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IMMIGRATION: ECONOMIC IMPACTS

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UNITED STATES SENATE

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IMMIGRATION: ECONOMIC IMPACTS

TUESDAY, APRIL 25, 2006

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 9:32 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Arlen Specter, Chairman of the Committee, presiding.

Present: Senators Specter, Kyl, Sessions, Cornyn, Kennedy, and Feinstein.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Chairman SPECTER. Good morning, ladies and gentlemen. It is 9:30, so the Committee on the Judiciary will now proceed with our hearing today on the economic impact of immigration, a matter of considerable importance on a far-ranging line of issues as to what effect immigrants have on our economy. That is only one of many considerations which are before us in our deliberations on immigration reform.

We are concerned with the humanitarian aspects of the United States as a beacon of hope, as it has been for the centuries of our existence, even before the adoption of the Constitution, a beacon of hope which brought my parents to this country. The issue has very far-ranging foreign policy considerations. Senator Sessions and I spent some time over the recent recess in South American countries—in Colombia and Peru and Brazil—and then briefly in the Dominican Republic, and our immigration bill is being very closely watched, with our Southern neighbors realizing that we have a right to protect our borders, but also being very concerned about how we will treat many people from those countries who are in the United States, recognizing that many of them are here illegally.

We face a situation with 11 million undocumented immigrants. Nobody is sure of the exact number. We recognize the needs for guest workers. The President has proposed a guest worker program, as has Speaker Hastert, as have the Senators who structured the Committee bill to have a guest worker program.

Today we are going to be looking at a number of complex questions about what is the economic impact of immigration. Are the immigrants taking jobs that Americans are prepared to fill? There is considerable debate on that subject. Most people say that the immigrant workers take on jobs that Americans will not fill. Perhaps that is largely true, but perhaps there are jobs taken which Americans would fill. The panel of experts can shed some light on that.

There are questions as to whether if they do not take jobs that Americans can fill, by and large, do the immigrants depress the wage scales generally? What is the cost of the immigrant with respect to taxes to State and local on health care and schools contrasted with their contribution? Certainly not an overriding factor, but one which has raised some serious issues. Do the immigrants contribute more to the gross national product than they take by way of wages? Another serious issue.

We have met the deadline of the Majority Leader, coming forward with legislation which we reported out of this Committee, but we have realized that there remain some serious issues to be analyzed, which we will be continuing to do as the bill makes its way back to the floor, and I think it will come back. We know that we were unable to get it concluded before the last recess. A question arose as to how many amendments there would be. Questions arise as to what is going to happen in conference.

I am pleased to see that the President has invited a group of Senators to the White House this afternoon to talk about immigration. It is my personal hope that the President will intervene and take a position.

There is concern in the Senate about taking some hard votes and not knowing what will come out of conference and concern that there will be a conference report which will render those tough votes virtually meaningless. These are all issues which are before us, and today we will be taking a close look at the economic impact.

We have been joined by the distinguished Senator from Texas—one of the distinguished Senators from Texas. Senator Cornyn, would you care to make an opening statement?

STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator CORNYN. Thank you very much. Thank you, Mr. Chairman, for the opportunity. I do have just a brief opening statement.

I want to first of all thank you for calling the hearing because I think it is very important that Congress have at its hands and disposal the facts on immigration reform, and there is no more controversial area than the costs associated with illegal immigration. And I think it is important that we get a factual basis to go forward.

I would also say that we cannot explore the economic impact of immigration without considering how various reform proposals will impact the Federal deficit. The Congressional Budget Office estimates that the current Senate compromise bill that is on the floor will result in $27 billion in mandatory spending in the first 10 years alone, including $12 billion for Medicaid, $3 billion for food stamps, and $12 billion in earned income tax credits.

Of greater concern is a proposal that would create a balloon payment in the second decade when millions of currently undocumented immigrants would be granted the full benefits of American citizenship and would become eligible for the panoply of Federal benefits. That also does not include the additional family members that those individuals would then be able to petition to bring into the country with them.

The current CBO estimate does not account for that dramatic increase because it falls outside of the usual 10-year budget projection. What is clear is that a large-scale amnesty would cost U.S. taxpayers tens of billions of dollars, and the true impact may not be felt for years.

Our immigration policy must be capable of adapting to economic conditions, and right now the United States is enjoying a healthy economy. The economy created 211,000 jobs in March and has created about 2.1 million jobs over the last 12 months. More than 5.1 million jobs have been created since August of 2003, and unemployment is 4.7 percent, lower than the average of the 1960's, 1970's, 1980's, and 1990's. In a climate of strong job creation, foreign workers are less likely to compete with U.S. workers for jobs.

But because we will not always enjoy a strong economy, our immigration policy must strike the appropriate balance between temporary and permanent workers. A temporary worker program built around a floating visa cap would allow the number of foreign workers in the United States to rise and fall based upon market demand and based on conditions in the economy. During a slow economic period, fewer visas would be issued, and U.S. workers would face less competition.

But while the current proposal is described as a temporary worker program, it is anything but. All unskilled workers, 325,000 a year, would automatically become eligible for green cards after working in the United States for 4 years. That model allows for no flexibility when there is a decrease in the number of jobs in the United States because of a downturn in the economy.

Moreover, the current proposal does away with the requirement that an employer establish that there are no qualified U.S. workers before the company may sponsor an unskilled worker for a green card. The combination of permanent status for all unskilled workers and an erosion of U.S. worker protections will undoubtedly harm or potentially harm American workers.

Finally, let me just say, so I do not abuse the Chairman's generous offer to allow an opening statement, let me just say this Committee must consider the impact of U.S. immigration policy on sending countries as well. Those countries increasingly are growing dependent on remittances sent by workers in the United States. From 2000 to 2001, remittances to Mexico and Central America grew by 28 percent to $13 billion. Mexican immigrants will send as much as $20 billion in remittances in cash this year. No country can buildup a diverse economy when the majority of its young motivated workers emigrate to another country. And by placing all unskilled workers on a direct path to permanent status, the pending proposal on the floor of the Senate takes us further away from the pattern of circular migration that would serve the economic interests of both the United States and those countries that currently are sending immigrants to America.

Thank you very much, Mr. Chairman, for the opportunity and for holding this hearing.

Chairman SPECTER. Thank you, Senator Cornyn.

Senator Kennedy?

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Thank you very much, Mr. Chairman, for convening this hearing on the economic implications in terms of immigration. it is a very important aspect of the issue itself, and we have some very distinguished, thoughtful students and professional people on this issue, and I look forward to hearing from them and thank them all for coming here today.

Since our beginnings as a Nation, the immigrants have contributed in countless ways to our Nation and our families and our communities, our religious life, and our economic growth, and we are here today to learn more about the effects of immigration on our economy.

As Americans, we know that immigrants bring with them a commitment to hard work and a deep desire for the American dream, and that is why they came to America, and each of us can tell stories of immigrants who have made a difference in our communities, if not from our own family histories, then of the hard-working immigrants in our neighborhoods who established successful small businesses, have worked in our vital industries, or cleaned our office buildings. These kinds of immigrant stories are replayed every day throughout our economy.

In fact, every census since 1890 has found that immigrants are more likely than U.S. workers to be self-employed. A third of all startups in Silicon Valley, for example, were founded by immigrants. Nearly half the Nobel Prizes awarded to U.S. researchers in the last century were won by immigrants or children of immigrants, bringing pride and progress to our Nation.

The overwhelming majority of immigrants, even those here illegally, work, pay taxes, pay into Social Security. In fact, undocumented immigrants pay an estimated $35 billion in taxes each year. One study reports that the average immigrant family pays $80,000 more in taxes then they consume in services.

Clearly, in considering the effects of immigration and the appropriate steps for reform, our first priority is to our own citizens. We must ensure that the new laws we pursue not only enhance our National security but also our job security. In too many cases today, our outdated immigration laws displace American workers from their jobs or lower their wages. That is why our reforms are designed to guard against that abuse. They include support for immigrant wages, legal protections at the work sites, and the right to organize unions. They level the playing field by bringing hard-working immigrants out of the shadows and make it less likely that employers get away with paying substandard wages.

There are few debates more essential to America than this, as immigration goes to the heart of what we are as a Nation of immigrants. We have a solemn obligation to get it right, and I commend our Chairman for holding the hearing today.

Thank you, Mr. Chairman.

Chairman SPECTER. Thank you very much, Senator Kennedy.

Senator Feinstein, would you care to make an opening statement?

Senator FEINSTEIN. No. I am delighted, Mr. Chairman, to have these gentlemen here and to listen to them. I do have a statement. I would like to place it in the record, if I might.

Chairman SPECTER. Without objection, it will be made a part of the record.

Chairman SPECTER. We then turn to a very distinguished panel. Our first witness is Professor Richard Freeman, the Herbert S. Ascherman Profess or of Economics at Harvard University, and I pause for a personal note. I know Mr. Ascherman very well, and I compliment you on having his chair.

Professor Freeman received his bachelor's from Dartmouth and Ph.D. from Harvard, serves as the faculty co-chair of the Harvard University Trade Program, is the director of the Labor Studies Program at the National Bureau of Economic Research, co-director of the London School of Economics' Centre for Economic Performance, is the author of 300 articles dealing with job marketing for a variety of professions, and has written on restructuring European welfare states and the Chinese labor markets, written or edited some 25 books. So that is quite a background, Mr. Freeman. We expect a lot of wisdom from you in 5 minutes.

[Laughter.]

STATEMENT OF RICHARD B. FREEMAN, PROFESSOR OF ECONOMICS, HARVARD UNIVERSITY, AND PROGRAM DIRECTOR OF LABOR STUDIES, NATIONAL BUREAU OF ECONOMIC RESEARCH, CAMBRIDGE, MASSACHUSETTS

Mr. FREEMAN. First I better make sure the microphone goes on.

I would like to organize my comments in three areas, and the first will resonate with some of the comments that have just been made.

Immigration is one part of the globalization of the world today, and it is connected to what is going on in foreign countries, and it affects them. It also affects our trade and capital flows, and if you remember back when the NAFTA treaty was being discussed, one of the claims that turned out to be erroneous was that the trade agreement with NAFTA was going to reduce immigration, illegal immigration to the U.S. because of the belief then that there would be a substitution. The Mexicans would stay home, make goods, and they would come to the U.S.

It turns out that is much more complicated than we imagined, the relation between trade and immigration, and immigration and capital flows. But whatever we do in immigration is going to have consequences for our trading position, our trade deficit, and for where businesses will put their capital in the future. So I think that should be a part of this.

The second issue, you raised the question of effects on GDP. I think all economists believe from evidence that immigration raises not only the GDP in the United States, because we have more people now to do useful activities, but it also raises the part of GDP that goes to current residents in our country. Some people may lose from immigration because they will be competing with the immigrants in some job markets. But other people will benefit from the extra products and the lower prices because of that competition.

If you look at the statistics and the various estimates of those effects—and there is some debate about them—I think they are generally—I would say the gains and losses to native Americans tend to be fairly moderate or modest. So it is very important to understand that the biggest beneficiaries from immigration tend to be immigrants, particularly if you are a low-skill immigrant. If you are a person who is working in Haiti, which is a disastrous—has been a disaster country for many years, and you can come and work in Boston, Massachusetts, the life is immensely raised. If you are a poor Mexican, your income in the U.S. will be 6 to 8 times what it is in Mexico.

That means that in our deliberations or your deliberations in thinking about this, remember the big beneficiaries tend to be these people who are coming. Because they can change their entire lives, they are going to be trying to come under almost any possible circumstance, and, you know, the hope that the NAFTA treaty was going to lower the immigration did not succeed because Mexico did not succeed that much. But we do have to worry, as the Senator said, about the situation in these other countries.

This also means, though, that many of these people are willing to pay sizable sums of money to be in our country. They are willing to pay sizable sums of money to become legal in our country. This is a tremendous change in their lives.

Now I would like to talk a little bit about highly skilled immigrants, which is the other part of this. The country today lives on highly skilled, highly educated immigrants coming in and working in our universities and in our high-tech industries. We trade in the global economy high-tech goods. Our universities draw students from around the world. A key input into that are foreign-born, highly skilled and educate immigrants. There I think America makes a huge gain, and much of the gains are to us. Some of the gains are the immigrants, of course. That is why they come. Let me just give you one fact.

Over half of the people in the U.S. who are working as Ph.D. scientists and engineers and are under the age of 45 are foreign-born. Over half. And the 1990's boom was fueled by highly skilled immigrants coming into science and engineering jobs. So that is another part of this.

I assume I am done. I was watching this.

Chairman SPECTER. You may make your next point, and I appreciate your being mindful of the clock. But you are right in the middle of a point you want to make. Go ahead.

Mr. FREEMAN. OK. Well, there was one other point I did want to make because one of the concerns when immigrants come in that they may take some jobs from some Americans or drive down the wages of some Americans, and obviously, if there are a large number of immigrants coming in and if they are coming in at a bad economic time, this is something that is very likely to happen, and I think there is some evidence for that.

If we talk about the highly skilled people, the concern is that immigrants come in and they reduce the opportunities and the incentives for Americans to go on in science and engineering, and that has been another big issue in Washington this spring. I do not think we should see this as a conflict in the following sense: There

are a set of policies we can do to help our own workers, native workers, in this case native young people who want to go into science and engineering, which does not require us not to let in or to reduce or to be not so welcoming to foreign-born immigrant scientists and engineers. Every country in the world has policies for educating and training its own citizens. We have the National Science Foundation graduate research fellowships. We have had National Defense Education Act fellowships. So I do not want to deny that having a lot of immigrants coming in at the top—it does make it more difficult for young Americans to advance in those fields, but we can recompense the young Americans with separate policies.

[The prepared statement of Mr. Freeman appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Professor Freeman.

Our next witness is Professor Dan Siciliano, Director of the Program in Law, Economics, and Business at the Stanford Law School, bachelor's degree from the University of Arizona and law degree from Stanford University, has practiced immigration law and has very extensive experience in this field.

Thank you for joining us, Professor, and we look forward to your testimony.

STATEMENT OF DAN SICILIANO, EXECUTIVE DIRECTOR, PROGRAM IN LAW, ECONOMICS, AND BUSINESS, STANFORD LAW SCHOOL, STANFORD, CALIFORNIA

Mr. SICILIANO. Thank you, Mr. Chairman and Senators. Thank you for having me. I am going to focus primarily on the unskilled labor side of this debate only because I concur that the high-skilled labor issue is clear and necessary, and I do not think I have a lot to add.

I am going to try to weave together three basic concepts, but let me tell you the perspective I am not taking. Though I am deeply sympathetic to the humanitarian side of immigration, I think for today's purposes I am going to focus on the economic side. And I have a deep motivation to do this. I think what you are about to decide in the coming weeks will have a profound impact for a generation, maybe two. I have two children, 4–1/2 and 2–1/2, and I think doing the right thing here versus doing the wrong thing will make a difference of my children reaching hopefully the peak of their careers while the United States is still at the peak of its economic powers. And to make the mistake of accidentally doing the wrong thing—and that would be, of course, only accidental, but to do the wrong thing could mean that my children reach the peak of their professional lives when we are no longer the dominant economic power.

I have three main points that I will try to weave together, and then I hope we will all get to answer questions because there are so many nuances. If this were easy, you would already have done it, I think.

First, there is the demographic dilemma that we face as a fundamental fact. Productivity growth is moderating. We experienced tremendous productivity growth over the last several years. I am hopeful we will still have high productivity growth in the United

States, but it is not going to be like it was. It is moderating. We are going to go back to our norm of 2 to 3 percent at best.

Labor force participation rates have also likely peaked. We are among the highest labor force participation rates among all industrialized countries, above 66 percent. This is a remarkable and wonderful achievement. People in our country enjoy working, do work, and are tremendously productive. But we are not going to have a higher portion of our country actually be able to work in all likelihood.

Retirement is looming for tens of millions of people, and our work force, especially the U.S.-born work force, is older than ever before and aging. Nothing wrong with that, but that is just the way it is, and this has implications for small businesses and medium businesses, where I will focus my thoughts on the impact.

And we are creating a bit of a conundrum because we have had some success in raising the average skill level of the U.S.-born worker. This is a great thing, but it does have an interesting impact, and that is that we have a growing skill gap misfit, meaning that as our U.S.-born workers become better educated and more skilled, we have the need for workplace jobs, jobs that demand less skills. And so there is a mismatch between our U.S.-born workers' age, skills, and willingness to work, and the jobs that are being created in the economy, in part as a function of our own demographics, whether they be elder care, retail, daycare, or other types of jobs.

So our success, which we should be proud of, in helping raise the average skill level and education level of U.S.-born workers has created in turn a challenge which we need to manage. And if we do not manage it, we create our own problems.

The way this impacts with job growth I think is the second key point. We have reasonably reliable Bureau of Labor Statistics data that assumes the presence of the current level of immigration, both undocumented and documented, and assumes a continued flow. This data set is for 2002 forecasting into 2012. We assume kind of a trend line 3-percent GDP growth rate, which turns out to be, it looks like, about right.

If we follow that, we have expected job increases in the range of 14.6 percent across this time period to 2012. This means we go from 144 million jobs in the United States to about 165 million jobs. Our current rate of immigration and population growth implies a growth rate of 11.7 percent during that time, which means we will go from, you know, to about 162 million available workers for those jobs.

This has many possible implications, many of which can be debated, but one key take-away point is we know at least if we are currently utilizing—and I would assume that we would enforce wage and hour laws and utilize in a fair and equal way. But if we are utilizing immigrant work, whether documented or undocumented, to pull that out of the economy has some grave implications with respect to matching people to the jobs that we want to fill if we hope to have this growth.

Finally, and I think maybe the most important point is: Does immigrant labor present in the United States negatively impact wages? I will concur with Professor Freeman, by and large, and

point you to a most recent study by Giovanni Peri out of UC-Davis that changes one component of the model, and it says: Do we believe essentially that small and medium-sized businesses and business people are smart? Not necessarily book smart, but street smart. I would say yes. And then we say: If they have more options in the labor market, are they able to dynamically alter the way in which they run their business, open a lunch shift, open another hotel, expand their business if they have more options? And it looks like Giovanni Peri has demonstrated that the answer is yes. This means that U.S.-born workers benefit in large part from the influx of immigrant labor because one of the hardest things we know small and medium-sized businesses do is to procure effective and train effective and retain effective employees in the work force.

It is going to be very hard to predict what will help us weather this much bigger storm of globalization, and I think one thing we do not want to do—and this is my concluding point—is we do not want to inadvertently increase the uncertainty and increase the challenges to the small and medium-sized business person because they have largely been the engine of robust resilience and economic growth through all the various storms that we have weathered. And if we impair them, I fear that we may, in fact, impair the economy. And we have the evidence in front of us that seems to say immigrants, documented and undocumented, have by and large benefited most of the economy.

There are some offsetting components, and I think we will hear the debate. But it is nuanced, and I just do not want us to inadvertently tie the hands of the small and medium-sized business people who have been the important part of our economy.

Thank you.

[The prepared statement of Mr. Siciliano appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Professor Siciliano.

We now turn to Dr. Barry Chiswick, head and research professor at the Department of Economics at the University of Illinois at Chicago, bachelor's degree from Brooklyn College, master's from Columbia, and a Ph.D. from Columbia. From 1973 to 1977, he was senior staff economist at the President's Council of Economic Advisers. He has done extensive research in the economics of immigration and the economics of minority and income distribution. Eleven books, 130 journal articles, and most recent edited volume, "The Economics of Immigrant Skill and Adjustment."

Thank you for joining us, Professor, and we look forward to your testimony.

STATEMENT OF BARRY R. CHISWICK, UIC DISTINGUISHED PROFESSOR, DEPARTMENT OF ECONOMICS, UNIVERSITY OF ILLINOIS AT CHICAGO, CHICAGO, ILLINOIS

Mr. CHISWICK. Thank you very much. It is a pleasure to be here. The issue before Congress is not whether to have a completely open door nor a completely closed door regarding immigration, and so the question then comes down to how many immigrants per year and what are the characteristics of these immigrants.

I think it is not helpful to talk about immigrants as if they are an undifferentiated whole. I think it is much more helpful to un-

derstand the issues to think in terms of high-skilled immigrants and low-skilled immigrants as a simple way of specifying the issues.

Over the past 20 years, there has been a very large increase in not only the number of low-skilled immigrants coming to the United States legally and illegally, but also their share in the immigrant population. This has come about in part because of three factors. One was the 1986 amnesty, the Immigration Reform and Control Act which brought amnesty, but also brought employer sanctions, which were never effectively enforced. That amnesty actually encouraged additional low-skilled illegal migration in the anticipation of future amnesties.

The regular immigration system, where we issue about 1 million visas per year, focuses on kinship ties. The question that this policy asks is: To whom are you related? And two-thirds of the immigrants coming in come in under kinship criteria, and only about 7 percent are skill-tested. For only about 7 percent do we ask the question: What are your contributions to the American economy?

As a result of these factors, we have had a large increase in low-skilled immigration, and this has had the effect of decreasing the wages and employment opportunities of low-skilled workers who are currently resident in the United States.

Over the past two decades, the real earnings of high-skilled workers have risen substantially. The real earnings of low-skilled workers have either stagnated or decreased somewhat.

Now, low-skilled immigration is not the only cause of this, but it is a significant factor in this development. Low-skilled immigrants make greater use of government benefits and transfer than they pay in taxes. So in terms of the public coffers, they serve as a net drain; whereas, high-skilled immigrants have the opposite effect. And the consequences of low-skilled immigration are pretty much the same whether they are in legal status or illegal status, although the net effect on the public coffers is actually more negative for legal immigrants, legal low-skilled immigrants. In the earned legalization program that some people are talking about, just a euphemism for amnesty, these individuals will eventually be getting full benefits from Government income transfer systems.

The question before Congress is: Will the 21st century be the American century as the 20th century was the American century? In order for this to happen, for it to be the American century, we need to alter our immigration policies to increase the focus on attracting high-ability, high-skilled immigrants, the ones that Senator Kennedy referred to who did the startups in Silicon Valley, who won the Nobel Prizes.

But we also need to look at the other end of the income distribution and provide greater assistance to low-skilled Americans in their quest for better jobs, for higher wages. And one of the ways that we can help them in this regard is by reducing the very substantial competition that they are facing from this very large and uncontrolled low-skilled immigration that is the result both of our legal immigration system and the absence of enforcement of immigration law.

I urge Congress to think not in terms of piecemeal reform of immigration law, but to think in terms of a comprehensive reform of immigration law.

Thank you very much.

[The prepared statement of Mr. Chiswick appears as a submission for the record.]

Chairman SPECTER. Thank you, Professor Chiswick.

Our final witness on the panel is Professor Harry Holzer, Associate Dean and Professor of Public Policy at Georgetown, summa cum laude, Phi Beta Kappa, undergrad at Harvard, and a Ph.D. from Harvard. He served as chief economist for the United States Department of Labor, and his research has focused primarily on labor market problems of low-wage workers and other disadvantaged groups. His books include "The Black Youth Employment Crisis," "What Employers Want: Job Prospects for Less-Educated Workers," and "Employers and Welfare Recipients: The Effects of Welfare Reform in the Workplace."

We appreciate your being with us, Professor Holzer, and the floor is yours for 5 minutes.

STATEMENT OF HARRY J. HOLZER, PROFESSOR OF PUBLIC POLICY, GEORGETOWN UNIVERSITY, WASHINGTON, D.C.

Mr. HOLZER. Thank you, Mr. Chairman. Good morning.

I want to once again associate myself with the point of view that most economists believe that, on average, immigration is a good thing for the overall economy. It does lower costs. It lowers prices. It enables us to produce more goods and services and to produce them more efficiently, and I share that view. At the same time, there are at least some potential losers in this process. There are some costs as well as benefits. We need to consider the whole range of costs and benefits and to whom they accrue as we make our policy choices. So let me start by looking at this issue of the labor market and competition, especially at the low end of the market.

Now, there is one view, Mr. Chairman, that you expressed earlier that maybe immigrants mostly take the jobs that other native-born workers do not want. The prototypical case of that would be jobs in agriculture, in which very few native-born workers are interested. On the other hand, there are jobs in industries like construction that I think are more appealing to native-born workers, and many native-born low-income men might be interested in more of those jobs, although employers often prefer the immigrants, especially in residential construction. Then there is a range of sectors in between those examples—janitorial work, landscaping, food preparation, where the wages and benefits are generally low and the appeal is very limited to native-born workers.

Now, absent the immigrants, employers might need to raise those wages and improve those conditions of work to entice native-born workers into those jobs. On the other hand, as that process starts, employers would have other options to consider. They might well substitute capital for labor, which simply means they would substitute machines and equipment for workers and their jobs as wages started to rise. Or they might move their resources to other lines of business, more productive lines of business. So businesses would have other options besides simply raising wages if the immi-

grants were not here, and I think they would exercise those options.

The statistical studies generally show, on net, there might be some modest negative effect of immigration on the earnings of high school dropouts. There might be some modest negative effect, mostly in the short run. Over the long run, as capital flows adjust to the presence of workers, most of these negative effects disappear, and certainly we see little evidence of negative effects for anyone except high school dropouts. And even for them the effects seem modest.

Two other points: as stated earlier, the amount of competition really does depend on the state of the economy. With the very strong economy in the late 1990's, no one really worried much about competition from immigrants. Maybe those days will return. But it also does depend on the legal status of the immigrants, and I believe that when immigrants are illegal, they do more to undercut the wages of native-born workers because the playing field is not level, and employers do not have to pay them market wages. So legalization might reduce the extent of competition these workers face.

Now, there are other economic issues, the most important of which is reducing the prices of a wide range of consumer goods. Some of those lower prices do benefit mostly high-income consumers. When they hire gardeners, domestics, when they go to restaurants where the food is prepared by immigrants, the benefits mostly accrue to higher-income consumers. On the other hand, when immigrants work in construction, they reduce the price of housing. When they work in agriculture, they reduce the price of food. When they work in health care and elder care, they reduce the price of those services, and those will disproportionately benefit lower- to middle-income consumers. And I think those are important benefits.

We have heard about the baby-boomers retiring. I think there will be many ways in which labor markets will adjust to the retirement of baby-boomers, but immigration is one adjustment mechanism. I think the presence of immigrants will be important in some key sectors during that time period. One is the science and engineering sector that Richard Freeman has already talked about, but there are other sectors where the less educated immigrants could really matter as well.

For instance, take the health care sector. The demand for health care workers and elder care workers will be enormous when the baby-boomers retire and as they live longer. That is a sector where, because of caps on third-party reimbursements, expenditures are limited. The normal market forces will have trouble clearing those markets. And I think the presence of immigrants to help take those jobs will matter and will make those services more available.

Finally, there are a range of fiscal issues that have already been alluded to. There are fiscal costs in the short run for schooling and a range of other services for immigrants, but I believe as time goes on, the fiscal balance becomes more positive. I believe that over time immigrants, their children, their grandchildren, will be working, contributing to the Social Security and Medicare systems. I believe, on net, their impact on those fiscal balances will be positive,

largely—probably not massively positive, but more positive than negative, and I think that is a good thing.

So, finally, what does all this mean about policy? I agree with Professor Chiswick, we are not ready to open the floodgates on immigration. We will continue to have controls on immigration, and we need to find cost-effective and humane ways to limit those immigrants. I am not exactly sure what those methods are. I am not sure anyone knows, but we will continue to seek them. But I think paths to legalization for those who are here and those who will remain here make sense. Keeping them illegal hurts the immigrants themselves. It certainly hurts their children, many of whom are already American citizens and will stay here under any circumstances. And legalizing these immigrants, I believe, will reduce some of the competition that they provide to native-born workers by leveling the playing field and allowing them to earn market wages.

I do not believe these paths to legalization will create dramatic increases in the flows of illegal immigrants. The flows have been fairly constant now over many years, despite various changes in policy. I think the incentives for them to emigrate will be large either way, so I do not expect massive new flows in response to any paths to legalization.

Finally, I would say less educated workers in the U.S. have taken a beating in recent years, for many different reasons. I think immigration is one of the smaller reasons. If we want to help less educated native-born workers, there are a whole variety of things we could do to improve education and training, improve child care and health care, provide wage insurance to those displaced, and maybe even start to fix some of the broken laws and institutions that used to protect those workers more than they do now. I think these things would help native-born workers a good deal more than limiting immigration flows.

Thank you.

[The prepared statement of Mr. Holzer appears as a submission for the record.]

Chairman SPECTER. Thank you, Professor Holzer.

We will now go to the panel of Senators for 5-minute rounds of questioning. As a matter of scheduling, the Senate is in morning business until 10:45, and then there is going to be 10 minutes before a vote starts, which will be shortly before 11 o'clock, if the projections of time are accurate. So we will keep that in mind as we proceed with the round of questions.

Professor Holzer, you eloquently articulate a large number of problems, and then you said you are not sure you know the answers. And then you added to that you are not sure anybody knows the answers.

Well, we have got to make some judgments. Nobody could ever accuse Congress of knowing the answers or coming up with the answers, but we do have to legislate and we do have to figure out, as best we can—and I have been to a few of these hearings, and I cannot recall four witnesses who have more in their pedigree lines, more books, more titles, than you four. We do not want to take jobs away from Americans, although to the extent that it may be minimal, you cannot avoid it. But overall we want to direct our

efforts to not taking jobs from Americans. And, also, to the extent we can, we do not want to lower wages.

Now, we are trying to figure out what kind of a guest worker program to have. With the experience you professors have had, what methodology should the Judiciary Committee have in recommending to the Senate the structuring of the number of guest workers? Professor Holzer, you profess not to know the answers, but we need your best estimate here.

Mr. HOLZER. Senator, I have some skepticism about guest worker programs because there is at least a concern and I think some evidence—

Chairman SPECTER. You have some skepticism? Now, wait a minute. Does that mean you would not have them? There is nothing we do around here without some skepticism, but the question is—

[Laughter.]

Mr. HOLZER. I understand that.

Chairman SPECTER. The question is: Will we have them?

Mr. HOLZER. I think they have limitations relative to my first choice, which is creating pathways to permanent legal status.

Chairman SPECTER. They have limitations. Do they have advantages?

Mr. HOLZER. They also have some advantages for meeting demand, certainly in the short run, in those sectors where—

Chairman SPECTER. How do we assess the demand?

Mr. HOLZER. I think one can look at a variety of measures: job vacancy rates in certain sectors, in certain occupations and industries, wage pressures, things of that nature.

Chairman SPECTER. Could you take a look at those factors and others? You probably cannot do it in the 2 minutes and 38 seconds remaining, but could you take a look at those factors and give us a professional projection as to what we ought to do by way of guest workers? Let me apply that question to the entire panel. We are really searching, and you men have written extensively and have studied this extensively. And without taking the time now to identify them, if you could do two things, identify the factors which are in play and assess for us how you would structure a guest worker program and what we ought to look for, we would be deeply indebted to you.

Professor Chiswick, you say the last century was the century for the American economy, and we face a lot of challenges on the next century. The head of China was just here, and we are looking at very complex competition from China, perhaps from India and other sources. Is a guest worker program an indispensable item to have the 21st century an American economic century?

Mr. CHISWICK. Well, actually, I would say that the best guest worker program is no guest worker program. One of the maxims in the immigration research field is that there is no such thing as a temporary worker. The issue arises when the temporary contract, when the guest worker period is over. How does one get them to leave the country?

Chairman SPECTER. Well, how about recognizing that they are not temporary but they are going to be permanent? How do we assess the contribution of the immigrant to the economy? Does the

immigrant produce more by way of gross national product contribution to the economy than the immigrant is paid?

Mr. CHISWICK. Well, I think we have substantial research on that issue, and what we find is that high-skilled immigrants have a significant positive contribution and that low-skilled—

Chairman SPECTER. Positive over what they are paid.

Mr. CHISWICK. In terms of the American economy, in terms of what they pay in taxes versus what they take in benefits, in terms of their increasing the productive capacity of the economy, in terms of their increasing productivity.

Chairman SPECTER. I only have a few seconds left, and I see Professor Freeman nodding vigorously in the affirmative. You have got the balance of my time.

Mr. FREEMAN. I wanted to make a comment more favorable to the guest worker programs, actually. I think it is very complicated. People are going to come in, and they are coming in, and they are working illegally. That would be the natural place where you would want guest workers if you want to reduce the illegal immigration.

We know that Americans are hiring them, and Americans would get very upset if they were forced out. Business people would get very upset. So they are clearly contributing something that is showing up in the profits and the lower prices that Americans benefit.

So I would think of the guest worker program or something of that nature is the extent to which it would substitute for a worse form of guest worker program, namely, an illegal guest worker program, which is what we are running today. So I do not think the comparison is between no guest worker or a guest worker. It is between a legalized program and an illegal program.

Chairman SPECTER. Thank you, Professor Freeman.

Senator Kennedy?

Senator KENNEDY. Thank you, and I think you put your finger right on it, Professor Freeman. We know at least 400,000 are coming in here. Ten years ago it was 40,000; now it is 400,000, sometimes 600,000 or 700,000. In the legislation it is 400,000 to try and have those that are going to come in here come in in an orderly, legal way with labor protections in this country.

Let me get to this point that the Chairman has made, Dan, with your analysis. You gave us some projections. You talked about the limitations in terms of productivity, the numbers in the labor force, retirement issues, and then the job growth. And you talked about GDP, 14 percent and 11 percent. You talked about legal and the illegal. Maybe you could just flesh those figures out a little bit. What you appear to be saying is that if you consider the numbers of both legal and illegal, you get a certain rate of growth, and without them you get another different rate of growth. And that is what I would be interested in.

Maybe we cannot parse between the legal numbers the Chairman talked about, whether that is 500,000 or we are looking at just the general range of numbers now. Could you expand on that?

Mr. SICILIANO. Sure. Thank you, Senator Kennedy. I think this also answers Chairman Specter's question in part, which is: What is the true net economic contribution and where does it come from and why? And so from my viewpoint, and in light of the demo-

graphic numbers, it appears that our economy is on the trend growth rate, we hope, at 3 percent or better. Now, that growth rate of GDP is reliant on many factors. One of the key factors is available workers to fill the jobs that are created. So even while at the high-skill level you have Nobel Prize winners and other people inventing companies, somebody needs to build the buildings, clean the buildings, you know, service the lavatories in which these people are operating. And this is a part of the capacity for GDP to grow.

So to put a finer point on it, if you look at the fiscal economic impact, which is the Government coffers impact, it might be true that lower-skilled workers, just like all of us on average, actually, at the moment because of deficit spending, have a negative impact on the fiscal bottom line. But that should not be confused—and this would be a mistake to confuse this. That should not be confused with the economic impact. It is a little like my younger sister who recently said, "I am earning more, but look at all the taxes I am paying. I am paying more taxes." I said, " Yes, but you are earning more."

And so we may have a modest net negative fiscal impact for all low-wage workers in the United States, not just immigrants. That is not unique to immigrants, documented or undocumented, but what we do know is it helps us achieve a higher rate of growth and national income goes up, which benefits everybody. It becomes your challenge, I think, to talk about how to, you know, work that out at who shares and how at the pie level. But it is clear that this divide between available workers and the demand for workers will slow down economic growth if we do not manage it appropriately.

Senator KENNEDY. Let me just get to the high-skilled/low-skilled. I think most of us would like to believe that we are going to train our own people to be able to take these high-skilled jobs. And we have under our current programs training resources that are paid into the fund to try to continue to upgrade skills for Americans. But we are not able to get quite there at the present time.

Other countries, industrial countries, have required training programs. They pay—what is it?—in European countries a percent and a half, other countries, so that they have required training programs, which we do not have, continuing training programs which we do not have.

So how are we going to adjust? What is your sense about how we are going to—we have seen a significant—actually, we are getting the skills, but where people that are going to into these high-skilled programs, but how are we going to get Americans up to speed so that those Nobel laureates are going to be the sons of native workers rather than foreign workers? What can you comment on that?

Mr. SICILIANO. I think there are two issues. One, you know, the expanded H–1B program with the continued diversion of moneys into special training programs is a good start, so we need the talent in the first place. We need that high-skilled talent to maintain our competitive edge, which gives us some runway into which to develop and train native talent. It cannot happen overnight. So the first question is: What do we do to make sure over the next 20 years we still get the world's absolute best and brightest, lure them

to our best universities, have them pay for that education, make them enamored of the United States, and then they stay here and then have children.

Now, you divert that money and you direct it into targeted training, and that is a bigger issue, I think, to entice U.S.-born workers into the difficult and long-term training that will prepare them for a modern, very knowledge-based economy. But the start is to make sure we keep the industries here because we lure the right talent here, and then we do something over the next 20 years so that the 5-year-olds right now do end up getting the double Ph.D., electrical engineering and applied physics, and go on to win the Nobel Prize. But you are talking about the 5-year-olds, not the 25-year-olds. We need the 25-year-old to get an H–1B, have their own Government pay to go to Stanford University, get that Ph.D. there, and then work at Google, stay here. Good deal for us.

Senator KENNEDY. My time is up, but, Professor, you talk about the more comprehensive. What we are not dealing with is the underlying immigration bill where you talked about the disparity between kinship and skills with only a smaller percentage in terms of skills and the other emphasis on kinship. Those are policy issues about reunification of family members here rather than just having the skills. So that is a broader kind of issue. I think it is obviously related to it, but as you correctly point out, that is not part of the current debate, but it is something we ought to think about.

Thank you, Mr. Chairman.

Chairman SPECTER. Thank you, Senator Kennedy.

Under the early bird rule, we turn to Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

I would like to turn to the issue of a guest or temporary worker program, and one of the things I would just note is that the choice of descriptions I think is a problem when it comes to talking about immigration because I do not know of any guest that you would invite into your home that would permanently move in and refuse to leave. And I am intrigued by the concept that there is no such thing as a temporary worker program because people will not leave.

But let me talk just a bit, Professor Freeman, starting with you. We have heard, of course, the huge attraction that the American economy and the opportunity here for immigrants provides, but you seem to agree with at least some of what I said earlier on in talking about the benefits both to—assuming we can have a temporary worker program, people come and work temporarily and then return to their country of origin with savings and skills that they have acquired in the United States, perhaps to return again later, that there would be perhaps an advantage to the United States to be able to have people come when we need them, when the economy is doing well, when we need those workers, but then not come during times when they would be competing with American workers. And so it would be of some benefit to American workers not to have that competition when the economy is doing poorly. But, second, the importance of helping those economies which are now basically seeing a mass exodus of their young work force to the United States and the difficulty they will have of ever establishing jobs and an opportunity for their own people.

So do you see some benefit to trying to figure out a policy that will restore this circular migration pattern?

Mr. FREEMAN. You are clearly right. The circular migration—we have seen the circular migration pattern occur for the Koreans and for the Taiwanese, and also they have also created, you know, businesses that compete with ours, and they learned their skills here. At one point we are going to see the Chinese high-level immigrants begin to go back to China, and that will be a great sign for China and will be more competition for some American businesses.

But I do not think we should be afraid of competition, and I think it is much better to build the skills in these other countries.

I think obviously if we could control the flows, we would have the guest or temporary workers come in when we have a shortage and leave when we have a surplus. But people have their own lives, obviously, and there is a huge advantage to living in the U.S. than living elsewhere.

Senator CORNYN. Let me ask you, Professor Chiswick, because you said there is no—I am paraphrasing. You said there is no such thing as a temporary worker because people will not leave, and Professor Freeman seems to agree that that is a challenge. But if we have incentives built into a program, let's say the money that you would ordinarily pay, the employer and employee pay for Medicare and Social Security would be put into an account that they would receive upon their return to their country of origin when their temporary visa expires, if we would be serious about worksite verification so that only authorized visa holders could legally work in the United States, would you see those as possibly some ways that we could make sure that we could actually enforce the term of those temporary visas?

Mr. CHISWICK. Well, I think you have pointed to a very important issue. The 1986 Immigration Reform and Control Act brought in employer sanctions, but there has really been no political will to enforce employer sanctions. Employers need a fool-proof way of identifying who has a legal right to work in this country and we have the technology to provide them with that information. And I would urge Congress to act speedily in terms of developing or authorizing the Government to develop such a system.

But you also need to have the resources to enforce the law in terms of the inspectors and the inspections. We have relied on border control to enforce immigration law. The border is a sieve. Even if one strengthens border enforcement, there will still be ways of penetrating the border. Border enforcement by itself cannot effectively stem the flow of illegal aliens. It needs to be complemented by stringent enforcement of employer sanctions.

Senator CORNYN. Let me ask you to explain just in conclusion your statement that amnesties encourage future illegal immigration. That will be my last question. Can you explain what you mean by that?

Mr. CHISWICK. Sure, because an amnesty sends the signal that when the pressure gets strong enough, there will be another amnesty forthcoming. So amnesties set the stage for future illegal migration, and actually the more talk there is of pending amnesty legislation—whether it is called amnesty or earned legalization, it is really the same thing—the more talk there is, the greater the

incentive for people to enter the United States illegally so that when the amnesty has passed, they are physically present in the United States.

Chairman SPECTER. Thank you, Senator Cornyn.

Senator Feinstein.

Senator FEINSTEIN. Thank you very much, Mr. Chairman. May I enter into the record, please, a statement by the Small Business California Group?

Chairman SPECTER. Without objection, it will be made a part of the record.

Senator FEINSTEIN. Thank you very much.

I approach this, gentlemen, mainly from the California approach. The Department of Finance of the State has just done a report which shows that the number of illegal aliens in California is 2.4 million and that the entry rate is about 73,000 a year.

As I talk to individuals in the State, what becomes very clear to me is that the problem is the lack of opportunity in Mexico, and that is devastating that there is no hope, no jobs, no opportunity for people. Therefore, coming to the United States for many, most, really becomes a question of survival.

Is there anything as economists you can recommend that the United States could do to help, or the people or the Government of Mexico could do to turn that around?

Mr. CHISWICK. I would be happy to take a stab at that question.

Senator FEINSTEIN. Please, quickly, if you could.

Mr. CHISWICK. I think NAFTA in the long run will have strong beneficial effects on the Mexican economy. But I think we also have to encourage the Mexican government to free up their economy, to reduce the extent of Government ownership and control of various sectors of the economy, to encourage private investment in the Mexican economy, to invest more resources in the educational system for the young people in Mexico.

One of the negatives of the large low-skilled immigration from Mexico to the U.S. is that some of the most enterprising of people are leaving Mexico. So in some sense, we are hurting Mexican economic development by draining off some of their entrepreneurial talent.

Senator FEINSTEIN. Let me mention another point. I happen to believe that the weakest part of the bills that I have supported is the guest worker program. From a California perspective, it is impossible to say to somebody you can come here for at least 6 years by renewing your guest worker permit, but at the end of 6 years you have to go home. The experience we have had is quite simply people do not go home. Therefore, it seems to me that the H–2A program, where you bring someone for a limited period of time, has a much better opportunity to work because then they do go back and forth across the border.

What do you believe is the optimum amount of time that an individual will come as a guest worker and then actually go home at the end of that period of time?

Mr. SICILIANO. Senator Feinstein, I think one thing to consider is that by limiting the amount of time that and employer may utilize a guest worker, it alters their behavior in terms of their incentives to invest even in a low-skilled guest worker. So even a low-

skilled worker will require a certain amount of training and investment, and the shorter the duration of that opportunity for employment, the less investment there is, which is bad for everyone.

I think one of the possible alternative views here is to recognize some of the limitations that occur if you create a temporary guest worker program and then instead try to identify those lesser-skilled individuals who, in the long run—if you created boundaries of wage and hour rules, allowable behavior on the part of businesses, and then screened up front for who you would allow to enter on that basis and create some path, assuming continuing employment, and a very high bar for behavior and civic behavior, then perhaps you can solve both problems, because I believe the evidence demonstrates and I think a lot of the arguments assume that the economy will work it out. If there are no opportunities, people will go back.

Senator FEINSTEIN. But that is difficult to do. Therefore, if you take the 10 to 12 million people that are here already that work in agriculture, construction, landscaping, housekeeping, et cetera, and provide a steady stream of employment and enable them to have a pathway to legalization, are you not really doing the best thing possible economically to see that there is economic upward mobility?

Mr. SICILIANO. I see. With that subset, yes, I would argue that that is the right path, and then on the other question I would defer. I am sorry that I don't have a solution.

Senator FEINSTEIN. Anybody else, quickly, 7 seconds?

Mr. CHISWICK. Well, I think that we can learn a lot from the European experience. They have their guest worker programs in most of the European countries and what they have found is that although some go back as the natural course of events—there is always some return migration—they had a very difficult time in encouraging them to go back. The riots that we saw a number of months ago in the immigrant communities in France are an example of the consequence of failed guest worker policies, and I would not like to see the United States fall into that same trap.

Senator FEINSTEIN. Thank you very much. Thank you, Mr. Chairman.

Chairman SPECTER. Thank you, Senator Feinstein.

Professor Holzer, did you want to make a comment?

Mr. HOLZER. Just one small comment. It seems to me that there is probably no single optimal duration for guest worker policies. Following up on Professor Siciliano's point, it is going to vary a lot when you compare H–2A workers to H–1B workers. It seems to me to make a lot more sense to have perhaps longer durations for the H–1B workers because to get those individuals to come here, those individuals who want to make more investments, the kind of work they do requires greater startup, greater training. And at the end of the day, if those workers decide to stay, I think we all agree that the economy would benefit certainly from increasing the permanent presence of highly skilled workers.

Senator FEINSTEIN. Would you confine a guest worker program to those two programs?

Mr. HOLZER. Not necessarily. I think I am relatively more sympathetic to the H–1B program because, number one, certainly in

the late 1990's it was so clear that the short-term demand in science and engineering was so strong, in the short run there was no way that we were going to meet that demand domestically.

I also very much like the political compromise of taking the fees that we generated by raising the caps and investing those in the training of domestic workers. So to me, that was a very nice compromise that I think benefited all involved.

Senator FEINSTEIN. Thank you. I appreciate it. Thank you, Mr. Chairman.

Chairman SPECTER. Thank you, Senator Feinstein.

Senator Kyl.

Senator KYL. Thank you, Mr. Chairman. Thank you, panel. One of the arguments for not being as tough in enforcing the law especially at the border is that in the years past there was a lot of circular migration especially from Mexico and Central America, people who came here, worked for a while and then went back home. It wasn't hard for them to continue that process, but once we began strong border enforcement, then they were stuck and stayed.

I don't know that there is any evidence to support that or refute it, but it has been the basis for a lot of people talking about this concept of circularity, and I want to get back to that concept and also ask you this question in view of the fact that at least a couple of you are very skeptical that a temporary worker program really ends up being temporary because people don't want to go home. I mean, what I just said may to some extent refute that, but clearly there are people that probably fall into both categories.

What we haven't talked about here is the differentiation between a time like today when we are at very high employment and a time when in the future we will have a recession and we will have high unemployment. And let me stipulate for a moment, even though there is a little bit of argument about mechanization, and so on, that in the lettuce fields of Yuma County, it has always been hard to get Americans to do that work. It has been traditionally work done, by the way, by people who live in Mexico and come across everyday and go back home by and large, although there are some that stay longer.

In Arizona, we can't find enough people to build houses today. Under the bill that Senator Cornyn and I have, we would be issuing lots of temporary visas right now. But we have also seen many economic downturns when you can't get a job in construction, no matter how skilled an American citizen you are. In that case, under our bill we wouldn't be issuing temporary visas. We would let the ones that are here expire; we wouldn't issue any more.

I am troubled by the fact that all of you seem to be so skeptical that people would return. One concept was that, well, when there is not work, they will return. But isn't it just as likely that what they will do is under-bid Americans for those same jobs?

I have gone through enough political times when we were in that high employment situation where Americans were looking for work. It is not a pleasant thing. So I am concerned about a program that lets people come in under today's circumstances, but who may not have a job, or at least there won't be enough jobs for everybody in tomorrow's circumstances.

Given that fact, doesn't it make sense to consider the economic realities in how many permits you issue, and especially if you are saying folks won't go home, to be very careful about the number of visas that you issue for these low-skilled workers because you have to consider tomorrow's lack of employment opportunity as well as today's full employment opportunity?

I have sort of posited several different thoughts and questions inferred there. If you could just each give me your general take on what I have said.

Mr. FREEMAN. You gave this model for the optimal determination of how many of these to give. What you are really suggesting—and I think it makes good sense—is that if you are giving these temporary worker permits or whatever, you don't want to do them to the amount you need at the boom. What you may want to do is figure out how many you would have at a recession. You can up that a certain amount, but that would be the more conservative, careful mechanism.

As long as Mexico is right next door to us and their economy is not doing well, we are just going to continually face this pressure. One of the reasons they are not doing well is that we have had China and India come into the global economy and take up some of the businesses that we would have hoped the NAFTA was going to encourage in Mexico.

Senator KYL. Excuse me for interrupting, but let me give each of the panelists time to respond.

Mr. SICILIANO. Let me throw in one item, as well, to clarify. For all we know about business cycles, we still don't know a lot. One of the things, I think, to observe is that as we go into a down business cycle, we make macro adjustments to the cost of capital as a way of spurring the economy potentially and creating jobs and creating businesses through capital formation.

It is worth thinking about—and I don't think it is a conclusive answer for you, but it is worth thinking about the fact that available labor supplies during a downturn is its own form of self-corrective mechanism. And I would fear second-guessing at a micro level the small and medium-size businesses who might be reformulating strategies to alter their response to global competition and need the liquidity that is provided by available work force. And we do suffer through a terrible time which is short and hence has changed, but it might be akin to cost of capital.

Labor is one of the critical inputs to all of economic development and we tinker with it at a micro level, we might inadvertently prevent ourselves from emerging as quickly as we might otherwise have from a recession.

Senator KYL. But it is also true that for the laborer who is without a job for a year and the taxpayer subsidizing that individual's life, this represents a real cost both to them individually and to the government side of things even though for the economy in the long run—but as you know, in the long run we are all dead.

Let me get each of the—

Mr. CHISWICK. I have two reactions to the questions that you pose.

Senator KYL. Was it Galbreath, Professor Siciliano, that said in the long run we are all dead?

Mr. CHISWICK. Keynes, John Maynard Keynes.

Mr. SICILIANO. Yes.

Senator KYL. Of course. I am sorry.

Mr. CHISWICK. Both economists.

Cyclical targeting in terms of labor markets is very, very difficult to do. In the post-war period, our downturns have been relatively short. So cyclical targeting would probably mean that it would be counterproductive because by the time the bureaucracy changes the number of visas, you will be in a different phase of the business cycle.

I am glad you brought up the Arizona lettuce farms because actually "Nightline" earlier this month devoted a segment to that very issue and the same county that you made reference to. I was struck that the farmer said that if he didn't have these low-skilled workers who were picking lettuce by hand, he would mechanize; that there are mechanical lettuce pickers and that the only reason he is not mechanizing and employing more highly skilled American workers is the availability of such low-wage labor. So in a very real sense, the use of low-skilled immigrant labor is retarding further mechanization of agriculture.

Mr. HOLZER. I share the view that the cyclical use of the guest worker program sounds great in theory and it is hard to implement. I think about the long-run costs. Take your construction contractors in Arizona. Even when they hire these immigrants, there is some expectation that this employment relationship is going to last a while. There are costs of training them even for the low-end jobs to be dry-wallers and things like that.

Once those investments have been made, I hesitate to force those employees to leave for a temporary downturn that might last who knows how long and then might come back. I think given these long-term employment relationships, we ought to focus more on the long-term issues involved in immigration and maybe less on the short-term fluctuation.

Senator KYL. I appreciate that. In view of the fact that there is only one more to question, might I just offer a comment? All of that is fine in economic theory. As I said, I have had to stand in town hall meetings with 3 or 400 Americans that don't have jobs.

I appreciate what each of you are saying, but I do think we have got to be sensitive to the fact that there are costs to taking care of Americans who don't have jobs temporarily because there are folks here who will under-bid them in those jobs because we haven't been willing to restrict their entry here. It is a problem I would like each of you to think about for the next round.

Chairman SPECTER. Thank you very much, Senator Kyl.

We have developed quite a number of people standing in the back. There are a few chairs up front. You are welcome to come and sit there.

Senator Sessions.

Senator SESSIONS. Thank you, Mr. Chairman, for having this hearing. I think it is important that the American people engage in the debate. I think there are a number of strawman arguments out there that we need to dispense with.

The first is that there is any support in Congress for stopping immigration. There is no support in Congress for that, and this

Congress will act sooner or later to deal fairly and generously with people who have come here illegally. The 11, 12 million, 20 million, whatever is here—they are going to be treated fairly and justly.

But I do think it is important for us to ask ourselves what is the limit to our immigration, what is the right number, and it ought to be in our National interest, not whether somebody would like to be here.

I had the great pleasure of traveling with Senator Specter last week to South America, and in State Department clips was a poll from Nicaragua that said that 60 percent of the people would emigrate to the United States if they could. That was a stunning poll. I mentioned it to the Ambassador in peru and he said, well, they just had a poll here 2 months ago that 70 percent of the people in Peru would emigrate to the United States. Well, I am not sure how accurate those polls are, but it just points out that the numbers on an open border system do not make good sense to me. We obviously need to ask ourselves who and what numbers are relevant.

I am not sure who to ask this question to, but if anybody would speak up and give me a thought on it, I would appreciate it. Is there a difference economically in the effect of a temporary or a permanent worker? Does anybody have any thought about that?

Mr. SICILIANO. Senator Sessions, I will address one small part so that others can comment, and that is I think we know intuitively that renters and owners treat their properties differently. Renting to own may be a compromise, but I would say that we have recent evidence citing Giovanni Peri's paper out of UC-Davis in November that we know that the entrepreneurial behavior of those immigrants who feel that they have some possibility of being here in the long term is increased because they are more likely to invest their capital here in the United States to engage in skill-building that resonates better in the United States and they get better returns on.

So my one comment would be we know we sometimes get very efficient and good behaviors for our National interest from immigrants of all skill levels if they think they may have a long-term role to play here both about themselves and their children.

Senator SESSIONS. Would it be in our interest, therefore, to attempt to identify the people that bring the most skill sets and the most ability to the country when we allow whatever limited number we have to come here legally?

Mr. SICILIANO. At both ends, yes.

Mr. CHISWICK. Absolutely. What we want to do is attract those immigrants who would have the largest positive contribution to the American economy, and they will be highly skilled immigrants, immigrants with high skills in literacy, numeracy, scientific knowledge, technical training. Current immigration law pays very, very little attention to the skills that immigrants bring to the United States.

Senator SESSIONS. Let me point out that when we visited the Dominican Republic, the person in charge of issuing the visas told us, I think, 95 percent of the visas are chain migration, family visas. So, obviously, we are asking no questions about what skill or capacity they bring to our country. It is just automatic based on your relative connection.

Professor Freeman.

Mr. FREEMAN. The Canadians and the Australians both use much more occupational qualifications, the Australians have a very interesting system which we could think about because they also get a lot of people who come as students to the universities. We have a huge international student flow. We are able to judge how good they are. Our companies will offer jobs to them. Our universities will offer them fellowships and scholarships, and so on.

What the Australians do is give those people a leg up in getting citizenship, so on a point system they get extra points. We certainly could think of something like that to all of these foreign students who come here who are learning the latest and best technologies and who are generally among the best in the world. We tend to keep a lot of them in any case through whatever mechanism the firms do keep them here, but that could be regularized and made much more attractive. We are competing with these other countries for these very bright, young people.

Mr. CHISWICK. The only aspect of public policy in the United States that I am aware of in which we encourage nepotism is in our immigration policy.

Senator SESSIONS. Otherwise, we are a meritocracy. That is our American ideal. Is that not correct?

Mr. CHISWICK. Yes.

Mr. HOLZER. If I could add something to that, I think what we sometimes call nepotism in labor markets is really the efficient working of flows of information through informal networks. I think even for less educated workers—and we all share the view that it would be positive thing to increase the flow of skilled immigrants, scientists and engineers.

I want to emphasize again that there are benefits to the American economy that even some of these less-educated immigrants provide, and I think what we are calling nepotism—really, in many cases employers, having hired one or two immigrants and being very, very pleased with their performance and their work ethic, then encourage them to bring in their relatives, their friends, their cousins because they are so pleased. In many cases, that is an efficient way for many of these lower-wage labor markets to operate.

Senator SESSIONS. Well, let me just make one thing clear to anybody who is listening. Essentially, the so-called compromise legislation that is on the floor—nothing about it is temporary or guest workers. They all get to come here and they all get to stay as long as they want to and on a path to citizenship, virtually every one of them. That is what it does.

The cap on green cards goes from 140,000 to 450,000, and family members don't count against the cap. Almost one million workers a year come in and they can apply for the green card, their employer can, the first day they arrive in the country. So these are not temporary workers. We need to get straight about the language of this legislation when people discuss that.

I would note for the record a study by the Center for Immigration Studies. There is a deficit today of more than $10 billion a year based on the calculated benefit in taxes paid, plus the cost on the social system of our economy today for the average immigrant. I don't think that matter is real clear.

Mr. Chairman, my time has expired. I am sorry to run over.

Mr. FREEMAN. Can I make a comment on the—

Chairman SPECTER. Go ahead, Professor Freeman.

Mr. FREEMAN. I was on the special academy panel that looked at immigration on particularly fiscal cost things and what we found was that is incredibly variable over time. And as long as we are running a huge deficit, the immigrants are going to be negative-contributing.

If we began to run a surplus, suddenly they would be contributing more taxes and would therefore be reducing our deficit. So it is less what they are doing than what our overall fiscal stance is. If we had a more balanced budget and we ran a surplus, they would be paying more in taxes.

Senator SESSIONS. Why is that? I don't want to interrupt.

Chairman SPECTER. Go ahead.

Senator SESSIONS. Why would it make a difference? First, project for me when we are going to have a surplus. Second, why does it make a difference?

Mr. FREEMAN. I will do the surplus first because at the time we did our calculations, no one dreamed there would be a surplus. I do believe we had one four or 5 years ago, so these come through magic, if I can phrase it right, sudden economic boom.

When we are running a surplus, the government is taking in more taxes than the money they are putting out. And just assume that an immigrant is also paying more taxes than he or she is consuming in government funds. Therefore, in that situation, having another worker come in who pays more in taxes than they are taking out means we can reduce our National debt. So it is just very dependent upon what the overall fiscal stance is.

Mr. SICILIANO. Mr. Chairman, I am familiar with the study. I can answer the specific question, if I may.

Chairman SPECTER. Go ahead, Professor Siciliano.

Mr. SICILIANO. Thank you. That particular study has two types of expenditures—direct payments to immigrants and immigrant households, so it includes sometimes U.S. citizen children, and indirect attributive costs which are the general expenses by the government divided by the number of households in the United States.

The study is actually dominated by the general government expenditures component of those costs. So, in other words, you take the government expenditures, you divide it by the number of households, and then you take that number. And that number is a large number right now because we have high levels of expenditures relative to tax collections.

That is why it is driven by our fiscal state as a Federal Government, as opposed to simply the behavior of the immigrants. The direct payments are an important component, but they are actually dominated by and outweighed by the general expenditures share, which is interesting, but I think it overstates the interest of that particular number that you have cited. It is not irrelevant.

Mr. CHISWICK. But those statements are based on the average immigrant, and if you do the analysis separately for high-skilled and low-skilled immigrants, what you would find is that even in a period of surplus, low-skilled immigrants would be paying less in

taxes than the burdens that they would be putting on the government expenditures.

Mr. SICILIANO. Just like low-skilled U.S. workers.

Mr. CHISWICK. Just like low-skilled natives, yes.

Mr. SICILIANO. Yes, in no different way than low-skilled U.S. workers.

Mr. CHISWICK. But low-skilled natives are here and low-skilled immigrants—do we want them in the country or not?

Senator SESSIONS. Thank you.

Chairman SPECTER. Thank you very much, Senator Sessions.

Senator Sessions and I just made a trip to South America and had a good deal of conversations with officials about a variety of aspects on immigration. In both Colombia and the Dominican Republic, we were told of governmental programs there which sought to keep track of guest workers. President Uribe, a very impressive man, told us that they had arrangements with both Spain and Canada, so that when their workers went there, they were kept track of by the Colombian officials, and their ability to go back depended on complying with the legalism of returning when their stay was up.

Professor Freeman, do you think that is a realistic way to bring them back?

Mr. FREEMAN. It is easier if they are far away. So if you are going to Colombian to Spain where you have airplane trips, I think it would be more difficult to do this with a border with Mexico.

Chairman SPECTER. The President of the Dominican Republic was very interested in the money coming back to the Dominican Republic. The estimates are the immigrants in the United States send home about $39 billion a year in remittances. So on one hand, there is a concern about what that does to our economy. That purchasing power is not being used in the United States.

The other aspect is that our foreign relations are very complicated. We heard a great deal about the difficulties with Venezuela and President Chavez. A vote of the Andean countries on protecting property rights was three-to-two, with the United States winning. We have trade there to try to strengthen our foreign relations. We heard a lot of talk about their recognizing the leaders of the foreign governments, recognizing our rights to control our borders, but also looking for a humanitarian approach that we have.

How big an impact is it, Professor Siciliano, if $39 billion is remitted from the United States to the home countries?

Mr. SICILIANO. Well, as a component of the overall economy, I actually think it is a fairly small number, but it obviously has tremendous impact for the countries who receive the remittances.

Two points. One, the transmission of that money actually generates substantial revenue and profits for U.S.-based business, primarily financial institutions who serve as the intermediaries to make that happen. I don't think we want to forget that.

The second issue is that the money lands in the hands of individuals who are nationals of obviously that country and some of it recycles as demand for our goods and services, hence jump-starting, we hope, the ongoing trade relations which may mitigate some of the foreign national risks you have identified. So I think it is a small piece in a big global economy and one that shouldn't domi-

nate the thinking about how we decide to move forward on the immigration debate.

Chairman SPECTER. Professor Freeman, you have suggested a policy of considering auctioning immigrant visas and to use those excess funds to redistribute the gains. Do you think that is really a good idea to engage in an auction for people who want to come to this country and the highest bidder wins?

Mr. FREEMAN. Let me give the place where it would make the most sense, which is the H–1B visas. Where companies are saying there is a shortage of people and they want to bring more people, we charge them some amount of money.

Chairman SPECTER. So you are going to have Bill Gates pay for the auction price?

Mr. FREEMAN. Exactly right.

Senator SESSIONS. They pay now.

Mr. FREEMAN. They pay something now. That is right.

Senator SESSIONS. I don't know what it is, but—

Mr. FREEMAN. They pay $1,000—or $2,000, he says.

Chairman SPECTER. Well, that puts it in a different light if Bill Gates is going to pay, as contrasted with the immigrant.

Mr. FREEMAN. Yes. There, the notion of an auction just was the $2,000 got established for some unknown reason and this would establish a market mechanism that would say if we are going to give out 100,000 H–1B visas, the employers who want them the most would bid money for them, the same way we auction off the rights to pollution and things like that. I wouldn't be putting this as a major cornerstone of our immigration policies.

Chairman SPECTER. Professor Chiswick, you have made a suggestion in your writing about prioritizing immigrants based on the economic benefits they are likely to confer on the United States. That is an interesting concept. Would you do that at the expense of family unification? Would you exclude family unification and maintain that priority before taking up the issue of analyzing the economic benefit so that we look to specific immigrants who can add to our productivity?

Mr. CHISWICK. I wouldn't totally exclude family unification. I think in terms of the spouses and minor children and aged parents of U.S. citizens, I would permit that to exist as it does under current law. But I would recommend removing all of the other family categories and I would recommend three changes in allocating visas.

One would be to move away from the current targeted employment policy and move toward a Canadian-Australian style point system for valuating skills. I would also move in the direction of the auctioning or large visa fee system that we have just spoken about, and this would be a way for family members, friends, to express their preference to bring over a particular individual.

Chairman SPECTER. You would auction family reunification visas?

Mr. CHISWICK. No. I would auction visas and people who want to bring their relatives here would have an incentive to contribute to the price of the visa that is auctioned off. So it doesn't have to be Bill Gates who is paying for the visa. It could be the person's brothers, sisters, cousins, aunts, uncles, nieces and nephews.

Chairman SPECTER. It sounds like a pretty tough way to raise public funds to me.

You are lucky, gentlemen, that we are about to vote. Otherwise, we would keep you here well into the afternoon.

Mr. CHISWICK. We are enjoying this.

Mr. SICILIANO. Absolutely.

Chairman SPECTER. Senator Sessions, anything further?

Senator SESSIONS. Well, it is a most fascinating subject. I asked that we do some hearings like this because we are just moving pieces of legislation through and we have hardly had any real discussion of the incredible size and scope of what we are doing and the impact it may have on us.

I was just with the president of the University of Alabama-Huntsville. Kit Bond spoke and referred to his amendment that would allow a college graduate from a foreign country to stay in the country. Now, they have to leave the country.

Professor Freeman, do you have any thoughts about—to my knowledge, there is nothing in this bill that fixes that, but do you think that is a good policy to change that rule?

Mr. FREEMAN. Yes, and I think it is one of the silly things that we do is if you are a foreign student and you want to come to the U.S. to study, you have to tell the State Department person that you are not remotely thinking about working in the U.S.

I talked to the State Department people and I said that do you know that for the Chinese 90 percent of them will stay here? So you realize, of course, they are lying to you when they say no. And the State Department person said we don't pay attention to statistics; we just trust people.

But making entry to the country of these kinds of people sort of a bit of a white lie at the beginning when everyone understands we want them and they want to come to work here—we should just be forthright about that the way the Australians and the Canadians are.

Senator SESSIONS. Well, I was in Russia in the early 1990's and we had a guide who spoke perfect English. She was a very attractive young lady and she wanted to have a visa to come to the United States, and they said, no, she would never get it. We said why? Well, she will probably get married, you know, and she probably won't return.

What kind of rule is that when we have people who say we have got to have somebody to put a piece of chocolate on your bed every night, and this lady could have contributed in any number of ways to the good of the United States?

Let me just raise an issue. I just want to raise this because I know it is anecdotal, but I think it is worth talking about. Jared Bernstein of the liberal Economic Policy Institute said, "Of course, there are jobs that few Americans will take because wages and working conditions have been degraded by employers. But there is nothing about landscaping, food processing, meat-cutting or construction that would preclude someone from doing these jobs on the basis of their nativity. Nothing would keep anyone, immigrant or native-born, from doing them if they were paid better or had better conditions."

In my hometown of Mobile, there was a recent need after Hurricane Katrina, which is the classic thing I think you would need a temporary worker for. I mean, you have got roofs all over town that need to be replaced—a classic need for a temporary worker. So we had a lot of Hispanic workers.

There was a recent article in the Washington Times entitled "Arrival of Aliens Ousts U.S. Workers," and the article describes how 70 laborers and construction workers were working for $10 an hour in the aftermath of Hurricane Katrina, but were told they were no longer needed when the Hispanic workers showed up.

This is a quote from the article: "Linda Swope, who operates Complete Employment Services in Mobile, told the Washington Times last week that the workers, whom she described as U.S. citizens, residents of Alabama and predominantly black, had been urgently requested by contractors hired to rebuild and clear devastated areas of the State, but were told to leave three job sites when foreign workers showed up."

"After Katrina, our company had 70 workers on the job the first day, but the companies decided they didn't need them anymore because the Mexicans had arrived, Ms. Swope said. I assure that it is not true that Americans don't want to work. We had been told that 270 jobs might be available and we could have filled every one of them with men from this area, most of whom lost jobs because of the hurricane. When we told the guys they would not be needed, they actually cried and we cried with them. This is a shame."

Does anyone want to comment on that?

Mr. CHISWICK. I agree with that statement that there is a competition in the labor market and the large increase in low-skilled immigration that we have seen over the last 20 years has had a substantial negative effect on the employment and earning opportunities of low-skilled Americans.

On the other end of the skill distribution, the high-skilled immigrants, we are in intense international competition not just with Canada and Australia, but now also with Western European countries that are all developing immigration policies to attract high-skilled immigrants. And we are essentially subsidizing Canada and Australia by our immigration policies which make it that much more difficult for high-skilled immigrants to come to the United States permanently.

Chairman SPECTER. The vote has just started, so you may comment, Professor Holzer, but if you would make it brief, Professor Siciliano wants to comment and I wouldn't be surprised if Professor Freeman wants the last word. Just be brief.

Mr. HOLZER. Senator, I don't share the view that has been expressed that low-skilled immigrants have really dramatically depressed or reduced opportunities for native-born workers. I did say earlier that I thought construction was a sector where a lot of native-born workers would be interested.

I think in this particular case of Katrina, this is an example where we could be doing more not necessarily to drive the immigrants out of America, but to level the playing field and increase the opportunities for native-born workers to improve the networks and the skills that they get.

I think, for instance, if public funds are being expended on the rebuilding of Katrina, it would be fairly easy to generate some requirements that contractors look first and make some efforts to bring in native-born workers. I would favor those kinds of attempts to level the playing field and increasing the opportunities for the native-born workers. And in the case of Katrina, I think there is a strong case to be made.

Chairman SPECTER. Professor Siciliano, do you have a brief comment?

Mr. SICILIANO. Yes, two key points. I think anecdote in the hands of the economist is a dangerous weapon, so let me just give two kind of actual points of data. First, in the 1960's we know that roughly half of the U.S. work force lacked a high school diploma, and now about 12 percent of the native-born work force lacks a high school diploma.

This skill set difference is driving the comment that I think is true, which is it is not the case that immigrant labor is displacing by and large U.S. labor or depressing wages, and there are two key points to highlight that. Nevada and Kentucky, arguably similar in cost of living in many ways—7.5 percent of the population of Nevada right now is estimated to be undocumented. The average high school drop-out wage is $10 per hour. In Kentucky, less than 1 percent of the population is estimated to be undocumented, and yet the high school drop-out wage is $8.73 per hour.

It can't be simplified into simply saying immigrant labor shows up and it hurts U.S.-born labor. It is much more complex than that. I think, net, it clearly benefits U.S. labor.

Chairman SPECTER. Professor Freeman, do you have a brief concluding comment?

Mr. FREEMAN. I want to give a speech, but I guess I am not allowed to. The fact is that in no single occupation in this country, including the worst occupations that we can think of in terms of wages, are immigrants the majority. I think 30 to 40 percent is about the most we get in any occupation.

So there are parts of the country where the jobs that we might think of now as for low-level immigrant workers—they are being filled in parts of the country where there aren't immigrants by Americans. That means that Americans are willing to work at these jobs. They may not be willing to compete with an immigrant at very low wages, particularly when the immigrant may be getting paid illegally off the books, and so on.

Chairman SPECTER. Gentlemen, thank you all very much for coming. If you would respond to my inquiry within 2 weeks, it would be greatly appreciated because we expect the immigration bill back on the floor shortly; that is, to give us your projection as to how you would structure a guest worker program, considering the economic factors of not taking or minimizing the taking of jobs, and not lowering or minimizing the lowering of wages. But recognizing that, as Professor Holzer says, these are very difficult issues and nobody knows the answers with precision, your projections would be enormously helpful to the Committee and to the Senate.

Thank you all very much and that concludes our hearing.
[Whereupon, at 11:17 a.m., the Committee was adjourned.]
[Submissions for the record follow.]
[Additional material is being retained in the Committee files.]

SUBMISSIONS FOR THE RECORD

Immigration: The Economic Impact
Written Testimony
by
Barry R. Chiswick

The theme of this hearing is "Immigration: The Economic Impact." When I am asked the question "What is THE economic impact of immigration?" where the tone indicates the emphasis on the word "the," I respond that this is not be best way to couch the question. There are two fundamental questions. One is: "What is the optimal size of the immigrant population?" The other is: "What are the different impacts of immigrants that differ in their productivity-related characteristics?"

Impacts on Relative Wages

Let us begin with a discussion of the second question. Conceptually, it is best to think in terms of two types of immigrants, which for simplicity we will call high-skilled and low-skilled, with the same two skill groups represented in the native-born population. High-skilled immigrants will have some characteristics in common, without regard for their country of origin. They tend to have high levels of schooling, which means they tend to have a high degree of literacy, perhaps also numeracy, critical thinking or decision-making skills. Many, but not all, will have a high degree of scientific or technical knowledge, and in the modern era a high comfort level with computer technology. Many, but certainly not all, will either have a degree of proficiency in the destination language (in this case, English) or the ability to acquire proficiency in that language shortly afer arrival. These are all characteristics that have been shown to improve the earnings of immigrants and to facilitate their economic adjustment in the host country.

Although particular individuals may differ, low-skilled immigrants generally have little formal schooling, limited literacy proficiency in their mother tongue (the language of their origin country), and limited scientific and technical knowledge. These are characteristics associated with low earnings in the destination.

High-skilled and low-skilled immigrants will, in general, have different impacts on the host economy and labor market. Labor markets behave in a manner similar to other markets, in that a greater supply of a given type of labor tends to depress the market wage of workers with similar characteristics. An increase in the supply of a given type of worker also increases the productivity of the complementary factors of production with which it works, including other types of labor and capital. To give a simple example, an increase in the supply of low-skilled restaurant kitchen help will result in more competition for this type of job and lower wages for ordinary kitchen workers. Yet this will increase the productivity (and hence wages) of the master chefs because with more help for the menial kitchen chores they can spend their time on the highly specialized tasks for which they have trained. By the same token, an increase in the supply of high-skilled chefs would raise the productivity of low-skilled restaurant kitchen workers since they would have more master chefs for whom to work.

The result of high-skilled immigration tends to be an increase in the wages of all low-skilled workers (and reduce their use of public income transfers) and a decrease in the wages of high-skilled natives. This reduces income inequality, which we generally view as a good development. Like high-skilled natives, the taxes paid by high-skilled immigrants tend to be greater than the costs they impose on the public treasury through the income transfers they receive, the schooling received by their children, and the

publicly subsidized medical care that they receive. High-skilled immigrants are also more likely to bring with them the scientific, technical and innovative skills that expand the production capabilities of the economy. As a result, the population as a whole tends to benefit from high-skilled immigration, although with some benefiting more than others.

Now consider the impacts of low-skilled immigration. While these immigrants tend to raise the earnings of high-skilled workers, their presence in the labor market increases competition for low-skilled jobs, reducing the earnings of low-skilled native-born workers. This not only increases income inequality, which is rightly considered to be undesirable, it also increases the need among low-skilled natives for public assistance and transfer benefits. Because of their low earnings, low-skilled immigrants also tend to pay less in taxes than they receive in public benefits, such as income transfers (e.g., the earned income tax credit, food stamps), public schooling for their children, and publicly provided medical services. Thus while the presence of low-skilled immigrant workers may raise the profits of their employers, they tend to have a negative effect on the well-being of the low-skilled native-born population, and on the native economy as a whole.

These points are not purely theoretical arguments. In the past two decades the real wages of low-skilled workers have remained stagnant even as the real earnings of high-skilled workers have risen. As a result, income inequality has increased. Several factors have been responsible for this development, but one of them has been the very large increase in low-skilled immigration.

The "Need" for Low-Skilled Immigrants

"But," I am often asked, "don't we need low-skilled immigrant workers to do the jobs that native workers are unwilling to do?" I respond: "At what wage will native workers decline to take these jobs?" Consider the following thought experiment: What would happen to lettuce picking or the mowing of suburban lawns if there were fewer low-skilled workers? Earlier this month on ABC's Nightline program a winter lettuce grower in Arizona provided the answer. He acknowledged that he would pay higher wages to attract native-born workers and he would speed up the mechanization of lettuce harvesting. The technology is there, but with low wages for lettuce pickers there is no economic incentive for the growers to mechanize or invest in other types of new technology. If the supply of low-skilled immigrant workers decreased substantially, mechanical harvesting would replace many of them with capital (machines) and more highly paid native workers. How would suburban lawns get mowed if there were fewer low-skilled immigrant workers? Wages for lawn care workers would surely rise. The result would be that more teenagers and other low-skilled native workers would find it worth their while to make themselves available for this work.

In addition to this substitution of one type of labor (youthful and low-skilled natives) for another (low-skilled immigrants), there would be other adjustments to the higher cost of lawn mowing. One would be letting the grass grow longer between mows – say, every ten days instead of weekly. Another would be the substitution of grass that grows more slowly, or the substitution of ground cover or paving stones for grass, etc. The point is that there would be many ways for consumers and employers/producers to respond to the higher wages of low-skilled workers to mitigate the adverse effects of having fewer low-skilled immigrants.

A Century Ago

At this point in the conversation, someone usually points to the period of mass immigration of unskilled workers from the 1880s to the 1920s: If these arguments are valid now, wouldn't they have applied at that time as well? – and we know that immigration was a tremendous net benefit to the United States at that time. The answer is both yes and no. The economy and economic institutions of 100 years ago were quite different from those of today in ways that are both important and relevant to our discussion. Then, rapid industrialization of the American economy generated a very large demand for unskilled workers in mines and in factories producing everything from steel to shirts. This is no longer the case. Technological change, the increased cost of even low-skilled labor (wages plus fringe benefits and employment taxes), the falling cost of capital equipment, and globalization/international trade have sharply reduced the demand for low-skilled workers in U.S. manufacturing, mining, agriculture, and even service occupations and industries. Moreover, 100 years ago income inequality and income distribution issues were not a matter of public policy concern. If there were poor people in the United States – so be it. If private individuals and charities helped the poor – fine, but there was nothing like the tax-funded income transfer system in place today.

Yet in some ways the mass immigration from Europe 100 years ago had a similar impact as the one we are facing today. By holding down the wages of low-skilled workers in the industrializing centers of the economy, especially in the Northern states, rural-urban and South-North migration was slowed. Rural and Southern poverty persisted longer than they might have otherwise, and it was only after war (WWI) and immigration restrictions (in the 1920s) had effectively stopped the European migration that these poverty-reducing internal migrations resumed. While there is no question that

there were long-term benefits from the massive wave of immigrants for the country as a whole, it is also true that the low-skilled native-born workers of that time paid a price.

Fallacies in Estimating Immigrant Impacts

In the course of these hearings on the economic impact of immigration, you may receive testimony regarding a body of literature that attempts to estimate this impact. In this literature a statistical technique, regression analysis, is used to show how the wages of native workers (or low-skilled natives in particular) in a state or metropolitan area are affected by the extent to which there are immigrants (or low-skilled immigrants) in the same area. These studies tend to find no relation, or sometimes a very small relation, between the presence of immigrants and wage levels.

There is nothing wrong with regression analysis *per se* as a statistical technique, but its application in this case is flawed. This application of regression analysis requires us to assume that each state or metropolitan area is a self-contained economy, with little or no in-and-out movement of workers, of capital, or even of goods and services. We know, however, that this is not the case. Labor, capital and goods are highly mobile across state boundaries and metropolitan areas. What we learn from these studies is not that immigrants have no effect on wages, but that these wage effects – whatever they may be – have spread throughout the country. Although it does provide evidence that markets in the United States function quite efficiently, the impacts of immigration can not be detected by this statistical technique.

At the aggregate level, many analyses consider immigrants as an undifferentiated whole without distinguishing between high-skilled and low-skilled workers. These also provide misleading implications, often to the effect that immigrant impacts on wages and income distribution are small. When the positive economic benefits of high-skilled

immigration are lumped together with the more negative consequences of low-skilled immigration, they appear to cancel each other out because there are both gains and losses. In the real world, however, the penalty paid by low-skilled natives because of high levels of low-skilled immigration is not so easily cancelled out by the positive impacts of high-skilled immigration.

Does Country of Origin Matter?

To this point I have not said anything about country of origin. That is because country of origin *per se* is not really relevant for an analysis of economic impacts. What is most relevant is the skills that immigrants bring with them.

Immigration Law and Low-Skilled Immigrants

I have also not said anything yet about legal status. For various reasons, most individuals working in the United States in violation of immigration law are low-skilled workers. But most low-skilled workers are not "undocumented" aliens. Most low-skilled workers were born in the United States and hence are citizens by birth.

Current U.S. immigration law, however, *encourages* the legal immigration of low-skilled workers. This encouragement comes through the kinship preferences for various relatives built into our legal immigration system and to the smaller diversity visa program. Our immigration law permits a "snowball effect" where even immigrants granted a visa for the skills they bring to the U.S. labor market can sponsor low-skilled relatives who will then legally work in the U.S.

Of the 946,014 people who received Permanent Resident Alien visas in 2004, 65.6 percent entered under one of the several kinship categories, 8.8 percent entered as refugees or asylees, 5.3 percent entered under "diversity" visas, and 3.5 percent had a cancellation of deportation order. The 155,330 employment-based visas represented only

16.4 percent of the total. However, only about half of those who received an employment-based visa were themselves skill-tested (less than 73,000), while the remainder of these visas were received by their spouses and children. Thus, only about 7.6 percent of the nearly one million visa recipients were asked a question about their skills. (See Figure 1.)

The 1986 Immigration Reform and Control Act (IRCA) was sold to the American public as having two major features – amnesty which was to "wipe the slate clean" of undocumented workers, and employer sanctions which was to "keep the slate clean" – along with some increased border enforcement of the immigration law. Employer sanctions were intended to cut off the "jobs magnet" that attracted undocumented workers to the United States. Half of the political bargain was fulfilled. Under its two major amnesty provisions legal status was granted to nearly 3 million undocumented individuals, nearly all of whom were low-skilled workers, and millions more have subsequently been able to immigrate as their relatives. It is noteworthy that while in 1986 the word "amnesty" was used outright, in the current political debate the "A" word is anathema to the proponents of what is euphemistically called "earned legalization." This by itself is testimony to public perception of the failures of the 1986 Act.

Border and Interior Enforcement

Border enforcement, both at land borders and at airports, is a necessary element in the enforcement of immigration law. Border enforcement by itself has not, can not, and will not work in controlling illegal entry of undocumented immigrants. If a potential immigrant is unsuccessful in penetrating the border on the first try, success may be had on the second or third try. This may be done by "entry without inspection" (i.e., sneaking across the border) or by using "fraudulent documents" at a border crossing point.

Alternatively, a "visa abuser" enters into illegal status by violating a condition of a legally obtained visa – by working while on a tourist visa, for example, or by overstaying the time limit permitted on a temporary visa.

Thus, border enforcement must be complemented with "interior enforcement." The 1986 Act focused on "employer sanctions," penalties for employers who knowingly hire people who do not have the legal right to work in this country. There has, however, been no serious effort over the past two decades to enforce employer sanctions. Modern technology makes it easier to create fraudulent documents, but it also makes it easier to develop more stringent identity checks. There are two major failings in the current system. Employers are not given a "foolproof" mechanism to readily identify those with a legal right to work, and the Federal authorities show no interest in enforcing the law, except for an occasional "show raid."

It is not obvious that new enforcement legislation (e.g., to criminalize an illegal status) is called for. What is obvious is that illegal immigration can not be controlled without a political will to enforce current immigration law. This includes providing employers with a simple and "foolproof" mechanism for identifying workers with a legal right to work in the U.S. along with more stringent enforcement of employer sanctions.

The Current Immigration System

The current legal immigration system is not serving the best economic interests of the United States. Only a small percentage of the immigrants who enter the U.S. legally in any year (less than 8 percent) are screened for their likely economic contribution to this economy. The vast majority enter under a nepotism system (the kinship preferences), with a smaller group entering under a lottery (diversity visas). To enhance the competitiveness of the U.S. economy in this increasingly globalized world, where

efficient competitors are emerging across the world, the U.S. needs to change the basic question from "To whom are you related?" to "What can you contribute to the U.S. economy?"

Other highly-developed democratic countries – Canada, Australia, New Zealand – introduced "skills-based" immigration policies several decades ago. More recently, some countries in Western Europe have done the same. Some, like Canada and Australia, use a "points system" in which points are awarded based on characteristics that research has shown to enhance the earnings of immigrants such as age, schooling, technical training, and proficiency in the host country's language. Those with more than the threshold number of points receive a visa for themselves, their spouse and their minor accompanying children. This shift in emphasis in the rationing of visas would increase the skill level of immigrants and provide greater economic benefits to the U.S. economy than the current system.

A points system has many advantages over the current targeted employment-based visas. Under the current system a complex and very expensive bureaucratic process is required for employers to demonstrate to the U.S. Department of Labor not only that the visa applicant is qualified for a specific job but also that there is no qualified person with a legal right to work in the U.S. who will take the job at "prevailing wages." Even then, the worker who obtains a visa through this process is not obliged to remain on that job or with that employer.

Other proposals would use market mechanisms to "close the gap" between the large demand for visas and the much smaller supply that the U.S. is willing to make available. One possibility would involve auctioning visas; another involves charging a

large market-clearing "visa fee." Among other advantages of these market mechanisms is that people in the U.S. can express their preferences for bringing relatives and friends by contributing to the price of their visa. Nor does there need to be only one mechanism – a skill-based system and a market-based system could both be used.

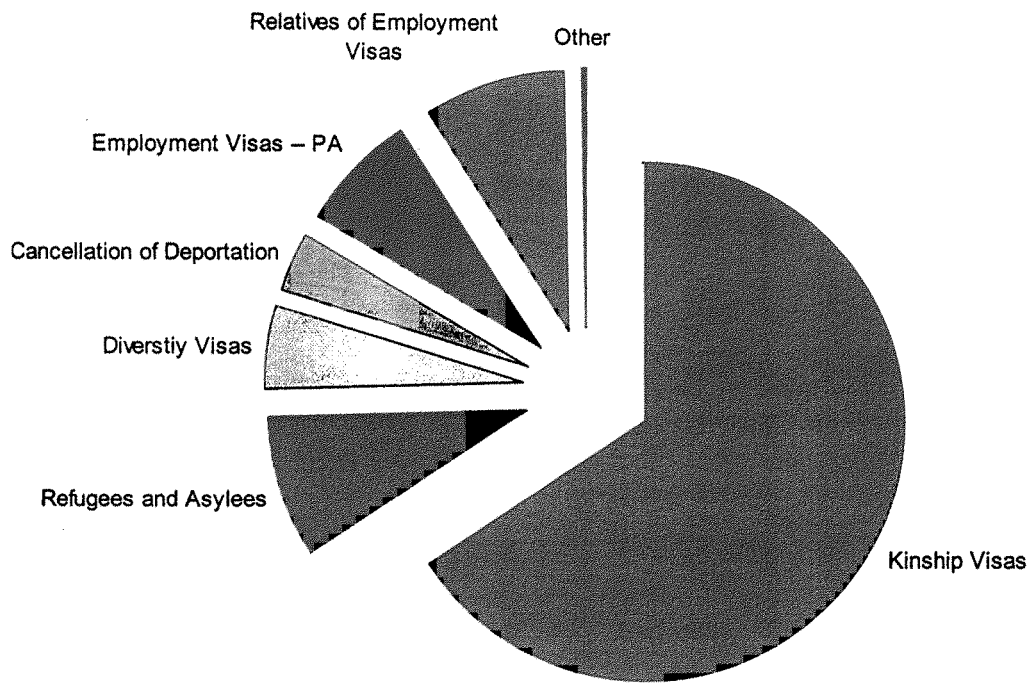
How Many Immigrants?

This returns us to a question posed early in this testimony: "What is the optimal size of the immigration flow?" The optimal immigration policy is neither a completely open door nor a completely closed one. There is no magic number or proportion of the population. Currently, legal immigration is running at approximately one million immigrants per year. This is on a par with the peak period of immigration from 1905 to 1914, when immigration also averaged one million per year. Yet, relative to the size of the U.S. population, current legal immigration is about one-fourth of the ratio in this earlier period. There is no clear evidence that the U.S. has exceeded – or even reached – its absorptive capacity for immigration. The U.S. economy and society exhibits a remarkable adaptability to immigrants, and thus far immigrants continue to show considerable adaptability to the U.S. economy and society. This adaptability means that the U.S. economy can absorb a continuous stream of immigrants without fracturing the system.

The demand for visas to enter the U.S. is very strong and, if anything, it seems to be increasing. This is a credit to the U.S. economy, society, and political system. The number of visas the U.S. political process is willing to supply is not immutable. The greater the economic benefits of immigration, the larger the optimal number of visas and the greater the willingness of the American public to provide them.

A comprehensive immigration policy reform would reduce undocumented migration by more stringent enforcement of existing law. It should also include the adoption of a skill-based points system and/or market mechanisms to ration visas, while limiting kinship migration to the immediate relatives of U.S. citizens (spouse, minor children, aged parents). These policies would increase the benefits of immigration for the American public, providing economic incentives to increase the supply of visas and hence the annual total number of immigrants entering the country legally.

Figure 1: Distribution of Visas by Type: 2004



JOHN CORNYN

United States Senator – Texas
CONTACT: DON STEWART
(202) 224-0704 office
(202) 365-6702 cell
don_stewart@cornyn.senate.gov

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CORNYN SEEKS FULL AND HONEST DEBATE ON COSTS OF IMMIGRATION REFORM

Compromise proposal would create a massive 'balloon payment' in the second decade

STATEMENT OF U.S. SEN. JOHN CORNYN
Hearing of the Senate Judiciary Committee on the costs of immigration reform

WASHINGTON—*U.S. Sen. John Cornyn (R-Texas), chairman of the Immigration, Border Security and Citizenship subcommittee, made the following statement Tuesday regarding the high costs of providing amnesty to 12 million illegal aliens. Sen. Cornyn chaired a hearing in the Immigration, Border Security and Citizenship subcommittee on May 26, 2005 titled* The Need For Comprehensive Immigration Reform: serving Our National Economy:

I would like to thank Chairman Specter for scheduling today's hearing. Immigration reform must serve both our national security and our national economy. While our current immigration system provides workers, it does so through an underground system which criminals exploit and which unnecessarily exposes the United States to terrorist threats.

Last year, I chaired a hearing of the U.S. Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship titled "The Need for Comprehensive Immigration Reform: Serving Our National Economy." At that hearing, we heard from the Department of Labor, the U.S. Chamber of Commerce, and the CATO institute. The economic contributions of immigrant workers are well-documented, and their participation in the labor force is very high – around 92 percent. Illegal workers now account for nearly five percent of the entire U.S. labor force.

But while there is growing consensus that there needs to be comprehensive reform and improved avenues for legal immigration, there is not yet a consensus on what kind of immigration will best serve the economic interests of the United States, and the overall interest of our country.

We cannot explore the economic impact of immigration without considering how various reform proposals will impact the federal deficit. The Congressional Budget Office (CBO) estimates that the current Senate "compromise bill" will result in $27 billion in mandatory spending in the first ten years alone, including $12 billion for Medicaid, $3 billion for food stamps, and $12 billion in Earned Income Tax Credits. Of greater concern is that the proposal would create a "balloon payment" in the second decade when millions of illegal aliens granted amnesty would become eligible for federal benefits. Yet the current CBO estimate does not account for that dramatic increase because it falls outside of the ten-year budget projection. What is clear is that a large-scale amnesty like the one in the current Senate proposal would cost U.S. taxpayers tens of billions of dollars, and the true impact may not be felt for years to come.

MORE

Our immigration policy must also be capable of adapting to changing economic conditions. Right now, the United States is enjoying a healthy, growing economy. The Bush economy created 211,000 jobs in March and has created about 2.1 million jobs over the past 12 months, a true testament to the benefits of lower and flatter taxes. More than 5.1 million jobs have been created since August 2003. The unemployment rate is 4.7 percent - lower than the average of the 1960s, 1970s, 1980s, and 1990s. In a climate of strong job creation, foreign workers are less likely to compete with U.S. workers for jobs.

But because we will not always enjoy such a strong economy, our immigration policy must strike the appropriate balance between temporary and permanent workers. A temporary worker program, built around a floating visa cap, would allow the number of foreign workers in the U.S. to rise and fall based on market demand. During a slow economic period, fewer visas would be issued and U.S. workers would face less competition. But while the current Senate proposal is described as a "temporary" worker program, it is anything but. All unskilled workers – 325,000 a year - would automatically become eligible for green cards after working in the U.S. for four years. That model allows for no flexibility when there is a decrease in the number of jobs in the United States. Moreover, the Senate proposal does away with the requirement that an employer establish that there are no qualified U.S. workers before the company may sponsor an unskilled worker for a green card. The combination of permanent status for all unskilled workers and an erosion of U.S. worker protections will undoubtedly harm American workers.

Finally, this Committee must consider the economic impact of U.S. immigration policy on sending countries. Those countries increasingly are growing dependent on remittances sent by workers in the United States. From 2000 to 2001, remittances to Mexico and Central America grew by 28 percent from $10.2 billion to $13 billion, even as the Hispanic unemployment rolls were swelling. Mexican emigrants will send as much as $20 billion in cash this year to relatives in Mexico. No country can build up a diverse economy when the majority of its young, motivated workers emigrate to another country. And by placing all unskilled workers on a direct path to permanent status, the current proposal takes us further away from the pattern of circular migration that would serve the economic interests of both countries.

I again thank the Chairman for holding this hearing and I look forward to hearing from our panel of experts.

Sen. Cornyn is a member of the following key Senate Committees: Armed Services; Judiciary; Budget; Small Business and Entrepreneurship; and Joint Economic. He is also the chairman of the subcommittees on Immigration, Border Security and Citizenship and Emerging Threats and Capabilities.

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www.cornyn.senate.gov/immigration

Richard B. Freeman
Harvard University and NBER
April 25, 2006

I have organized my comments around eight points.

1) Immigration is part of globalization. It is intimately connected to increased trade, free mobility of capital, and transmission of knowledge across national lines. Ideally, immigration and these other flows allow the US and the world to make better use of available resources and to raise national and world output. A worker who comes to the US increases the American labor supply, which means the country can produce more. If that worker does not immigrate, he or she may make the same or similar good in their native country and export that good to the US. Or a US or other multinational may invest in that worker's country to produce the good. In other situations, the immigrant may bring capital, particularly human capital, with them, so that both capital and labor move together. The message for thinking about immigration in the global economy is: **view immigration as related to trade and capital flows; policies that affect trade and capital will alter immigration and conversely.**

2) Immigration is the least developed part of globalization.. Immigrants make up about 3 percent of the global workforce; whereas international trade's share of world output is around 13 percent; and foreign equities in investors' equity portfolio are on the order of 15 percent, as of the early 2000s. Consistent with this, the range of pay for workers with nominally similar skills is far greater than the range of prices for goods around the world or the returns to capital: The ratios of wages in the same occupation in high paying countries relative to low paying countries are on the order of ten to one measured in exchange rates and are on the order of four to five to one measured in purchasing power parity prices. The comparable ratio for prices of Big Macs is less than

2 to 1 and the comparable ratio for the cost of capital is 1.4 to 1. **Thus, there is a huge incentive for workers to immigrate from developing countries to developing countries. Given this gap in incomes, the incentive to immigrate will remain huge for the next 40-50 years at least.**

3) In the simplest economic model of globalization, the flow of people, goods, and capital are substitute ways to raise production and economic well-being. During the NAFTA debate, the Clinton Administration argued that the treaty would reduce illegal Mexican immigration to the US on the notion that increased trade with Mexico would create more jobs there and lower the incentive to migrate to the US. This turned out to be incorrect. The US attracts capital flows and unskilled immigrants and skilled immigrants while running a huge trade deficit. One reason **is that the US has a technological edge and a business climate edge over most other countries, particularly poor countries.**

4) Economic analysis predicts that immigrants reduce earnings of substitute factors and raise the earnings of complementary factors, where complements include capital and other types of native-born labor. The gains to native complements exceed the losses to native substitutes, so that immigration – like trade and capital flows – are a net boon for the economy. Most immigration studies estimate the adverse effect of immigrants on native earnings or employment, but the logic of the analysis establishes a direct link between the losses to native substitutes and the larger gains to native complements. Studies that compare wages/employment in cities with lots of immigrants with wages/employment in cities with few immigrants find little adverse effect of immigration on native workers. But this also means that there is little native gain from immigration (save when immigrants do things that no native can or will do at any

reasonable wage). Studies that compare wages/employment among groups over time find that immigrants depress the wages/employment of natives, with a larger impact among more highly educated workers. Even so, the gains and losses to natives from immigration are dwarfed by the gains that immigrants themselves make. An unskilled Mexican can earn 6 to 8 times as much in the US as in rural Mexico. **The main beneficiaries from immigration to the US are immigrants; this is why so many are willing to enter illegally when they can – from Mexico or Central America or the Caribbean.**

5) The huge difference in the earnings of low skilled immigrants, in particular, in their native land and in the US creates a powerful economic force for continued immigrant flows and makes it very difficult to control the US borders. At the same time, however, it suggests that many current illegal immigrants or potential immigrants would be willing to pay for legal status in the country. **To change immigration flows from illegal to legal and to control the flows requires redistributing some of the huge gains to immigrants to natives.**

6) At the other end of the skill distribution, the US relies extensively on highly skilled immigrants to maintain our comparative advantage in science and technology. The United States imports science and engineering specialists, who help the country maintain its position at the technological frontier. During the 1990s boom, the United States greatly increased the proportion of foreign-born workers among scientists and engineers. In 2000 over half of the country's Ph.D. scientists and engineers were born overseas! Sixty percent of the growth of S&E workers over this decade came from the foreign born. Without this flow of immigrants, US labs, including government labs such as those of NIH, would have to cut their workload in half. **Highly skilled immigrants**

add to the ability of our economy to maintain predominance in high-tech industries with good jobs and growth potential. The desire of highly educated immigrants to come to the US is a major competitive advantage to the US.

7) But having a huge flow of highly skilled immigrants invariably reduces the incentives for American students to go on in science and engineering. The 1990s increase in science and engineering employment occurred without great increases in pay for these workers, in part because of the large supply of foreign born specialists desirous of coming to the US. Without gains in earnings and quality of work life, many outstanding American students, particularly men, shunned science and engineering in favor of business, law, and other disciplines. This does not however mean that the US must limit foreign flows to attract more Americans into these fields. It can attract more Americans with more and increased graduate fellowships and undergraduate scholarships. **To maintain the US as the lead scientific and technological country, the US should develop policies to attract more able students from our native born population without seeking to reduce immigrant flows.**

8) Multinational firms today source highly skilled labor globally. They seek the best workers they can get regardless of country of origin. As the number of university graduates is increasing throughout the world, the competition facing educated American workers has risen. Is it better for native born and resident Americans to compete with educated foreigners from developing countries who come as immigrants in the US, where wages and working conditions are reasonably high, or to compete with them when they are working overseas, where wages and working conditions are generally lower? Is it better to have US firms offshore jobs or bring in more immigrants? While there is no

definitive analysis of these questions, my guess is that **it is better to have the top foreign talent in the US; and to do what we can to get them to become citizens and remain here than to have them compete with US workers from lower wage settings overseas.** Because trade and capital and immigration flows are intimately connected, however, there are some economic factors operating in the other direction.

In sum, we should think about the economics of immigration in two parts. Taking unskilled and often illegal immigration first, the main beneficiaries of low skill immigration are the immigrants, who have a huge economic incentive to come to the US when they can. The vast improvement they can make in their lives and the lives of their children by coming to our country speaks well for our society, even if few of those benefits accrue to current citizens and residents. With respect to the highly educated immigrants, they add to the country's strength in the sectors that we need to prosper in the global economy. We should compete actively in the global market for the top students and workers in science and engineering and other technical fields, but also provide incentives for more Americans to enter these fields.

Does Immigration Help or Hurt Less-Educated Americans?

Testimony of Harry J. Holzer
Judiciary Committee, U.S. Senate
April 25, 2006

The vast majority of economists in the U.S. believe that, *on average*, immigration is good for the U.S. economy. By helping reduce the costs of producing certain goods and services, it adds to our national output, and makes consumers better off. Business owners also profit very clearly from immigration.

At the same time, it is possible that some native-born Americans – especially the less-educated Americans who might have to compete with immigrants for jobs – might be made worse off. Certain costs – especially for public education and services to the poor – might rise. And there are various noneconomic considerations, both positive and negative.

On these various issues, what does the evidence show? And what does the evidence imply for immigration policy?

Effects on Earnings of Native-Born Americans

For many years, most studies of the U.S. labor market (e.g., Card, 1990; Friedberg and Hunt, 1995; Card, 2001) have shown little or no negative effects of immigration on the wages or employment of native-born workers - including minorities and those with little education. More recently, another few studies (Borjas, 2003; Borjas and Katz, 2005) that use different statistical methods from the earlier ones find somewhat stronger negative effects. According to these more recent studies, immigration during the period 1980-2000 might have reduced the earnings of native-born high school dropouts by as much as 8%, and those of other workers by 2-4%.

However, some strong statistical assumptions are required to achieve these results (e.g., Krueger, 2005; Bohn and Sanders, 2005). And, even in these latter studies, the long run negative effects of immigration (i.e., after capital flows have adjusted across sectors to the presence of immigrants) are reduced to only 4-5% for dropouts and virtually disappear for labor overall.[1]

There seems little doubt, then, that any negative effects of immigration on earnings are modest in magnitude and mostly short-term in nature. To the extent that high school graduates as well as dropouts in the U.S. have fared poorly in the labor market in recent years – especially among men – other factors are much more likely responsible (such as new technologies in the workplace, international trade, and disappearing unionization).

[1] New capital and businesses tend to flow to geographic areas with many new immigrants, thus creating more job slots and counteracting the otherwise depressive effects of immigrant labor on the earnings of natives. See Ottaviano and Peri (2005).

Native-born minority and especially African-American men face many labor market problems besides immigration - such as poor education, discrimination, and the disappearance of jobs from central-cities. In recent years, their high rates of crime and incarceration, as well as child support obligations for non-custodial fathers, have worsened their situation (Holzer *et al.*, 2005).

Does immigration also worsen their plight? There are certain sectors – like construction, for example – where direct competition from immigrants might reduce employment opportunities for black men.[2] But in many other occupational categories (e.g., agriculture, gardening, janitorial work) such competition is more limited or nonexistent, as the native-born men show little interest in such employment at current wage levels.[3] In the absence of immigration, it is possible that wages would rise and maybe entice some native-born men to seek these jobs that they consider dirty and menial; but the wage increases needed would likely never materialize in many cases, as employers would either replace these jobs with capital equipment (Lewis, 2005) or enter other kinds of business as wages rose.

Two additional points are important here. First, the potential competition to less-educated American workers from immigrants depends in part on the overall health of the economy. Immigration rates have been fairly constant to the U.S. over the past few decades. In the very strong labor markets of the late 1990's, these rates of immigration did not prevent us from achieving extremely low unemployment rates and real earnings growth, even among the least-educated Americans. In the more sluggish labor markets since 2001, the same rate of immigration generates more concern about job competition (Sum, 2004; Camarota, 2004). But, even in this latter period, the very weak earnings growth of most American workers cannot possibly be attributed to the arrival of a million or so new immigrants annually (Holzer, 2005).

Second, the illegal status of perhaps one-third of immigrants might well magnify any competitive pressures they generate for less-educated native-born workers. The reduced wages and benefits associated with their illegal status offer employers one more incentive for hiring them instead of native-born workers, who might be interested in some of these jobs and might be more appealing to employers at equal wages.

Other Economic Effects

There is virtually no doubt that immigration reduces the prices paid by consumers on many goods and services. There remains much uncertainty about the magnitudes of these effects, and on exactly who benefits the most. For instance, higher-income Americans might benefit the most from child care and other private household services, gardening,

[2] Employers in these sectors often prefer immigrants to native-born workers, because they perceive better work ethic, lower turnover and better job performance among the former (Moss and Tilly, 2001). In these cases, employers will often encourage the recruitment of immigrants through informal networks to which native-born minorities have little access.

[3] In the jargon of economists, even native-born workers and immigrants who are high school dropouts are very "imperfect substitutes" for one another, and often work in different sectors of the economy (e.g., Cortes, 2005). If anyone is hurt by newly arriving immigrants, it is most likely the earlier immigrants working in the same sectors of the economy.

and food preparation services in restaurants.[4] But lower-income Americans likely benefit disproportionately from lower prices on food, housing and even some medical services that are associated with immigrant labor in agriculture, construction and health support occupations respectively.

Over the next few decades, the contributions of immigrant labor to certain key sectors will likely grow more important. For example, the scientists and engineers needed to keep our nation competitive in scientific innovation and new product development will depend to a growing extent on foreign graduate students who choose to remain here after finishing their schooling (Freeman, 2005), even though their presence might reduce the incentives of some native-born students from entering these fields. In other sectors, the retirements of "Baby Boomers" may also generate stronger labor demand. A variety of labor market adjustments (such as delayed retirements, new technologies, greater foreign "offshoring" of work, etc.) will likely mitigate the impacts of these retirements in the aggregate (Freeman, 2005a). But in certain key sectors – especially health care and elder care – these adjustments are less likely to meet the necessary demand, and the need for immigrant (and other) labor may remain quite strong.[5]

Perhaps the most serious economic costs imposed by immigrants on native-born Americans – at least in those few states that serve as the primary "ports of entry" to immigrants – are those associated with public education, health care and other income transfers to the poor.[6] While these costs are no doubt significant in those states, they have been reduced by legal changes in the welfare system that reduced immigrant eligibility for such transfers (Borjas, 2002). Over time, immigration might modestly improve the fiscal status of Social Security and Medicare, as it helps replenish the falling ratios of workers to retirees.[7]

By far the greatest benefits of immigration to the U.S. accrue to the immigrants themselves, whose earnings here are often vastly higher than they would be in their home countries. Both foreign policy and humanitarian considerations might lead us to approve of this, even though the direct economic benefits to native-born Americans are more limited.

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[4] Cortes (2005) estimates that immigration in the 1990's reduced consumer prices on "non-traded," or locally produced, consumer products by less than 1%. Her estimates are fairly comparable across education (or income) groups. These estimates are based on limited data and a variety of assumptions whose validity will likely be examined in future work.

[5] Health care and elder care demand are likely to grow substantially as the Boomers retire, while caps on third party insurance reimbursements will likely prevent wages from rising sufficiently in these sectors to "equilibrate" (or balance) supply with demand.

[6] While immigrants are somewhat less concentrated geographically today than in earlier years, over two-thirds still reside in six states: California, New York, Texas, Florida, New Jersey and Illinois.

[7] Low-wage immigrant workers may actually draw relatively more funds out the system when they retire, given the progressive nature of the benefit payment system under Social Security. On the other hand, their relatively higher-wage children and grandchildren will likely be contributing more to the finances of the system in those years.

Policy Implications

If immigration is largely good for the overall U.S. economy, should we simply "open the floodgates" and remove all legal restrictions on it? Most Americans would be reluctant to do so, especially since there are some significant costs to immigration, and at least some workers who are made worse off. The noneconomic implications of such a move (e.g., for the national character and makeup of our communities) might also be troubling to many people.

But, if our ability to restrict immigration legally is imperfect, what shall we do? Efforts to improve the enforcement of existing laws in humane ways (e.g., without creating felonies for illegal immigrants and those who hire or assist them, or building costly fences along the Mexican border) may be worth trying, though their effectiveness may be limited. On the other hand, generating pathways by which illegal immigrants in the U.S. can achieve full citizenship (by paying fines, back taxes etc.) makes a lot of sense, given that their illegal status imposes hardships on them and their children while likely exacerbating the competition they pose to native-born Americans. It seems unlikely that any such move would dramatically raise the incentives that illegal immigrants currently have to enter the country, given the gains in their standards of living that occur even when they enter illegally.

Guest worker programs have some major limitations, particularly in terms of enforcing legal rights for these workers and ensuring that they maintain some bargaining power relative to their employers (Krueger, 2005). Since most guest workers stay permanently, the benefits of such an approach seem dubious. But some legal changes that encourage greater immigration of highly educated workers over time would likely generate greater benefits to the U.S. economy, as Borjas (2005) argues.

Finally, if we really want to improve opportunities for less-educated Americans in the labor market, there are a variety of approaches (such as improvements in education and training, expansion of public supports like health insurance and child care, and supporting protective institutions such as minimum wage laws and unions) that would likely be more effective than restricting immigration.

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U.S. SENATOR PATRICK LEAHY

CONTACT: David Carle, 202-224-3693 VERMONT

Statement of Senator Patrick Leahy
Ranking Member, Judiciary Committee
Hearing On "Immigration: Economic Impacts"
April 25, 2006

President Bush is right when he says as legislators and leaders we cannot slavishly follow the ever shifting polls. It is too bad he has not always followed his own advice. When it comes to immigration reform, the Senate and the Congress must do the right thing, not just the currently popular thing. Immigration reform encompasses the need to secure our broken borders while preserving human dignity and human rights. I hope that the President will do more than just talk about what should be done and take action by encouraging his fellow Republicans in Congress to work with us to pass comprehensive, fair and humane immigration legislation.

A GOP Campaign Of Distortion

The bipartisan compromise being considered by the Senate strikes the right balance between enhanced security and realistic reform. It is a marked improvement from the punitive measure passed by the House.

Given President Bush's comments in favor of a comprehensive approach to immigration reform, I was surprised by published reports that the effort to include these harsh criminalization provisions in the bill introduced by Chairman Sensenbrenner in the House actually came from this Administration's Justice Department. Indeed, I take Chairman Sensenbrenner at his word, when he noted in House debate last December: "At the Administration's request, the base bill makes unlawful presence a crime . . . ." *The Los Angeles Times* reported on April 16 that an anonymous White House official confirmed this, as well.

I recently wrote to Attorney General Gonzales in an effort to get beyond the blame game and get to the facts regarding the origin of these criminalization provisions that have provoked so much outrage across the country. I hope that the Attorney General will be more forthcoming in responding to my request than he has been in the past. There is no reason he cannot help us get to the facts by sharing with us the communications he and others at the Justice Department and in the Bush Administration had with House Republicans as they determined to criminalize undocumented presence in the United States and humanitarian efforts to help those in need. Republicans may control the White House and both branches of Congress, but they do not enjoy a Republican-only lobbying privilege that protects such information between the Bush Administration and House Republican leadership.

senator_leahy@leahy.senate.gov
http://leahy.senate.gov/

If the Attorney General is forthright in his answer to my inquiry and provides the information and documents I request, we will know more about where these proposals came from and why they were so strenuously supported until Senator Durbin exposed the matter at our Judiciary Committee markups last month. Good sense and decency prevailed on March 27, when, in a bipartisan effort, our Committee stripped these provisions from the bill. I am encouraged that Senator Frist and Mr. Hastert have joined on a letter revisiting their earlier misguided notions to establish such new felonies as those contained in the House-passed bill and that were introduced by Senator Frist in his original proposal. We cannot backslide into criminalization of undocumented presence with oppressive collateral consequences for hardworking immigrants and their families.

I had hoped that progress on this matter was significant until I heard that Republican political operatives have paid for misleading radio ads on Spanish language stations seeking to blame Democrats for these provisions. This is not spin, it is downright distortion. These provisions were initiated and supported by the Bush Administration and congressional Republicans. Revealing the truth will put the lie to these partisan charges and false suggestions. The ads run by the Republican National Committee represent politics at its worst. This is an irresponsible and shameless example of putting base political interests over truthfulness, integrity and the security interests of the American people, and those behind it should be exposed. I hope we can get beyond this kind of rank partisanship and join together to enact historic legislation that will comprehensively address our immigration situation.

I ask that a copy of my April 21 letter to the Attorney General be included in the record. I do hope that he will be responsive and provide the information and materials that will show the vicious and partisan Republican ad campaign for what it is.

Ineffective Enforcement Requires Improved Security

We need to be concerned about the security of our borders. I was among those who pushed for added enforcement along the Northern Border as well as our Southern Border over the last several years and have voted to provide the resources necessary to make those commitments a reality. It is the Bush-Cheney Administration that has been the impediment to the hiring and training of the additional Border Patrol agents we have sought to require legislatively.

For all its talk and swagger about security, the Bush-Cheney Administration has not lived up to its rhetoric in securing our borders. A report card issued by the 9/11 Commissioners in December 2005 evaluated this Administration's efforts on border security at a D – below average. Just last month we heard about nuclear material being successfully smuggled across our borders. This April, a U.S. Citizenship and Immigration Services employee, Michael Maxwell, testified before a House subcommittee about an astonishing culture of corruption, and misdirected priorities in the agency within the Department of Homeland Security charged with processing

immigration applications. He testified about district offices that reward employees with bonuses, movie tickets and gift certificates for disposing of applications rapidly.

A Bipartisan and Comprehensive Solution

Despite the partisan bickering and idleness of this Administration, the Senate was able to forge a bipartisan coalition of its members to join around a proposal that was tough on security while being fair to the millions of immigrants who work and live in our country. The Senate made progress, and it was done the old-fashioned way – among Democrats and Republicans working to do what was right, not what was politically popular. Just before the Senate adjourned for recess earlier this month, we were focused on a solution to the problems posed by having millions of undocumented immigrants inside our borders.

Many of us believe that immigration reform needs to be comprehensive-- with strong enforcement and border security, matched with fair and effective steps to bring millions of hardworking people out of the shadows and provide them a path to earned citizenship and a full measure of America's promise. We were close to achieving that with a bipartisan compromise.

The bipartisan Committee bill and the outline of the Hagel-Martinez bill represent a balance of strong enforcement of our borders with fair reforms that honor human dignity and our American values. I continue to work for a bill and a law that is fair to all. We all agree that it will be tough on security, but it also has to acknowledge our American values and human dignity. The House-passed bill and the original Frist bill were overly punitive and did not include a path to earned citizenship.

American Traditions of Dignity and Fairness

Earlier this month, hundreds of thousands immigrants and citizens around the country rallied and spoke out for fairness. In peaceful petitions across the country on April 10 people took part in a National Day of Action for Immigrant Justice. Participants in those rallies acted in a great American democratic tradition.

I am sorry that Republican leaders in the House have remained so resistant to their calls for fair treatment, a way out of the shadows and a pathway to earned citizenship. I was disturbed to hear Republican legislators condemning Mayor Villaraigosa and California Lieutenant Governor Cruz Bustamente as affiliated to a "radical racist group." Just yesterday, Governor Schwarzenegger convened a news conference to report that California Lieutenant Governor Cruz Bustamante and Los Angeles Mayor Antonio Villaraigosa had received death threats over the immigration issue. Governor Schwarzenegger was right to say that "hate, racism and intolerance are never accepted in our public debates." A Member of the House of Representatives recently said that if the recent protestors "really want to honor America's values, they would stand up to lawbreakers and embrace an enforcement-first approach." In striking contrast, I have not seen congressional Republicans adopting that stance with respect to President Bush's

violation of the Foreign Intelligence Surveillance Act statute by a secret program for warrantless wiretapping of Americans.

A Promise For Real Reform That We Must Keep

I hope that the Republican leadership in the Congress will work with us to follow through on the promise of fair, comprehensive immigration reform. A bipartisan majority of the Senate has now voted consistent with moving forward on comprehensive immigration reform and has rejected the narrow and unrealistic enforcement-only approach. I hope the emergency supplemental appropriations legislation will not be manipulated into an enforcement-only effort that leaves millions in the shadows.

Our work on immigration reform is a defining moment in our history. We are writing laws that will determine people's lives and what it is that America stands for. I continue to urge the Senate to rise to the occasion and act as the conscience of the Nation. I continue to work on immigration reform so that the laws we enact will be in keeping with the best the Senate can offer the Nation and the best that America can offer to immigrants. I hope that our work will be something that would make my immigrant grandparents proud, and a product that will make our children and grandchildren proud. The question is still before us whether the Senate is committed to making real immigration reform.

I am concerned that the majority leader's announcement of a "breakthrough" two weeks ago is having the unintended effect of creating a false impression and false hopes. I commended him for changing his position over the course of the recent Senate debate. I am delighted that he and others who had been opposing comprehensive immigration reform with a path to earned citizenship re-evaluated their position and joined us in the effort.

But an announcement is easy, enacting a new law is not. We are still a long way from enacting fair, comprehensive and humane immigration reform. None has yet passed the Senate. None has passed the House. The cruelest joke of all would be to have raised expectations and false hopes by premature talk of a solution when none has yet been achieved. That promise needs to be fulfilled.

I urge everyone concerned about the lives of those who are undocumented to remain focused on enacting a law, and on what it will provide in its final form. It would be short-sighted to pass a bill that ends up serving as a false promise to those who yearn to be part of the promise of a better life that is America.

I am still hopeful that the Senate can pass legislation that is similar to the bill we reported from this Committee. That is why we are here today. I want to thank the experts who have come here today to share their views on the economic impact of immigration. I am committed to moving forward with a fair, humane, and realistic piece of legislation that will address immigration issues comprehensively.

# # # # #

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

April 21, 2006

The Honorable Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Gonzales:

It was recently reported that the Justice Department requested the inclusion of provisions in the House immigration bill, H.R. 4437, which are controversial in that they are seen to criminalize both undocumented presence in the United States as well as acts of humanitarian assistance in the aid of undocumented individuals.

As you know, the House bill was sponsored by Chairman Sensenbrenner, who noted on the House floor during debate of the bill that the Bush-Cheney administration had originally proposed the idea to criminalize undocumented status. On the House Floor on December 16, 2005, during debate on these provisions, Chairman Sensenbrenner stated: "At the Administration's request, the base bill makes unlawful presence a crime, such as unlawful entry already is. This change makes sense. Aliens who have disregarded our laws by overstaying their visas to remain in the United States illegally should be just as culpable as aliens who have broken our laws to enter and remain here illegally." *The Los Angeles Times* reported on April 16 that an anonymous White House official confirmed this.

Would you please provide a detailed account of all contacts between the Justice Department – and, to the extent you can determine, other components of the Administration – and the Republican leadership in the House of Representatives, regarding these provisions, as well as copies of all communications with any House Republicans in connection therewith? I would appreciate your prompt and thorough response to this request.

Sincerely,

PATRICK LEAHY
Ranking Member

Written Testimony of

Dan Siciliano

Executive Director, Program in Law, Economics, and Business
Stanford Law School

Research Fellow, Immigration Policy Center
American Immigration Law Foundation, Washington, DC

Before the

Senate Committee on the Judiciary

April 24, 2006

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today. My name is Dan Siciliano and I am the Executive Director of the Program in Law, Economics, and Business at Stanford Law School. I am also a research fellow with the Immigration Policy Center (IPC) at the American Immigration Law Foundation, a non-partisan, non-profit foundation focused on research and writing about the role of immigrants and immigration policy in the United States.

Today's hearing on U.S. immigration policy and its impact on the American economy comes at a critical time. Efforts are underway in the House and in the Senate to repair a system that is generally acknowledged to be broken. I suggest that any reform to immigration policy should be evaluated by considering how immigrants directly, and as the evidence now seems to indicate, positively impact our nation's economic prosperity.

Much of the public debate over immigration in the United States has focused on the rapid growth of the undocumented population over the past decade and a half. However, undocumented immigration is just one symptom of the larger disconnect between U.S. immigration policy and the reality of our economy's fundamental reliance on a diverse and, hopefully, growing pool of available labor. The U.S. economy has become increasingly reliant on immigrant workers to fill the growing number of less-skilled jobs for which a shrinking number of native-born workers are available. Yet current immigration policies offer very few legal avenues for workers in less-skilled occupations to enter the country. Undocumented immigration has been the predictable result of the U.S. immigration system's failure to respond effectively to actual labor demand.

Many critics of immigration point to economic arguments that the presence of immigrants, particularly undocumented immigrants, has broad negative consequences for the native-born workforce. Some claim that immigration reduces employment levels and wages among native-born workers. This is generally not true. These arguments are largely the result of an over-simplified economic model used to measure the impact of immigration on the workforce, while ignoring the role that immigrants play in expanding the economy and stimulating labor demand through their consumer purchases and investments. Moreover, the empirical evidence indicates

that businesses expand through the investment of more capital when the labor supply is not artificially constrained. Careful analysis and more recent studies add a dynamic component to the economic analysis of immigration by treating immigrants (both documented and undocumented) as real economic agents: earning, spending, and investing in the economy. Businesses, in turn, are considered dynamic as well: adjusting to the available resources and expanding accordingly. Or, if this issue should be mishandled, rediverting resources and shrinking accordingly.

Few argue with the notion that immigration provides many benefits to the United States. As a nation of immigrants, our culture, customs, and traditions reflect the diverse backgrounds of the millions of individuals who have made their way to America over time. But more than cultural benefits, recent economic analysis, including work by Giovanni Peri of the University of California, shows that the United States sees real economic benefits from immigration. Native-born wages increased between 2.0 and 2.5 percent during the 1990s in response to the inflow of immigrant workers.[1] Overall annual growth in the Gross Domestic Product is 0.1 percentage point higher as a result of immigration--a misleadingly small number that represents billions of dollars in economic output and, when compounded across a generation, represents a significant improvement in the standard of living of our children and grandchildren.

The positive impact of immigration results in part from the fact that immigrants help to fill growing gaps in our labor force. These gaps develop as aging native-born workers, in larger numbers than ever before, succeed in attaining higher levels of education and subsequently pursue higher-skill, higher-wage jobs. If the United States were to reform the immigration system to better address the demand for foreign-born labor, largely through ensuring that such workers were a part of the transparent and competitive "above ground" economy, the economic benefits of immigration could be even greater than what we have already experienced. Immigrants and their employers would likely benefit from a more predictable workforce environment and less time and resources would be spent addressing the dysfunction that is a result of a strong demand for a labor force that our laws do not accommodate.

Undocumented immigration is largely the result of two opposing forces: an immigration policy that significantly restricts the flow of labor and the economic reality of a changing native-born U.S. population. The extent to which the U.S. economy has become dependent on immigrant workers is evident in the labor force projections of the Bureau of Labor Statistics (BLS). According to BLS estimates, immigrants will account for about a quarter of labor force growth between 2002 and 2012. Given that roughly half of immigrants now arriving in the United States are undocumented, this means that 1 in 8 workers joining the U.S. labor force over the coming decade will be undocumented immigrants. Many of the jobs that would be harder to fill without this labor supply are already associated with immigrant labor: construction, agriculture, meatpacking, and hospitality. A growing number of immigrants, however, are also filling jobs in fields that are vitally important to serving America's aging population, such as home healthcare. This indicates that while policymakers debate the relative merits of various immigration reform proposals, immigration beyond current legal limits has *already* become an integral component of U.S. economic growth and will likely remain so for the foreseeable future.

The Impact of Immigrants on Native-Born Wages

Despite the critical role that immigration plays in preventing labor shortages that might impede economic growth, many critics of immigration argue that foreign-born workers reduce the wages of native-born workers with whom they compete for jobs. However, this argument relies on an overly simplistic understanding of labor supply and demand that fails to capture the true value that immigrants bring to the economy. If you are to gauge accurately the economic impact of immigration, the role that immigrants play in creating jobs is just as important as the role they play in filling jobs.

To analyze the impact of immigration on the U.S. economy as a whole, particularly in the studies relied upon in this debate, economists typically use one of two models: "static" or "dynamic." The static model is the simplest and most frequently used by critics of immigration, yet it is the least realistic because it fails to account for the multi-dimensional role that immigrants play as workers, consumers, and entrepreneurs. The dynamic model, on the other hand, offers a more nuanced portrait of immigrants as economic actors. The net economic benefits of immigration are apparent in both models, but are larger in the dynamic model.

Under the static model, economists assume that immigrant workers serve only to increase the labor supply, which results in slightly lower wages and thus higher profits for the owners of capital. In other words, if there are more workers competing for a job, an employer might pay a lower wage for that job and pocket the difference. For instance, under a popular version of the analysis that utilizes the static model, the 125 million native-born workers in the United States in 1997 would have earned an average of $13 per hour if not for the presence of immigrants. However, the 15 million immigrant workers who were actually in the country increased the labor force to 140 million and, under the static scenario, thereby lowered average wages by 3 percent to $12.60 per hour. Nonetheless, the net benefit to the U.S. economy of this decline in wages would have amounted to about $8 billion in added national income in 1997.

Despite the seeming simplicity of this logic (more workers competing for jobs results in lower wages for workers and higher profits for businesses), the assumptions underlying the static model bear little resemblance to economic reality. Recent evidence supports the contention that the impact of immigration on wages is not as simple, or negative, as the static model would suggest. A 2004 study found that, despite the large influx of immigrants without a high-school diploma from 1980 to 2000, the wages of U.S.-born workers without a diploma relative to the wages of U.S.-born workers with a diploma "remained nearly constant."[2] More importantly, thanks in part to the work of Ottaviano and Peri, we now know that the dynamic response of small and medium sized businesses to this phenomena means that nearly all U.S. born workers, especially those with a high school education or better, have benefited from higher wages due to the presence of this low skilled, often undocumented, immigrant labor.[3]

The inability of the static model to explain this finding rests in part on the fact that the model incorrectly assumes immigrant and U.S.-born workers are perfectly interchangeable; that is, that they substitute for each other rather than complement each other in the labor force. Common sense alone suggests that this is not always the case. For example, less-skilled foreign-born

construction laborers enhance the productivity of U.S.-born carpenters, plumbers, and electricians, but do not necessarily substitute for them. More broadly, the different educational and age profiles of foreign-born and native-born workers indicate that they often fill different niches in the labor market.

More importantly, the static model fails to account for the fact that immigrants spend money or invest capital, both of which create jobs and thus exert upward pressure on wages by increasing the demand for labor. This amounts to more than a minor omission given the scale of immigrant purchasing power and entrepreneurship. For instance, in 2004, consumer purchasing power totaled $686 billion among Latinos and $363 billion among Asians.[4] Given that roughly 44 percent of Latinos and 69 percent of Asians were foreign-born in that year, the buying power of immigrants reached into the hundreds of billions of dollars.

The dynamic model accounts for many of these additional economic contributions by immigrants. In the dynamic scenario, immigrant workers spend some of their wages on housing and consumer goods, which in turn increases the demand for labor by creating new jobs. Rising labor demand then increases wages relative to what would have existed if immigrant workers had not been present in the labor market. Businesses in turn invest more capital, expand, and hire more workers across the spectrum of skill levels. The result is a larger economy with higher employment.

The Impact of Immigrants on Native-Born Employment Levels

An IPC research report released in November of 2005 provides strong demographic evidence that the impact of immigrants on native-born employment levels is extremely limited or, in some case, positive. The report examines the significant differences between the native-born workforce and the immigrant workforce and finds that immigrants are largely complementary to the native-born in education, age and skill profile. The complementary nature of immigrant labor makes it unlikely that immigrants are replacing a significant number of native-born workers, but are instead moving into positions that allow native-born workers to be more productive.

As the number of less-skilled jobs continues to grow, it will become increasingly difficult for employers to find native-born workers, especially younger workers, with the education levels that best correspond to those jobs. In this sense, immigrant workers are a vital complement to a native-born labor force that is growing older and better educated. On average, foreign-born workers tend to be younger than their native-born counterparts and a larger proportion have less formal education. In addition, immigrants participate in the labor force at a higher rate. As a result, immigrants provide a needed source of labor for the large and growing number of jobs that do not require as much formal education.

Immigrant Workers are More Likely to Have Less Formal Education

Immigrants comprise a disproportionate share of those workers who are willing to take less-skilled jobs with few or no educational requirements. In 2004, 53.3 percent of the foreign-born labor force age 25 and older had a high-school diploma or less education, compared to 37.8

percent of the native-born labor force. Immigrant workers were more than four times as likely as native workers to lack a high-school diploma. In contrast, immigrant workers were nearly as likely to have a four-year college degree or more education, amounting to more than 30 percent of both the native-born and foreign-born labor force.

In general, foreign-born workers are more likely to be found at either end of the educational spectrum, while most native-born workers fall somewhere in the middle. Roughly three-fifths of the native-born labor force in 2004 had either a high-school diploma or some college education short of a four-year degree, whereas three-fifths of the foreign-born labor force either did not have a high-school diploma or had at least a four-year college degree. Given their different educational backgrounds, most native-born workers are therefore not competing directly with foreign-born workers for the same types of jobs.

Immigrant Workers Tend to be Younger

Immigrants also include a large number of younger workers, particularly in the less-skilled workforce. In 2004, 67 percent of the foreign-born labor force with a high-school diploma or less education was between 25 and 45 years old, as opposed to 52 percent of the native-born labor force with no more than a high-school diploma. While relative youth is not a requirement for many jobs, it is an asset in those less-skilled jobs that are physically demanding or dangerous.

Given the different age and educational profiles of foreign-born and native-born workers, it is not surprising that immigrants comprise a disproportionately large share of younger workers with little education. In 2004, immigrants made up more than a quarter of all workers 25–34 years old with a high-school diploma or less, and more than half of workers 25–34 years old without a high-school diploma. Employers searching for younger workers in less-skilled positions therefore often find that a large portion of prospective hires are foreign-born.

The Fiscal Costs of Immigration

Critics of immigration often focus on the fiscal costs of immigration instead of the economic benefits. These costs are often exacerbated by the undocumented status of many immigrants. An immigration policy that acknowledged the economic need for and benefits of immigration would significantly reduce these costs. To support the contention that immigrants are a net fiscal drain, critics cite studies indicating that immigrants contribute less per capita in tax revenue than they receive in benefits. However, these studies fail to acknowledge that this has more to do with low-wage employment than with native born status. Native-born workers in low-wage jobs similarly receive benefits in excess of the level of taxes paid. However, net tax revenue is not the same as net economic benefit. Generally accepted analysis reveals that the net economic benefit compensates for and exceeds any negative fiscal impact. The "fiscal only" analysis ignores the fact that in the absence of sufficient immigrant labor, unfilled low-wage jobs, regardless of the relative tax implications, hurt the economy.

Conclusion

Immigration is a net positive for the U.S. economy and the presence of immigrants does not generally harm the native-born workforce. Studies that purport to demonstrate a negative impact on native-born wages and employment levels rely on an overly simplistic economic model of immigration and the economy. The most recent demographic analysis in conjunction with more sophisticated economic analysis reveals that most immigrants, including undocumented immigrants, do not compete directly with native-born workers for jobs. Instead, these immigrants provide a critical element of our nation's economic success and continued resiliency: a relatively young, willing, and dynamic supply of essential workers in areas such as healthcare, construction, retail, and agriculture. These are jobs that, once filled, enable our economy to continue the cycle of growth and job creation.

Indeed, this makes clear that the implication of the government's own BLS data cannot be ignored. To prosper, our economy desperately needs workers at both ends of the spectrum: young and less skilled as well as more educated and highly skilled. As a nation, we are in the midst of a slow-motion demographic cataclysm unlike any we have previously experienced. Immigration is not the only tool for seeing our way clear of the coming storm – but it is one without which we will not prosper. Without a continued and normalized flow of immigrant labor our workforce will fall well short of the numbers needed to meet the emerging demand for labor. The result will be an erosion of both the growth and increased standard of living that our citizenry has come to expect and to which future generations are entitled. Until the United States adopts a more articulated and thoughtful immigration policy that accommodates these economic realities, the insufficiency of current immigration and the problematic nature of undocumented immigration, in particular, will continue to hobble the economy.

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[1] Gianmarco I.P. Ottaviano & Giovanni Peri, *Rethinking the Gains from Immigration: Theory and Evidence from the U.S.* London: Centre for Economic Policy Research, September 2005.
[2] David Card, *Is the New Immigration Really So Bad?* (CDP No 02/04). Centre for Research and Analysis of Migration, Department of Economics, University College London, April 2004, p. 23
[3] Gianmarco I.P. Ottaviano & Giovanni Peri, *Rethinking the Gains from Immigration: Theory and Evidence from the U.S.* London: Centre for Economic Policy Research, September 2005.
[4] David Card, *Is the New Immigration Really So Bad?* (CDP No 02/04). Centre for Research and Analysis of Migration, Department of Economics, University College London, April 2004, p. 23
[5] Jeffrey M. Humphreys, "The multicultural economy 2004: America's minority buying power," *Georgia Business and Economic Conditions* 64(3), Third Quarter 2004 (Selig Center for Economic Growth, University of Georgia).

Statement of

Scott Hauge

President, Small Business California

for the hearing

"Immigration: Economic Impacts"

Committee on the Judiciary
United States Senate
Washington, D.C.

April 25, 2006

This Statement has been endorsed by the following organizations:

San Francisco Small Business Advocates
Small Business California
Small Business Majority

Small Business California is pleased to submit this statement regarding the needs of small businesses in connection with the guestworker provisions in the Comprehensive Immigration Reform Act of 2006.

I. SUMMARY

Provisions of Titles III, IV, and VI of the Comprehensive Immigration Reform Act of 2006 (Apr. 10, 2006) would establish new guestworker programs, reform existing employment-visa categories, and amend the "employer sanctions" provisions of existing law, including employment verification procedures. As a recent survey of the membership of Small Business California ("SB-Cal") reveals, our membership is overwhelmingly supportive of proposals for new and expanded guestworker programs. We submit this statement respectfully to convey our concern, however, that the existing proposals do not adequately take into account the special needs and circumstances of the vital small business sector. We therefore suggest modest amendments, attached as Appendix I to this Statement, to ensure small businesses are able to participate in the proposed guestworker programs on a more equal footing with our larger competitors. These amendments range from sliding fee scales for small business sponsors of guestworkers to exemptions for the smallest firms from certain regulatory burdens. Congress has frequently crafted regulatory regimes, including immigration and labor laws, to avoid exacerbating any unfair competitive advantages that large corporations already enjoy over small firms, and to protect small businesses from inequitable administrative burdens. We believe any new or revised guestworker programs must do so as well.

Small businesses make a vital contribution to America's economy and represent a very significant portion of total employment in the nation as a whole. But small businesses operate differently than their larger competitors. Employee recruitment, for instance, is often more

carefully tailored to meet the unique needs of a smaller organization. This process can prove comparatively more costly than the recruitment efforts of larger businesses, which often fill a greater number of positions at a single time.

In addition, by almost any measure, small businesses experience greater regulatory burdens than their larger competitors. The average annual regulatory cost per employee for small businesses is substantially higher than for larger organizations. In the immigration context, for example, small businesses are disparately impacted by the visa cost structure and requisite legal fees when hiring temporary foreign workers. These regulatory burdens, which place small businesses at a competitive disadvantage, are of great concern to members of SB-Cal.

In designing a guestworker program, Congress should take steps to maintain its historic commitment to small businesses. Regulatory costs should be adjusted for small businesses and special assistance in the recruitment of guestworkers should be provided. In addition, small businesses would benefit from a reasonable legalization procedure for currently undocumented workers and avenues to permanent immigration status for guestworkers. Both reflect the commitment of small business owners to their individual employees. Congressional legislation instituting a guestworker program should similarly reflect the government's commitment to small businesses by accommodating the aforementioned concerns.

II. INTRODUCTION AND BACKGROUND

A. Small businesses are the backbone of the American economy.

Small businesses are an integral part of the American economic landscape and Congress ought to take into account their needs in any legislation which will affect the current federal regulation scheme for hiring foreign labor.[1] Small businesses make up 99.7% of all United

[1] There is no single definition of what constitutes a small business. *See* Crain, *The Impact of Regulatory Costs on Small Firms*, Small Business Association Office of Advocacy, Sept. 2005, at 4 (noting varying definitions from 20

States employers, employ 50.1% of the United States' non-farm private sector workers, and create over 65% of America's net new jobs.[2] In 2001, small businesses employed over 40 million workers in the United States, accounting for nearly 20% of the country's entire workforce.[3] Currently, small businesses create more than 50% of the American non-farm private gross domestic product.[4] Small businesses instill the American economy with dynamism and heterogeneity; today, anyone with an idea, capital, and drive can leap into the market as an entrepreneur. The ability to start and maintain a small business allows for the possibility for upward social mobility and the realization of the American dream. Members of the Senate have repeatedly emphasized the value of small businesses and their central function in the American economy.[5]

B. Small Business California.

Small Business California ("SB-Cal") is a proactive, non-partisan business advocate for California's 1,137,584 small businesses. SB-Cal is a membership organization with approximately 2000 members. SB-Cal recognizes that small businesses benefit California in key ways: small businesses are flexible and responsive to social and economic changes; small

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to 500 employees); *see also* U.S. S.B.A., *Frequently Asked Questions About Small Business Size Standards*, http://www.sba.gov/size/indexfaqs.html#SizePolicyBoard. For the purposes of this testimony, SB-Cal will define small businesses as employers with fewer than 100 employees.

[2] U.S. S.B.A. Office of Advocacy, *Ten Reasons to Love Small Business* (released Feb. 9, 2006), *available at* http://www.sba.gov/advo/press/06-04.html; *see also* U.S. Census Bureau website, http://www.census.gov/epcd/www/smallbus.html (small businesses hired 40,973,082 workers in 2001, as compared to 216,616,162 American employees).

[3] Crain, *supra,* at 4. By contrast, large businesses constituted less than 1 percent of the total number of the country's firms. *Id.*

[4] U.S. S.B.A. Office of Advocacy, *supra.*

[5] Senator John Cornyn recently declared that "small businesses are the backbone of job growth" and has pledged to support small business owners and entrepreneurs. (*Cornyn Co-Sponsors Legislation to Assist Hurricane Victims* (released Sept. 30, 2005)). Senator Orrin Hatch has repeatedly voiced his commitment to small business,[5] and Senator Charles Grassley has stressed the federal government's duty "to encourage [small business] to keep up the good work." (*Hatch named 2004 Small Business Advocate* (released Feb. 12, 2004),*Grassley Highlights Relief for Families, Consumer* (released Nov. 17, 2005)) In addition, President George Bush himself has remarked, "Most new jobs in America are created by small businesses. That's really important for people to understand." (*President's Remarks in Ask President Bush Event* (Aug. 2004)).

businesses provide an arena for entrepreneurial experimentation; and small businesses enhance economic opportunity for women and minorities.[6] SB-Cal also understands the particular challenges of starting and running a successful small business. With the goal of affecting meaningful government action in favor of small business interests, SB-Cal is a collective voice for small businesses. The group also provides support and resources to empower individual owners to lobby on issues unique to their organization or industry. SB-Cal focuses specifically on influencing government policy and legislation in those areas that impact California small businesses the most, including healthcare, workers compensation, workforce development, government regulation, energy and access to capital.[7]

C. The SB-Cal 2006 guestworker survey.

In response to the national debate on comprehensive immigration reform, SB-Cal surveyed its membership on their attitudes toward new guestworker proposals in March 2006.[8] SB-Cal's survey revealed that small businesses are enthusiastic about a federal guestworker program because of its potential to level the playing field on which big and small firms now compete. Sixty percent of survey respondents favored the creation of a federal guestworker program, while twenty percent opposed any guestworker measure. The other twenty percent were undecided. As one respondent remarked: "If my company and the companies we work with are able to get the help we need legally, we'll be better able to compete."

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[6] There are approximately 4,115,900 minority-owned businesses and 6,492,795 women-owned businesses in the United States, and almost all of them are small businesses. U.S. S.B.A. Office of Advocacy, *supra.*

[7] SB-Cal was instrumental in the adoption of a 2006 initiative that will provide over 30 million of energy-related, in-state access to capital opportunities for small businesses. SB-Cal also successfully pushed for the establishment of a Small Business Advocate's Office in California. The group is currently at the forefront of efforts to advocate for worker compensation reforms and has partnered with Volunteers in Medical Institute to work towards securing free health choices for the working uninsured.

[8] The survey was designed by students at New York University School of Law and was conducted Mar. 13-22, 2006. Participants were invited to participate in the survey through an email sent by Mr. Scott Hague, President of SB-Cal, to members of SB-Cal. Participants completed the survey online. Ninety-five individuals responded.

SB-Cal firms, however, also cautioned that Congress must structure any guestworker program to preserve fair competition. Survey results demonstrated that SB-Cal members fear that a federal guestworker program will impose disproportionate burdens on small businesses. 59% of all survey respondents stated that the administrative cost of a guestworker program was "very important," the highest possible rating, while another 30% of respondents noted that the cost of a guestworker program was at least of "medium" importance. "Excessive paperwork" and "burdensome regulations" were the most frequently mentioned concerns. Survey respondents worried that large companies would be less burdened by the administrative costs of hiring a guestworker program, allowing big businesses to hire foreign labor with a greater ease than small businesses. As one respondent warned, Congress must exercise care not to create a guestworker program that does no more than allow the largest corporations "to reduce their labor costs."

In light of these survey results and the disproportionate burden which federal regulations already place on small businesses, SB-Cal believes that any guestworker program which the federal government implements must not produce disparate regulatory burdens for small businesses. A guestworker program must include provisions which protect the economic interests of small businesses for two main reasons. First, in order for any guestworker program to be successful, small businesses—which constitute the largest number of employers in the United States—must participate. If the administrative cost of participation is too high for small businesses, they simply will not hire guestworkers.

Second, Congress should not enact immigration reforms which grant further competitive advantages to big businesses. Small businesses already face a severe competitive disadvantage on account of their size. The nation's immigration policy should not confer yet more advantages

on big business. Any guestworker program adopted by Congress should take account of the special economic interests of the small business sector, by including mechanisms such as sliding fee scales and exemptions from certain regulatory burdens that are common in other immigration and workplace laws.

III. REGULATORY COSTS DISPROPORTIONATELY BURDEN SMALL BUSINESSES AND UNDERMINE FAIR COMPETITION.

The small business sector's chief concern about proposals for a guestworker program stems from one central fact: the cost of compliance with federal regulations disproportionately burdens small businesses and places them at a competitive disadvantage against larger firms.[9] Regulatory compliance cost range from large discrete costs, such as installing new technology in accordance with environmental regulation, to smaller, more diffuse costs, such as filing paperwork with various bureaucratic agencies. Overall, the annual federal regulatory compliance costs for small businesses are $7,647 per employee, as compared to $5,282 per employee for large firms - a 45% greater burden for small businesses.[10] These disparities are most pronounced in the case of regulations that determine costs independently of the number of workers a firm employs.

Even for regulatory costs that are fixed per employee, the burden is almost always lighter for big businesses than for small businesses. This is especially true in workplace regulations. In 2004, the average cost of compliance with federal workplace regulation was $922 per employee across all firms. While the average cost of workplace regulation for firms with fewer than 20

[9] Nearly 90% of SB-Cal survey respondents stated that the burden of complying with regulatory requirements associated with a guestworker program was of "medium" or "greater" importance.

[10] Crain, *supra*, at 6. The reasons for this disparity are manifold. Big businesses tend to have the infrastructure necessary to cope with the costs and requirements of federal regulations. For example, in the case of employment regulation, big businesses often have fully-funded and well-organized human resource offices to manage the hiring process and compliance with relevant regulations. Small businesses are less likely to have portions of their staffs devoted to these tasks, and are therefore less likely to have the same expertise in navigating bureaucratic channels.

workers is $920 per employee, big businesses which employ more than 500 employees paid an average of $841 per employee.[11]

Cumulatively, this disparity in regulatory burdens creates a significant competitive disadvantage for small firms. In some extreme cases, businesses in these sectors have hired undocumented workers to cut costs even further, in sectors such as the garment[12] and construction industries.[13] But for small firms that play by the rules and refuse to hire undocumented workers, the competitive disadvantage can be crippling, particularly for small firms with slim profit margins.

IV. CONGRESS HAS PROTECTED SMALL BUSINESS INTERESTS IN OTHER REGULATORY SCHEMES

Congress has consistently acted to protect small businesses from the disproportionate burdens and unfair competition which may result from blanket application of federal law. This protection is a matter of federal policy: "It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise."[14] This policy is informed by congressional recognition of two essential points. The first is the importance of small businesses in the national economy. Congress manifested understanding of this principle in the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), noting that, "a vibrant and

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[11] Crain, *supra*, at 55.

[12] A one Government Accountability Office study of the garment industry observed, "The low domestic start-up costs allow easy contractor entry, ensuring manufacturers a large number of contractors bidding against each other for work. This competition is further heightened by the ability of retailers and manufacturers to import low-priced garments and the typical presence of an immigrant and primarily undocumented workforce, often with limited employment opportunities." Gov't Accountability Office, *Garment Industry: Efforts to Address the Prevalence and Conditions of Sweatshops* 9-10 (Nov. 1994).

[13] *See, e.g. Commercial Cleaning Services L.L.C. v. Colin Service Systems, Inc.*, 271 F.3d 374, 379 (2d. Cir. 2001) (illegal immigrant hiring scheme allows an employer to "employ large numbers of workers at lower costs than its competitors must bear when operating lawfully" because employer "pays undocumented workers less than the prevailing wage, and does not withhold or pay their federal and state payroll taxes, or workers' compensation insurance fees.").

[14] 15 U.S.C. § 631(a).

growing small business sector is critical to creating jobs in a dynamic economy."[15] The second pertains to the disproportionate burdens which federal law may place on small businesses. With respect to such burdens, Congress found that

> [U]niform federal regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions with limited resources.[16]

Accordingly, Congress has consistently tailored federal law so as to protect small businesses from undue hardship, by crafting a variety of regulatory exemptions for the smallest firms and sliding fee scales or other accommodations.[17] To mention but a few examples, the Employee Retirement Income Security Act of 1974 exempts small businesses from rules requiring businesses to keep the federal government notified of pension plan provisions and plan financing[18]; the Family and Medical Leave Act of 1993 requires employers to allow unpaid time-off to employees for personal illness, the illness of a relative, or the birth, adoption, or illness of a child but does not apply to employers with less than 50 employees[19]; the Resource Conservation and Recovery Act of 1976, which regulates the disposal of hazardous waste materials, makes small businesses exempt or partially exempt from requirements on the basis of the amount of waste generated[20]; the Bankruptcy Reform Act of 1994 provides exemptions for small business

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[15] 2 U.S.C. § 201(1).
[16] 5 U.S.C. § 601(a)(3).
[17] Congress enacted a mechanism for protecting small businesses in the Regulatory Flexibility Act of 1980 ("RFA"), 5 U.S.C. § 601-612; the RFA compels agencies to consider whether, and to what extent, small businesses need to be regulated with respect to a given issue. Congress implemented the RFA and fortified its protections when it enacted the SBREFA, which established a form of congressional review of proposed regulations affecting small businesses and judicial review of agency compliance with the RFA. 2 U.S.C. § 242. The SBREFA also grants the Small Business Association Office of Advocacy the authority to monitor agency compliance *Id.* § 612. In addition, the Small Business Act, 15 U.S.C. § 631-57, codifies federal policies of assistance to and protection for small businesses.
[18] (codified in scattered sections of 29 USCS § 1001 et seq.); *see also* William J. Wiatrowski, *Small Businesses and Their Employees*, Monthly Labor Review, Oct. 1994, at 31-2.
[19] 29 U.S.C. § 2611(2)(B)(ii).
[20] 42 U.S.C. § 6901.

debtors from certain bankruptcy requirements[21]; and the Americans with Disabilities Act of 1990 defines "employer," for the purposes of regulation, as a business with more than 15 employees, and exempts employers with fewer than 25 employees for two years following enactment.[22] Even the antidiscrimination provisions of the Immigration Reform and Control Act of 1986 exempt "a person or other entity that employs three or fewer employees."[23] Similar exemptions are codified in many other business and workplace laws.

These small business exemptions reflect the longstanding congressional sensitivity to the special needs and circumstances of the small business community. Against this statutory and regulatory landscape, the failure to exempt small business from certain regulatory burdens in any new guestworker program is striking.

V. WITHOUT EXPRESS PROTECTIONS, A GUESTWORKER PROGRAM WILL DISPROPORTIONATELY BURDEN SMALL BUSINESSES

A. Administration and fees

Small businesses face disproportionate administrative burdens in obtaining visas and complying with the government verification system for employment authorization. Employers whose employees use the various temporary worker visas currently available (for example the H-1B, H-2A or H-2B visas) bear the burden of costs associated with obtaining visas, including visa application fees and attorney's fees. Visa filing fees, which are determined by the United States Citizenship and Immigration Services, are fixed per employee. However, large companies can receive blanket visa petitions for L-1 visa, which allow them to spend less on visa application fee

[21] Pub. L. No. 103-394, 108 Stat. 4106 (1994) (codified in scattered sections of 11 U.S.C.); *see generally* Joshua E. Husbands *The Elusive Meaning of Small Business*, 2 J. Small & Emerging Bus. L. 355, 375 n4.
[22] 42 USCS § 12111(5)(A).
[23] 8 U.S.C. § 1324b(a)(2)(A).

per employee and simplify the visa application process.[24] Currently, the only discount for small businesses is the H-1B training fee,[25] which is $750 per employee for small businesses and $1,500 per employee for businesses with more than 25 employees.[26] Aside from the H-1B training fee, visa application fees, which range from $50 to $200 per employee, impose a blanket expense on employers of all sizes.

According to interviews with immigration attorneys, the most significant cost of obtaining a temporary non-immigrant worker visa is the legal fee paid to lawyers to facilitate visa applications.[27] These costs range from $1,000 to $5,000 per employee. In addition, legal costs are generally lower for large companies, as they receive volume discounts. Small businesses, which apply for temporary worker visas in smaller quantities, are less likely to receive such discounts, and are therefore at a disadvantage in hiring temporary foreign workers.

Due to this disproportionate burden associated with the costs of obtaining visas, the guestworker program should provide small businesses with cost reductions in guestworker visa application fees. Just as training fees for H-1B visas are reduced for businesses with less than 25 employees, a similar cost reduction of 50% should be introduced for all fees associated with guestworker visa applications.

Small businesses must also bear the burden of complying with verification procedures and requirements for employment authorization. SB-Cal members and other small businesses

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[24] To qualify for blanket L-1 petitions, the company must have 3 or more domestic and foreign branches, subsidiaries, or affiliates; and must have either: (1) obtained approval of at least 10 L-1 visa petitions in the last 12 months; (2) combined annual sales of at least $25 million; or (3) a U.S. workforce of at least 1,000 employees. U.S. Citizenship and Immigration Services, *Employment Categories and Required Documentation*, http://uscis.gov/graphics/services/tempbenefits/ecrd.htm.

[25] For H-1B applications, the CIS also imposes a American Competitiveness and Workforce Improvement Act fee, known as the H-1B training fee. U.S. Citizenship and Immigration Services, *Instructions for E-Filed Form I-129*, http://uscis.gov/graphics/formsfee/forms/e-i-129.htm .

[26] *Id.*

[27] Interviews conducted in March-April 2006 with immigration attorneys in California, New York, Ohio, Maryland, and Texas for SB-Cal by students at NYU School of Law.

are concerned about the cost of compliance with these requirements. Small businesses applaud efforts to create an electronic verification system. Such a system would require less paperwork and, assuming the system is sufficiently user-friendly, would simplify the hiring process. However, since small businesses have fewer personnel to master new systems, less money to spend on training human resources personnel, and perhaps less sophisticated technological capacities in general, it is essential that small business participation be implemented over an extended time period to allow small businesses extra time to acquire the hardware infrastructure and skills necessary for such a system. In addition, programs to train small businesses in using the electronic verification system should be implemented to ensure that small businesses gain the expertise and skills to be in absolute compliance with government standards.

A second concern about the verification procedure, namely the response time of the agency that oversees the process, is of special concern because small businesses often need to fill vacant positions quickly. Almost 30% of SB-Cal member who responded to our March 2006 survey have seasonal employment needs. To meet these hiring needs, it is necessary for small businesses to receive a response quickly. A prolonged response time is particularly detrimental in the agricultural industry where crops need to be harvested in a narrow window of time. It is thus necessary that the guestworker program take into account the hiring needs and resource capacities of small businesses. Congress must ensure that small businesses will not be disproportionately burdened by the guestworker program in complying with government verification process for employment authorization. The adopted guestworker program must have provisions for small businesses to protect them from the disproportionate costs that a fixed visa application fee and a demanding verification system would entail.

B. Recruitment

It is essential that a guestworker program prevent big businesses from gaining an unfair advantage in costs vis-à-vis small businesses as a result of their use of Foreign Labor Contractors ("FLCs"). Many current guestworker proposals assume that employers who participate in the program will recruit foreign workers using FLCs. Some small businesses, such as those in the manufacturing sector, can easily identify their labor needs a quarter or a year in advance. These businesses will be positioned to make use of FLCs provided that certain conditions are met. Many small businesses in California compete directly with big businesses and would be at a severe disadvantage if their costs were to rise relative to big business as a consequence of their use of FLCs. Several things can be done to prevent this situation. The government could regulate FLCs to provide a discount to businesses with fewer than 25 employees. Alternatively, a federal agency could function as an FLC for small business, at no charge or a steeply discounted charge, in order to allow small businesses to compete on an equal footing with large businesses that could afford to hire private FLCs. Ultimately, for small businesses to use FLCs to recruit employees from abroad, it is essential that small business costs do not exceed the relative big business costs.

Many small businesses will not be able to use FLCs. Currently, small businesses rarely use third-party employment agencies; 72% of SB-Cal survey respondents stated that they never hire new employees in this manner. Many small businesses, such as restaurants and family farms, have labor needs that are not identifiable until the last minute. These businesses will be unable to use FLCs. It would be impractical, for instance, to require restaurants and similar small businesses to post ads for temporary unskilled work in a foreign country every time a position opens. Because many small businesses will not be able to recruit from overseas using FLCs, they will need to recruit domestically. In order to take advantage of the guestworker program, these businesses will need to be able to hire immigrant workers who are already in the country. Many of these prospective employees are currently undocumented. In order to

compensate for the inability of many small businesses to use FLCs, a guestworker program must make some kind of legal immigration status available to currently undocumented employees so that small businesses may hire them.

C. Legalization

Small businesses value the ability to retain their currently undocumented employees and hire undocumented workers already in the country for three main reasons.[28] First, as stated above, it will be impractical for many small businesses to use FLCs to recruit from abroad, and therefore, if they are to participate in a guestworker program, they will need to be able to hire workers already in the United States. Second, small businesses operate on a particularly narrow profit margin. Each new hire, and the accompanying costs of paperwork and training, constitutes a significant business investment. Small businesses that have hired undocumented workers, either out of necessity or by mistake, should be allowed to reap this investment.[29] Replacement of current employees, particularly those who have proven to be competent, valuable workers, is especially burdensome for small businesses. Third, in a small business environment where the owner or manager often works closely with employees and where each employee makes a significant contribution to the working environment, employers identify with their employees on a personal level and are likely to have formed a substantial relationship with their employees.[30]

Given these concerns, a legalization provision must not hamper participation in the program by small businesses with overly stringent requirements or fines. Undocumented workers who are currently employed by a small business should not be required to leave the

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[28] 62 % of SB-Cal survey respondents favored allowing undocumented workers to participate in a guestworker program or otherwise to regularize their status.

[29] Small businesses depend on this investment; 65 % of survey respondents said they obtain their senior-level employees through internal promotion of entry level employees.

[30] 48 % of SB-Cal survey respondents retain the majority of their employees for longer than six years, and 26 % retain their employees for three to six years. Of the respondents who employ non-citizens, almost half employ their non-citizen employees for more than three years and 36 % employ them for one to three years. Furthermore, 65 % of respondents obtain their senior-level employees through internal promotion.

country and re-enter in order to obtain status. This requirement would create an unnecessary and unworkable disruption in a business' operation; employers would be understaffed while valuable employees were forced to take time off work. Some workers would be unable to afford the trip, disadvantaging themselves as well as their employers. In addition, excessive fines in order to obtain legal status, whether they are levied against workers or businesses, are unreasonable and unworkable. Workers often strain just to provide for their families, and small businesses are already encumbered by prohibitively high regulatory fees. Excessively high fees or fines would effectively undermine the system by discouraging participation, especially for small businesses. Therefore, very small businesses, employing fewer than 25 employees, should be exempt from fees for participation in the guestworker program. Fees for small businesses employing more than 25 employees should be proportionately reduced by 50%, or determined on a sliding schedule according to the number of employees. Fines for undocumented workers should be reduced by 50% if their employer is a small business.

In sum, many small businesses, including members of SB-Cal, strongly support allowing currently undocumented workers to participate in the guestworker program or otherwise to regularize their status. However, the specifics of the program must be tailored in the aforementioned ways to allow hard-working employees and small business employers to participate advantageously.

D. Portability

Portability -- the ability of guest workers to change employers or pursue a new position if their employment is terminated -- is an essential element of any guestworker program.[31] Access to guestworkers who are already in the United States is particularly important to small businesses. The recruitment of guestworkers from outside the country can be a difficult and

[31] All of the major proposals, as well as the Senate Judiciary Committee's amended bill, provide for portability.

costly process. Large businesses are better able to manage the logistics and expenses involved in this process. Moreover, small businesses often have more particular needs and concerns when hiring employees. The small businesses we surveyed rarely made use of third-party employment agencies, instead choosing to hire employees directly in order to save costs and more carefully select a candidate who would serve their specific needs. In light of these factors, the capacity to hire previously employed guestworkers already in the country offers particular benefits to small businesses.

In addition to ensuring the ability to change employers, a guestworker program must give individuals who lose or leave a job adequate time to find new employment. The Comprehensive Reform Act of 2006 would permit a guestworker to be unemployed for no more than 60 days, after which their authorization to remain in the country is terminated. *See* § 403, enacting new INA § 218A(f)(3)(A). Given that the average length of unemployment in the United States is nearly 18 weeks,[32] this time period should be expanded. In addition to benefiting workers, an expansion would give small business owners increased access to guestworkers already in the country, which as outlined in Part C above, is vitally important.

E. Permanence

Each small business employee represents a major investment in both time and money. Accordingly, SB-Cal members are inclined to support a program in which a guestworker does not automatically have to return to a home country after six years. Sixty-one percent of SB-Cal survey respondents supported giving guestworker program participants some opportunity to obtain legal permanent resident status. A program that forced temporary workers to leave the country after six years would disadvantage small businesses, as 48% of the survey respondents indicated that they retain the majority of their employees for over six years. A guestworker

[32] Department of Labor, *Bureau of Labor Statistics: Average Weeks Unemployed* (Feb. 2006), http://data.bls.gov/cgi-bin/surveymost?ln. (last visited Apr. 3, 2006).

program that does not include any path to permanent resident status for its participants does not fit the hiring and promotion practices of small business.

Moreover, some survey respondents noted that they, or their families, had had experience hiring foreign workers through earlier temporary worker programs, such as the "braceros" program of 1942-64. These respondents noted that the temporary workers who stayed became productive citizens. Many survey respondents had positive comments about the foreign workers they have hired, and felt that future guestworkers should be given the opportunity to build a life in America. We strongly support granting hard-working individuals the opportunity to stay in this country and continue to bolster the U.S. economy.

F. Enforcement

Enforcement will be a crucial aspect of any immigration policy adopted by Congress. Fifty-seven percent of survey respondents stated that the enforcement of immigration laws was "very important" and 87% said it was of at least medium or greater importance. A guestworker program will succeed only if enforcement of its provisions is effective and fair. Without effective enforcement the added costs of filing for and obtaining guest worker status for workers will not be worthwhile to employers, and lax or ineffective enforcement will create an unfair competitive advantage for violators over law-abiding businesses that participate in the guestworker program. Effective enforcement also prevents a "race to the bottom" scenario in which companies, usually in markets with low profit margins and where consumers choose products based on price, cut production costs by any means in order to gain an advantage in the market. Such costs could include the expenses associated with complying with the guest worker programs regulatory requirements such as employee verification and labor protections.

In order to understand the importance of enforcement in the proposed guestworker programs, it is helpful to look at the failure of enforcement in another important piece of immigration legislation, the Immigration Reform and Control Act (IRCA) of 1986. Currently, there is little enforcement of the "employer sanctions" provisions of IRCA. A recent GAO

report noted that the number of federal immigrant agents dedicated to worksite enforcement shrunk from 240 to 90 between 1999 and 2003 (shrinking from 9% to 4% of available manpower). This has led to simultaneous reductions in notices of intent to fine for knowing employment of undocumented workers: from 417 in 1999 to 3 in 2003[33] This pattern must change in order for businesses to assume the cost of hiring guest workers and participate in a guestworker program. As long as the expected costs of failing to comply with employment laws are less than the costs of full compliance with current employment laws, businesses will be unlikely to participate in any proposed guest worker program and there will be a competitive disadvantage for law abiding businesses.

In order to be fair and effective, however, enforcement must also take into account the need for fair competition among businesses of all sizes. Sanctions should take into account the relative size of businesses. To our knowledge, no current proposal provides for sanctions proportionate to the size of the business. This means that flat fines for violations will be imposed upon businesses across the board. A blanket punitive fine has a much more significant effect on small businesses because the weight of such fines is greater in proportion to their revenues. It is important that Congress consider that small businesses could be devastated by a single enforcement action by the regulatory agency. Small businesses often do not have the legal and economic resources to defend against enforcement actions, and criminal sanctions could be especially devastating. We propose that civil sanctions should be determined by using a sliding scale relative to the number of employees of the business, so that small businesses do not bear a disproportionate burden.

In addition, no current immigration reform proposal would exempt the smallest firms from the civil money penalty provisions of the employer sanctions provisions, 8 U.S.C. § 1324a(e)(4)(A). This is anomalous in business and workplace regulation. As described above, numerous other business and labor statutes expressly exempt the smallest firms -- even where the statute implements high political and moral values, such as Title VII of the Civil Rights Act of

[21] Gov't Accountability Office, *Immigration Enforcement* 3-4 (June 21, 2005).

1964. Even IRCA's own antidiscrimination provisions do not apply to firms that employ "three or fewer employees."[34] For the same reason that Congress has excused the nation's small businesses from the regulatory burdens associated with other business, environmental, and labor statutes, it should exempt small firms from the civil money penalties of the "employer sanctions" provisions of IRCA. Small firms would remain fully liable under the cease-and-desist order provisions, § 1324a(e)(4)((B), and criminal penalties, § 1324a(f), of employer sanctions.

VI. CONCLUSION AND RECOMMENDATIONS

Congress can address the above concerns with a few simple but important amendments to pending guestworker proposals. First, the administration and fees associated with any guestworker program must take account of small business needs. In particular, Congress should adopt a form of a sliding fee scale to ensure that small firms may participate in any program on a more equal footing with large firms. Similarly, any recruitment rules must recognize that small businesses face particular challenges in satisfying these obligations and likely cannot do so on the same terms as large firms.

Second, any guestworker program must include portability and a path to permanence for participating employees so that small businesses can count on a long-term workforce. This does not necessarily mean that guestworkers will automatically gain permanent status upon the expiration of their visas. SB-Cal supports proposal to allow workers who have paid taxes and who meet employment criteria the chance to apply for permanent residency without first leaving the country. Additionally, Congress could aid in the creation of a path to permanence by increasing the capacity of the Department of Homeland Security to process applications for permanent residency more quickly.

[34] 8 U.S.C. § 1324b(a)(2)(A).

We also strongly urge Congress to create a guestworker visa that is easy to renew and that lasts for a minimum of three years. From the perspective of a small business, it is much more cost-effective to recruit and train a worker who will be eligible to work for a longer duration of time than one whose visa expires after only two years. For small business owners, a worker who is forced to return home to await renewal is likely a worker who will never return to the job. Knowing that, many small business owners would likely decide that participating in a guestworker program is not worth the expense. By creating a visa of reasonable length that is easy to renew, Congress can create a guestworker program that small business owners are more likely to feel confident about.

Finally, enforcement must be tailored to the needs of small businesses. It will take longer for small firms to acquire the hardware and skill to comply with any new verification procedures. In addition, Congress should correct the anomaly of the "employer sanctions" provisions and enact an exemption to its civil money penalty requirements for the smallest firms, just as it did in IRCA's parallel antidiscrimination provisions and as Congress has done in countless other statutes, while retaining full liability under the cease-and-desist order and criminal penalty provisions.

In sum, SB-Cal requests that any comprehensive immigration reform include:

- Reasonable avenues to permanence for participating employees
- Opportunities for undocumented workers to gain legal status without leaving the United States
- Effective enforcement that encourages fair competition but that (a) utilizes a sliding schedule of penalties relative to the size of businesses and (b) exempts the smallest firms from the civil money penalty provisions only of employer sanctions
- Special assistance with the recruitment of foreign workers
- Subsidies for the legal fees for completing visa applications
- Reductions in visa fees and per-employee fees for program participation
- Exemptions from or reductions in regulatory burdens
- Exemption from Employment Verification System fees

- Adjustments in the requirements for determining a lack of eligible citizens for a particular position

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This statement on behalf of Small Business California has also been endorsed by the following organizations:

Small Business Majority (SBM) is a national nonprofit organization of progressive business entrepreneurs. Its mission is to ensure economic prosperity by building a politically aware and active community of small business leaders. With over 2,000 small business members in chapters in California, New York, Connecticut, and New Mexico, SBM focuses primarily on issues surrounding health care, taxes and regulation, access to capital, and technology.

San Francisco Small Business Advocates (SFSBA) is a political action committee of business owners based in San Francisco. Its purpose is to promote and protect small business interests in local, state, and national policy. SFSBA's recent projects include work on California energy policy and the implementation of the Workforce Investment Act in California and San Francisco.

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