-1372

EWIC Praises Agreement on Immigrant Agriculture Workers

(Washington, D.C.) -- The Essential Worker Immigration Coalition (EWIC), a coalition of over 30 national businesses, trade associations, and other organizations, announced its support of the "Agricultural Job Opportunity Benefits and Security Act of 2003" (AgJobs Act) introduced today by Senator Larry Craig (R-Idaho), Senator Edward M. Kennedy (D-Mass.), Representative Chris Cannon (R-Utah), and Representative Howard Berman (D-California).

"This landmark bill shows that business and labor, conservatives and liberals, and Republicans and Democrats can work together to begin fixing a broken immigration system," said John Gay, Vice President, Governmental Affairs of the American Hotel & Lodging Association and EWIC co-chair. "The cooperation among all parties and the structure of the bill can serve as models for much-needed, broader immigration reform."

The AgJobs Act would reform the H-2A process so that agricultural employers unable to find American workers would be able to hire needed foreign workers. Furthermore, the legislation provides a reasonable mechanism for undocumented agricultural workers to earn legal status.

"This agreement recognizes the critical role played by immigrant workers in the U.S. economy and also provides fairness to those workers. We look forward to working with Congress, the Administration, unions, and immigrant advocates to address the similar issues faced by nonagricultural workers and their employers," said Laura Reiff, EWIC co-chair and a shareholder in the law firm of Greenberg Traurig LLP.

EWIC supports policies that facilitate the employment of essential workers by U.S. companies and organizations. Current immigration law largely prevents the hiring of foreign essential workers. EWIC supports reform of U.S. immigration policy to facilitate a sustainable workforce for the American economy while ensuring our national security and prosperity.

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PREPARED STATEMENT OF DR. JAMES S. HOLT

Mr. Chairman and members of the Subcommittee:

I appreciate the opportunity to file this statement on behalf of the Agricultural Coalition for Immigration Reform and the National Council of Agricultural Employers describing the role of immigrant labor in the United States agricultural work force and the need to reform the H-2A alien agricultural worker program and adjust the current agricultural work force to legal status.

The Agricultural Coalition for Immigration Reform (ACIR) is a national coalition of more than 100 national and regional agricultural organizations devoted to reforming the H-2A temporary worker program and providing legal status for the experienced agricultural work force on which our nation depends. The National Council of Agricultural Employers (NCAE) is a Washington, D.C. based national association representing growers and agricultural organizations on agricultural labor and employment issues and an organizer of the ACIR. The membership of the ACIR and the NCAE membership includes employers in agriculture and the "green" industries from all 50 states, and employ more than 75 percent of the nation's hired agricultural workforce. The membership of the ACIR and the NCAE were actively involved in the legislative processes that resulted in the enactment of the Immigration Reform and Control Act (IRCA) of 1986, and have been actively involved in immigration issues, and particularly H-2A reform, ever since. The ACIR and the NCAE have the background and experience to provide meaningful comments and insights into issues concerning immigration policy and how it affects the employment practices of its members' businesses and the availability of an adequate agricultural labor supply, and how these programs impact working Americans and Americans seeking employment, the subject of today's hearing.

My name is James S. Holt. I am Senior Economist with the management labor law firm of McGuiness, Norris & Williams and the Employment Policy Foundation in Washington D.C. I serve as a consultant on labor and immigration matters to the ACIR and the NCAE. I am an agricultural economist, and have spent my entire professional career specializing in labor, human resource and immigration issues, primarily with respect to agriculture. I served 16 years on the agricultural economics faculty of The Pennsylvania State University, and for more than 20 years have been a consultant here in Washington D.C. I also serve as a technical consultant to most of the current users of the H-2A program and to employers and associations who are attempting to access the program.

In summary, my testimony here today is that the agricultural industry faces an imminent labor catastrophe. The commercial sector of U.S. agriculture is absolutely dependent on hired labor. One of every $8 of farm production expenses goes to pay for hired and contract labor. In the labor intensive fruit, vegetable and horticultural sectors of agriculture, hired labor accounts for closer to $1 of every $3 to $4 of farm production expenses. Yet the agricultural industry is heavily dependent on aliens who are not legally authorized to work in the United States. Under current law there is nothing employers can do about this, and no alternative source of labor to turn to, even if employers could determine who was and who was not legal. Increased efforts to stem the flow of illegal immigration and secure the nation's borders, as well as initiatives to ensure accurate payroll accounting for Social Security purposes, make it impossible for the Congress and the Nation to continue to ignore this problem.

The entire U.S. economy is facing a shortage of unskilled manual labor. But seasonal and migratory agricultural jobs are the last claimants for these workers. The current federal program which is supposed to address the problem of insufficient seasonal agricultural labor—the H-2A provisions of the Immigration and Nationality Act—is paralyzed and unworkable. The H-2A program must be reformed, and the current agricultural work force must be provided with a means for adjusting to legal status. The continued economic viability of U.S. agriculture, *and the jobs of millions of Americans who provide goods and services to U.S. agricultural producers and who handle and process U.S. agricultural products,* are dependent upon an adequate work force on U.S. farms. We urge this Committee to support efforts to address this problem in the current Congress.

THE HIRED AGRICULTURAL LABOR PROBLEM IN THE UNITED STATES.

While the United States agricultural industry is overwhelmingly an industry of family farms and small businesses, it is also heavily dependent on hired labor. Labor is an essential input in farming, and essentially all commercial farms rely to a greater or lesser degree on hiring labor to perform certain essential tasks. The most recent U.S. Census of Agriculture reports more than 650 thousand U.S. farms hired labor directly, and more than 3.4 million hires by farmers annually. More

than 225 thousand farms also hire contract labor. Total expenditures for hired and contract labor are estimated at $22.5 billion. This is about $1 of every $8 in farm production expenses. Farmers spend more in hired labor expenses than they spend for such essential agricultural inputs as seed, fertilizer, agricultural chemicals, petroleum products, and more than farmers spend for interest or property taxes. In fact, after purchases of livestock and feed, hired labor accounts for more farm production expenditures than any other category of expenses reported in the Census of Agriculture. In the labor intensive fruit, vegetable and horticultural sectors, hired labor costs average 25 to 40 percent or more of total production costs.

In modern U.S. agriculture, most production processes are mechanized, even in the production of labor intensive commodities. Typically, the farm family and perhaps a few year 'round hired workers do the farm work most of the year. But seasonal hired workers are often needed for short periods to perform certain very labor intensive tasks such as harvesting, thinning or pruning. In many crops these labor intensive tasks, particularly harvesting, must be performed during very brief windows of opportunity, the timing of which can not be predicted with precision, and which are beyond growers' control. The availability of sufficient seasonal labor at the right time to perform these labor intensive functions can determine whether or not the farm produces a saleable product for that growing season.

The United States has some of the best climatic and natural resources in the world for agricultural production, and especially for the production of labor intensive fruits, vegetables and horticultural crops. In a world economy where all resources, including labor, were mobile, and there were no trade barriers, and where all countries could specialize in those commodities in which they have a comparative advantage, the North American continent would be, as it in fact is, one of the major world producers of agricultural commodities, including fruits, vegetables and horticultural specialties.

During the last several decades, markets for labor intensive commodities have expanded dramatically in the United States and throughout the world. This expansion has resulted from a number of factors, including technological developments in transportation and storage, increasing incomes both in the United States and worldwide, and changes in consumer tastes and preferences favoring more fruits and vegetables in the diet. National markets for labor intensive commodities, once protected by trade barriers and the perishability of the commodities themselves, have now become global markets, due to technological improvements and the strong drive for freer trade that has occurred over the past two decades.

Although it has been little regarded in policy circles, U.S. farmers have participated fully in the dramatic growth in domestic and world markets for labor intensive agricultural commodities. U.S. farm receipts from fruit and horticultural specialties have more than doubled, and from vegetables more than tripled, since 1980. Labor intensive commodities are the fastest growing sector of U.S. agriculture. At the same time, agricultural labor productivity has also continued to improve. As a result, while production of labor intensive commodities has expanded dramatically over the past two decades, average hired *arm* employment has declined by about one quarter. But the expansion of labor intensive agriculture has created tens of thousands of new *non-farm* jobs for U.S. workers in the upstream and downstream occupations that support the production and handling of U.S. farm production for consumption and export.

Aliens have always been a significant source of agricultural labor in the United States. In particular, labor from Mexico has supported the development of irrigated agriculture in the western states from the inception of the industry. As the U.S. economy has expanded, generating millions of new non-farm job opportunities, and as domestic farm workers have been freed from the necessity to migrate by the extension of unemployment insurance to agricultural workers in 1976, and the federal government has spent billions of dollars to settle domestic migratory farm workers out of the migrant stream and train them for permanent non-farm jobs in their home communities, U.S. workers have moved out of the hired agricultural work force, especially the migrant work force. These U.S. workers have been replaced by alien workers, largely from Mexico, Central America and the Caribbean.

As a result, the U.S. agricultural work force has become increasingly alien and increasingly undocumented. The U.S. Department of Labor's National Agricultural Worker Survey (NAWS) reported in its 1998–99 survey that 52 percent of seasonal agricultural workers working in the United States *self-identified as not authorized to work in the United States.* This was an increase from 37 percent in the previous survey only 3 years earlier, and from only about 12 percent a decade earlier. More than 80 percent of the new seasonal agricultural labor force entrants in the NAWS survey self identified as not authorized to work in the U.S. Most experts agree that the NAWS data on legal status based on self identification by survey respondents

are likely a very conservative estimate of the illegal alien agricultural work force. Evidence based on government I-9 enforcement actions, and verification of Social Security information by the Social Security Administration, often results in 70 to 80 percent or more of workers' documents being determined to be invalid or not pertaining to the person who presented them.

For more than 50 years there has also been a legal alien agricultural worker admission program in the U.S. This program was enacted as the "H-2" program in the Immigration and Nationality Act of 1952. In 1986, Congress attempted to streamline the program and redesignated it "H-2A." In recent years, use of the H-2A program has declined to a low of approximately 15,000 workers annually, although in the past several years the number of admissions has increased substantially, to about 45,000 workers annually.

The H-2A program has been used principally on the East coast in fruit, vegetables, tobacco, horticultural crops, and until recently, sugar cane. The program's structure and requirements evolved from government-to-government treaty programs which preceded it. Over the years the program has become encrusted with regulations promulgated by the Department of Labor and adverse legal decisions generated by opponents of the program which have rendered it unworkable and uneconomic for many agricultural employers who face labor shortages. Now that government policy is eliminating the illegal alien work force, many growers are caught between an unworkable and uneconomical H-2A program and the prospect of insufficient labor to operate their businesses.

The illegal alien seasonal agricultural work force in the United States consists of two groups. Some are aliens who have permanently immigrated to the United States and found employment in agriculture. Typically, these illegal immigrants start out in seasonal agricultural work, and move into more permanent agricultural or nonagricultural jobs as they become settled in the United States. The other component of the U.S. illegal alien seasonal agricultural work force are nonimmigrant migrant farm workers who have homes and families in Mexico. Many of them are small peasant farmers. The adult workers from these families, usually males, migrate seasonally to the United States to do agricultural work. The most recent Department of Labor statistics show that 42 percent of U.S. seasonal agricultural workers have their home base abroad, while 58 percent have their home base in the U.S. Recent anecdotal evidence suggests that as a result of intensified border enforcement, some would-be non-immigrant alien farm workers are finding it necessary to remain in the United States during the off season rather than returning home, for fear that they will not be able to get back in or because of the high cost of doing so.

Congressional efforts to control illegal immigration began with the landmark Immigration Control and Reform Act (IRCA) of 1986. The theory of IRCA was to eliminate the economic "magnet" to illegal immigration by requiring employers to examine documents evidencing authorization to work in the United States prior to hiring workers. It did not work for at least three reasons. One was that one of the motives for illegal immigration to the U.S. was not simply to better one's welfare, but to survive, literally and figuratively. This survival drive overwhelmed any fear of employer sanctions. The second was that Congressional concern about invasion of privacy and big brotherism resulted in an employment documentation process that was so compromised that it was easily evaded by document counterfeiting. The third was that a serious effort to enforce IRCA, including the provisions against document counterfeiting, was never mounted. The result was that IRCA had little impact on the volume of illegal immigration, and a perverse impact on the hiring process. Whereas previously an employer who suspected a prospective worker was illegal may have been willing to risk refusing to hire that worker, the discrimination provisions of IRCA discouraged employers from risking refusing to hire any worker who had genuine appearing documents, even if the employer suspected the worker was illegal.

With the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996, Congress recognized the failure of IRCA. In IIRIRA, Congress decided to test the conventional wisdom that it was impossible to control illegal immigration at the border by vastly augmenting the resources and personnel of the INS for border enforcement. The result has been to make the process of illegal border crossing more expensive and dangerous. Anecdotal evidence from farm labor contractors and agricultural employers across the United States is that many prospective border crossers, especially migrant farm workers and prospective migrant farm workers, have been unable to cross the border or have made the calculation that the cost of doing so is too high based on their prospective earnings in the U.S. Reports from all regions of the United States of reduced numbers of workers and short crews are becoming more common as Congress continues to augment resources and personnel for border enforcement.

Increased border enforcement has also had a perverse effect. It apparently has induced some alien farm workers, who in the past crossed the border illegally on a seasonal basis to work in the United States during the agricultural season, to remain in the United States during the off season for fear that they would unable to get back in the next year. Some of these workers eventually try to smuggle their families in to join them. Many of these workers would prefer to maintain their homes and families in Mexico and work seasonally in the United States, but current immigration policies make this an unattractive option.

IIRIRA also set in motion the testing of a process which many believe is the only way to effectively control the employment of illegal aliens. IIRIRA established a program of pilot projects for verification of the authenticity of employment authorization documents at the time of hire. These projects appear to have demonstrated that pre-hire verification of documents is feasible. If and when Congress mandates such verification, it will precipitate a real crisis in U.S. agriculture.

Recently, Congress approved funding for a substantial increase in enforcement of employer sanctions and audits of I-9 forms. The I-9 form is the document completed by an employer at the time of hire on which the employer records the employment verification documents the employee offers to verify authorization to work in the United States. Employers are required by law to accept documents offered by the worker which reasonably appear on their face to be genuine, a test which virtually all documents meet. However, Department of Homeland Security (DHS) audits of the authenticity of employment authorization documents often reveal that 70 percent or more of seasonal agricultural workers have provided fraudulent documents. The employer is then required to dismiss each employee on the list who cannot provide a valid employment authorization document, something few can do.

Independent of the effort to improve immigration control, other forces are also affecting the agricultural work place. The Social Security Administration (SSA) is under a Congressional mandate to reduce the amount of wage reporting to non existent social security accounts. Through its Enumeration Verification System (EVS), the Social Security Administration checks employers' tax filings to match names and social security numbers reported by employers with those in the SSA data base. Employers receive lists of mismatches with instructions to "correct the mistakes in reporting". Of course, in most cases the mismatch is not a mistake in reporting, but a fraudulent number. When the employer engages the employee to "correct the mistake", the employee disappears. It is not uncommon for employers to receive lists of mismatches from the SSA containing 50 percent or more of the names which the employer reported to the SSA. Confronting the employees on these lists can have devastating effects on an employer's work force.

While the incidence of INS I-9 audits is relatively low, many agricultural employers are receiving lists of mismatched numbers from the SSA. Thus, many agricultural employers are being forced to confront for the first time the reality of the legal status of their work force. Both the I-9 audits and the SSA verification program are having a churning effect on the agricultural work force. Farm workers with fraudulent documents are rarely picked up and removed. Instead, the employer is simply required to dismiss them. In effect, the illegal aliens are being chased from farmer to farmer as their employers receive SSA reports or are audited by the INS.

Some opponents of an alien agricultural worker program argue that a program is not needed because employer sanctions cannot be effectively enforced no matter what the government tries to do. The implication of this argument is that employers should endure the uncertainties and potential economic catastrophe of losing a workforce, and workers should continue to endure the uncertainties of being chased from job to job on a moment's notice. We find such reasoning unacceptable. It is an argument for the status quo, which all agree is unacceptable. Furthermore, it is unacceptable to refuse to address one public policy problem on the grounds that another accepted and enacted public policy will be ineffective. We must honestly face the issues revealed by our policy of immigration control and employer sanctions. We believe that a workable alien agricultural worker program is the most appropriate answer.

ARE THERE VIABLE ALTERNATIVES TO A REFORMED H-2A AGRICULTURAL WORKER PROGRAM?

Opponents of alien agricultural worker programs suggest there are other ways to address the problem than legal admission of alien agricultural guest workers.

One suggestion is that agricultural employers should be "left to compete in the labor market, just like other employers have to do". Under this scenario, there would be no alien guest workers. To secure legal workers and remain in business, agricultural employers would have to attract sufficient workers away from com-

peting non-agricultural employers and the ranks of the unemployed by raising wages and benefits. Those who could not afford to compete would go out of business or move their production outside the United States. Meanwhile, according to this scenario, those domestic persons remaining in farm work would enjoy higher wages and improved working conditions.

This "solution" will not work for several reasons.

No informed person seriously contends that wages, benefits and working conditions in seasonal agricultural jobs can be raised sufficiently to attract non-agricultural workers away from their permanent jobs in the numbers needed to replace the illegal alien agricultural work force and maintain the economic competitiveness of U.S. producers. Thus, this scenario predicates that U.S. agricultural production would decline. In fact, given that the U.S. hired agricultural work force is, by most estimates, more than 70 percent illegal, U.S. agricultural production would have to decline dramatically.

Seasonal farm jobs have attributes which make them inherently uncompetitive with non-farm work. First and foremost is that they are seasonal. Many workers who could do seasonal farm work accept non-farm work at less than the average farm worker hourly wage of $9.08 in 2003 because they prefer the stability of a permanent job. Secondly, many seasonal farm jobs are located in rural areas away from centers of population, so there is only a small pool of workers available locally. Further, to extend the period of employment, workers must work at several such jobs in different areas. That is, they must become migrants. It is highly unlikely that many U.S. workers would be willing to become migrant farm workers at *any* wage, or for that matter that, as a matter of public policy, the federal government would want to encourage them to do so. In fact, the federal government spends tens of millions of dollars annually attempting to settle U.S. workers *out* of U.S. migratory farm work. The success of these efforts is one of the factors that has led to the expansion in illegal alien employment. In addition to seasonality and migrancy, most farm jobs are subject to the viscissitudes of weather, both heat and cold, and require physical strength and stamina. Thus it is highly unlikely that a significant domestic worker response would result even from substantial increases in wages and benefits for seasonal farm work to replace the illegal work force.

Over the past two decade, U.S. farm worker wages have increased at a more rapid rate than comparable non-farm worker's wages, even with the influx of illegal aliens. More rapid farm wage increases can not occur for economic reasons. U.S. growers are in competition in the markets for most agricultural commodities, including most labor intensive commodities, with actual and potential growers around the globe. Since hired labor constitutes approximately 35 percent of total production costs of labor intensive agricultural commodities, and 1 in 8 dollars of production costs for agricultural commodities generally, substantial increases in wage and/or benefit costs will have a substantial impact on growers' over-all production costs. U.S. growers are in an economically competitive equilibrium with foreign producers at approximately current production costs. Growers with substantially higher costs can not compete. If U.S. producers' production costs are forced up by, for example, restricting the supply of labor, U.S. production will become uncompetitive in world markets (including domestic markets in which foreign producers compete). U.S. producers will begin to be forced out of business. In fact, U.S. producers will continue to be forced out of business until the competition for domestic farm workers has diminished to the point where the remaining U.S. producers' production costs are approximately at current global equilibrium levels. The end result of this process will be that domestic farm worker wages and working conditions (and the production costs of surviving producers) are at approximately current levels because the volume of domestic production has declined sufficiently that there is no longer upward pressure on domestic farm worker wages and production costs.

These same global economic forces, of course, affect all businesses. But non-agricultural employers have options for responding to domestic labor shortages that agricultural employers do not have. Many nonagricultural employers can "foreign source" the labor intensive components of their product or service without necessarily exporting all of the good jobs in the process. Since agricultural production is tied to the land, the labor intensive functions of the agricultural production process cannot be foreign-sourced. We cannot, for example, send the harvesting process or the thinning process overseas. Either the entire product is grown, harvested, transported and in many cases initially processed in the United States, or all these functions are done somewhere else, even though only one or two steps in the production process may be highly labor intensive. When the product is grown, harvested, transported and processed somewhere else, *all* the jobs associated with these functions are exported, not just the seasonal field jobs. These are the so-called "upstream" and "downstream" jobs that support, and are created by, the production of

agricultural products in the U.S. U.S. Department of Agriculture studies indicate that there are about 3.1 such upstream and downstream jobs supported by every on-farm job. Most of these upstream and downstream jobs are "good" jobs, i.e. year' round or long term seasonal jobs paying good wages that are held by citizens and permanent residents. Thus a workable agricultural guest worker program that retains agricultural production in the U.S. *creates or preserves more than three times as many jobs for U.S. citizens and permanent residents as the number of guest workers employed.* The truth is that a workable agricultural guest worker program is good for American workers.

It has also been suggested that employment of alien agricultural workers could be avoided by recruiting the unemployed and welfare recipients to do these jobs. Growers themselves, most notably the Neisi Farmers League in the San Joaquin Valley of California, have tried to augment their labor supply by recruiting unemployed workers and welfare recipients. While these efforts have resulted in some unemployed workers and former welfare recipients moving into farm jobs, the magnitude of this movement has been insignificant. In fact, welfare administrators suggest that the long term impact of welfare reform is likely to exacerbate rather than reduce the shortage of domestic farm labor. As limitations are set on recipients' lifetime welfare entitlement, seasonal farm workers who supplement their earnings with welfare will be forced into permanent nonagricultural jobs. Other attributes of seasonal farm work are also deterrents. The preponderance of those now remaining on the welfare rolls are single mothers with young children. Many are not physically capable of doing physically demanding farm work, do not have transportation into the rural areas, and are occupied with the care of young children.

The unemployed also make, at best, a marginal contribution to the hired farm work force. Relatively high unemployment rates in some rural agricultural counties are often cited as evidence of an available labor supply or even of a farm worker surplus. First, it should be noted that labor markets with a heavy presence of seasonal agriculture will always have higher unemployment rates than labor markets with a higher proportion of year round employment. By the very nature of the fact that farm work is seasonal, many seasonal farm workers spend a portion of the year unemployed because there is little or no seasonal agricultural work available at that time of the year. Second, unemployed workers share the same values and aspirations as employed workers. They prefer permanent employment which is not physically demanding and takes place in a comfortable environment. They share an aversion to migrancy, and often have transportation and other limitations that restrict their access to rural jobs. The coexistence of unemployed workers and employers with labor shortages in the same labor markets means only that we have a system that enables workers to exercise choices.

Many welfare recipients and unemployed workers can not or will not do agricultural work. It is reasonable to expect an alien worker program to have a credible mechanism to assure that domestic workers who *are* willing and able to do farm work have first access to agricultural jobs, and that aliens do not displace U.S. workers. It is not reasonable to expect or insist that welfare and unemployment rolls fall to zero as a condition for the admission of alien workers.

Another alternative to alien workers often suggested is to replace labor with technology, including mechanization. This argument holds that if agricultural employers were denied access to alien labor they would have an incentive to develop mechanization to replace the alien labor. Alternatively, it is argued that the availability of alien labor retards mechanization and growth in worker productivity.

The argument that availability of alien labor creates a disincentive for technological advancement is belied by the history of the past two decades. From 1980 to the present, U.S. output of labor intensive agricultural commodities has risen dramatically while U.S. hired agricultural employment has declined. The only way this could have happened is as a result of significant agricultural labor productivity increases. Yet this was also the period of perhaps the greatest influx of illegal alien farm workers into U.S. agriculture in our history.

It does not appear that there has been a great deal of increase in agricultural mechanization in fruit and vegetable farming since a spasm of innovation and development in the 1960's and 1970's. Indeed, some of the mechanization developed during that period, such as mechanical apple harvesters, has proven to be uneconomical in the long term because of tree damage as well as fruit damage. Agricultural engineers claim the reason for this is the withdrawal of support for agricultural mechanization research by the U.S. Department of Agriculture following protests and litigation by farm workers in California that such research was taking away their jobs.

But productivity increases can result from many different kinds of technological innovations, of which mechanization is only one. Smaller and lower fruit trees, which require less ladder climbing, trellised trees, and changes in the way trees or

vines are pruned are also technological developments which improve labor productivity. The switch from boxes and small containers to bulk bins and pallets in the field has significantly improved labor productivity. Use of production techniques and crop varieties that increase yields improves field labor productivity by making harvesting and other operations more efficient. These are the techniques that farmers have used to achieve the large productivity increases obtained in the 1980's and 1990's. The fact that there appears to have been a slowing down in the pace of mechanization itself does not mean that growth in worker productivity has slowed.

The argument that alien employment retards productivity increases is also belied by logic. The incentive for the adoption of mechanization, or any other productivity increasing innovation, is to reduce unit production costs. If an innovation results in a net savings in production costs it will be adopted. It doesn't matter whether the dollar saved is a dollar of domestic worker wages or a dollar of alien worker wages, or a dollar of some other production input. On the other hand, if the innovation results in a net increase in production costs, it will not be adopted. The only way one can argue that a reduction in alien labor will increase the incentive for technological innovation is to argue that the reduction in alien labor will first increase production costs. But if, as is argued elsewhere in this testimony, the tendency for domestic producers' costs to rise in response to a withdrawal of labor is offset by shifting domestic market share to foreign producers, the incentive for additional domestic mechanization will never occur. In a global market, the profitability of mechanization, just like the profitability of everything else, is determined by *global* production costs, not by *domestic* production costs.

A fourth alternative to the importation of alien farm workers which has been suggested is the unionization of the farm work force. The implication of this scenario is that unionization would augment the supply of legal seasonal farm workers and make alien farm workers unnecessary. Alternatively, it is argued that an alien agricultural worker program will make it more difficult for domestic farm workers to unionize and improve their economic welfare.

First it should be noted that use of the H-2A program as a strike breaking tool is expressly prohibited. H-2A workers may not be employed in any job opportunity which is vacant because the former occupant of the job is on strike or involved in a labor dispute. Secondly, there is no impediment to an H-2A worker becoming a union member. Indeed, the H-2A program has been used for decades in unionized citrus operations in Arizona. If an employer seeking labor certification has a collective bargaining agreement and a union shop, the H-2A aliens, like all other employees, can be required to pay union dues and may become union members.

There is no reason to believe that unionization will result in an increase in the availability of legal labor, nor, indeed, any reason to believe that the membership of farm worker unions is any more legal than the rest of the agricultural work force. Farm worker unions and farm employers are fishing out of the same labor force pool. The argument that increased farm worker unionization will increase the supply of legal labor is based on the supposition that farm worker unions will be successful in negotiating higher wages and more attractive working conditions than in nonunion settings, and that this will attract more domestic legal labor. Yet wages and working conditions in union and nonunion agricultural production settings are not (and in competitive global markets cannot be) significantly different in the competitive agricultural market place.

The reality is that an alien agricultural worker program is probably union-neutral. Existence of such a guest worker program will probably not make it significantly more difficult or easier to organize farm workers.

WHY DOES THE H-2A PROGRAM NEED TO BE REFORMED?

There are two broad reasons why the existing H-2A program needs to be reformed.

First, the program is administratively cumbersome and costly. Even at its present level of admission of fewer than 50,000 workers annually, the program is nearly paralyzed. Secondly, the program sets minimum wage and benefit standards that many employers cannot afford. As a result, the program's "worker protections" are cosmetic. They "protect" fewer than 50,000 job opportunities in an agricultural work force estimated at more than 2 million. The vast majority of agricultural workers, legal and illegal, get little or no benefit from the H-2A "protections".

The current H-2A program must be reformed because it is administratively cumbersome and costly. The regulations governing the program cover 33 pages of the *Code of Federal Regulations. ETA Handbook No. 398,* the compendium of guidance on program operation, is more than 300 pages. Employers must apply for workers a minimum of 45 days in advance of the date workers are needed. Applications,

which often run more than a dozen pages, are wordsmithed by employers and their consultants, by the Labor Department and by legal services attorneys. Endless discussions and arguments occur over sentences, phrases and words. After all this fine tuning, workers see, at best, an abbreviated summary of the application if they see anything at all.

Each employer applicant goes through prescribed recruiting and advertising procedures, regardless of whether the same procedures have been undertaken for the same occupation by another employer only days earlier. The required advertising is strictly controlled by the regulations and looks more like a legal notice than a help wanted ad. Increasingly, the Labor Department is requiring that advertising be placed in major metropolitan dailies, in addition to local advertising that farm job seekers are most likely to see or hear. The advertisements rarely result in responses, yet they are repeated over and over again, year in and year out.

Even after all this, the employer has no assurance that if "domestic" workers are referred, they are, in fact, legal. Most state workforce agencies refuse even to request employment verification documents, much less verify that they are valid. It is the experience of H-2A employers that a substantial and increasing proportion of "domestic" workers referred by state workforce agencies, on the basis of which certifications to employ legal alien workers are denied, are not work authorized. State workforce agency officials have even been known to suggest to H-2A growers that they go back to employing illegal aliens and save themselves and the employment service all the hassle of the H-2A program.

Finally, a high proportion of the workers referred to H-2A employers and on the basis of which the employer is denied labor certification for a job opportunity, either fail to report for work or quit within a few hours or days. This then forces the employer to file with the Labor Department for a "redetermination of need". Even though redeterminations are usually processed within a few days, the petition and admission process after redetermination means that aliens will, at best, arrive 2 to 3 weeks late.

The second reason why reform is needed is that the current H-2A program requires wage and benefit standards that are unreasonably rigid or not economically feasible in many agricultural jobs, effectively excluding those jobs from the H-2A program.

The so-called Adverse Effect Wage Rate (AEWR) is one such standard. The Adverse Effect Wage Rate is a minimum wage set on a state-by-state basis by regulation, and is applicable to workers employed in job opportunities for which an employer has received a labor certification. The Adverse Effect Wage Rate standard is unique to the H-2A program and does not exist in any other immigration or labor certification program. Each state's AEWR is set at the average hourly earnings of field and livestock workers for the previous year in the state or a small region of contiguous states. For the 2004 season, AEWRs range from $7.38 per hour in Arkansas, Louisiana and Mississippi to $9.28 per hour in Iowa and Missouri. The AEWR sets a minimum wage standard that makes it uneconomical to use the H-2A program in many agricultural occupations.

Another example of an unreasonably rigid standard is the requirement to provide housing, regardless of whether there is already adequate housing in the community for seasonal agricultural workers. The current H-2A program requires an employer to provide housing for all the job opportunities for which an employer applies for labor certification except those job opportunities from which local workers will commute daily from their permanent residences. The only agricultural employers who are required to provide housing to workers are those who participate in the H-2A program or use the Department of Labor's interstate clearance system to recruit workers. Only about 15 percent of agricultural employment includes employer-provided housing, either free or at a charge. In other words, the vast majority of seasonal agricultural workers currently arrange their own housing. Employer-provided housing tends to be provided to seasonal workers only in those areas dependent on migrant workers that are so remote that community-based housing is unavailable. In many communities, sufficient housing is available for seasonal agricultural workers, yet employers are not permitted to provide a housing allowance to workers and have them live in the local community in lieu of building housing.

H.R. 3142—THE AGRICULTURAL JOB OPPORTUNITIES AND BENEFITS ACT (AGJOBS)

On September 23, 2003 Rep. Chris Cannon (R-UT) and Rep. Howard Berman (D-CA) introduced H.R. 3142, the "Agricultural Job Opportunity, Benefits, and Security Act of 2003", popularly known as *"AgJOBSs."* On the same day, Senator Larry Craig (R-ID) and Sen. Ted Kennedy (D-MA) and 18 co-sponsors introduced identical legislation, S. 1645. *AgJOBS* will substantially restructure and reform the H-2A

temporary agricultural worker program, and provide a means for agricultural workers currently living and working in the United States without documentation who have made a substantial commitment to farm work in the United States to earn adjustment to legal permanent resident status.

While H-2A reform and/or farm worker adjustment of status bills have been introduced in every Congress for the last eight years, this is the first time that such legislation has received strong bipartisan endorsement. H.R. 3142 has 95 co-sponsors and S. 1645 has 55 co-sponsors, in both cases almost equally divided by party. *AgJOBS* is also supported by organized labor, farm worker advocates, Hispanic and church organizations, immigrant advocates, agricultural employer groups, including the ACIR and the NCAE, the American Farm Bureau Federation, associations of H-2A employers, and individual H-2A program users. The legislation has received the endorsement of the general business community, including the U.S. Chamber of Commerce.

AgJOBS is the product of several years of arduous negotiations between agricultural employers, farm labor organizations and a bipartisan group of Congressional leaders. Unlike previous reform bills, *AgJOBS* is legislation that can be enacted. It represents the first and best chance for statutory reform of the H-2A program and the U.S. agricultural labor system in more than a decade. It is the only chance for such reform in the near future.

Title I of *AgJOBS* establishes a program whereby aliens who can demonstrate that they have worked 100 or more days in a 12 consecutive month period during the 18 months prior to enactment of *AgJOBS* may apply for lawful temporary resident alien status. If the a temporary resident alien performs at least 360 work days of agricultural employment during the six years following the enactment of *AgJOBS,* including at least 240 work days during the first 3 years following enactment, and at least 75 days of agricultural work during each of three 12-month periods in the six years following enactment, the alien may apply for permanent resident status.

During the period of temporary resident status the alien is employment authorized, and can travel abroad and reenter the United States. During the period of temporary resident status the spouse and minor children of the alien who are residing in the United States may remain in the U.S., but are not employment authorized. The spouse and minor children may adjust to permanent resident status with the alien. Unauthorized aliens who do not apply or are not qualified for adjustment to temporary resident status are subject to removal. Temporary resident aliens who do not fulfill the agricultural work requirement or are inadmissible under the INA or commit a felony or 3 or more misdemeanors as temporary resident aliens are denied adjustment to permanent resident alien status and are subject to removal. The adjustment program is funded through application fees.

Title II of *AgJOBS* replaces the existing H-2A temporary agricultural worker program with a reformed program. Employers desiring to employ H-2A aliens in temporary or seasonal agricultural jobs (10 months or less) may file an application with the Secretary of Labor and a job offer for domestic workers. If the application and job offer meets the requirements of the program and there are no obvious deficiencies, the Secretary must approve the application.

All workers in job opportunities covered by an H-2A application must be provided with workers compensation insurance, and no job may be filled by an H-2A alien which is vacant because the previous occupant is on strike or involved in a labor dispute. If the job is covered by a collective bargaining agreement, the employer must also notify the bargaining agent of the filing of the application. If the job is not covered by a collective bargaining agreement, the employer must provide housing at no cost to workers whose place of residence is beyond normal commuting distance, or a monetary housing allowance if the Governor of the state has determined that there is sufficient migrant housing available in the area of intended employment. The employer must reimburse inbound and return transportation and subsistence costs to workers who meet employment requirements and who travel more than 100 miles to come to work for the employer. The employer must also guarantee employment for at least three quarters of the period of employment, and assure at least the highest of the applicable statutory minimum wage, the prevailing wage in the occupation and area of intended employment, or a reformed Adverse Effect Wage Rate. The Adverse Effect Wage Rate is reformed by freezing the rate in effect on January 1, 2003 for 3 years, and thereafter indexing the Adverse Effect Wage Rate by the annual percentage change in the Consumer Price Index for all Urban Consumers, unless Congress acts to set a new H-2A wage standard. Employers must also meet specific motor vehicle safety and insurance standards, and comply with all applicable federal, state and local labor laws and regulations.

H-2A aliens are admitted for the duration of the initial job, not to exceed 10 months, and may extend their stay if recruited for additional seasonal jobs, to a maximum continuous stay of 3 years, after which the alien must depart the United States. H-2A aliens are authorized to be employed only in the job opportunity and by the employer for which they were admitted. An alien is not permitted to return as an H-2A worker until the alien has remained outside the U.S. for at least 1/5th the length of time the alien was in the U.S. in H-2A status. Aliens who abandon their employment or are terminated for cause must be reported by the employer, and are subject to removal. H-2A aliens are provided with a counterfeit resistant identity and employment authorization document.

The Secretary of Labor is required to provide a process for filing, investigating and disposing of complaints, and may order back wages and civil money penalties for program violators. The Secretary of Homeland Security may order debarment of violators for up to 2 years. Workers are provided with a limited federal private right of action to enforce the housing, transportation, wages, and other requirements of the program, and written promises contained in job orders. A mediation process is available to any party involved in such an action to attempt to resolve the problem prior to litigation.

The administration of the H-2A program is funded through a user fee paid by agricultural employers.

WHY IS A WORKABLE ALIEN AGRICULTURAL WORKER PROGRAM GOOD PUBLIC POLICY?

In the absence of effective control of illegal immigration and enforcement of employer sanctions, the status quo will continue—illegal alien migration, little use of the legal alien worker program, few protections for domestic and alien farm workers, crop losses due to shortages of workers, and vulnerability to random enforcement action for employers. This will be true whether or not the legal guestworker program is reformed, because without effective immigration control and document verification, agricultural employers as well as all other employers will continue to be confronted by a workforce with valid appearing documents and no practical way to know who is legal and who is not. No one can defend or advocate for continuation of the status quo. The current system of illegal immigration and an agricultural industry dependent on a fraudulently documented workforce is bad for employers, workers and the nation.

But if the nation achieves reasonably effective control of illegal immigration and enforcement of employer sanctions—which is the objective of current public policy—then agricultural production in the United States, particularly of the labor intensive fruit, vegetables and horticultural commodities, will be drastically reduced, with attendant displacement of domestic workers in upstream and downstream jobs, unless a workable agricultural guestworker program exists.

In conducting the public policy debate about a workable alien agricultural worker program, it is important to be realistic about what the public policy options are and are not. The public policy options are *not* between greater and lesser economic benefits for domestic farm workers. The level of wages and benefits that U.S. agriculture can sustain for all farm workers, domestic and alien, are largely determined in the global market place. The public policy options we face are between a larger domestic agricultural industry employing domestic and legal alien farm workers and providing greater employment opportunities for domestic off-farm workers, and a drastically smaller domestic agricultural industry and drastically fewer employment opportunities for domestic non-farm workers with a wholly domestic farm work force. In either case, the level of economic returns to farm workers will be approximately the same, namely those economic returns that are sustainable in the competitive global marketplace. But in the later scenario, the Nation will be vastly more dependent on foreign sources for its food supply, and more vulnerable to economic, political and security threats from abroad.

The ACIR and the NCAE believe the national interest is best served by effective immigration control and a workable alien agricultural worker program that enables the United States to realize its full potential for the production of labor intensive and other agricultural commodities in a competitive global marketplace, and which supports a high level of employment for domestic workers in upstream and downstream jobs while assuring reasonable protections for domestic and alien farm workers. The ACIR and the NCAE believe an alien agricultural worker program that is workable and competitive for employers and that protects access to jobs and the wages and working conditions of domestic farm workers, and that provides legal status, dignity and protections to alien farm workers working in the United States, is important to accomplish now. Congress should not wait any longer to fix an indefensible status quo. The economic and social costs to our economy, to American workers

and to alien farm workers are too high to delay. Congress should enact AgJOBS now.

WALL STREET JOURNAL ARTICLE

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Mexican Workers Come Here to Work: Let Them!

By Daniel T. Griswold

The 11 Mexican migrants found dead in a sealed rail car in Iowa last week were twice victimized—directly by smugglers who callously left them to die, and indirectly by a U.S. immigration law in conflict with the realities of American life.

While the U.S. has encouraged closer trade, investment, and political ties with Mexico, it has labored in vain to restrict the flow of labor across the border. Starting with the clampdown on illegal immigration in the mid-1980s, the government has imposed burdensome regulations on American employers and dramatically increased spending on border control. Despite those aggressive efforts, America's border policy has failed to stem the flow of undocumented workers into the U.S. labor market.

* * *

Today 8 million people live in the U.S. without legal documents, and each year the number grows by an estimated 250,000, as more enter illegally or overstay their visas. More than half of the illegal immigrants entering and already here come from Mexico.

One tragic consequence of the suppression policy has been to divert migration flows from a few traditional, urban crossing points to more scattered rural areas—to the frustration of rural residents and the deadly peril of migrants. Before the crackdown, the large majority of Mexican migrants entered via three narrow, urban gates—San Diego, Calif., and El Paso and Laredo in Texas. In response to the beefed-up border enforcement begun by the Clinton administration in 1993, migration patterns shifted to remote rural areas such as the Arizona-Mexico border where patrols are more scattered but conditions more dangerous.

It's law vs. market reality, and reality is winning.

The diverted flow has caused headaches for Americans living in those areas as migrants have trespassed on private property, disturbed livestock, and destroyed property. But the consequences have been deadly for more than 2,000 migrants who have perished since 1995 from heat and dehydration in remote areas of the desert or in sealed trucks and rail cars.

America's immigration laws are colliding with economic reality, and reality is winning. Migration from Mexico is driven by a fundamental mismatch between a rising demand for low-skilled labor in the U.S. and a shrinking domestic supply of workers willing to fill those jobs. The Labor Department estimates that the total number of jobs in our economy that require only short-term training will increase from 53.2 million in 2000 to 60.9 million by 2010, a net increase of 7.7 million.

Meanwhile, the supply of American workers willing to do such work continues to fall because of an aging workforce and rising education levels. By 2010, the median age of American workers will reach 40.6 years, while the share of adult native-born men without a high school diploma continues to plunge: from more than half in 1960 to less than 10% today. Older, educated Americans understandably have better things to do with their work time than to wash windows, wait tables and hang drywall.

Mexican migrants provide a ready source of labor to fill that gap. Yet immigration law contains virtually no legal channel through which low-skilled immigrant workers can enter the country to meet demand. The result, predictably, is illegal immigration and all the black-market pathologies that come with it.

Progress toward fixing the problem of illegal migration was derailed by Sept. 11, but most members of Congress understand that Mexican migration is not a threat to national security. The Enhanced Border Security and Visa Entry Reform Act of 2002 that Congress passed in May represents the right kind of policy response to terrorism. The law focuses on identifying terrorist suspects abroad and keeping them out of the U.S. Notably absent from the bill were any provisions rolling back levels of legal immigration or cracking down on undocumented migration from Mexico.

Indeed, creating a legal path for the movement of workers across the U.S.-Mexican border would enhance national security. It would begin to drain the swamp of smuggling and document fraud that facilitates illegal immigration, and would encourage millions of currently undocumented workers to make themselves known to authorities by registering with the government, reducing cover for terrorists who manage to enter and overstay their visas.

Legalization would allow the government to devote more resources to keeping terrorists out of the country. Before Sept. 11, the government had stationed more than four times as many border enforcement agents on the Mexican border as along the Canadian one, even though the Canadian border is more than twice as long and has been the preferred border of entry for Middle Easterners trying to enter the U.S. illegally. A system that allows Mexican workers to enter the U.S. legally would free up thousands of government personnel and save an estimated $3 billion a year—resources that would then be available to fight terrorism.

* * *

When Presidents Bush and Fox meet this weekend at the Asian Pacific Economic Cooperation meeting in Mexico, they should reaffirm their earlier commitment to make migration across the border "safe, orderly, legal and dignified." Such a system should include a new temporary worker visa that would allow Mexican workers to enter the U.S. labor market legally for a certain period, and allow undocumented workers already in the U.S. to earn legal status based on years of work and other productive behavior.

Current immigration law has made lawbreakers out of millions of hard-working, otherwise law-abiding people—immigrant workers and native employers alike—whose only "crime" is a desire to work together in our market economy for mutual advantage. Death in a boxcar is perverse punishment for seeking a better life.

Mr. Griswold is the associate director of the Center for Trade Policy Studies at the Cato Institute.

THE IMPACT OF AGRICULTURAL GUEST WORKER PROGRAMS ON ILLEGAL IMMIGRATION

BY STUART ANDERSON

THE NATIONAL FOUNDATION FOR AMERICAN POLICY

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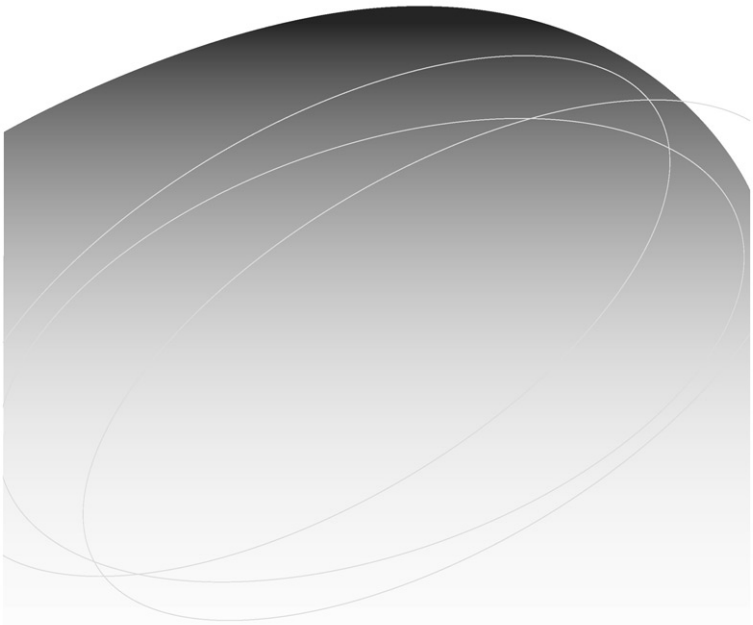


NOVEMBER 2003

THE NATIONAL FOUNDATION FOR AMERICAN POLICY

EXECUTIVE SUMMARY

An understanding that the bracero program played a key role in reducing illegal immigration has remained absent in the debate over both immigration policy and agricultural guest workers. In varying forms from 1942-1964, the bracero program allowed the admission of Mexican farm workers to be employed as seasonal contract labor for U.S. growers and farmers. Although facilitating legal entry for agricultural work proved effective, today, the idea of allowing regulated, legal entry that employs market principles to fulfill labor demand otherwise filled by individuals entering illegally is considered, depending on one's viewpoint, either novel, radical, or bold.

Based upon the research, this report concludes:

- By providing a legal path to entry for Mexican farm workers the bracero program significantly reduced illegal immigration. The end of the bracero program in 1964 (and its curtailment in 1960) saw the beginning of the increases in illegal immigration that we see up to the present day.
- It is recognized that the number of INS apprehensions are an important indicator of the illegal flow and that, in general, apprehension numbers drop when the flow of illegal immigration decreases. The data show that after the 1954 enforcement actions were combined with an increase in the use of the bracero program, INS apprehensions fell from the 1953 level of 885,587 to as low as 45,336 in 1959 – *indicating, based on apprehensions data, a 95 percent reduction in the flow of illegal immigration into the United States.* During that time, the annual number of Mexican farm workers legally admitted more than doubled from 201,380 in 1953 to an average of 437,937 for the years 1956-1959. In addition, the number of Mexicans admitted as permanent residents (green card holders) increased from 18,454 in 1953 to an average of 42,949 between 1955 and 1959.
- "Without question the bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940's and 1950's," wrote the Congressional Research Service in a 1980 report.
- In the 1950s and 1960s, senior law enforcement officials in the U.S. Border Patrol and elsewhere in the Immigration and Naturalization Service (INS) understood and promoted the use of market forces to reduce illegal immigration and control the Southwest border. A February 1958 Border Patrol document from the El Centro (California) district states, "Should Public Law 78 be repealed or a restriction placed on the number of braceros allowed to enter the United States, we can look forward to a large increase in the number of illegal alien entrants into the United States."

- When at a Congressional hearing in the 1950s, a top INS official was asked what would happen to illegal immigration if the bracero program ended, he replied, "We can't do the impossible, Mr. Congressman."

- From 1964 — when the bracero program ended — to 1976, INS apprehensions increased from 86,597 to 875,915 — *a more than 1000 percent increase,* indicating a significant rise in illegal immigration. Additional factors in illegal immigration rising during this period included economic conditions in Mexico and the lack of a useable temporary visa category for lesser skilled non-agricultural jobs. But an internal INS report found that apprehensions of adult male Mexican agricultural workers increased by 600 percent between 1965 and 1970, which helped demonstrate the effect terminating the bracero program had on illegal immigration.

- The evidence indicates that a reasonable enforcement deterrent at the border is necessary to enable a temporary worker program such as the bracero program to reduce illegal entry. Yet the evidence is also clear that enforcement alone has not proven effective in reducing illegal immigration. INS enforcement did not grow weaker after the 1960 curtailing of the bracero program or after the program's subsequent demise in December 1964. And both after 1960 and 1964, without the legal safety valve that the bracero program represented, illegal immigration increased substantially.

The current temporary worker visa category for agriculture, which U.S. employers consider burdensome and litigation-prone, fails to attract a sufficient number of participants to be part of the solution to illegal migration. While the bracero program has been criticized, that does not mean that it is impossible to devise a temporary worker program that takes into account the needs of both workers and employers — and performs the task of reducing illegal immigration by providing legal, market-based alternatives to the illegal entry that we see today on the Southwest border of the United States. □

"Illegal immigration was brought to a halt in the mid-1950s by a greatly increased law enforcement effort on the part of the U.S. Government, combined with a subsequent expansion of the bracero program as a substitute legal means of entry," reported the Congressional Research Service in a 1980 report.[1]

An understanding that the bracero program played a key role in reducing illegal immigration has remained absent in the debate over both immigration policy and agricultural guest workers. Operating from 1942-1964, the bracero program allowed the admission of Mexican farm workers to be employed as seasonal contract labor for U.S. growers and farmers.[2] Today, the idea of allowing regulated, legal entry to fulfill a labor demand that is now filled by individuals entering illegally is viewed, depending on one's viewpoint, as either novel, radical, or bold.

The irony is that in the 1950s and 1960s, senior law enforcement officials in the U.S. Border Patrol and elsewhere in the Immigration and Naturalization Service (INS) understood and promoted the use of market forces to reduce illegal immigration and control the Southwest border. Although the U.S. government permitted the admission of Mexican farm workers prior to 1954, a combination of limited enforcement, the almost immediate conversion to lawful bracero status of many who entered illegally near the Mexican border for farm work, along with other factors, provided little deterrent to illegal entry.[3]

A controversial crackdown on illegal immigration in 1954, dubbed Operation Wetback, rounded up Mexican migrants, including some U.S. citizens and others in the country legally and deported them to Mexico. INS data show a 200,000 jump in apprehensions from 885,587 in 1953 to 1,089,583 in 1954.[4] Some aspects of Operation Wetback, while a break in intensity from previous INS operations, were not dissimilar from Border Patrol practices accepted today, such as the use of manned aircraft to alert teams on the ground as to the location of aliens. Other tactics, including "sweeps" in urban areas, would likely raise civil rights concerns today, although it appears that INS personnel made the vast majority of its apprehensions during Operation Wetback in rural, rather than urban areas, and primarily in Texas and California.[5]

Less well known, is that INS Commissioner (General) Joseph Swing preceded Operation Wetback by cultivating support among growers to replace an illegal and, therefore, unpredictable source of labor with a legal, regulated labor supply. Swing wanted growers to more heavily utilize the legal means afforded by the bracero program, which grew from a World War II emergency program to a bilateral agreement

with Mexico later extended and sanctioned through Congressional action.

Despite the view that employers preferred hiring people here illegally, in fact, Swing received favorable press from growers and in Congress for pushing the substitution of legal for illegal workers.[6] In 1955, General Swing said, "Net results of farmer-grower cooperation (with the INS) include a shoring up of the agricultural economy of the Southwest, and establishment of a dependable source of qualified agricultural labor."[7]

INS law enforcement personnel understood the role the bracero program played controlling the border. A February 1958 Border Patrol document from the El Centro (California) district states, "Should Public Law 78 be repealed or a restriction placed on the number of braceros allowed to enter the United States, we can look forward to a large increase in the number of illegal alien entrants into the United States."[8]

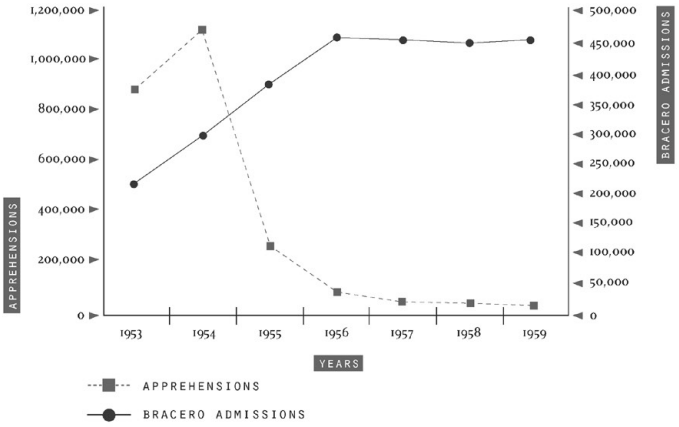
In April 1958, after the Mexican government asked for the removal of a large farm association in the Rio Grande Valley, the Border Patrol in Brownsville, Texas explicitly connected preventing employers from hiring through legal means to a predictable increase in illegal migration. In objecting to the prohibition on the association, the Border Patrol memo explains, "It (the farm association) has about 1,700 members in the four Valley counties which it supplies braceros and has handled an estimated 35,000 braceros during the current season. Revocation of this association's certificate would result in an acute shortage of agricultural labor and offer employment to illegal entrants."[9]

Even when INS officials wanted to credit their own actions rather than the existence of a marked-based legal avenue of entry for farm workers they could not. Describing testimony before the House Committee on Agriculture by James Hennessy, Executive Assistant to Commissioner Swing, author Kitty Calavita writes, "While Hennessy at first insisted that INS enforcement policies be given full credit for both the reduction of illegal aliens and the subsequent expansion of the Bracero Program, he was ultimately forced to admit that control of the border was in large part the *consequence* of an amply supply of bracero labor." When Hennessy was asked what would happen to illegal immigration if the bracero program ended, he replied, "We can't do the impossible, Mr. Congressman."[10]

Indeed, it appears that when the bracero program ended in December 1964, Congress did begin asking the INS to do the impossible – stop or significantly halt illegal immigration without the use of sufficient legal avenues to meet the demand for labor in the United States.

FIGURE 1

APPREHENSIONS & BRACERO ADMISSIONS 1953 -1959



Source: Congressional Research Service, Temporary Worker Programs: Background and Issues. A report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, p. 40; Annual Report of the Immigration and Naturalization Service, 1959; INS Statistical Yearbook 1996.

DID THE BRACERO PROGRAM REDUCE ILLEGAL IMMIGRATION?

While contemporaneous statements by INS officials indicate that those involved in day-to-day immigration operations believed the bracero program was crucial for controlling the border, do the data support their conclusions? The record indicates the answer is "yes."

"Despite their limitations, then, as now, INS apprehension figures are the best available

indication of the degree of illegal immigration," notes the Congressional Research Service.[11]

As noted, it is recognized that the number of INS apprehensions are an important indicator of the illegal flow and that, in general, apprehension numbers drop when the flow of illegal immigration decreases. (Conversely, the more apprehensions, the greater the flow of illegal immigration.) This is related to a deterrent effect whereby fewer attempts are made if the chances of success decrease or alternative choices are available to would-be border crossers. Law enforcement, market conditions, and the availability of legal means of entry can all affect the illegal flow.

As Figure 1 shows, after the 1954 enforcement actions and the increase in the use of the bracero program, INS apprehensions fell from the 1953 level of 885,587 to as low as 45,336 in 1959 — *a 95 percent reduction.*[12]

During that time, the annual number of Mexican farm workers legally admitted had doubled or more than doubled from 201,380 in 1953 to 398,650 in 1955, and an average of 437,937 for the years 1956-1959.[13] In addition, the number of Mexicans admitted as permanent residents (green card holders) increased from 18,454 in 1953 to an average of 42,949 between 1955 and 1959. It appears a good portion of those who received permanent visas were petitioned for by their agricultural employers, which was later limited by the federal government.[14]

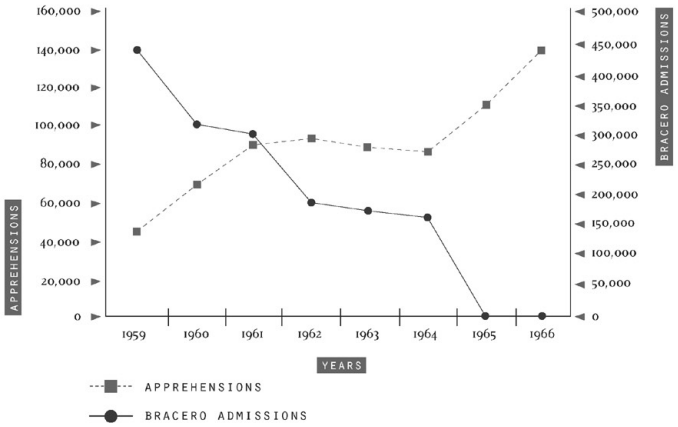
Even tampering with the bracero program increased illegal immigration. In 1960, under pressure from labor unions and some members of Congress, the U.S. Department of Labor ended the "Special Program" that allowed through a streamlined process for growers to designate specific workers with whom they wished to contract. Years before, INS Commissioner Swing had praised the Special Program, saying it "served to eliminate the situation under which the busy farmer and grower was faced with the prospect of using anonymous workers selected for him by a government agency."[15]

The Department of Labor's action soon led to a decline in bracero admissions — and an increase in illegal immigration. (See Figure 2.) While bracero admissions fell by approximately 30 percent between 1959 and 1960, INS apprehensions rose 55 percent during the same period. As rules governing the admission of braceros continued to tighten annual INS apprehensions averaged 89,223 between 1961 and 1964, an increase of 46 percent over the 1956-59 average of 61,106. Connected to this, annual bracero admissions averaged 212,750 for 1961-64, a drop of 51 percent from the 1956-59 average of 437,937.

The data are equally telling on the rise of illegal immigration after bracero admissions ended in 1964. From 1964 — the last year of the bracero program — to 1976, INS apprehensions increased from 86,597 to 875,915 — *a more than 1000 percent increase.* Not all of this increase can be attributed to the bracero program ending. The state of the

FIGURE 2

INCREASE IN ILLEGAL IMMIGRATION FOLLOWING DECLINE IN BRACERO ADMISSIONS AFTER 1960 DOL REFORMS & SUBSEQUENT BRACERO PROGRAM TERMINATION



Source: Congressional Research Service, Temporary Worker Programs: Background and Issues. A report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, p. 40; Annual Report of the Immigration and Naturalization Service, 1959; INS Statistical Yearbook 1996.

Mexican economy and, importantly, the lack of legal avenues for individuals to enter legally and work in service, construction or landscaping industries also contributed to the rise in illegal immigration. But an internal INS report found that apprehensions of adult male Mexican agricultural workers increased by 600 percent between 1965 and 1970, which helped demonstrate the effect terminating the bracero program had on illegal immigration.[16] The 1970 INS annual report,

a public document, confirmed that the end of the bracero program accompanied sharp rises in illegal immigration: "Since the expiration of the Mexican Agriculture Act on December 31, 1964, the number of deportable aliens located has continued on an upward climb. For the 6-year period, FY 1965 through FY 1970, 71 percent of the 1,251,466 total deportable aliens located were of Mexican nationality. Year by year, the annual percentage of this nationality group has risen, from 50 percent in 1965 to 80 percent this year."[7]

Why did the end of the bracero program result in vastly increased illegal immigration? Those who examined the issue only years before understood this would be a logical outcome of eliminating a reliable, legal path to entry. A 1954 House report concluded: "Reason clearly indicates that if a Mexican who wants to come to the United States for this employment can enter this country legally, with all the protection and benefits that a well-considered and well-administered employment program give him he will do so, rather than come in illegally..." The report goes on to note: "If, because the program is not available or is not realistically geared to the requirements of employers or workers, the Mexican seeking employment finds it's impossible or difficult to come in legally, many of them will find their own way across the long border between the United States and Mexico and get employment where they can, under whatever wages and working conditions they are able to obtain."[8]

COUNTERVAILING ARGUMENTS

The data and contemporaneous analyses are so strong that it is difficult to dispute the beneficial impact the bracero program had on limiting illegal immigration. However, some countervailing arguments have emerged.

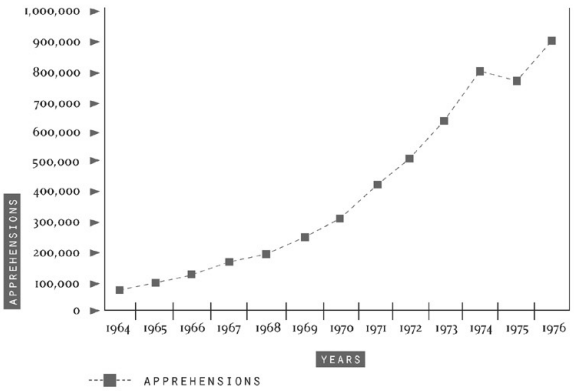
One argument is that while the bracero program certainly limited illegal immigration it also encouraged illegal entry by establishing a dependence on Mexican labor and creating employment networks among Mexicans at home and in the United States. There is valid data that show apprehensions increased from 11,715 in 1943 to 31,174 in 1944 and to 193,657 in 1947. However, to blame this on the still sparsely used bracero program misses the point.

Only an average of 43,079 Mexicans were admitted each year on the bracero program from 1943 to 1947. Apprehensions fell well below the 1947 level once the program was more fully utilized. One reason relatively few Mexicans used the bracero program is that "the INS...legalized on the spot illegal Mexican immigrants found employed in agriculture and contracted them to their employers as braceros. During the summer of 1947 the service legalized 55,000 undocumented workers in Texas alone."[9]

On-the-spot conversion into the bracero program combined with frustration with dealing with the

FIGURE 3

INCREASE IN ILLEGAL IMMIGRATION: APPREHENSIONS AFTER THE END OF THE BRACERO PROGRAM (1964-1976)



Source: INS Statistical Yearbook 1996.

Mexican government during the early days of the program, encouraged migrants simply to cross on their own, seemingly helping to explain the higher apprehension figures. Two aspects of the poor design of the initial bracero system explain the problem: 1) At first, Mexico limited bracero admissions to less than 50,000 annually, and 2) Texas, a large part of the agricultural labor market, was barred initially from using braceros.

More importantly, and perhaps a more obvious point, is that the bracero program became established during World War II and was later extended because of the demand for farm labor

and the willingness of Mexicans to supply the labor. It is a large counterfactual assumption to posit if only there had not been a bracero program, then American growers would not have experienced demand for farm labor. Nor is it plausible to assert that this demand would have been filled domestically. The civilian unemployment rate in the United States was 3.8 percent in 1948. While the unemployment rate fluctuated over the next 16 years, it averaged 4.7 percent from 1948 to 1964.[20] It seems implausible at best to argue that native U.S. labor would have filled the jobs on the farms if no Mexicans entered either legally or illegally during this period.

Even a critic of the bracero program, Cornell University Professor Vernon Briggs, who argues that bracero admissions later encouraged illegal migration, noted, "By the same token, however, it is simplistic to conclude that the problem would not eventually have surfaced in the absence of the bracero program."[21]

Another argument is that INS enforcement efforts should be at least partly credited for the reduction in illegal immigration, specifically Operation Wetback. No one argues that a temporary worker program without any law enforcement deterrent would reduce illegal migration to the United States. Moreover, it is clear that a stronger immigration law enforcement action was necessary in 1954 in order to encourage both employers and potential employees that they should avail themselves of the legal system that the bracero program provided. (Whether Operation Wetback in all of its forms was necessary would be a more controversial assertion.)

The lack of border enforcement operations at first limited the effectiveness of the bracero program in reducing illegal immigration, as evidenced by the increase in apprehensions from 458,000 in 1950 to 875,000 in 1953, despite increases in bracero admissions. (Note, however, that from 1949 to 1950 when bracero admissions fell by 37 percent, apprehensions increased significantly.) In addition to the continuation of the almost automatic conversion to a bracero among many of those found illegally in the country by Border Patrol agents, it was not until 1954 that a more significant law enforcement deterrent emerged. "During the period 1941-52, the INS Border Patrol had been cut by 350 officers, while apprehensions increased by 4,000 percent. This changed in 1954 when the decision was made within the executive branch to increase the border patrol and attempt to get control of the situation," explains the Congressional Research Service.[22]

The evidence indicates that a reasonable enforcement deterrent at the border is necessary to enable a temporary worker program such as the bracero program to reduce illegal immigration. Yet the evidence is also clear that enforcement

alone has not proven effective in reducing illegal immigration. INS enforcement did not grow weaker after the 1960 curtailing of the bracero program or after the program's subsequent demise in December 1964. And both after 1960 and 1964, without the legal safety valve that the bracero program represented, illegal immigration increased substantially.

CONCLUSION

The evidence is clear: By providing a legal path to entry for Mexican farm workers the bracero program significantly reduced illegal entry into the United States. The end of the bracero program in 1964 and its curtailment in 1960 saw the beginning of the increases in illegal immigration that we see up to the present day.

While it is beyond the scope of this paper to address current legislation related to agricultural guest workers, a few observations about the relevance of this study's findings to the present are warranted.

First, the current guest worker visa category attracts an insufficient number of participants to be part of a solution to illegal migration. As Table 1 shows fewer than 30,000 H-2A visas were used in FY2003, compared to the 300,000 to 445,000 range of annual bracero admissions between 1954 and 1960. (See Appendix.)

Why are admissions in the H-2A category so low? A good summary of employers' complaints about H-2A comes from a surprising source, a former DOL official. "The program is indeed cumbersome and litigation-prone. Employers must wade through a regulatory maze in order to achieve some sort of basic understanding of what is required of them," testified John R. Hancock, the Department of Labor's Chief of Agricultural Certification Unit responsible for administration of the H-2 program, before a 1997 House Immigration Subcommittee hearing. "The current program with its multiple regulations and related requirements is too complex for the average grower to comprehend and use without the aid of a good lawyer or experienced agent. The H-2A program is not currently a reliable mechanism to meet labor needs in situations where domestic workers are not available."[23]

Would current legislation on agricultural guest workers solve these problems? Judging from the support for the bills from agriculture and grower organizations those groups themselves believe that reforms that address litigation, wage rates, and a streamlined hiring process would, at minimum, significantly increase the ability and desire of employers to hire individuals on H-2A visas.

Second, another area of the study's findings relates to the nature of the bracero program, which has developed a pejorative tone in some circles. Whatever the faults of the bracero program, it

annually attracted up to 445,000 individuals a year who voluntarily chose to enter the United States and work under its rules.[24] Relatively few in comparison chose the option of entering the United States illegally to obtain work in agriculture. While it is argued that bracero admissions harmed domestic agricultural workers, it is not convincing that the situation of domestic workers improved once they competed against those entering illegally, rather than those who entered under the legal strictures of the bracero program.

Of course, even if the bracero program could have been more worker-friendly does not mean that it is impossible to devise a temporary worker program that sufficiently takes into account the needs of both workers and employers. Unlike the bracero program, current legislation that reforms the H-2A visa category is supported by both the United Farm Workers union and national agricultural organizations.

Relying on immigration law enforcement alone to reduce or control illegal immigration has proven unsuccessful. While some would argue sufficiently tough immigration enforcement, particularly in the country's interior, has not been tried, the number of authorized U.S. Border Patrol Agents has increased from 3,600 in 1990 to 10,000 in 2003. Meanwhile illegal immigration to the United States rose by 5.5 million between 1990 and 2000.[25] Border Patrol levels today are approximately 7 to 10 times the level of the 1950s when illegal immigration was relatively low during the height of the bracero program.

It is difficult to argue that current approaches, or even more hardened versions of them hold sufficient prospects for success to ignore an approach that proved so successful in the past. "Without question, the bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940's and 1950's," wrote the Congressional Research Service. "It should be noted that throughout its duration, and particularly during the 1950's, one of the major arguments used in support of the bracero program was that it offered an alternative and, therefore, at least a partial solution to the illegal alien problem."[26]

APPENDIX

TABLE 1

H-2A AGRICULTURAL WORK VISAS ISSUED BY FISCAL YEAR

FISCAL YEAR	H-2A VISAS ISSUED
2003	29,882
2002	31,538
2001	31,523
2000	30,200
1999	28,560
1998	22,676
1997	16,011
1996	11,004
1995	8,379
1994	7,721

Source: U.S. Department of State

TABLE 2

INS APPREHENSIONS AND BRACERO ADMISSIONS: 1942-1966

YEAR	APPREHENSIONS	BRACERO ADMISSIONS
1942	11,784	4,203
1943	11,715	52,098
1944	31,174	62,170
1945	69,164	49,454
1946	99,591	32,043
1947	193,657	19,632
1948	192,657	35,345
1949	288,253	107,000
1950	468,339	67,500
1951	509,040	192,000
1952	528,815	197,100
1953	885,587	201,380
1954	1,089,583	309,033
1955	254,096	398,850
1956	87,696	445,197
1957	59,918	436,049
1958	53,474	432,857
1959	45,336	437,643
1960	70,684	315,846
1961	88,823	291,420
1962	92,758	194,978
1963	88,712	186,865
1964	86,597	177,736
1965	110,371	0
1966	138,520	0

Source: Congressional Research Service, Temporary Worker Programs: Background and Issues. A report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, p. 40; Annual Report of the Immigration and Naturalization Service, 1959; INS Statistical Yearbook 1996

TABLE 3

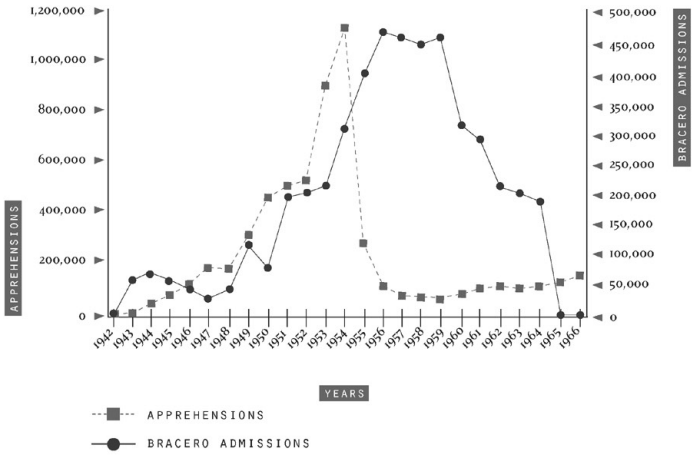
MEXICANS ADMITTED FOR PERMANENT RESIDENCE: 1940-1971

YEAR	NO. ADMITTED	YEAR	NO. ADMITTED
1940	1,914	1956	65,047
1941	2,068	1957	49,154
1942	2,182	1958	26,712
1943	3,985	1959	23,061
1944	6,399	1960	32,684
1945	6,455	1961	41,632
1946	6,805	1962	55,291
1947	7,775	1963	55,253
1948	8,730	1964	32,967
1949	7,977	1965	37,969
1950	6,841	1966	45,163
1951	6,372	1967	42,371
1952	9,600	1968	43,563
1953	18,454	1969	44,623
1954	37,456	1970	44,469
1955	50,772	1971	50,103

Source: Kitty Calavita, Inside the State, Routledge, Chapman, and Hall, Inc., New York, 1992. p. 218.

FIGURE 4

APPREHENSIONS AND BRACERO ADMISSIONS: 1942-1966



Source: Congressional Research Service, Temporary Worker Programs: Background and Issues. A report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, p. 40; Annual Report of the Immigration and Naturalization Service, 1959; INS Statistical Yearbook 1996.

ABOUT THE AUTHOR

Stuart Anderson, Executive Director of the National Foundation for American Policy, served as Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service from August 2001 to January 2003. He spent four and a half years on Capitol Hill on the Senate Immigration Subcommittee, first for Senator Spencer Abraham and then as Staff Director of the subcommittee for Senator Sam Brownback. Prior to that, Stuart was Director of Trade and Immigration Studies at the Cato Institute in Washington, D.C., where he produced reports on the military contributions of immigrants and the role of immigrants in high technology. He has an M.A. from Georgetown University and a B.A. in Political Science from Drew University. Stuart has published articles in the *Wall Street Journal, New York Times, Los Angeles Times*, and other publications.

NATIONAL FOUNDATION FOR AMERICAN POLICY

Started in 2003, the National Foundation for American Policy (NFAP) is a non-profit, non-partisan organization dedicated to public policy research on trade, immigration, education, and other issues of national importance. Its Advisory Board members include Columbia University economist Jagdish Bhagwati, Ohio University economist Richard Vedder, former INS Commissioner Jim Ziglar, Rep. Guy Vander Jagt (ret.), Cesar Conda, until recently Vice President Dick Cheney's chief domestic policy adviser, and former Reagan and Bush Administration official Jim Pitts.

ENDNOTES

[1]Congressional Research Service, *Temporary Worker Programs: Background and Issues.* A report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, p. 40.

[2]"The bracero program falls into three distinct phases: The wartime period, which extended 2 years beyond the end of World War II, until the expiration of the special authorizing legislation in 1947; the post-war transition period from 1948 until the enactment of new authorizing legislation, Public Law 78, in 1951; and the Public Law 78 period, during which the program expanded until 1960, followed by a phase-down until its termination at the end of 1964," explains the Congressional Research Service. Ibid., p. 15.

[3]Ibid., p. 31. An estimated 142,000 Mexicans were legalized in the country as braceros and placed under contract from 1947-1949. There are no figures available for later years.

[4]U.S. Department of Justice, *Annual Report of the Immigration and Naturalization Service,* 1959.

[5]Congressional Research Service (February 1980), p. 41, citing the 1955 INS Annual Report.

[6]The reaction of California growers, according to the head of the California Farm Placement Service, was as follows: "Employers using legally contracted Mexicans welcomed 'Operation Wetback'. It relieved them from the unfairness they had felt in adhering to the wage, housing, and other regulations governing the legal use of Mexicans, while their neighbors using wet backs [sic] were not subject to such regulations." Edward F. Hayes, Richard H. Salter, Roy Plumlee, Robert B. Lindsey, "Operation 'Wetback' – Impact on the Border States," *Employment Security Review,* vol. 22, (March 1955), pp. 16-21, as cited in Kitty Calavita, *Inside the State,* Routledge, Chapman, and Hall, Inc., New York, 1992, p. 60.

[7]Immigration and Naturalization Service, *I and N Reporter,* 1955, p. 16, as cited in Calavita, p. 72.

[8]Monthly Sector Activity Reports (MSAR), El Centro, California, February 1958, Accession 63A1359, Box 3, as cited in Calavita, p. 83.

[9]MSAR Brownsville, Texas, April 1958, Accession 63A1359, Box 4, as cited in Calavita, p. 84.

[10]U.S. Congress, House Committee on Agriculture, Subcommittee on Equipment, Supplies, and Manpower, 1958, p. 450, cited in Calavita, p. 85.

[11]Congressional Research Service (February 1980), p. 36.

[12]*Annual Report of the Immigration and Naturalization Service,* 1959.

[13]Congressional Research Service, February 1980.

[14]Calavita, p. 218.

[15]Ibid., p. 93.

[16]Unpublished INS report, October 21, 1971, CO 214h, as cited in Calavita, p. 151.

[17]U.S. Department of Justice, *Annual Report of the Immigration and Naturalization Service,* 1970, p.11, as cited in Congressional Research Service (February 1980), p. 57.

[18]Congressional Research Service (February 1980), pp. 41-42.

[19]Calavita, p. 24.

[20]*Economic Report of the President,* February 1994, Table B-40, p. 314.

[21]Congressional Research Service (February 1980), p. 58.

[22]Ibid., p. 40. The evidence indicates that during this period the Border Patrol was large enough to apprehend large numbers of people but not sufficiently manned to send the signals to deter large numbers from attempting illegal entry in the first place.

[23]Testimony of John R. Hancock, Subcommittee on Immigration and Claims of House Committee on the Judiciary, September 24, 1997.

[24]In an October 2003 poll of Latino registered voters released by WCVI-MirRam Group, Latinos were asked, "How would you describe the bracero program?" In reply, 61% agreed with the statement that it was "A useful program that provided Mexican workers with jobs and filled labor shortages in the U.S." Only 23% described it as an exploitative program.

[25]*Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000,* Immigration and Naturalization Service, January 2003.

[26]Congressional Research Service, (February 1980), p. 41.

WALL STREET JOURNAL ARTICLE

People Protectionism

WSJ 10/15/03

A frustrating fact of American political life is that a single Senator can create a lot of mischief. Witness the effort by California Democrat Dianne Feinstein to impose her own restricted view of immigration on American trade policy.

Ms. Feinstein has been making it her personal crusade to require that any future U.S. trade agreements bar temporary work visas for foreign professionals. Earlier this year, she nearly scuttled the bilateral accords with Singapore and Chile over the matter. And now she's going wholesale by trying to attach a formal ban to spending bills for 2004. The Senator's claim is that this will "protect" the jobs of American workers. But as in all cases of protectionism, whether on goods or people, the result would be the opposite of what she intends.

The visas in question are known as H-1Bs and are used by companies to fill high-skilled posts for which Americans can't be found. Back in the Roaring Nineties, Congress expanded the number of H-1Bs to 195,000 from 65,000 a year. But amid today's sluggish U.S. job growth, Congress recently let the H-1B limit fall back to 65,000, the lowest level required by the World Trade Organization treaty.

The first thing to recognize is that as long as the U.S. market for manufactured goods is relatively open, manufacturing will take place wherever it is most efficient and jobs will follow. If you want to restrict the outflow of jobs, you have to restrict the inflow of goods or the outflow of capital. No one serious would suggest that seceding from the world economy in this way would raise U.S. living standards.

Another economic reality is that U.S. companies that can't import workers to fill certain jobs are likely to export those jobs to find the workers. At chipmaker Intel, H-1B visas make up 5% of the work force and are essential to its global competitiveness.

Limiting foreign workers is a sure way to limit U.S. jobs.

Intel spokeswoman Jennifer Greeson recently told the San Francisco Chronicle that the company is "concerned about circumstances that would further reduce the numbers" of available visas "next year, and we are thinking about what options to pursue." Intel isn't being unpatriotic, merely realistic about its own survival.

If the U.S. bars Australians, say, from coming to the U.S., Australia may well bar Americans from living Down Under. Or worse, it might take access to Aussie service industries off the negotiating table. U.S. companies and workers could get shut out of fast-growing markets in financial services, architecture, engineering, consulting and construction—all industries that rely on individual expertise and in which the U.S. has a real competitive advantage. Services now account for 65% of the U.S. economy and 28% of the value of U.S. exports.

Senator Feinstein's people protectionism would essentially repeal the Trade Promotion Authority that Congress approved for President Bush only last year. That power allows U.S. negotiators to put every part of American trade law on the table in order to get the best possible deal from other countries. If Ms. Feinstein is allowed to take immigration off the table, trade deals will soon die a death of a thousand special-interest cuts.

Perhaps the many California companies that rely on exports and a world-class work force will instruct the Senator about the realities of global trade.

RELEASE FROM THE U.S. CHAMBER OF COMMERCE

FOR IMMEDIATE RELEASE – Sept. 23, 2004 Contact: Linda Rozett/Eric Wohlschlegel

Chamber Applauds Bipartisan Agricultural Workers Bill

Employers and Unions Take First Step in Immigration Reform

WASHINGTON, D.C. – The United States Chamber of Commerce applauded the introduction of the "Agricultural Job Opportunity Benefits and Security Act" as an important first step in immigration reform.

"This legislation represents an historic agreement between business and labor on an important issue for the future of our country – reform of immigration rules to address our current and future workforce needs," said Bruce Josten, the Chamber's executive vice president for Government Affairs. "The excellent work of members of Congress on both sides of the aisle to achieve this result should be commended."

The legislation, worked out over years of negotiations between agricultural employers, farm worker unions and immigrant rights groups – and led by a bipartisan group of members of Congress, including Senators Larry Craig (R/ID) and Edward Kennedy (D/MA) and Representatives Chris Cannon (R–3/UT) and Howard Berman (D–28/CA) – would reform the current agricultural guestworker program and provide an earned adjustment program for undocumented agricultural workers already in this country.

"This comprehensive bill recognizes that immigration reform must include both legal ways for employers to hire foreign workers when U.S. workers are not available, and a path to legitimize the status of those immigrants that have been supporting our industries and economy with their labor," continued Josten. "While the needs of the agricultural community are unique, we hope that this approach can help pave the way for legislation to address the needs of the broader business community for essential workers."

The U.S. Chamber of Commerce is the world's largest business federation representing more than three million businesses and organizations of every size, sector and region.

www.uschamber.com # # # 03-144

LETTER FROM J.R. GONZALES

Jan. 9, 2004

Craig J. Regelbrugge, Co-Chair
Agriculture Coalition for Immigration Reform
1000 Vermont Ave., NW
Suite 300
Washington, DC 20005

Dear Mr. Regelbrugge:

On behalf of the United States Hispanic Chamber of Commerce (USHCC) Board of Directors, I strongly urge Congress to support the Agricultural Job Opportunity Benefits and Security Act (AgJOBS). The legislation represents one of the most meaningful efforts to reform our nation's flawed immigration policy and to acknowledge a workforce that sustains our economy.

For years, our nation's crops have been harvested by thousands of hard-working undocumented workers who are unable to work legally in the United States due to a highly bureaucratic and ineffective migrant farm worker program. This has not only left growers with a shrinking pool of workers, it has also forced workers to accept low-paying and dangerous farm work, and excludes them from vital labor-law protections.

Now, Democratic and Republican lawmakers have introduced historic legislation in both the Senate (S.1645) and the House (H.R.3142) that would reverse this trend. If enacted, AgJOBS would create an "earned adjustment program" that would provide an estimated 500,000 undocumented farm workers who have been working in the U.S. for more than three months prior to August 31, 2003 temporary resident status. If they continued to work in agriculture for 360 days over six years, they could become eligible for permanent residency. The proposal also would convert the H-2A guestworker program from a "labor certification" program to a "labor attestation" program with less paperwork for employers, modeled after the H-1B program. The legislation also contains important protections against employer exploitation.

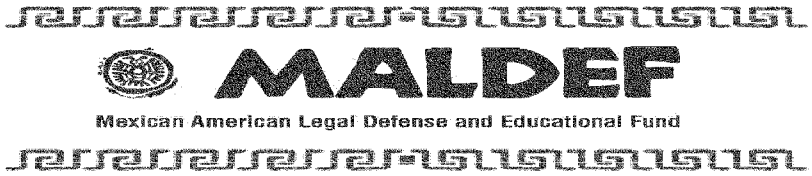
AgJOBS would not only provide employers a steady legal labor supply but would also allow many the opportunity to come out from the shadows and participate in our society, demand decent wages and working conditions and build a future for themselves and their family members. While this would not solve the problem of the 8 million other illegal aliens in this country, it's an important first step in immigration reform and I urge you to not let this opportunity slip away. It makes sense for people, business and our global economy.

Sincerely,

J.R. Gonzales
Chairman of the Board

MATERIAL SUBMITTED BY THE HONORABLE LINDA T. SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

LETTER FROM VIBIANA ANDRADE



By electronic submission

March 24, 2004

House of Representatives
Subcommittee on Immigration, Claims and Border Security
2327 Rayburn Building
Washington, D.C. 20515
c/o Representative Linda Sanchez

RE: **Hearing on the Impact of Guest Worker Program on Domestic Employment**

Dear Immigration Subcommittee Members:

MALDEF is a national, nonprofit, nonpartisan organization that has been defending the civil rights of Latinos for 35 years. We are writing to address your concern about the potential impact of millions of guest workers on U.S. domestic employment. MALDEF represents all Latinos in the United States, including U.S. citizens, Legal Permanent Residents ("LPRs"), and those with temporary or transitional immigration statuses. We also take into account the concerns of undocumented residents, many of whom are out of status through no fault of their own, but are nonetheless working very hard and keeping the U.S. economy strong. Because we are a civil rights organization representing citizens, LPRs, transitional/temporary and undocumented immigrants, we must be concerned with everyone's labor rights, not just the rights of immigrants. We have three main points we would like to make in this regard.

First, we agree that there may be serious labor concerns if a guest worker only program were to become law. That is because guest workers have reduced bargaining power, which reduces labor rights. When migrant workers are not provided a path to permanent status, we can expect labor rights abuses and worsening domestic employment conditions. That is why we are on the record, through the National Hispanic Leadership Agenda ("NHLA"), which includes every major national Latino group, as opposed to guest worker-only plans.[1] Latino communities know from tough experience, both through the 1940's *bracero* program and through the H2A temporary agricultural worker program, that temporary worker programs lead to labor rights abuses. If there is not a path to permanent status, wages and labor rights are driven down. Many migrant workers have suffered serious abuses, sometimes for decades, under these conditions. Even conditions of indentured servitude have resulted. As we document in the attached, we are also concerned about the effects of any potential guest worker programs on the Latino U.S. citizens and LPRs whom we also represent.[2]

Second, we urge this Congress not to use the fact that a guest worker program has been proposed to refrain from fixing our nation's broken immigration system. As both President Bush and the Democratic Policy Committee have made clear, our nation's immigration policy has been badly broken and it is out of step with reality. Reality shows that immigration is good for America. But American immigrant families are being torn apart because the backlogs for legal immigration from Mexico are over 10 years. Spouses and even young children are risking their lives in the desert just to try to reunite with their families, instead of suffering through years and years of separation that is devastating to hard-working people with good family values.

Reality also shows that the American economy is made strong by immigrant labor—in fact, if the current undocumented Mexican immigrant population were deported, we would lose $220 billion per year in Gross Domestic Product.[3] Moreover, because the native U.S. workforce is aging, we will need even more immigrant labor to fill the jobs that will be available in the future. These are realities we cannot ignore, because the current system is not working for anyone—not for business, not for labor, not for national security, and not for fundamental American rights and values. On March 18th, the Associated Press reported that, even though the overall U.S. workplace has never been more safe, one Mexican laborer dies every day in the United States. This is because they are more vulnerable to abuse due to their uncertain immigration status.[4]

Third, while a guest worker only program would be bad for immigrant and U.S. workers, an earned legalization program would be beneficial to U.S. domestic jobs and labor rights. This is why all the major unions have backed immigrants' rights and endorsed an earned legalization program, as Congress heard about during last year's Immigrant Workers' Freedom Rides.[5] There are alternatives to guest worker only immigration proposals. For example, the Democratic Party recently set forth a set of immigration principles that include earned legalization and equal worker rights, both of which would protect both immigrant and U.S. workers in the U.S. economy. Post-1986 experience shows that when immigrants in the U.S. could access a permanent status, wage differentials between U.S. and immigrant workers were lessened, because there was no longer an underclass of undocumented or temporary workers.[6] Furthermore, any sort of earned legalization program would have to include U.S. labor protections such as proof that the foreign worker would not displace a U.S. worker, and that wages and labor rights would be guaranteed on an equal basis to U.S. and immigrant workers.[7]

In sum, because the current immigration system is badly broken, this Congress should not ignore this reality and instead work to fix the broken system in a way that is good for America. Comprehensive immigration reform in the manner outlined above is in the national interests of the United States, for economic, labor rights, civil rights and national security reasons. Even though some Americans are out of work, our nation will continue to need immigrant labor, and without a doubt, this need will increase with the aging of the native U.S. workforce.[8] Comprehensive immigration reform through an earned legalization program and making a safe and legal means for future immigration will bring the process out of the shadows and ensure U.S. jobs and labor rights protections. This solution is a much better solution than outsourcing, because it keeps jobs in the U.S. and will keep our economy strong.

MALDEF represents U.S. citizen, LPR and immigrant populations. Therefore, we strive to never compromise the rights of one group for another. Therefore, like all the national Latino groups, we are opposed to guest worker-only programs, and hope that this Congress takes our opposition into account. But rather than only working in opposition, we would like to work together with Congress to reform current immigration proposals to ensure that they will protect both U.S.-born and immigrant workers and families. Please do not hesitate to contact Katherine Culliton, Legislative Staff Attorney in our D.C. office, at (202) 293-2828 x14, if you have any questions or need further information.

Best regards,

Vibiana Andrade

Vibiana Andrade
Acting President

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[1] Letter to the Congress (NHLA, Sept. 4, 2003). See also "Current Guest Worker Bills Would Institutionalize an Underclass of Temporary Migrant Labor, Rather than Equalize Labor Rights and Provide a Real Opportunity for Hard-Working Immigrants to Become Americans." (Both attached.)
[2] Id.
[3] R. Hinojosa Ojeda, "Comprehensive Migration Policy Reform in North America: The Key to Sustainable and Equitable Economic Integration," NAID-WP-012-01 (North American Integration and Development Center, Aug. 29, 2001)(www.naid.sppsr.ucla.edu/pubs&news).
[4] J. Pritchard, "AP's Mexican Worker Death Probe Elicits Concern" (AP, Mar. 18, 2004).
[5] http://www.afl-cio.org/aboutaflcio/magazine/0903_iwfr.cfm (Summary of Immigrant Worker Freedom Rides and Legalization Principles from AFL-CIO website).
[6] Hinojosa, supra. n. 3 (note that these good results did not last, because the 1986 reforms did not provide for future immigration, which given our economy, is inevitable).
[7] See e.g., Democratic Statement of Principles on Immigration Policy (Jan. 8, 2004).
[8] See Federal Reserve Board Chairman Alan Greenspan's Semiannual Monetary Report to Congress, Uncertainty on Iraq Limits Economic Growth, Greenspan Says, U.S. Dept. of State, Int.l. Info. Programs (Feb. 11, 2003) @ p. 9.

LETTER FROM MANUEL MIRABAL

c/o National Puerto Rican Coalition • 1901 L Street, Ste 802• Washington, DC 20036

Tel: 202-223-3915 • Fax: 202-429-2223 • Website: www.bateylink.org/nhla.htm

Executive Committee
Chair, Manuel Mirabal
National Puerto Rican Coalition
Vice Chair, Delia Pompa
National Association of Bilingual Education
Secretary/Treasurer, Gilbert Moreno
Association for the Advancement of Mexican Americans
At-Large, Al Zapanta
U.S.-Mexico Chamber of Commerce
At-Large, Alma Morales Riojas
MANA: A National Latina Organization
Organizations
Alianza Dominicana
American GI Forum
ASPIRA Association, Inc.
Cuban American National Council
Hispanic National Bar Association
Hispanic Association on Corporate Responsibility
Hispanic Association of Colleges & Universities
Hispanic Council on International Relations
Interamerican College of Physicians & Surgeons
Labor Council for Latin American Advancement
Latino Civil Rights Center
League of United Latin American Citizens
Mexican American Legal Defense & Education Fund
National Association of Latino Elected & Appointed Officials
National Council of La Raza
National Association of Hispanic Federal Executives
National Association of Hispanic Publications
National Conference of Puerto Rican Women
National Hispanic Corporate Council
National Hispanic Council on Aging
National Hispanic Environmental Council
National Hispanic Foundation for the Arts
National Hispanic Media Coalition
National Hispanic Medical Association
National Puerto Rican Forum
National Latina/o Lesbian, Gay, Bisexual & Transgender Organization
Puerto Rican Legal Defense & Education Fund
Society of Hispanic Professional Engineers
Southwest Voter Registration & Education Project
U.S. Hispanic Chamber of Commerce
Individuals
Rudy Beserra
Henry Cisneros
Rita DiMartino
Frederick Fernandez
Hon. Ciro Rodriguez

September 4, 2003

Dear Representative:

On behalf of the National Hispanic Leadership Agenda (NHLA), a non-partisan coalition of 40 national Hispanic organizations and prominent leaders, I write to express our serious concerns about recent guest worker proposals, S. 1387, introduced by Senator Cornyn, and H.R. 2899/S. 1461, companion bills introduced by Representatives Kolbe and Flake and Senator McCain. What these bills share in common is that they would undermine labor rights of both migrant and domestic workers, and fail to solve the problem of a large undocumented worker population.

NHLA is very much in favor of comprehensive immigration reform, and pleased that these recent proposals have re-inspired national debate about this issue of great importance to the Latino community. As the August 6, 2003, *New York Times* poll showed, hard-working, tax-paying Latino immigrants epitomize the American dream, and contribute billions to our economy. The U.S. needs them and they deserve the chance to make America their permanent home. All the reasons for comprehensive immigration reform that existed before 9/11 are even more important today. We cannot support legalization, however, at any price. We urge you to carefully review the provisions of the recently introduced guest worker bills, and ensure that fundamental rights are not violated by exploitation of migrant labor. NHLA urges you to reserve your support for a more just and comprehensive immigration reform that America needs today.

Both recently introduced guest worker bills weaken migrant and domestic labor protections, by decreasing bargaining power as well as reducing migrant labor rights. S.1387 would institutionalize a migrant guest worker economy, with lessened bargaining power for everyone. Guest workers would only be authorized to stay for three years, leave the country for six months, and apply to be renewed as temporary workers for three more years. H.R. 2899/S. 1461 would also create a new guest worker program, and an initial stay of three years could be renewed only once. The need for sponsorship after three years is likely to make temporary workers dependent upon their first employer, so the reduced bargaining power of being in temporary status would last six years. The reduced bargaining power of temporary status has led to widespread, egregious violations of the fundamental rights of migrant workers in the past. History shows that this system rendered working conditions worse for everyone, in any industry that hired temporary migrant workers. For this reason, only temporary worker programs ensuring equal labor rights and a viable path to permanent status after a reasonable time, can assure that historic abuses such as those in the notorious *bracero* program will not be repeated.

But the current guest worker proposals would instead undermine wage and labor protections. Under S. 1387, the only wage protection is the minimum wage. This would lower wages in many high-risk industries that rely on immigrant labor. Fundamental labor rights are not a part of S. 1387 either. Similarly, although H.R. 2899/S. 1461 appears to promise equal labor rights, it would narrow current legal standards for comparison.

Minimum wage protection comparisons would be within the same place of employment, instead of industry and region. For labor protections, H.R. 2899/S. 1461 relies only on employer attestations, instead of the current certification system, and with no private right of action to enforce the employer promises. In sum, both of these bills would weaken current labor laws, and drive wages and labor protections down in any industry that hired the influx of new guest workers.

Both bills also fail to provide a viable path to permanent legal status for temporary workers brought in. Under S. 1387, all migrant workers would have to return to the "guest worker accord country" after three years, and the provisions for their possible return after six months are exceedingly strict. After that, the employer could sponsor them for permanent status, but there are no new visas, so the current backlogs would continue and the immigrant workforce would be dominated by guest workers. H.R. 2899/S. 1461 is better because of the ability to adjust to permanent status after three years of continuous work, or upon employer sponsorship. But this still leaves many migrant workers without a viable path to permanent status. Instead of sponsoring or helping ensure a continuous work record, many employers would be tempted to hire more vulnerable migrant laborers, leaving those whose time runs out in an undocumented status. Without any real ability to adjust to permanent status after a reasonable time, the great majority of immigrants would only be temporary migrant workers.

These bills would also separate husbands from wives and children from their parents. S. 1387 does not permit family unification during the temporary worker program. Similarly, under H.R. 2899/S. 1461, most families would be separated for six years. Only spouses sponsored by the same employers as their husbands or wives, as extra temporary workers, could safely and legally join their loved ones who provide essential work in the U.S. And only sole custodial parents, or two temporary worker parents, could bring their children.

Finally, neither bill provides an adequate path for current hard-working undocumented immigrants to legalize. Under H.R. 2899/S. 1461, even if undocumented workers have been here for many years contributing to the U.S. economy, they would become temporary workers for six more years, and still be dependent upon employer sponsorship in the end. S. 1387 is not any better, because it would leave millions without access to legal status. Only immigrants from countries that negotiate complex guest worker accords within twelve months after the bill's passage could become legal. Millions of hard-working immigrants from other countries would remain undocumented—this would not end the high level of deaths and abuse at the border.

NHLA cannot endorse a bill that would let an underclass of migrant workers, mostly Latinos, conveniently meet U.S. labor needs while effectively denying labor rights and the basic dignity of family unity. Any temporary worker program must be combined with earned legalization for the current hard-working, taxpaying undocumented immigrants, equal labor protections and family unity for new temporary workers, along with a path to permanent status after a reasonable time. Without these elements, America will become a nation exploiting immigrants, rather than the great nation of immigrants. Long-term stability and economic development will be replaced by short-term exploitation of migrant labor, weakening everyone's labor rights. Furthermore, this Congress must not fail to resolve the immigration policy dilemma.

NHLA urges you to vote against these guest worker bills in their current form, and reserve your support for more fair and comprehensive immigration reform that America needs today.

Sincerely,

Manuel Mirabal

Manuel Mirabal
NHLA Chair

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you for holding this hearing, Mr. Chairman. Illegal immigration and the impacts of a guestworker program are issues that greatly concern me.

We have 8.2 million people unemployed in the United States, and an estimated 10 to 15 million illegal immigrants, most of whom come here to work. The economy has lost 2.2 million jobs in three years. Between March 2001 and February 2004, 7.1 million more people entered the working age population than there were jobs for them to take. Something has to give.

Not only do illegal workers take jobs that Americans need, but they also depress the wages of working Americans. The Labor Department recently attributed 50 percent drop in real wages to the influx of cheap immigrant workers. To illustrate, the Los Angeles Times Magazine reported that jobs that African-American workers were paid $25 an hour for in the 1970s now pay only $8 to $10 an hour and are mostly held by illegal immigrants. That's reverse inflation of the worst kind. Any guestworker program must attempt to rectify this problem by setting reasonable wage levels, removing illegal immigrants currently in the country, and by deterring future illegal immigration.

Most of the proposals for guestworker programs do nothing to protect American workers. Though they are all couched as "guestworker" proposals, many are actually amnesties that will only worsen the fate of the American worker. The 11 million or more people who would be legalized in an amnesty will immediately affect the job prospects and wages of workers. Such proposals reward illegal behavior by legalizing a population of illegal workers that are already in the US. Therefore, they will only encourage further illegal immigration, which can only lead to more Americans out of work and wages that are further depressed.

Sensible guestworker policy is mindful of the burden that American workers bear when immigrant workers are brought into the country. It would protect American workers from depressed wages caused by a large influx of immigrant workers by setting minimum wage levels. It also would require all workers to leave the country to be eligible. It would require the worker to spend a significant amount of time each year in their country of origin so the worker maintains roots at home. It would limit the guestworkers solely to industries that can demonstrate an acute need. It would solve the problems created by illegality, such as provision of housing and health care. It would provide interior enforcement to police the parameters of the program and ensure that workers are not staying in the US longer than they are permitted to. It would be enforced with an entry and exit system at each port of entry. *And it would not reward lawbreakers by providing them with a path to citizenship.*

I look forward to hearing the testimony of today's witnesses. Thank you again, Mr. Chairman, for holding this hearing to examine the issues surrounding a guestworker program.

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Guest worker programs were established initially to address worker shortages during times of war. During World War I, tens of thousands of Mexican workers performed agricultural labor as part of a temporary worker program. During World War II, the Bracero program was initiated. It was continued until 1964, and brought several million Mexican agricultural workers into the United States.

The Bracero program has come to epitomize a history of abuse and mistreatment of farm workers. The Bracero program had worker protections in the law and in the workers' employment contracts, but the Bracero guest workers lacked the economic and political power to enforce their rights or to compel the United States government to do so. We must do better with any new program that we establish, particularly one that would provide temporary lawful status for millions of guest workers.

I expect some of the witnesses today to talk about the fact that a large supply of foreign workers would lower wages for the American workforce. This is true to some extent and is a legitimate concern, but it is not the mere presence of foreign workers that leads to low wages. The problem is the lack of bargaining power that these workers have against their employers. No worker chooses to pay himself low wages or to work under poor conditions. The wage depression is attributable to the ability of employers to exploit this foreign workforce.

Workers who participate in guest worker programs must be covered fully by U.S. labor laws, including strong protections for wages, working conditions, and the right to unionize. Similarly, it is essential that such laws be vigorously enforced by

strengthening the wage and hour division at the U.S. Department of Labor as well as by ensuring that these workers have access to legal services. A good guest worker program must have "portability." It is important that workers who participate in temporary labor programs have the freedom to change employers. They have to be able to avoid conditions that resemble indentured servitude.

We need more than temporary legal status for the millions of hardworking, undocumented workers who presently are living in this country. The provision of guest worker status to these undocumented aliens should not just be a means of providing a steady stream of vulnerable workers for American companies. It should provide access to legalization for people who deserve this privilege.

My Comprehensive Immigration Fairness Act of 2004, H.R. 3918, would provide access to legalization for the undocumented aliens in our country who have demonstrated that they deserve an opportunity to earn permanent resident status. It would make legalization available to undocumented aliens who have been physically present in the United States for a continuous period of not less than 5 years; are persons of good moral character; and have no criminal record. Moreover, if they are older than 18, they would have to successfully complete a course on reading, writing, and speaking words in ordinary usage in the English language; show that they have accepted the values and cultural life of the United States; and they would have to perform 40 hours of community service.

For a new, large scale guest worker program to be successful, we also would have to eliminate the backlog in benefits applications. The Department of Homeland Security has a backlog of more than 6 million benefits applications. A large guest worker program easily could double that number. How can a large scale temporary worker program be implemented if the applications cannot be processed?

Finally, we need to consider whether a large scale guest worker program would be limited to nationals of certain countries. The Bush Administration began discussions of a guest worker program with Mexico in 2001, and there may be reasons for crafting a special immigration relationship with Mexico. A guest worker program for millions of people, however, should not be limited to nationals of a single country.

Thank you.

PREPARED STATEMENT OF THE HONORABLE BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Thank you, Mr. Chairman, for holding this important hearing on guest workers.

As Chairman of the House Committee on Agriculture, I have had the opportunity to travel to many regions across the nation and seen first-hand that the H-2A temporary agricultural visa process is not working. I have talked face to face with producers who have to deal with participating in a costly, time-consuming and flawed program. Employers have to comply with a lengthy labor certification process that is slow, bureaucratic and frustrating. In addition, they are forced to pay an artificially inflated wage rate. Many producers simply cannot afford the time and cost of complying with the H-2A program. However, in order to find and retain the legal workers these employers depend on for the viability of their operations, they have no alternatives.

In addition, as a long-time Member of the Judiciary Committee, I am aware of the illegal immigration crisis our country currently faces. It is estimated that there are between 8 and 11 million illegal aliens currently living in the United States. This population grows by over 350,000 each year. Clearly, this situation has reached crisis proportions and cannot be allowed to continue.

That is why, as Chairman of the House Agriculture Committee and a Member of the Judiciary Committee, I introduced H.R. 3604, the Temporary Agricultural Labor Reform Act, a bi-partisan bill that will reform the H-2A guest worker program and create a more streamlined and fair process for everyone involved in the agriculture industry.

I do not believe in rewarding those who have broken our nation's immigration laws by granting them blanket amnesty, and H.R. 3604 would do no such thing. Instead, my bill would encourage the large population of illegal farm workers to come out of hiding and participate legally in the guest worker program. Potential workers would be required to return to their home countries and apply for the program legally from there. This would both provide a legal, temporary workforce that employers can call on when insufficient American labor can be found, and help ensure that those temporary workers entering the country are not threats to our national security.

Proponents of including traditional amnesty as a part of a guest worker reform bill believe that by aligning themselves with immigration advocates who favor amnesty, they will have a better chance of getting guest worker reform through the legislative process. I do not believe this is the case. Not only will providing amnesty create the wrong incentives for everyone involved in the H-2A process, but it will also exacerbate our nation's illegal immigration problems. Since 9/11, Congress has made securing our borders a priority in order to ensure the safety and well-being of our citizens. Instead of encouraging more illegal immigration, any successful guest worker reform should deter illegal immigration and help secure our borders. It is possible to simultaneously streamline the guest worker program, reduce illegal immigration, and protect our borders.

In addition, this legislation would address the troublesome wage issue. Employers are currently required to pay an inflated wage called the Adverse Effect Wage Rate or AEWR. The AEWR was originally designed to protect similarly situated domestic workers from being adversely affected by guest workers coming into the country on a seasonal basis and being paid lower wages. However, the shortage of domestic workers in the farm workforce forces employers to hire foreign workers, and thus, is also forcing them to pay artificially inflated wages. My bill abolishes this unfair wage rate and creates a prevailing wage standard, under which, all workers are paid the same wage as workers doing similar work in that region.

Furthermore, H-2A users are currently required to go through a time-consuming process in order to receive a "labor certification," which is essentially an additional layer of red tape that requires the Department of Labor to verify the shortage of domestic workers in the area and permit employers to bring workers into the country. H.R. 3604 would shorten the labor certification process by replacing it with a simple attestation process. Similar to the H-1B visa, employers would be required to sign an attestation to prove that they are filling all the domestic recruitment requirements necessary to attract and hire domestic workers. This helps to ensure that domestic jobs are protected while at the same time streamlining the process considerably.

Recently, President Bush announced his proposal for reforming the immigration laws in this country. The plan he outlined describes a temporary worker program but also includes some more far-reaching reforms to the entire U.S. immigration system. I was pleased to see that the President's proposal does not provide a direct path for temporary workers to obtain Legal Permanent Resident or citizenship status. However, I do have some serious concerns about many other aspects of the President's proposal and will need further explanation as the details are developed.

Thank you again, Mr. Chairman, for holding this important hearing. I look forward to working with you to examine our nation's laws regarding guest workers.