

**THE ECONOMIC IMPERATIVE FOR ENACTING  
IMMIGRATION REFORM**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION,  
REFUGEES AND BORDER SECURITY

OF THE

**COMMITTEE ON THE JUDICIARY**

**UNITED STATES SENATE**

**ONE HUNDRED TWELFTH CONGRESS**

FIRST SESSION

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# THE ECONOMIC IMPERATIVE FOR ENACTING IMMIGRATION REFORM

TUESDAY, JULY 26, 2011

U.S. SENATE,  
SUBCOMMITTEE ON IMMIGRATION  
REFUGEES, AND BORDER SECURITY,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:09 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Charles E. Schumer, Chairman of the Subcommittee, presiding.

Present: Senators Schumer, Franken, Blumenthal, Cornyn, Grassley, Hatch, and Sessions.

## OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Chairman SCHUMER. Good morning, everybody, and our hearing will come to order. Senator Cornyn and I will make an opening statement, and then we will go right to the witnesses, and Senator Grassley has asked to make an opening statement as well, and so please do.

Okay. Anyway, today's hearing is on the economic imperative for enacting immigration reform. I am often asked why I am so adamant about passing immigration reform. My answer is always that I believe there are two issues that will determine America's global competitiveness for the 21st century, and this is in the long term: Education and immigration.

Our economic supremacy arose because our schools successfully developed America's best minds, and our immigration successfully attracted the world's best minds. But now the world is far more competitive. Students in countries around the world are outperforming U.S. students in math and science. At the same time, our competitors are enacting immigration policies that offer scientists and engineers from around the world up to \$250,000 to emigrate in order to deploy their talents and skills for the good of our competitors' economies. If we do not enact an immigration policy that continues to attract the world's best minds, we will cease to be the world's economic leader. Not only will our economy be at grave risk; eventually our National security will as well.

Unfortunately, our broken immigration system actually discourages the world's best and brightest minds from coming to America to create jobs. Here is the problem: Every year, according to the Institute of International Education, there are about 250,000 foreign students enrolled in our American universities to study science,

technology, engineering, and math. That is known as “STEM” subjects. Foreign students represent the majority of our degree recipients in these subjects. So what happens to these students after they graduate from our colleges? Are we putting them to work to invent new technologies that would employ American workers? No, we are not. Instead, we are telling these folks to return to their home countries to compete for a limited number of temporary visas known as H-1Bs.

Even if you are lucky enough to obtain one of these visas, the visa is temporary, does not allow your spouse to work in the country, and does not permit you to earn a promotion or switch jobs unless the Immigration Service approves a lengthy second application filed by your employer.

If you are a smart student at the top of your class and in demand globally, would you want to stay in America under these circumstances? Unfortunately, the answer is often no. It is time for our immigration policy to reward hard work and to foster job creation rather than discourage it.

The immigration proposal that we are working on will ensure that the best and brightest students from around the world in science and engineering, technology and math, who study in our universities can stay here after getting degrees. And, by the way, it is good news that the brightest students still want to come to our higher education. They do. And we get many more applicants than we have people who can be admitted. But then we send them home. It just does not make any sense if we want to stay the greatest economic power in the world.

So how do we do this? Well, after they study in our universities, they will stay here after getting their degrees. We will do this by virtually stapling a green card to their diploma. The green card will allow those students to start new companies, change jobs if a better opportunity exists, and allow their spouses to work in the country. But as this hearing will make clear today, fixing our broken immigration system is not just about attracting highly skilled immigrants to the country. Study after study is showing that even the immigrant who comes here with little or nothing in order to make a better life for his or her family, just as many of us or our ancestors did, is also critical to making America a more vibrant and economically successful country.

As some of our local mayors will discuss here today, immigrants are renewing many of our Rust Belt communities that were once seen as having no hope for the future. The Federal Reserve Bank of Boston recently released a report which said that in the top ten “resurgent cities” in the Nation, defined as Rust Belt cities that have made substantial progress in improving living standards for their residents, the immigration population in those cities increased from 4.5 percent in 1980 to 15 percent, more than 15 percent today.

And a recent study from the Kauffman Foundation showed that immigrant-owned businesses jumped from 13.4 percent of all new businesses in 1996 to 29.5 percent of all new businesses in 2010. Just listen to that. Immigrant-owned businesses, new immigrant-owned businesses, jumped from 13.4 percent to 29.5 percent between 1996 and 2010. And these are not big businesses. They may

be a restaurant. They may be a drycleaner. But they employ people and create economic vitality as immigrants for generations of America have done.

So unlike those who attempt to fear-monger the issue of immigration, I am not at all concerned that people want to come to America. I am much more worried about a day they no longer find America attractive.

I am confident that our distinguished panelists today will help us better understand the urgent need we face to reform our immigration system in a manner that will grow our economy by attracting those who want to come here to start a business or to contribute their innovative skills and talents to keep America's economy strong.

The purpose of this hearing: Immigration is a job creator. That is the key. And it is vital that we reform our immigration system to keep America the greatest job engine in the world.

I would now like to call on Senator Cornyn.

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

Senator CORNYN. Well, thank you, Mr. Chairman, for holding this hearing. I think it is a very important, and I agree with much of what you said in your opening remarks.

It may seem a little strange, though, to people listening to be talking about immigration reform, bringing foreign nationals to the United States at a time when our unemployment rate is 9.2 percent. But as we all know, there is a scarcity of qualified people for many jobs, particularly high-tech, those requiring special skills, and those, of course, are the target—should be the target of the H-1B program. But we should assure every American and all Americans that we will never hire, never allow to be hired a foreign national under an H-1B program where there is a qualified American ready, willing, and able to do that job. And, in fact, that is illegal. But we are going to hear today—and I know Senator Grassley has taken a particular interest in trying to root out some of the fraud associated with this program, and we need to make sure that happens.

But it is hard to ignore the benefits to our Nation of attracting high-skilled talent. For example, in Texas, one study reports that one out of every five technology companies was founded by an immigrant. We all know the success stories of Intel, eBay, Yahoo, and Google—American companies founded, in part or in whole, by immigrants, which, of course, now employ thousands of workers.

It is a fact that America's lack of a sensible and coherent high-skilled immigration policy is causing our Nation to lose too many entrepreneurs and job creators to our competitors abroad who are more than happy to take advantage of our failure to compete effectively for this talent.

It is also a fact that in order to remain competitive in today's global marketplace, U.S. companies must have access to a high-skilled temporary labor pool from abroad, which includes top foreign graduates who are educated at American universities.

The Federal Reserve Bank of Dallas recently summed it up this way. They said, "The future of U.S. prosperity depends on having

a skilled workforce. This requires educating the native-born population and continuing to attract the world's best and brightest to the United States. For decades, the Nation has been the world leader in attracting skilled immigrants who, until recently, had few good alternatives. Today other destination countries increasingly recognize the economic benefits of these workers and are designing policies to attract them, even as immigrants' nations of origin seek ways to entice them to return home."

The Dallas Fed has also noted that the U.S. immigration system has not kept up with global competition, that piecemeal fixes have turned the current law into a web of outmoded, contradictory, and inefficient quotas, rules and regulations.

In one example, the number of high-skilled immigrant workers admitted on a temporary visa has doubled since 1996, but the number of employment-based permanent residence visas, or green cards, has remained roughly the same. As a result, the wait for employment-based green cards extends now to more than a decade.

"It is not known how many high-skilled immigrants are turned away by the broken system," the Federal Reserve says, "but the U.S. risks falling behind in the global race for talent if immigration laws are not reformed."

The economists aptly called this America's policy of national self-sabotage. I put forward several proposals in the past to try and remedy this problem, including the skill bill in 2007 and the Global Competitive Act in 2008. These include modest but sensible increases to H-1B temporary worker visas, recapture of unused temporary and permanent visas, and increased access to green cards for high-skilled immigrants. I look forward to hearing from the witnesses on their own ideas for addressing this problem.

In 2006, almost 5 years ago, I chaired a hearing of this Subcommittee when my party was in the majority and I was Chairman and not Ranking Member. The title of that hearing was—

[Laughter.]

Senator CORNYN. Hope to return someday.

[Laughter.]

Senator CORNYN. The hearing of that Subcommittee then was called "U.S. Visa Policy: Competition for International Scholars, Scientists, and Skilled Workers." It took place in Richardson, Texas, on the campus of the University of Texas at Dallas.

The University of Texas at Dallas continues to be one of the Nation's leaders in producing top-notch science, technology, engineering, and math graduates. Its graduates include STEM students who are U.S. born and a sizable percentage of foreign students who are visa holders. Eighty-two percent of all UTD graduates earn degrees in science, engineering, business, math, and the key disciplines that the region needs to compete in the global economy.

Mr. Chairman, I would ask consent to place a few items in the record.

Chairman SCHUMER. Without objection.

Senator CORNYN. First, a report by the Dallas Federal Reserve that I cited earlier; second, an op-ed piece by Geoff Wurzel in the San Antonio Express New titled, "Highly skilled immigrants should be part of debate;" and an editorial from the Dallas Morning News

entitled, "Exporting jobs; green card hassles drive our brightest overseas."

[The information referred appears as a submission for the record.]

Senator CORNYN. Let me conclude, Mr. Chairman, by saying I could not help but notice that President Obama spoke again to La Raza, where he used that forum to criticize Congress for lack of action on immigration reform. Indeed, it was in July 2008 when then-Candidate Obama, before he was President, said that, if elected, he would make immigration reform, comprehensive immigration reform a top priority.

Well, I think it is clear, at least to me, that he has not done so, and we need to find a way to try to work together to solve this particular aspect of our broken immigration system. But I am committed once again to working with you to fix the entire system, which does not serve the best interests of the United States of America.

Chairman SCHUMER. Thank you, Senator Cornyn.

We are joined not only by a member of the Subcommittee, but he is the Ranking Member of the full Committee, and so out of respect for him in that position, we are going to let Senator Grassley to an opening statement. And then we will get right to the panel.

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR  
FROM THE STATE OF IOWA**

Senator GRASSLEY. Thank you very much, Mr. Chairman, and also I will have some inserts and a short statement I am going to give, but I have a longer statement as well, and I would like to insert that. And because I do have other responsibilities, I may not be back here to ask questions. If I do not get back to do it, I would submit questions for answer in writing. And I am very glad to be here not only to thank you for holding this hearing, but also to recognize President Skorton, who is a friend of mine, and who was for 25 or 30 years at the University of Iowa, including a presidency there, before he moved to New York.

Chairman SCHUMER. Well, Iowa's loss is New York's gain.

Senator GRASSLEY. If there is any way we can get him back, we will take him back.

Chairman SCHUMER. Keep sending the money to Cornell now.

[Laughter.]

Chairman SCHUMER. Anyway, without objection, Senator Grassley's entire statement will be read into the record, and the inserts that he mentioned.

[The prepared statement and inserts of Senator Grassley appears as a submission for the record.]

Senator GRASSLEY. For years, our country has struggled to find a way forward on immigration reform. Americans are out of work, families are being foreclosed on, and businesses are suffering. And I agree we must do all we can to improve our economic situation. However, I have concerns with the notion that increasing immigration levels and enacting legalization programs is an answer to the current economic downturn.

We know it is unlikely that this administration will push immigration reform at least in the next year and half. However, it is my

firm belief that we can find agreement on reforms for high-skilled workers, and this hearing is a good first step in that discussion.

I have spent a lot of time and effort in rooting out fraud and abuse in our visa programs, specifically the H-1B and L visa programs. I have always said these programs could and should serve as a benefit to our country, our economy, and our U.S. employers. However, it is clear they are not working as intended, and the programs are having a detrimental effect on American workers. For this reason, and for many years, Senator Durbin of Illinois and I have worked in a bipartisan way on legislation to close the loopholes in the programs.

Among other things, the H-1B and L-1 Visa Fraud and Abuse Prevention Act would ensure American workers are afforded the first chance to obtain the available high-paying and high-skilled jobs. The bill would strengthen the wage requirements, ridding the incentives for companies to hire cheap, foreign labor. Our bill would also require companies to attest that they have tried to hire an American worker before they hire a foreign worker.

The attention that Senator Durbin, I, and others have put on the H-1B program has had an impact already without the legislation passing. Our efforts have increased scrutiny and forced bad actors to find other ways to enter, live, and work in the United States under false pretenses. The increased oversight of the H-1B program, for instance, has caused businesses to “think creatively” to get around the program, using both the L and B-1 visa to bypass the requirements and protections under the H-1B visa program.

Recently, this scenario came to light when an employee of Infosys filed a complaint alleging that his employer was “sending lower-level and unskilled foreigners to the United States to work in full-time positions at . . . customer sites in direct violation of immigration laws.” The complaint further states, “Infosys was paying these employees in India for full-time work in the United States without withholding Federal or State income taxes.” Infosys, one of the top ten H-1B petitioning companies, has worked to “creatively” get around the H-1B program by using the B-1 business visitor visa in order to bring in low-skilled and low-wage workers. That plaintiff, Jay Palmer, has written a statement, and I ask unanimous consent to put that in the record. The courts will decide if the activities of Infosys were illegal. But I can definitely say that their actions do not comport with the spirit of the law.

Also troubling to me is the Optional Practical Training program, often called OPT. This is a program that was created solely through regulation. OPT allows foreign students the ability to further their knowledge by working in the United States for an extra 12 to 29 months before returning to their home country. There is no limit on how many can apply for OPT, and more importantly, it is the schools and universities that principally administer the program. There are very few checks and balances, resulting in the potential national security risk. We had 95,259 OPT petitions approved in fiscal year 2010. More scrutiny must be placed on this program.

Finally, I would like to address the idea being pushed by many immigration advocates and some members in the House of Representatives. As part of the solution to America’s immigration prob-

lem, some policymakers have proposed the idea of giving foreign students a green card upon graduation. In their opinion, this would prevent the loss of the resources put into these students. Now, who can argue with that point of view? While it is important to keep the best and the brightest, getting a degree from U.S. institutions and universities should not equate to a fast track to citizenship for all. Should this happen, the demand for enrollment in U.S. universities by international students would only increase and further erode the opportunities for American students. Universities would, in essence, become visa mills.

I will continue to push for more reforms in our immigration system to ensure Americans are the No. 1 priority and the students are afforded every opportunity that they deserve. And I also would further say that part of my unanimous consent request was statements of American workers from across the country who have written to me on this subject.

Thank you.

Chairman SCHUMER. Thank you, Senator Grassley. The comprehensive bill we are continuing to work on would deal with H-1B reform in a very significant way. I could not agree with you more that there are companies that abuse it. It is one of the reasons in the bill protecting the border last year we paid for part of that with an increased fee on those companies. They did not like it, but I thought it was appropriate.

Okay. We will now go to our witnesses, distinguished panels, both of them. I am going to introduce all five and then ask each of them to speak for no more than 5 minutes, and we will put your entire statements into the record.

So from my left to my right, Robert Greifeld is the chief executive officer of NASDAQ OMX Group, a position he has held since 2003. NASDAQ is the world's largest exchange company with trading, technology, and public company service capability spanning six continents. It is headquartered in New York City, has nearly 2,500 employees, and serves as the marketplace for many of the world's largest and most successful technology companies and advocates for those companies.

David Skorton, former president of the University of Iowa, is now president of Cornell University, one of the greatest universities in the world. He has been president since 2006—not to the University of Iowa is not, by the way. He was a faculty member at Iowa before being president for 26 years, and he is past chair of the Business Higher Education Forum, an independent, nonprofit organization comprised of Fortune 500 and other CEOs, leaders of colleges and universities and foundation executives.

Brad Smith is Microsoft's general counsel and leads the company's Department of Legal and Corporate Affairs. He plays a central role in ensuring that Microsoft fulfills its corporate responsibilities and is responsible for the company's legal work, its intellectual property portfolio, patent licensing, and its Government affairs and philanthropic work.

Dr. Puneet Arora is the clinical research medical director at Amgen. In this capacity, he works on development of new medicines for the treatment of osteoporosis and is responsible for planning and execution of large multinational clinical trials. He has

completed 15 years in the United States and is still awaiting his green card.

Dr. Ronil Hira is an associate professor of public policy at RIT, the Rochester Institute of Technology, another one of the greatest universities in the world, where he teaches courses on technological innovation, communications, and public policy. He is a licensed professional engineer, a research associate with the Economic Policy Institute, and a co-author of a book entitled "Outsourcing America."

Gentlemen, all your statements, your entire statements, will be read into the record, and we will now start with Dr. Greifeld. Welcome.

**STATEMENT OF ROBERT GREIFELD, CHIEF EXECUTIVE OFFICER AND PRESIDENT, NASDAQ OMX GROUP, NEW YORK, NEW YORK**

Mr. Greifeld. Thank you, Chairman Schumer and Ranking Member Cornyn, for the invitation to speak to you this morning.

In May of 2008, my frustration with the state of affairs on our immigration policy led me to write an editorial that holds true today. It bothers me dearly that Lady Liberty's message of welcome no longer resonates and we place quotas, inexhaustible red tape, and, in many cases, deportation in the path of the best and the brightest who are anxious to contribute to our free market economy.

Since 2008, when I wrote that editorial, three June classes have graduated from school, and too many talented people have left or been forced to leave this country. Out of about 50,000 advanced math and science students, those who have a long tradition of activities that create jobs, we lose about one-third, about 17,000 each and every year.

I fervently believe to help our country Congress should:

One, see immigration reform as a pressing jobs issue. The current legal immigration regime is inadequate and its cost is robbing America of the next generation of great companies. A sobering fact is that Google, Yahoo, and eBay—many of the job drivers of the last 20 years—would likely not be founded in America today under the current system.

Two, we need to debate legal immigration on its own merits. Do not link it to reform of illegal immigration laws. Americans are losing jobs and opportunity while we let one issue drag down the other. I understand and agree that we need to reform the entire immigration system, but given the urgency of our economic situation, we cannot afford to continue to wait for a grand plan that may not be achievable.

Three, we need to enact a more flexible and stable regime for legal immigration. Reform must convey economic priorities about job growth and global competitiveness. Increasing H-1B visas is simply not enough. We need to admit and keep entrepreneurs here so that the creative dynamic of our economy is enhanced by the very best skills and minds. The default should be "yes," not "no."

This is an issue I am passionate about because I know that as a CEO, NASDAQ relies on one critical raw material for its economic vitality—entrepreneurs. Entrepreneurs take ideas and turn them into companies, and those companies "grow up" to become

listed on NASDAQ. Existing NASDAQ companies hire brilliant people who solve problems, invent and improve their company, making them stronger and its employment base grow.

Our economy and NASDAQ itself have directly benefited from the contributions of foreign-born talent. Among Fortune 500 companies, we have found that at least 14 NASDAQ companies have foreign-born founders. These companies have created over \$522 billion in market capitalization and employ almost 500,000 workers.

Markets, including human capital markets, work best when there is certainty. Uncertainty always creates distortions, whether it is in the derivatives market waiting on the rules of the road from regulators, the equity markets waiting for Congress and the President to agree on fiscal policy, or labor market participants that look to our restrictive, sometimes arbitrary, and unwelcoming immigration system as they decide where and where not to take their talents.

In countries like India and China, they actively recruit graduates and qualified researchers for their expertise and abilities, paying top salaries and other benefits to get graduates to return home to help their economies grow. The competition for smart, capable math and science graduates is a global one.

Let me take the job-stealing issue head-on. Opponents of enhanced legal immigration argue that when a foreign-born, highly skilled immigrant gets a job, American graduates are the losers. But my research and experience tell me quite a different story. For example, the National Federation for American Policy says that for every H-1B worker requested, U.S. technology companies increase their overall employment by five workers. I was in Silicon Valley last week, and virtually every company I met said they had more engineering jobs than qualified applicants. These are jobs that are, in fact, advertised, including a website, StartUpHire.com, which caters to venture capital-backed companies. They have over 13,000 job openings posted right now. In this week's San Jose Business Journal, I read that the State of California released a June employment report that noted in just the San Jose metro region Apple had listed 868 jobs, eBay 617, Google 582, and Yahoo 571 jobs that are not going filled.

When we keep the best and brightest graduates here, they help employment here. Brookings reports that as a result of immigration, 90 percent of native-born Americans with at least a high school diploma have seen wage increases.

Companies have little choice about the skill they need to hire, but the immigration system can, in fact, determine where they locate their employees. Isn't it better for all of us if they build their research and development centers here? Many companies can, if needed, locate people in Canada, Europe, India, or any country that wants those jobs and the benefits they bring. Whether in Silicon Valley, Austin, Chicago, or anywhere else in the United States, I hear from CEOs that the H-1B visa system is inadequate for today's human capital marketplace and the backlog for green cards, and what they mean to the quality and the uncertainty of the lives of these foreign-born employees is a legitimate threat to their businesses.

Employers no longer have to locate jobs and workers because of physical capital to support those jobs. Human capital is highly mobile, and STEM and other high-tech workers are just a plane ticket or Internet connection away.

I know I am over time here, so what I want to speak to at the end is just that we certainly recognize that we need to improve the education system. We certainly recognize that we need to ensure that these programs are properly policed and adequately run. But we have to implore you to find a legislative solution to make improvements in this area. Making our legal immigration system work for us will raise revenue, increase our productivity, create very good jobs, and make us more competitive.

Thank you.

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

Chairman SCHUMER. Thank you, Mr. Greifeld.

Mr. Skorton.

**STATEMENT OF DAVID SKORTON, PRESIDENT, CORNELL UNIVERSITY, ITHACA, NEW YORK, ON BEHALF OF ASSOCIATION OF AMERICAN UNIVERSITIES**

Mr. SKORTON. Good morning, Chairman Schumer, Senator Cornyn, and members of the Subcommittee, and I thank Senator Grassley for his leadership, friendship, and kind remarks.

Cornell University, located in Ithaca, New York, with campuses or programs in New York City; Geneva, New York; Appledore Island, Maine; France; England; Italy; Singapore; India; China; Tanzania; Qatar and elsewhere, is the largest and most comprehensive school in the Ivy League and is the land-grant university for New York State. Our enrollment is approximately 20,000, with students from every State in the Union and more than 120 countries studying under an internationally renowned faculty.

The Association of American Universities, for which I am proud to also be speaking, is a nonprofit association of 59 leading U.S. public and private research universities and two Canadian universities. AAU's 59 U.S. members perform 54 percent of federally funded university-based research and award more than half of all doctoral degrees earned in our country.

We all want to thank Chairman Schumer for calling this important hearing, and I thank you for inviting me to share my perspective.

I have the privilege, Senator, of being a member of the National Security Higher Education Advisory Board, a group of some 20 university presidents and chancellors, appointed by the Director of the FBI to meet with senior officials of the Bureau and other agencies to discuss issues of national security related to higher education, prominent among which are issues related to immigration policies and procedures. Through this board I have gained an appreciation of the importance of ceaseless vigilance to maintain national security. But I have also learned of the need for balance in our approach to this volatile set of issues, and I applaud you for seeking that balance.

The issue is a personal one for me. I am a first-generation American, the son of immigrants. And my father took it for granted

that through hard work, adherence to the law, and an earnest desire to become an American citizen, he would create a better life for himself and his children. My own life and those of countless other first-generation Americans have proven him right.

But the recent debate, however, suggests that many Americans have stopped seeing immigration as an integral part of the American dream. We cannot afford to close off the United States from the rest of the world, and we must reach a consensus on comprehensive immigration reform that balances our physical and economic security with the realities of our growing immigrant population and our changing national workforce.

American colleges and universities are educating a record number of international students. According to the IIE, there were 690,000 international students in the U.S. in 2009–10, a 3-percent increase, and at Cornell currently, 18 percent of our student body are international students.

In the 21st century, the American relationship with international students has, of course, become more complex as national security concerns have risen. There is a real cause for concern, however, if the U.S. does not remain the top choice for students from around the world who want to apply to graduate studies in science and engineering.

Contrary to concern expressed by some critics, there are not enough qualified or interested American students to fill all the slots in STEM undergraduate and graduate programs, nor in the workplace.

The most difficult immigration issues, as you have heard, arise when international students graduate and want to enter the U.S. workforce. While some students always intend to return home, others may want to stay here—to work, to invent, to innovate, to start companies, to create jobs, and thereby to contribute to the economic growth of our country.

We know from our career placement offices and alumni associations that U.S. companies want to hire Cornell's international graduates—not surprising, as you have heard, when foreign-born inventors are responsible for a large share of companies and startups, and I want to give a quote from a colleague of mine, Bill Swanson, Chairman and CEO of Raytheon: “Raytheon, like the Nation, depends upon highly educated and experienced STEM graduates, many at the doctoral level. Foreign nationals with these qualifications, with appropriate immigration status, are critical to our country's competitiveness.”

The Partnership for a New American Economy—a national bipartisan group founded by New York City Mayor Michael Bloomberg that includes more than 300 mayors and business leaders—has compiled some impressive statistics, including that more than 40 percent of the current Fortune 500 companies were founded by immigrants or their children and more than a quarter of all technology and engineering businesses launched between 1995 and 2005 had an immigrant founder.

Immigrant STEM graduates help fill projected job shortages. McKinsey Global Institute projects that as many as 190,000 positions for data analytics experts such as industrial engineers and mathematicians will go unfilled in the U.S. by 2018.

Our immigration policy is right now causing us to lose international graduates and other highly motivated individuals to countries including England, Australia, and Canada—countries that encourage and promote immigrant entrepreneurs with streamlined visa application processes, more flexible pathways to permanent residence or citizenship.

To sum up, I believe Congress that should pursue four imperatives, and I support the administration's and specifically Senator Schumer's efforts in this regard.

Number one, we should create a streamlined green card process for international students who graduate with STEM degrees from U.S. universities.

Number two, we should reduce the backlog of skilled immigrants waiting to become permanent residents by increasing the number of employment-based visas.

Number three, we should enact policies and procedures that allow families to stay together and allow for reasonable visits back home without too much red tape upon return.

And, number four, I believe we should pass the DREAM Act. Even though the DREAM Act is not the subject of this hearing, it is vitally important that undocumented children who are in the U.S. through no fault of their own be given the chance to earn citizenship through hard work, either in college or military service.

Chairman Schumer, I thank you again for your work and for the opportunity to testify, and at the right time I am more than pleased to answer questions.

Thank you.

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

Chairman SCHUMER. Thank you, Mr. Skorton.

Mr. Smith.

**STATEMENT OF BRAD SMITH, GENERAL COUNSEL AND SENIOR VICE PRESIDENT, LEGAL AND CORPORATE AFFAIRS, MICROSOFT CORPORATION, REDMOND, WASHINGTON**

Mr. SMITH. Well, thank you, Chairman Schumer, Ranking Member Cornyn. It is a pleasure for me to be here. We have long worked on comprehensive immigration legislation, and we welcome the opportunity to talk again this morning about the issues relating to high-skilled immigration.

Microsoft has subsidiaries in about 120 countries around the world. We are one of the most global companies on the planet, and if there is one thing we see every day, it is this: The world economy has changed. It used to be that people would move in search of the right jobs. But, increasingly, jobs move in search of the right people. If a country wants to create jobs, it has to skill up its people.

This was underscored by a recent study at Georgetown University. It showed that in 1973 only 28 percent of the jobs in the United States required a postsecondary education. But by 2008 that had risen to 59 percent, and the study estimates that by 2018 a full 63 percent of all jobs in the United States will require a postsecondary education. We need to skill up as a Nation.

And yet we are falling short today. Senator Cornyn, as you mentioned, we have a 9.2-percent unemployment rate in the country,

but in many ways what is even more interesting is this: According to the Bureau of Labor Statistics last month, the unemployment rate for individuals who have only a high school diploma is 10.0 percent. The unemployment rate for Americans that have a college degree or more is less than half of that. It is 4.4 percent. So, in short, we not only have a jobs problem in this country; we have a skills problem. And the fundamental question for the country is how to address this skills gap.

Senator Schumer, I think you put it right on the nose. What we need to do is two things: we need to invest in education, and we need to address immigration. We wholeheartedly agree that our top priority should be education. That is why we as a company and many other companies in our industry are investing our own dollars in helping to improve education in the country. That is why Microsoft alone over the last year has announced new investments on the order of roughly \$100 million to support scholarships, to support schools, and to support students.

And yet, unfortunately, we also see that while education is a long-term goal, it is also a long-term process. It is going to take a long time to get where we need to go. We need immigration, and we need immigration reform in the interim.

Certainly we as a company see the benefits that come when we can create world-leading R&D centers in the United States where we employ a large majority of Americans, but bring these leading American employees together with some of the best and brightest talent from the rest of the world as well.

As a company, we employ 54,000 people in the United States, and they create jobs not only for themselves, but for others in the economy as well. Last year, the University of Washington estimated that with a 5.81 multiplier effect, the 54,000 employees of Microsoft create 267,000 jobs elsewhere in the U.S. economy. It is the type of thing we can do solely because we can bring people of talent together and enable them to work in one place.

If we are going to continue to create these jobs, we need high-skilled immigration reform, and in particular, we think it is important for this reform to focus on three things:

First and foremost, addressing the green card backlog that you have heard about this morning;

Second, we think it is important to address and modernize, as you have heard, the visa system for students so that they have greater ability and greater incentive to stay in the United States;

And, third, we need to ensure that our temporary visa programs remain healthy, that we address fraud, that we prevent abuse, but that we also ensure that demand and supply move forward together.

Ultimately, we want to create more jobs in this country. Microsoft spends more money on research and development than any other company in the world—\$9.6 billion. Today we spend 83 percent of that money to create jobs in one country—the United States. We want to continue to create jobs in this country. We need the help of this Congress to do so.

Thank you.

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

Chairman SCHUMER. Thank you, Mr. Smith.  
Dr. Arora.

**STATEMENT OF PUNEET S. ARORA, M.D., LOS ANGELES,  
CALIFORNIA, ON BEHALF OF IMMIGRATION VOICE**

Dr. ARORA. Distinguished Chairman Schumer, Ranking Member Cornyn, and distinguished members of the Committee, it is a moment of great privilege for me and a moment of great education for me to be here in front of this august panel on behalf of Immigration Voice and really on behalf of highly skilled workers and their families that are patiently awaiting permanent resident status in the United States.

Immigration Voice is a grassroots organization of highly skilled immigrant workers that have come together to advocate for change in the current system. I thank you deeply for this opportunity to present my views.

I would like to address with you the problems faced by 1 million highly skilled immigrant workers and their families who live and work in America, who see themselves as future Americans, and have been gainfully employed for a decade or more, but find themselves in lines for green cards. Our community has invested in America with diligence, innovation, productivity, with our assets and with our future—our children who were born in the United States.

In 1996, I began a medical residency program at the Southern Illinois University School of Medicine in Springfield, Illinois. This was followed by a fellowship in endocrinology, diabetes and metabolism at the New York University School of Medicine, thus moving me to one of the greatest cities in the world.

This was followed by a fellowship in advanced diabetes at the Mayo Clinic in Rochester, Minnesota, the greatest center for endocrinology in the world and a dream come true for me. I was awarded a master's of biomedical science degree in clinical research by the Mayo Graduate School in 2005.

In the year 2003 I joined clinical practice with the HealthPartners medical group in St. Paul, Minnesota, and took up significant teaching responsibilities and was appointed assistant professor of medicine at the University of Minnesota Medical School. My practice in a medically underserved area with a substantial population of indigent patients qualified me for a National Interest Waiver. However, a harsh interpretation of the statute by USCIS prevented me from this until the year 2007, when it took a lawsuit to finally overturn the immigration agency's position.

In late 2008, I was offered the position of clinical research medical director at Amgen, the world's largest biotechnology company. I was able to accept this offer only because of a small window of relief offered in July of 2007 that allowed me to take work authorization. Without this, it is likely that I would not have made it to California. Many of my colleagues at Immigration Voice were not so fortunate, and to this day they lack this kind of job mobility.

In June this year, I celebrated 15 years of life in America. My green card application meanwhile is gathering dust somewhere. Let me take a moment to tell you why that is so.

Congress has allotted 140,000 employment-based green cards for immigrant workers and for their families every year, but no country can receive more than 7 percent, which makes less than 5,000 in a year across all skill categories regardless of size, population, and ability to provide skilled workers. As a result, those in our community with entrepreneurial ambitions are held back, and their energies are dissipated. I, therefore, respectfully recommend that this panel consider the removal of per country caps in the employment-based system.

An independent task force on immigration policy for the Council for Foreign Relations has specifically recommended eliminating the nationality quotas for skilled workers. The benefit of this measure would accrue to only one Nation in the world—the United States of America.

I would like to respectfully ask this panel to consider the recapture of unused green cards that number over 300,000 across the family and employment-based categories. Many of you—and Senator Cornyn and Senator Schumer, both of you—have proposed innovative solutions which I wholeheartedly support, including exemptions for U.S. STEM advanced degree graduates, exemptions for family members, from numerical quotas. Senator Conrad has proposed a bill that would exempt physicians that provide service in medically underserved areas, which is in the national interest.

Frustration with the U.S. immigration system sent Wharton graduate Kunal Bahl back home in 2007 when he went and founded snapdeal.com. This is a rapidly growing company with over \$20 million in annual revenue, over 400 workers, and growing at the rate of 70 workers a month. This, India's equivalent of Groupon, has major U.S. venture capitalists like Vinod Dham, the father of the Intel chip, investing significantly in it. Reports from India and China suggest that this is not an isolated example; this is a growing trend.

We often hear concerns that foreign-born workers are taking jobs and are stalling the economic recovery. Instead, I am here to represent a community that has held steady employment for years now in areas with widely documented workforce needs, as in my case. A study conducted by Duke University concluded that between 1995 and 2005, 25 percent of startups in Silicon Valley had at least one immigrant founder and generated more than \$52 billion in sales in 2005 and created just under 450,000 jobs.

It is clear that highly skilled immigrants are net job creators, and they add more jobs to this economy than the jobs they occupy. We have tied our futures to the U.S. economy and our children's futures as well. Therefore, the growth of America's economy and the availability of jobs in America is of great significance to all of us. We want nothing more than to see America prosper and grow while remaining the most welcoming Nation on the face of the Earth.

On behalf of Immigration Voice, again, my sincere gratitude for this opportunity and for the patient hearing you have given me today.

[The prepared statement of Dr. Arora appears as a submission for the record.]

Chairman SCHUMER. Thank you, Dr. Arora.

Now, finally, last but not least, Dr. Hira.

**STATEMENT OF RONIL HIRA, PH.D., ASSOCIATE PROFESSOR  
OF PUBLIC POLICY, ROCHESTER INSTITUTE OF TECH-  
NOLOGY, ROCHESTER, NEW YORK**

Dr. HIRA. Thank you, Chairman Schumer, Ranking Member Corryn, and the members of the subcommittee, for inviting me to testify here today. I have been studying high-skill immigration policy for more than a decade, so it is a great opportunity for me to share some of my thoughts on its impact, our current policy, its impact on the American economy, American workforce, and competitiveness and innovation policy, which I study also.

I have concluded that our high-skill immigration policy, as currently administered and designed, does more harm than good. To meet the needs of both the U.S. economy and American workers, the H-1B and L-1 visa programs need immediate and substantial overhaul.

The goal of these programs is to bring in foreign workers who complement the American workforce. Instead, loopholes have made it too easy to bring in cheaper foreign workers, with ordinary skills—these are not specialized skills, these are not the best and brightest; these are ordinary skills—who directly substitute for rather than complement American workers. The programs are clearly displacing and denying opportunities to American workers.

The H-1B and L-1 have serious design flaws, and legislation is needed to fix them. Administrative changes alone, such as stepped-up enforcement, while necessary, are simply not sufficient to correct the problems. I will just briefly highlight a few of these design flaws that we have in the programs.

First, the programs allow employers to legally bring in foreign workers at below-market wages, so you can legally bring in cheaper workers to substitute for American workers. How do we know this? Well, employers have told the GAO that in some cases they do that, so they have been explicit about this. And 54 percent of the H-1B applications were for the lowest wage level, the 17th percentile. So if you think about that on a scale, that is hardly the best and brightest being paid the 17th percentile.

In the case of the L-1 program, it has no wage floor at all. There are no wage requirements. By far, the largest sending country for L-1 workers is India, where typical wages for engineers is a mere \$10,000 per year. So you can pay home-country wages and bring in L-1 workers instead of hiring American workers. So if you think about the differential between an \$80,000 a year American engineer versus a \$10,000 a year engineer from India, you can imagine the kind of arbitrage opportunities and also why these companies that are exploiting these loopholes are extraordinarily profitable—much more profitable than companies that are hiring American workers.

Second, the programs allow employers to bypass qualified American workers and even outright replace American workers with H-1Bs and L-1s. News reports indicate that American workers are being replaced by H-1B visa workers in companies such as Wachovia, A.C. Nielsen, and Pfizer. This is at a time when the unemployment rates for STEM fields remain very high, and so con-

trary to some of the discussion here this morning, in fact, the STEM job market is mired in a jobs recession like the rest of the country. The unemployment rates are twice to three times what we would expect at full employment, so instead of 2 percent or 2.5 percent, they are more like 5 percent, 4.5 to 5 percent. So they are mired in a jobs recession just like the rest of the country.

According to the IEEE-USA's analysis of Labor Department data, there are more than 300,000 unemployed engineers and computer scientists. Given the poor job market for STEM fields, being forced to train your foreign replacement is particularly egregious at this time.

The third flaw I would point out is that because the employer rather than the worker holds the visa, an H-1B or L-1 worker's bargaining power is limited, and they can easily be exploited by employers. One consequence of all of these issues is that it provides an unfair competitive advantage to companies specializing in off-shore outsourcing, speeding up the process of shipping high-wage high-tech jobs overseas. It has disadvantaged companies that primarily hire American workers, forcing those firms to accelerate their own offshoring. For the past 5 years, the top H-1B and L-1 employers are using the programs to offshore tens of thousands of high-wage, high-skilled American jobs. Using the H-1B program to offshore is so common, it has been dubbed "the outsourcing visa" by India's former Commerce Minister.

Simply put, the U.S. Government is subsidizing offshoring through the current H-1B and L-1 regimes. As former Congressman Bruce Morrison, who was the architect of the H-1B program, put it, "There is no reason why the Government should have a thumb on the scale to actually speed up the process of outsourcing these jobs."

Even more disturbing is that many American high-tech workers and students believe the program and Government policy purposely undercuts their careers. The program has lost legitimacy amongst these critical workers. American tech workers are leaving the field and telling students to stay away. This threatens the country's capacity to innovate and create jobs for the economy.

In conclusion, let me say that I believe the United States benefits enormously from high-skilled permanent immigration. We can and should encourage the best and brightest to come to the United States and settle here permanently. But our high-skill immigration policy is failing on both accounts.

Thank you.

[The prepared statement of Dr. Hira appears as a submission for the record.]

Chairman SCHUMER. Thank you, Dr. Hira, and I want to thank all the witnesses for their testimony. We will limit the questioning period to 5 minutes, so I will ask the witnesses to try to limit their answers.

First, to Dr. Greifeld, just tell us some of the types of jobs at NASDAQ that have been done by high-skilled immigrants where they have made a really important contribution to your company that you would not have gotten from other sources.

Mr. GREIFELD. Speaking for NASDAQ ourselves as an employer, we take great pride in our technology where we are basically be-

yond the limits, what is known is commercial computing capability. We have the ability to process over a million transactions a second, in about 50 milliseconds. And when we look at our development team that is responsible for that core activity, it is about 60 people of which 20 of them are foreign born, and those people are certainly critical. And we certainly cast a wide net to find that unique set of talent to allow us to build these systems which are deployed globally.

Chairman SCHUMER. Thank you.

To Dr. Skorton, there has been an argument that immigrant students in our schools are taking slots from other capable American students. Can you address that? I think Senator Grassley alluded to that. Can you address that argument?

Mr. SKORTON. Yes, and thank you, Senator. It is a complex issue, but my impression after 30 years in higher education at multiple institutions is that that just is not true overall in the high-skill areas that we are talking about. But I also want to take advantage of the question to make a couple of points about additional advantages that international students bring to our campuses in favor of the positive effects on American students who are their classmates.

Students from other countries contribute enormously to the cultural diversity of the campus, and in an age, as you have heard, where globalization has actually affected the way companies work, not just a catch phrase but actually a way of living, our students need to have cultural competencies that go far beyond America's borders, and international students add to that cultural competency.

They also add an alternative perspective on many, many issues that I think broadens debates and puts our own students in a better position to go forward with their own international leadership.

And, finally, we do have a challenge in the pipeline for not only STEM graduates but for other high-tech areas in the American K-12 system.

And even though it has not been the immediate focus of this panel today, I think it is important to say that one of the other areas that needs to go hand in hand with immigration reform is continued work on the STEM pipeline in K-12 so that there will be a better balance of available and qualified American students for these jobs and so we will not have the structural unemployment that was mentioned by the last speaker.

I also want to take advantage and just a quick commentary to resolve what I think might be apparently to the panel a conflict between the first speaker and the last speaker about whether or not there actually are jobs going unfilled because of lack of skills. I believe there are, and I believe an unemployment rate, a raw unemployment rate, is too gross a measure to answer the question: Do we have the right skill match with the jobs that are going unfilled?

Chairman SCHUMER. Well, in your region we have three great engineering schools, two of which are represented here—Cornell and RIT; there is RPI where I believe one of the witnesses attended—turning out engineers, and Lockheed Martin needs engineers in Syracuse, and they cannot get all the engineers they need right in that area.

Mr. Smith, let us say we were no longer—let us say we did not change our immigration policy. How would it affect jobs at Microsoft, both here and abroad?

Mr. SMITH. Well, right now we at the company have over 4,500 jobs that are open. Over 2,600 of those jobs are in the computer science and engineering fields. I think if we do not have immigration reform, you know, what we are going to see is a continuing pressure by technology leaders, especially in our industry, to put more jobs in R&D centers in other places.

Chairman SCHUMER. You mean overseas.

Mr. SMITH. Overseas, outside the United States. We opened a development center in Vancouver, British Columbia, a few years ago precisely because we could not get sufficient visas for the people we had hired. And when we did that, the premier of British Columbia, the equivalent of their Governor, looked at us and said this: "You all have a problem. Your Government does not like your foreign employees. But I do. Bring your jobs here."

Chairman SCHUMER. Say no more.

Dr. Arora, first, how long would it take you, waiting in line because the Indian percentage is only 7 percent, to get your green card? How many years more at present rates?

Dr. ARORA. Senator, I have to say that this is one of the most—this is the \$64 million question. There are many thousands of people ahead of me in the line today.

Chairman SCHUMER. We estimate about 8 more years.

Dr. ARORA. That could well be possible.

Chairman SCHUMER. That just makes no sense.

Dr. ARORA. It is 2,800 a year, including—

Chairman SCHUMER. No sense. Okay. You make a very good point. And do you have any estimates on the number of people that would open their own companies here in the U.S. but cannot because of the broken immigration system we have?

Dr. ARORA. Senator, I think there are many people in our community who have entrepreneurial ambitions. I have run across many examples of these on a daily basis. I have a colleague who was a few years ahead of me in medical school, a few years ahead of me at Mayo, and then joined Amgen a few years ahead of me. I almost feel like I am following him around the world. He has now opened up his own small biotech venture in Thousand Oaks and lives near me, employs people, and is doing the most innovative work.

I know that at Immigration Voice we hear every day that there are many who would like to open small businesses and simply cannot because of this status in limbo.

Chairman SCHUMER. Thank you. Okay. I have exceeded my time by a little bit, so I will stop my questions now.

Senator Cornyn.

Senator CORNYN. Thank you, Mr. Chairman.

About 85 percent of U.S. green cards go to family members of U.S. citizens or permanent legal residents, people seeking humanitarian refuge and diversity immigrants who come from countries with low rates of immigration. So that leaves us with 15 percent of the visas going to people based on their work, and indeed, half

of the 15 percent, roughly only about 7 percent, go to principal workers, with the vast majority of those highly skilled workers.

As the Dallas Fed report says, “No other major developed economy gives such a low priority to employment—based immigration.”

So my question for the panel is: Do you think we ought to give, in the interest of energizing our economy, more emphasis to employment-based permanent immigration? Or should we maintain the status quo? Maybe, Mr. Greifeld, do you have a view about that?

Mr. GREIFELD. I certainly do. Certainly when you look at the situation, we had H-1B first at 195,000, and we would advocate for going back to that limit. With respect to the employment-based visas, to me, reading through it, there are just too many categories, and we need to simplify that and look at it as a number that certainly should not include the families that come along with the person who is working. And we have to recognize when somebody is working and contributing to this economy, that is a good thing and should be a faster path for them to have permanent status in this country.

Senator CORNYN. I suspect I will get similar answers from others on the panel, so let me just move on to another topic.

The Economist said there was a time when ambitious foreigners had little choice but to put up with America’s restrictive ways. Europe was sclerotic, and India and China were poor and highly restrictive, but these days the rest of the world—and I am paraphrasing—is opening up and competing with the United States for these highly skilled workers.

Mr. Smith, maybe you would be a good candidate for this question. What exactly are nations like Canada—you mentioned your Vancouver facility, but I would include New Zealand, Australia, the U.K.—what are they doing differently than the United States is to attract these best and brightest foreign workers?

Mr. SMITH. Well, ironically, I think the single thing that has happened the most often is this: The rest of the world sort of figured out what was working in the United States, and they replicated it even as we perhaps stepped away. So, in fact, we see wages going up quite quickly in our industry for engineers around the world. We see cities, States, and countries doing more to make development centers attractive, putting incentives in place to attract companies. We see some Governments really changing their visa policies to make it easier for students to continue to stay and get a job, making it easier for spouses to work sooner in the process, to accelerate the path to the equivalent of a green card and eliminate or reduce the kind of legal uncertainty that we increasingly feel here. So things have become much more competitive.

Senator CORNYN. Dr. Hira, you talked about the problems that we have with current administration of the H-1B program. I cannot think of anything that would sabotage our desire to try to fix this broken system and to do what is in the best interests of the United States and certainly our economy than examples of people gaming the system, which you have talked about. Do you feel like Congress has the capacity and ability through new legislation to fix the broken parts of the system that allow people to game it while

preserving the benefits of attracting these best and brightest workers?

Dr. HIRA. Yes, absolutely. I think there are definitely proposals that have been introduced, in fact, in the last Congress by Senators Grassley and Durbin, who are both members of this Subcommittee, S. 887, which would go a long ways to actually fixing many of the—closing many of the loopholes that I mentioned earlier.

Let me also just address the U.K. Interestingly enough, the U.K. has actually tightened up their work visa program quite significantly with the new coalition government, and when I met with the Migration Advisory Committee, which is an arm of the government that advises the government on immigration issues, they were shocked that our L-1 program, our intra-company transfer, multinational transfer program does not have a wage floor. They were just flabbergasted.

Senator CORNYN. Mr. Chairman, I think one of the things that we might want to consider in working together on legislation here is sort of a rheostat or way to power up or power down the system in times of a booming American economy and times when our economy is not doing as well. But I dare say that between you and me and the members of this Committee, if we were agreed to deal with this problem, we could fix this. We could fix this. I am not sure what the prospects are for comprehensive immigration reform because of the credibility problem that Congress has when it comes to various aspects of it. But this is an area I think we could fix working together.

Chairman SCHUMER. I certainly think the area has to be fixed. One of the problems we have seen in the past—we will see if it remains in the future—is when you do not do comprehensive reform, the people who are not included say, “I am not going to let a bill go forward unless I am included.” So that has been the old dilemma.

Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Senator Schumer. Thank you for holding this hearing and for your leadership, longstanding leadership in this area, and thank you to the witnesses who have come here today on this critically important topic. We hear about it every day. Connecticut has a number of companies which, like Microsoft, have openings but are looking for folks with the skills to fill those openings—United Technologies and General Electric and all of the great companies located in Connecticut—which leads me to my first question.

Mr. Smith, you know, your observation that jobs follow the talent reminds me of the National Venture Capital Association which commissioned a study entitled “American Made: The Impact of Immigrant Entrepreneurs and Professionals on U.S. Competitiveness,” a study that indicated that immigrant-founded companies have generated more than half of the employment by United States public venture-backed high-tech manufacturers. So entrepreneurs coming to this country are the source of employment, new jobs that are created when they create new companies.

I wonder if you could talk about the two or three revisions in immigration law that you think would enable us to attract more en-

trepreneurs as well as individuals to fill those 4,000 openings that you mentioned at Microsoft.

Mr. SMITH. Certainly. Thank you, Senator Blumenthal. I think the real key today is to focus on green cards, and, in fact, I think that might be something that most or all of us even share on this panel. We have such a backlog of green cards, and as you have heard, the fact that we have a per country cap is a real problem.

We have a huge backlog in the country today, especially for people from a country like India, and that is discouraging them from staying here. It means their spouses cannot work. It is creating incentive for them to return home, create companies, and create jobs in other places. So I would say priority No. 1 really should be to address the current green card backlog.

Then the other point I would make is, as you have heard, there is a huge amount of benefit that would come from putting graduates of American universities, especially in high-demand fields, the so-called STEM fields, for example, on a path to green cards. That would give them the incentive to put down roots here. It addresses a lot of the issues that people have been expressing concern about with respect to temporary visas. It would strengthen the country's economy.

Senator BLUMENTHAL. And I gather from your testimony, Dr. Skorton, that you would agree on a number of those points.

Mr. SKORTON. Yes, Senator Blumenthal, I would definitely agree with the points, and I want to say again, at the risk of redundancy, that the beauty of what you are talking about is that it is comprehensive. And I believe that, as Dr. Hira has mentioned, it is very important to deal with inadequacies and rooms for loopholes in the current system. It is very, very important to do a better job of matching skills needs with skills production.

And, third, I think as Senator Cornyn mentioned, it is very important to make the system inherently flexible enough to deal with different industries and different eras. And just because I have garnered the floor briefly, I will say again that even though it is not necessarily in the purview of this particular Committee, it is important that we all, all Americans, work toward improving the STEM pipeline in K-12 education so that our successors in years to come will not be dealing with this very frustrating problem.

Senator BLUMENTHAL. Well, I appreciated your mention of that point and also of the DREAM act, even though it is not directly on point today.

Mr. Greifeld, from your experience would lifting the caps, the per country caps, also be something that we should do?

Mr. GREIFELD. Definitely. As I mentioned in my testimony, I was in the Valley last week, and I met during my time there about 24 or 25 different CEOs of high-technology companies. And these are companies with active job searches, active job openings for obviously highly qualified engineering talent, and this talent is fundamental to their growth. And in terms of the ripple effect in terms of employment, it is real. The openings are real, the ripple effect is real, and we have to respond to that as soon as we can and allow them to hire these people, create the ripple effect, and, you know, obviously address in some way our economic issues that we face today. So we need to move beyond that. And these numbers are ob-

viously artificial. There has to be some way, as I think Senator Cornyn mentioned a rheostat, where it is geared to actual demand here. So we cannot have an arbitrary number. We have to respond to the real-life situation on the ground.

Senator BLUMENTHAL. Well, again, my time has expired, but I want to thank all of you for being here, and I look forward to continuing to work with you. Again, I appreciate Senator Schumer's leadership in this area. It has been great.

Chairman SCHUMER. Thank you, Senator.

Senator GRASSLEY.

Senator GRASSLEY. Thank you, Mr. Chairman, and thanks to all the panelists. I am sorry I missed your testimony, but obviously we have it in writing.

I have some questions. I will start with Dr. Hira. In your testimony you described how the loopholes in the high-skilled guest worker program have eased the way for companies to bring in cheap foreign labor who directly substitute rather than complement workers already in the United States. So my first question is for you to rebut the assertion that some, including your co-panelist Brad Smith, have made that the U.S. does not, in fact, have enough highly skilled workers.

Dr. HIRA. Well, the data just does not support that assertion by Mr. Smith. The unemployment rates, as I mentioned earlier, are very high. In fact, they are higher for STEM graduates than they are for all college graduates. So unless you are going to argue that liberal arts majors are somehow in short supply, it is hard to argue this. The unemployment rates are twice to three times what we would expect. Now, some of this is a cyclic phenomenon. It is part of the jobs recession that the whole country is facing right now.

There are always cases where there are shortages of very narrow occupations, and let me give you a very good example of this: petroleum engineering. What we saw was the market worked. Wages went up from about \$60,000 to \$86,000, and what happened? Well, enrollments went way up within universities in petroleum engineering, filled mostly, almost exclusively, by Americans into those programs. So markets work when you let them work.

By using these H-1B and L-1 programs, what you are really doing is intervening in the normal functioning of the labor market, and with that privilege should come some accountability.

Senator GRASSLEY. Again, Dr. Hira, we have seen trends in large corporations where they are finding ways to circumvent H-1Bs besides using and L and B visa. What other ways are companies obtaining foreign workers? And is this something that deserves more scrutiny?

Dr. HIRA. One of the things that is interesting about this in the way the regulations work—and I do not know enough about it because I do not think it has been studied. But many of the temporary workers come in and do not work directly for the clients. They may not work for Microsoft or for one of the large American companies. What they do is they work for contractors, and by doing that, through that process of outsourcing, they are able to then circumvent some of the non-displacement and other regulations. At least this is my speculation. I do not know of anybody who has actually studied it within the Government or outside the Government

to see how this process works. But definitely there are problems there, and that is something that needs to be scrutinized.

So one has to not just look at the direct workforces of, let us say, Microsoft but also the people that they contract with. For example, Infosys does all of their tech support and services.

Senator GRASSLEY. Mr. Smith, Microsoft is a real employment machine, so we have obviously got to be cognizant of what you say about it, but I have some questions in regard to H-1B. An issue that has been raised about H-1B and L-1 visa programs is employers are not required to demonstrate that qualified American workers are, in fact, available. And, of course, I know through visiting with you and other people that work for you that you and other companies oppose Grassley-Durbin because it requires attestation that an employer recruit qualified Americans first.

Why is it so much to ask for your company and others to look for American workers first and foremost? And a second question: Would Microsoft support a requirement for companies to first attest and actively recruit American workers before they resort to foreign labor?

Mr. SMITH. Well, Senator Grassley, we appreciate the opportunity to have an ongoing conversation. As you know, there are a number of steps in the immigration process where one has to have certain attestations, one has to jump through certain hoops, one has to post information on the Department of Labor's website. We would not think it would be helpful to inject into the labor market yet more bureaucratic hurdles that make it harder to hire employees. We do not pay foreign nationals any differently from the way we pay U.S. nationals, and our wages are not cheap. We and other leaders in our industry today are hiring in the computer science and engineering fields right out of college, and people who get a diploma 1 day are able to start work the next day with a salary and a stock grant in excess of \$100,000. I think there are a number of us who might not have gone to law school if we had realized that future.

Senator GRASSLEY. I am done, but I did have a question for Dr. Skorton that I will give—

Chairman SCHUMER. Without objection, any member of this panel, those here or not here, can submit questions in writing, and there will be a week to return those.

Senator GRASSLEY. Thank you.

Chairman SCHUMER. Thank you, Senator Grassley.

Chairman SCHUMER. Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

Dr. Arora, thank you for being here and thank you for your clinical work in Minnesota. You have made a difference in the lives of countless poor Minnesotans without reliable access to medical care.

First, can you give me a rough estimate of how many Minnesotans you have served as a physician in the course of your career?

Dr. ARORA. Just to be clear, you are asking me about my practice as a physician, Senator?

Senator FRANKEN. Yes.

Dr. ARORA. I started practice as a physician—well, we should go back a little bit. I was a medical resident for 3 years where I practiced as a physician, but as a resident physician. I did another 2

years at NYU at Bellevue Hospital and the Manhattan Veterans Affairs Medical Center. Following this, I was in Rochester, Minnesota, at the Mayo Clinic for 2 years doing a fellowship in advanced diabetes, although I have to say that a rather good section of those 2 years was really spent doing clinical research. That was a lot of my research training.

I then spent time from July of 2003 until December of 2008 with a full-time practice at Regions Hospital and its affiliated clinics with the Health Partners Medical Group.

In December of—

Senator FRANKEN. I was just at Regions this weekend—at a Regions, yes.

Dr. ARORA. And in December of 2008 I moved to a clinical research position at Amgen, so I have had a 2½ year hiatus, but as we speak, I am actually preparing to go back to work at a local volunteer clinic. I feel the need to get back a little bit to my practice roots.

Senator FRANKEN. And I know your path to a green card has been frustrating and is still not complete. Can you describe the challenges you face and how having to deal with those challenges has affected your ability to focus on your clinical work?

Dr. ARORA. Senator, there are a number of things that do not occur to one intuitively when you think of what happens when you are in the state where you do not have a green card but you are waiting for one. I have been through a number of different phases. I was on a J-1 exchange visitor visa for many years when I was training. That visa would run out every year, even though I was in a 3-year program or a 2-year program. Every time I traveled home, I would spend—out of the 8 days I would get after traveling the long distance, I would spend 2 days preparing and going to the embassy to get visa stamp. I never knew when they would decide, as they do very commonly these days, to just put me in some kind of administrative processing and hold me for 3 months, maybe getting me to lose my position. I would get a stamp, but because my academic year was finishing in July and I visited in February, it would expire in July.

There were all kinds of hurdles there, but that is not the least of it. These days my driver's license expires every so often. I find that I am either applying for a driver's license which is expiring or for work authorization which keeps expiring or for an advance parole so that I will be able to travel to work or home on a near continuous basis because something or the other always seems to be going away because I do not have a green card.

I applied for a mortgage to buy a home, which I was fortunate to be able to do eventually, and had to pass some serious hurdles because I had employment authorization and the statute—and I understand exactly why—said you had to have either a valid visa or a green card, and nobody quite understands the state of limbo that many of us exist in. It seems to be a vacuum.

I have tried to buy disability insurance just to make sure if something unfortunate were to happen my family and I would be cared for, and I have been told that if I am not a permanent resident I cannot do that.

I have friends who have wanted to adopt children and could not because they do not have permanent residence.

So there are a number of issues like this where we are held back, and, you know, we spend a lot of time and energy as a community dealing with these little things in daily life which seem so natural to everyone else, and I think they do take away from our efforts at practice and other work.

Senator FRANKEN. Thank you. I know that if you worked at Regions and at Mayo, you are a very, very fine doctor and clinician.

Mr. Skorton, you point out that nearly half of all recent graduate degrees awarded by U.S. universities in science, technology, engineering, and math were awarded to foreign nationals, and this means that international students who receive their education in Minnesota, for example, often must travel to another country to make use of that knowledge instead of contributing to the economy of the State that educated them.

I think it would be good to keep those folks in Minnesota where they are able to contribute to our economy. How would States that educated international students benefit economically from national immigration reform?

Mr. SKORTON. Thank you, Mr. Franken. I would like to first of all say that, as a long-time Iowan, I have great respect for the wonderful work done in the great State of Minnesota, one of the only places that we could think about that was even colder than the State of Iowa.

Senator FRANKEN. And we have great respect for the State of Iowa.

Chairman SCHUMER. Let the record show he is from upstate New York.

[Laughter.]

Mr. SKORTON. This is a very, very important point that you have raised, and I think that earlier comments I made but also those of others on the panel have indicated the importance of utilizing the mechanism that you talked about to improve the economy locally based not only on the ability to fill those jobs but to start companies and also to invent things that others can use to start a company or that established companies can use to move farther down the line. So by all these mechanisms, I think they are very, very important, and I think that the objective is clear. And it is easy for us on this side of the table to say what we would like to see happen. I do not envy you and the other Senators the jobs that you have to do to figure out how to make it happen. But I think the goal that you have laid out is the right goal. The question is how to get there.

Senator FRANKEN. Thank you.

Chairman SCHUMER. Senator Sessions.

Senator SESSIONS. Thank you for letting me join you, Mr. Chairman.

During the debate over immigration reform, which I was active in and felt the comprehensive bill was not a good piece of legislation, the American people agreed with that and it failed, and we are not going to see a comprehensive piece of legislation like the one last time. If it comes back, it will not be like that one.

And I just have to say to my high-tech friends, you guys made a mistake. You endorsed a bill that did little for high-tech workers, but basically would have undermined the lawfulness of our immigration system. And I pleaded with a number of you folks, why don't you come forward with a real plan to help us focus on higher-skilled workers? And, Mr. Smith, you made comments about the United States and said that we do not like foreign workers. I am quoting the Canadian who was saying that, certainly. But I have consistently endorsed the Canadian plan of immigration. I would take it immediately.

Have you thought about that, proposing that for the United States?

Mr. SMITH. Well, I think we would be best served as a country, Senator Sessions, if we took what we have today, took what works, and then make it better rather than try the Canadian one.

Senator SESSIONS. Well, that is what I thought. So this is a political deal. I know how it worked out. The Canadian system gives points. They give points for education. They give points for skills. They give points for youth. They give points for people who speak English or French. And that is how they allow people into the country, and jobs that they need. Would that be a good plan for the United States? Would that favor the high-tech industry? Would it help get us more high-skilled workers or not?

Mr. SMITH. Probably not the French part, but the rest, if you look at it, I think we would welcome a discussion on any option, but—

Senator SESSIONS. Well, I would have thought you would support that.

Mr. SMITH. No. This is why—

Senator SESSIONS. Okay. Why?

Mr. SMITH. This is why: What we really want is labor markets that can adapt to changing economic circumstances, and the challenge, in our view, with any point system is it basically puts the Government in a position where it is trying to determine, you know, what, in fact, is going to best meet needs in the marketplace. In fact, if you take the U.S. system—

Senator SESSIONS. Well, you could use that system to do that, could you not? Couldn't you alter the points to emphasize the skill needs that the country has and not emphasize more workers in areas where there is high unemployment?

Mr. SMITH. I am not saying it does not have some virtues. The challenge is that basically it asks a Government commission or Committee to basically try to manage or even micromanage a labor market in a way that takes stock of changes in the market itself. And our experience would suggest that—

Senator SESSIONS. Well, you would rather be able to do that yourself. You would like to be able to handle it. I can understand that. I am not sure you are empowered to select what workers come into the country. I think that is a governmental function, frankly.

What about the 50,000-person lottery deal? We let hundreds of thousands of people apply to be selected as—to be in the lottery, and their names are drawn at random. It does not have an age factor. It does not have an education factor. I think I have talked with Senator Schumer about it. What about converting that to a real

high-skill, high—tech entry mechanism? Would that be something you could support?

Mr. SMITH. Well, I think there is a basis to have a conversation about ways to give a higher priority to certain fields where there is a clear shortage, and the fields of science, technology, engineering, and math clearly rise very high on that. And then one can discuss, you know: Is a lottery the best way? Is there an alternative approach?

But I would agree that there is absolutely a kernel of something that is worth pursuing.

Senator SESSIONS. Well, the INS report a few years ago said that H-1B employees are paid a median salary 25 percent less than the national median for their field. A 2001 National Research Council report found that, “H-1B workers requiring lower levels of high-tech skill received lower wages.” The Independent Computer Consultants Association in 2003 reported the use of cheaper foreign labor has forced down the hourly rates of U.S. consultants by as much as 10 to 40 percent.

So I think there are other studies that agree with Dr. Hira. I think he is fundamentally right. I mean, I know you have different views, and you would like to be able to pick and choose around the world, Microsoft would, whoever they would like to bring in to help. But we have to set a national policy, and we have to decide, first of all, how many can be allowed, and this cannot be an unlimited number. And if that is the case, we have to choose, and so I thought the Canadian system is a good program. It seems to be focused on how to serve the Canadian national interest.

Mr. SMITH. I think you raise a really interesting point, but I do not think we should obscure the fact that there is something in common in what all five of us are saying.

The principal reason that some people believe that employees on an H-1B visa have a disadvantage in negotiating for salaries with their employer is their difficulty of taking another job. And the principal difficulty they have in taking another job is they go to the very back of the green card queue and have to start over when their next employer gets the visa extension.

We are advocating reform that would address and eliminate that problem. That will be good for employees. Obviously, we think it will be good for employers as well. It will be good for employment more than anything else.

Senator SESSIONS. Well, thank you, Mr. Chairman. That may be something that we could all work on, and I look forward to—

Chairman SCHUMER. Look, I think there are lots of things we can work on on this.

Senator SESSIONS. I agree.

Chairman SCHUMER. Obviously, I prefer comprehensive and I am still working that way.

I am going to take the prerogative of the Chair to ask an off-topic question and take advantage of Mr. Greifeld being here, and that is this: You know Congress is debating two possible solutions to raise the debt limit. There is one offered by Speaker Boehner—cannot get away from this.

[Laughter.]

Chairman SCHUMER. There is one offered by Speaker Boehner in the House that would raise the debt limit for 5 to 6 months; one offered by Leader Reid that would take the prospect of default off the table at least until 2013. Would you prefer a longer-term solution or a short-term patch? Specifically not you personally, but do you think the markets would react better to a longer-term solution that at least takes the prospect of default off the table for a period of time?

Mr. GREIFELD. Can I say I prefer not to answer the question?

[Laughter.]

Mr. GREIFELD. No, but I would say this, and I did reference it in my testimony. Markets certainly want to feel certainty, and to the extent there is greater certainty and there is a time duration to that certainty, that is more beneficial to the markets. So in a general philosophical sense, the longer the deal that Congress makes, an agreement with the President, the better markets will feel about it.

Chairman SCHUMER. Thank you. I appreciate that, and that would mean that the Reid deal is preferable to the Boehner deal. But you do not have to say that.

[Laughter.]

Chairman SCHUMER. I am drawing that conclusion myself.

Senator BLUMENTHAL. You have the right to remain silent.

Chairman SCHUMER. Yes, with the direct corollary that it is longer. Okay. I want to thank the witnesses. This was excellent testimony. This is an issue that America aches for reform—we do—in this area in particular, because I think there is general agreement, even Dr. Hira would say, in certain places there is a need to fill skills and get people around the world. So it has been very elucidating, and I want to thank the witnesses, all of them, for being here—particularly my fellow New Yorkers, but no affront to anybody else.

Thank you.

Chairman SCHUMER. Now the second panel will please come forward. I want to thank our second panel for being here. We are going to try to finish by 12:15 because that is when a vote has been called.

As I mentioned, immigration is an economic engine, certainly with highly skilled people who come here and learn and want to stay here and create companies and jobs. But people forget that even lower-skilled immigrants who come are job creators, and our three witnesses today are witness to that because in each of the communities they represent, immigration has really been a shot in the arm. So I would like to introduce all three, and then we will ask them each to speak for 5 minutes and open it up to questions. We will go from right to left this time, not to show any political preference.

First, Paul Bridges is the mayor of Uvalda, Georgia. That is a town in Montgomery County. He is an educator and a farmer in his community. He has served as mayor since 2010. About 53 percent of the land in Uvalda is farmland, and Uvalda is one of America's most productive farming communities. Maybe in your testimony you can tell us what grows there. Peanuts? I do not know.

Second is my good friend, David Roefaro. He is the mayor of Utica, New York. He is a lifelong resident of Utica, where my father was raised, so I have special affection for the town. And he has been a member of the Utica City School District Board of Education and a Common Council representative for the city. He serves at Utica's 75th mayor, and I might say serves very able as Utica's 75th mayor, a seat he won in November of 2007.

And Laurent—Gilbert?

Mr. Gilbert. Yes.

Chairman SCHUMER. Ah, very good. I remember the hockey player Rod Gilbert, so I know how to say it. He is the mayor of Lewiston, Maine. Before that, he served 25 years on the Lewiston Police Department rising through the ranks to chief of police, a position he held for 5 years before retiring to accept an appointment at the United States Marshal for the District of Maine. He is a graduate of the FBI Academy and has been appointed so several State criminal justice commissions.

We will put your entire statements in the record, gentlemen, and ask you each to speak for 5 minutes and then be available for questions. So we will first start with Mayor Bridges.

**STATEMENT OF HON. PAUL BRIDGES, MAYOR, UVALDA,  
GEORGIA**

Mr. BRIDGES. Thank you, Chairman Schumer and Subcommittee members. Thank you for this opportunity to speak.

My name is Paul Bridges, and I am mayor of a small town, Uvalda, Georgia, which is an agricultural community in southeast Georgia. I am also a plaintiff in a lawsuit challenging Georgia's new anti-immigration law. I am here today to speak about this new law and how it is affecting us in south Georgia.

Uvalda's story is a microcosm of the national debate about immigration. Like other States, Georgia passed a law that would supposedly address illegal immigration. Among other things, it gave local police the power to question residents about their immigration status during a traffic stop. It also made it a crime to give a ride to an undocumented immigrant if you commit another crime as innocuous as having a burnt-out headlight or failure to use a turn signal or even to invite an undocumented immigrant to stay in your home.

The reality is this law will not solve the immigration problem in the State. It will only devastate local economies. It will burden our communities with the cost of enforcing a law designed to create a climate of fear. Even though parts of the law were blocked by a Federal court, its impact can already be seen in my community and other farming communities around Georgia. And we have no assurance that that block will hold.

Uvalda is a small town of about 600 people, but more people call themselves Uvaldians because the address reaches into adjoining Toombs County. Throughout the Uvalda addresses, there are neighborhoods of Latino immigrants. Many of them work on the farms. We grow many different crops, Senator Schumer, throughout the year, including the Vidalia onions. These crops are harvested by skilled migrant laborers who have harvesting down to a fine art. The Georgia peaches, strawberries, blueberries, and many

other fruits and vegetables that they harvest ends up on America's dinner tables. We also have a multi-million-dollar pine straw industry. These workers who do those jobs are a critical part of Georgia's economy. Their work helps agriculture to inject \$6.85 billion into Georgia's economy.

These workers also contribute to local economies as consumers. Every time they buy a good or service, they pay the same taxes that I pay. Many of them own their own homes and pay property taxes. Their taxes are commingled with my taxes, and they are used to pay for schools and public services. The loss of their tax revenue will be felt in Georgia.

Many also file income tax returns on April the 15th, just like I do, using a TIN, or a tax identification number issued by the IRS.

In addition to the economic problems this law creates, it also puts the workers, as well as anyone associated with those workers, directly into the crosshairs. Anyone who looks foreign will be under suspicion. Immigrant workers, regardless of immigration status, have already left the State rather than deal with the racial profiling that this law will encourage. They do not want to live with the fear that their family will be torn apart because a family member cannot produce the proper papers during a traffic stop.

Now that migrant workers are fleeing Georgia, perfectly healthy crops have been rotting in the fields. The Georgia Agribusiness Council has already reported that farms have lost over \$300 million due to the lack of workers. The economic toll could reach \$1 billion.

This hits home for many small farms around Uvalda. When crops are left in the fields, farmers do not get paid. Some fear the inability to repay their loans, even Federal loans. They are unable to meet their families' needs, and when they have this fear, they also stop contributing to the area's economy by buying goods and services. The farms produce less, which means that the consumers at the supermarket pay a little bit more when the produce actually reaches the marketplace.

This misguided law hurts Uvalda in another way. It imposes a significant burden on our area's resources. It forces local law enforcement agencies, with officers untrained in immigration, to use its resources to enforce immigration laws. It distracts officers from their real mission of protecting residents. No family with an undocumented member will dial 911 in the event of an emergency or need for medical services.

Also, when officers arrest people for alleged immigration violations, they have to house these detainees. They have to house the ones who have associated and be arrested with those detainees somewhere. Uvalda does not have a jail, nor does Montgomery County. We will have to rent space in the jail in an adjoining town—another drain on my town's resources. The bottom line is that Uvalda, like so many towns dealing with these anti-immigration laws, will take a major economic hit and will no doubt be less safe as a result.

There are so many wonderful things about the town of Uvalda. It is a friendly place and our residents know each other. If a person needs a ride to the grocery store, to the church, or to the doctor, I give them a ride. And I do not ask for their papers first.

In the past, when people needed a place to stay, I opened my home to them, regardless of their immigration status. I know that I am not alone. Other people do the same thing in my area. But under this new law, Good Samaritans face fines and jail time. Grandparents who have undocumented in-laws become criminals if they allow their undocumented in-laws stay overnight. Spouses who are citizens become criminals if their spouse is undocumented. Citizen children who drive their parents to the grocery store become criminals if their parent is undocumented. This law threatens the very fabric of my little town.

Many folks have been surprised that a conservative Republican like me is involved in a lawsuit against my beloved State. It is shocking. But it should not be a surprise. This law is not immigration reform. This law is Government intrusion of the worst kind. It threatens our economy. It threatens our way of life. And it simply makes no sense. Famous Republicans like Presidents Reagan and Bush understood immigration. Our former Governor, Sonny Purdue, warned incoming Republicans to not give in to the "gang-type mentality that could be harmful to those who want the American dream." And then after the law passed, Governor Purdue also said, "The GOP needs to ensure that people of color and people who are not U.S.-born feel welcome." I am one Republican who is in good company.

The Assistant Georgia Attorney General defending this law before Judge Thrash in the hearing to determine if the law should be blocked said that this law may be unkind, it may be unfair. She acknowledged that an 18-year-old citizen driving his undocumented mother to the grocery store could be arrested.

I would like to follow up—

Chairman SCHUMER. Mr. Bridges, if you could wrap up.

Mr. BRIDGES. Real quick. I would like to follow up on what happens to the two children also in the seats, buckled, in a 10-year-old and 5-year-old, if their older brother is arrested and sent to jail for a year and their mother deported.

I want real immigration reform. We want immigration reform now, and we want immigration reform that holds American values and fairness and equality. The truth is immigration reform is an economic necessity. It is crucial to our National security, and our National leaders from both sides of the aisle know it.

Thank you.

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

Chairman SCHUMER. Thank you, Mr. Mayor.

And now my good friend, who does an outstanding job in Utica, Mayor Roefaro. I see he is accompanied by his cousin, Angelo, who does a good job for me, a great job for me in central New York.

**STATEMENT OF HON. DAVID R. ROEFARO, MAYOR, UTICA, NEW YORK**

Mr. ROEFARO. Thank you, Senator, and thank you for having me here today. I was hoping I did not get this chair. Mr. Smith from Microsoft, he did not have a sheet of paper, and he was 5 minutes to the second.

Chairman SCHUMER. Right.

Mr. ROEFARO. So I figured that Microsoft must have implanted a chip in him. I would like to thank you for inviting me here today, Senator Schumer and Ranking Member Cornyn, for inviting me to speak before this Committee today. I would also like to thank the members of the Subcommittee for their hard work and commitment to fixing and reforming our Nation's immigration policy. The work in front of this Subcommittee has the potential to leave a lasting legacy for our country.

Many years ago, my family lived in Italy. They struggled for jobs and economic opportunity. Seeking a better life, they came to America, where the streets were paved with gold and there was a chicken in every pot.

When they came to our country, my family sought a community that would give them those opportunities. They chose the beautiful city of Utica, New York. After coming to Utica, they laid roots, raised a family, established a small business, and became an active part of the city. They had the opportunity to live the American dream.

Today that simple dream is threatened. The dream of so many to come to America and find the streets paved with gold has become vulnerable to fear. In times of economic downturn, like our country now faces, we begin to fear that

which we do not know. And many choose to point the blame for our economic problems on immigrants. But to deny those who want to come to America and create a new life for themselves would be to deny our own history. Our country was built on the backs of immigrants. From the young Irishmen who built the Erie Canal across New York to the Bosnian families seeking political refuge and starting small businesses in Utica today, immigrants have been the key to our past success and will serve as a catalyst to both Utica's and certainly our Nation's future.

But do not mistake my words: While immigration is crucial to the social and economic fabric of our country, we need to work harder to ensure it is done legally. We need to make sure our borders are secure. We need to make sure our communities are safe and criminals are off the streets.

As the mayor of Utica, I have spent the last 4 years trying to make life better for those who live in my city. One of my top priorities has been to help refugees assimilate, offer them a stake in our city, and show them how they can assist us in growing our local economy and creating jobs—all things I have worked to accomplish.

We have benefited from the recently welcomed immigrants from Bosnia, Belarus, Russia, Somalia, the Dominican Republic and Vietnam. Groups like this enjoy assistance from our local refugee center, a center that has helped transition so many. In my city, there are 42 languages spoken in our Utica school district, and centers like the Mohawk Valley Refugee Center help connect the dots for immigrants. So no matter how you say it, "We're in this together" is the motto everyone lives by.

Yes, our economic growth is tied directly to how we as Nation utilize the talent of immigrants, and there are statistics to back those words up. Nationwide, cities with growing immigrant populations have the fastest economic growth. Immigrants, by making our economy more productive, contribute over \$37 billion to the

wages and output of native-born Americans. And we have already heard that between 1995 and 2005, 25 percent of all high-tech startups were founded by immigrants. These new Americans paid over \$162 billion in Federal, State, and local taxes, proving their worth to our communities.

In Utica, economic success stories mirror national ones. Take Zaim Dedic, for example. Zaim came to Utica at the age of 14 from Mrkonjic Grand, a small town in the Serb Republic. Today, at 31, he has built himself a successful business. He is the founder and owner of Multilingual Interpretation Services, a translation firm that helps new immigrants navigate hospitals, the courtroom, practically anywhere, as they learn English for themselves. Zaim boasts eight independently contracted employees, but that is not all. Aside from his translation business, Zaim has worked to revitalize an important downtown block called Bleeker Street. He has invested thousands into a high-end nightclub there. He employs staff and contributes to the revitalization of a block my administration made priority No. 1.

Then there are the ever increasing immigrants from the Dominican Republic who are opening and expanding businesses in my city. For example, Joel's Spanish Restaurant has been a huge success for 5 years and keeps on growing strong, and they are going to be moving to our West End very shortly in our city. That means more great food and more jobs.

Moving forward, it is important that we all work together to create an innovative solution to immigration reform. For those who are here in our country illegally, we must create a path for them to become citizens. Through a tough but fair process including security checks, payment of back taxes, and an educational requirement to learn English, we can begin to assimilate now-illegal immigrants into our country and cultivate their economic potential.

Moreover, my experience as a mayor working on national issues has showed me how this issue, this debate, is likely one of the most important facing our Nation. I proudly profess our immigrant populations have added to the vibrancy of the city of Utica. Their presence has been vital to our housing stock, our culture, our regional economy, and even our local agriculture. Certainly, their presence remains crucial to the development and growth in every part of upstate New York. The national importance of this issue is why I am a proud member of the Partnership for a New American Economy, joining my mayors right here and representatives from Microsoft and NASDAQ on this morning's previous panel and over 300 other mayors and business leaders from across the country who know that smarter immigration will generate economic growth and create new American jobs.

As we go forward in this process and create a new immigration policy for our country, we need to remember our heritage—the reason we all sit here today. We are a Nation of immigrants, and we must preserve this legacy into our future. When my own family came to America, they came in search of a better tomorrow. It is my hope that we can ensure another generation of immigrants come to this country accepted, assisted, and empowered to dream the never impossible dream.

I appreciate the opportunity to address you today, and I will gladly answer any questions that you may have. Thank you, Senators.

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

Chairman SCHUMER. Thank you, Mayor Roefaro. Your chip was not quite as good as the person who sat in the seat before you, but not bad.

[Laughter.]

Chairman SCHUMER. Mayor Gilbert.

**STATEMENT OF HON. LAURENT F. GILBERT, MAYOR,  
LEWISTON, MAINE**

Mr. Gilbert. Chairman Schumer, Senator Blumenthal, thank you for the opportunity to speak with you today on the benefits of immigration reform for renewing America's communities. I am currently serving as the mayor of the All-America city of Lewiston, Maine, a designation awarded in 2007 by the National Civic League for our civic engagement. As my biography will attest, my lifelong career has been in law enforcement until my election as mayor in 2007.

I am a first-generation American and son of French Canadian immigrants. My first language was French. At the age of 10, our family moved to southern California. While in school, I had a great many Mexican American friends. As a son of immigrants, I could relate to my Mexican American classmates. I would at times trade my sandwich with a Mexican American student for his burrito—something I continue to love to this day.

Somali refugees started arriving in Lewiston in 2001 to seek a quality of life they could not find or afford in major larger cities. Word of mouth to friends and relatives outside of Maine led more secondary migrants to Lewiston, a city and State that are statistically one of the safest in the country and where these families and their children can receive a good education.

As the refugee population started to grow in Lewiston, a number of opinions about the new refugee arrivals were expressed both privately and publicly as fear, and in many cases prejudice fueled the public and sometimes political discussion about Lewiston's "new Mainers."

An open letter to the Somalis requesting that they reduce their numbers coming into the city was picked up by the national and international media, whose coverage also caught the attention of a national hate group. Those this hate group attracted few supporters to their event, the group's arrival in Lewiston was met by some 5,000 demonstrators who supported our new refugee immigrants.

Though there was measurably more public, State, nonprofit, academic support for refugees following the Lewiston rally, rumors and misguided myths about refugee funding, cultural and religious customs, and employment persisted.

Concerns about refugee employment were driven by observations that more refugees were not seen in the local workforce. In the recently published book, "Somalis in Maine: Crossing Cultural Currents," Deputy City Administrator Phil Nadeau's research showed

that refugee employment levels had been steadily declining since 2006. Nadeau postulated that the combination of higher levels of overall unemployment and the significant underfunding of workforce training for many limited-English-speaking adults will continue to fuel refugee unemployment until current Federal refugee policy addresses workforce readiness. Our city's opinion of the inadequacy of the existing refugee resettlement program in the U.S. was recently echoed in a July 21, 2010, report to the U.S. Senate Committee on Foreign relations entitled "Abandoned Upon Arrival: Implications for Refugee and Local Communities Burdened by a U.S. Resettlement System That Is Not Working."

In my opinion, though we have grave concerns regarding refugee resettlement programs, there are signs that our immigrant population is having a positive impact on the social fabric of our community and our local economy. They purchase groceries, clothing, cars, along with a number of other goods and services. They keep the dollars circulating locally and are beginning to weave themselves to a great degree into the community.

Most exciting is the energy of our immigrant entrepreneurs who are bringing new life to our downtown. Over a dozen immigrant-owned businesses occupy formerly vacant storefronts over a two-block area. The businesses include general merchandise markets, specialty foods and good, restaurants, coffee shops, tax preparation services, translation services, and clothing stores, as well as starting up cab companies.

The road to full assimilation into American culture and economic self-sufficiency is not easy, but with perseverance and support it will continue to happen. The question is whether we choose to let this be a process requiring several generations to occur or do all that we can to move the process forward more quickly.

As mayor of my city, my work with the League of United Latin American Citizens in support of the DREAM act and the Partnership for a New American Economy has convinced me that sensible immigration and refugee resettlement reform today will spur the economy, the economic growth, and independence that every American can support.

In conclusion, I appreciate the interest of the Chairman and Mr. Blumenthal and members of the Committee who will receive this report to share Lewiston's newest chapter in our ongoing immigrant story. I believe that the Committee's and Congress's continued involvement with immigration reform and the need for significant refugee resettlement reform is critical to the future success of a refugee resettlement program whose primary mission is economic self-sufficiency.

I thank you for the opportunity to speak to you today, and I certainly remember Rod Gilbert, No. 7 for the New York Rangers.

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

Chairman SCHUMER. Thank you. And you are as good in what you do as he was in what he did, so thank you for being here.

I am going to call on Mr. Blumenthal first—I will excuse myself for a brief minute—to ask questions; then I will come back and ask questions. Senator Blumenthal?

Senator BLUMENTHAL. Thank you, Mr. Chairman, Senator Schumer, and thank you all for your very moving and inspiring testimony here today. It has been really very instructive to hear your firsthand experiences, and I want to thank each of you for your public service in your communities, your longstanding public service even before you became mayor in each of your towns and cities. And thank you, Mayor Gilbert, most especially for your career in law enforcement and your service to the United States in the United States Army. And let me begin with a question to you, if I may.

Have you noticed a change in attitude in Lewiston since the time when there was that outpouring of opposition based on stereotypes and misapprehension?

Mr. GILBERT. I certainly have, Senator. You know, the dust has really settled over the 10-year period. More and more people are interacting. The children are now in the schools. They are playing on sports teams. They are visiting each other's families, and they are seeing that what people feared initially was really myths that were being perpetuated and so on.

We always have a tendency as immigrants that once I am in, I shut the door behind me. And it has been that way in Lewiston. Before that it was the Irish who first arrived, and their first Catholic Church was burned. The Ku Klux Klan was in Maine as well and were opposed to Catholics. Certainly when the French Canadians arrived, the Irish tended to want to shut the door behind them. And now the Franco-Americans are the same way.

But I think time has a way of healing any abrasions that people may have at newcomers, and now, if I may, I would like to introduce into the record this Lewiston Auburn Magazine, the current issue, and it says, "Dreaming with Deco: The growing and thriving Somali business. Business community helps renew our Lisbon Street." And, also, a story that appeared, to answer your question, Senator, on the "CBS Evening News," a clip dated April 11, 2009, on the Somali assimilation in Lewiston. And then, last, a senior project by a student from the College of the Atlantic called "Newcomers." I have submitted that, four copies.

Senator BLUMENTHAL. Without objection, we will allow all those exhibits to be in the record.

[The information appears as a submission for the record.]

Senator BLUMENTHAL. Let me turn to Mayor Roefaro, if I may, and thank you for your leadership in Utica, not only in public service but as a member of the Funeral Directors Association, I know of your longstanding involvement in the community. I wonder what you have done as mayor, as a community leader, to educate about the advantages of immigration, about the impact on the fabric and economy of your community and in favor of the reforms that you have suggested this morning.

Mr. ROEFARO. Well, in our community, like my fellow mayor here, change is always difficult and acceptance is difficult. And we actually tried to change that perception, and we have done that over the last 3½ years that I have been mayor. And I find that the immigrant population that has come really does not ask you for anything. They just want to be accepted. I will give you an example.

The Bosnian community, they needed a place of worship, and we had an old church behind our City Hall, and we had somehow ended up with that church. And before I became mayor, they were going to tear down this church to the tune of about \$1 million. We ended up selling this church to the Bosnian community for \$1,000, and the day that we closed on that, they had probably 75 to 80 workers stripping the roof, doing all kinds of work, and this church was 4 feet underwater. They wanted a place of worship, and they made it their mosque. Today it is one of the leading mosques in the whole area between, you know, Syracuse and Albany and Rochester. And all they wanted was a place of worship.

When it was first going up, there was talk, you know, and people would really say, "What is it?" They did not understand it. They did not understand the Muslim faith. They just thought that they would stereotype it.

Well, these people have been so integrated into our system now that they have become prominent people in our administration. I have my deputy engineer who is a Bosnian. I have a fellow that runs our urban interagency that is a Bosnian fellow. We have so many that are now opening businesses and that are really becoming really part of the community because we welcomed them into this community, and they showed what they are all about, instead of just being in the background.

So we are bringing it to the light, and, you know, we have a Buddhist temple there, also. So I go to them. I do not wait for them to come to me. I go to them.

Senator BLUMENTHAL. That is a very powerful story, and I want to thank you and Mayor Bridges as well for your leadership by opening your home. I do not know how many times you have done that, but that is truly impressive, and thank you very much for being here as well.

My time has expired. Thank you, Mr. Chairman.

Chairman SCHUMER. Thank you, Senator Blumenthal.

I would like to first just follow up with Mayor Roefaro. The Bosnian community, as I understand it, has 6,000 people or so in Utica. They have revitalized the downtown. The economy is better. Job creation numbers in Utica are considerably better than in many of the other areas because of immigrants, and the Bosnian community being the largest. Tell us, how did the Bosnian—just give us a little more. You mentioned one immigrant from that community and now the church. But give us a little more history. How did they come? How has the community grown? Give us some context and texture as to how the Bosnian community did for your city what the Somalian community did for Mr. Gilbert's city?

Mr. ROEFARO. Right. Well, the first Bosnian I think came about 20 years ago, and they came to the refugee center in Utica. We have a very big refugee center in the city of Utica. And the Bosnian population has really—they are probably the oldest immigrant population that has come in most recent years to Utica. They have really assimilated into our city very well. They came into—you know, they are contractors. They are craftsmen. They have become part of the fabric of Utica. So many have opened businesses—restaurants. There is a restaurant probably on every corner, and they are all busy. They have great food. They actually have become part

of our system where I say that they will become the leaders of tomorrow. You will have a mayor that will be Bosnian eventually in the city of Utica. You will have leaders—and we are trying to get—there are some running for our Common Council right now. So we are trying to integrate them into our system to make them part of our system because they are like my ancestors when my father came over. My father was born in Italy. When they came over, they needed someone to show them the way. But once they were shown the way—

Chairman SCHUMER. What made them choose Utica?

Mr. ROEFARO. Well, the Srebrenica massacre, which I spoke about a year ago in Syracuse, New York, the exodus of the Srebrenica massacre for the Bosnian population, they—

Chairman SCHUMER. What made them choose Utica as opposed to another place?

Mr. ROEFARO. You know, there is only one other city—and I do not know whether it is Minneapolis or—I cannot remember where it is, but I think it is the refugee center how they got here. That was long before my time. But I did a little bit of history, and our refugee center really brought most of them in.

Chairman SCHUMER. And what are the other large immigrant communities in the city of Utica?

Mr. ROEFARO. We have Somali, Vietnamese, Dominican Republic. We really are a melting pot.

Chairman SCHUMER. And have the people who have lived in Utica a long time who are not immigrants seen this as an economic shot in the arm for the city?

Mr. ROEFARO. Absolutely. When I talk to people out in the community, they actually are thankful that the Bosnian community came and all the other communities come because we had—like the Lower East End of our city of Utica, the Bosnian community has come in, and they do not just buy one house. Their families come, and they buy blocks at a time, and they have really restructured those blocks, and they have redone the houses that were falling apart. They have taken them, put them back on the tax rolls, and they have made them beautiful.

They have this technique that they use, it is like a stucco, and so everything that they do is beautiful.

Chairman SCHUMER. Now Reader's Digest, didn't they call Utica the "Second Chance City" because of this?

Mr. ROEFARO. Yes, they did.

Chairman SCHUMER. And let me ask you, Mayor Gilbert, the same thing? Do the people who have lived in Lewiston for generations see the Somalian community as an economic shot in the arm, as a real help to the community?

Mr. GILBERT. Certainly.

Chairman SCHUMER. How many Somalians are there in Lewiston?

Mr. GILBERT. About 4,000, and the population of the entire is about 37,000. Then across the river we have our twin city of Auburn with about 1,000 Somalis.

You know, this is an old textile city where the mills were emptied and so on. And so consequently, the downtown, there were empty storefronts, and now they are occupying a couple of city

blocks of Somali businesses, and they are doing well. They are starting to buy homes and providing various services. So they are adding to the economic well-being of the community because we had all of this housing, available housing, from the people who used to work in our mills and so on and have moved elsewhere or have died off. And so we had this available housing. Now they are filling these apartments, these four- or five-story tenement buildings where, if they were not there, I wonder where we would be. And certainly landlords benefit, car dealers benefit, and so on.

I think they are seeing the benefit of that, and any differences that there were, these things are settling down. And so I see it as positive.

Chairman SCHUMER. And, finally, to Mr. Bridges, Mayor Bridges, you have mentioned how the farmers really depend on immigrants and crops are not getting picked, et cetera. What does the community think? And the city represents the surrounding area for people who are not farmers, the tradesmen and teachers and cops and firefighters, do they see the economic harm that is happening because of Georgia's law? Do they join you in opposing the law? Is that true in many of the agricultural regions of Georgia as well?

Mr. BRIDGES. It is true throughout Georgia. From everyone I have spoken with—and I have spoken with several mayors as well—we are recognizing the detriment that this law is causing throughout the States. Teachers do not have any problems at all teaching migrant children. In fact, it is a challenge that many of them embrace. The entire State of Georgia welcomes the immigrants and their contribution economically and socially.

There are some people who are anti-immigrant who are very loud in what they have to say, but we do embrace the immigrants, and we recognize their contribution and their hard work that they do to provide the vegetables and the fruits for our tables.

Chairman SCHUMER. Right. Well, I want to thank all three of our witnesses here. They have shown there are different sides to immigration. We need high-tech workers. Microsoft needs them, Lockheed Martin in Syracuse needs high-tech workers, cannot find them. But we also have immigrants who come who do not have the high skills. In both cases, in Bosnian and Somalian, they came because they were refugees, because of war that tore their countries apart. And yet they produce real economic growth and real economic activity as your two cities exemplify, and, of course, we all know the economic dependence our farmers have. Throughout upstate New York, our farmers are always telling me how much they depend—they cannot get native-born Americans to pick the crops and do the farm work, and they depend on immigrants.

So the point we are making here today, hopefully, is that immigration is an economic engine and we need immigration. And, you know, Senator Cornyn mentioned high unemployment. There is high unemployment, and certainly we do not want our immigration laws to have immigrants displace or take away jobs from Americans. That tends to happen more in illegal immigration than in legal immigration. And what we are trying to do with comprehensive reform is stop the flow of illegal immigration, rationalize the policy of legal immigration so that we can benefit in terms of jobs

up and down the line. And I think all eight witnesses today at our hearing have shown that.

I very much appreciate, gentlemen, your time and effort, and so the hearing is now concluded. Again, I want to thank all of our witnesses. I want to ask unanimous consent to put the statements in the record of Chairman Leahy, who is very supportive of our hearing, as well as the following groups that are supporting basically our thrust to get immigration reform: the Chamber of Commerce, Compete America, Intel, the American Council on International Personnel, the Partnership for a New American Economy, the United Agribusiness League, Conservatives for Comprehensive Immigration Reform, IIUSA, Third Way, Lutheran Immigration and Refugee Service, and the U.S. Hispanic Chamber of Commerce. They have all submitted statements, and I am going to ask unanimous consent that their statements be added to the record.

[The statements appears as a submissions for the record.]

Chairman SCHUMER. Without further ado, again, thanking our witnesses, the hearing is adjourned.

[Whereupon, at 12:21 p.m., the Subcommittee was adjourned.]

[Questions and answers and submissions for the record follow.]

## QUESTIONS AND ANSWERS

Senator Charles E. Grassley

Questions for the Record

Questions for Ron Hira, Ph.D.

Associate Professor of Public Policy, Rochester Institute of Technology

1. During the hearing, your analysis of the STEM labor market shortages differed greatly with that of Brad Smith's. Could you elaborate on your points and analysis?

In his written statement Mr. Smith argues that full-employment occurs with an unemployment rate of 5%. He explains that workers with college degrees currently have an unemployment rate of 4.4%, which is below 5%, and therefore concludes that there's a shortage of workers with college degrees.

Mr. Smith is using a rule of thumb, a 5% unemployment rate, for the national economy and applying it to a specific set of workers (those with college degrees). **The fundamental question, to test Mr. Smith's theory, is whether a 4.4% unemployment rate reflects a shortage for college graduates?**

**Based on the unemployment data for the past twenty years, the answer is no. The unemployment rate for college graduates when the economy is at full-employment is approximately 2.2%, or half what it is currently.** According to the Bureau of Labor Statistics, the average annual unemployment rate for college graduates from 1992 to 2010 is 2.6% (this includes all recessions and recoveries during that period). In fact, prior to 2009, when the Great Recession had its full jobs impact, the highest unemployment rate for college graduates was 3.2% in 1992 (during the recession of the early 1990s). And it was less than 1.8% for three years, from 1998-2000, during the booming economy of the late 1990s. Typically, the national unemployment rate is slightly more than twice the unemployment rates for college graduates, whether the country is in recession or in recovery.

Table 1 below shows the average annual unemployment rates from 1992-2010 for bachelor's degree college graduates 25 years old and over and the national unemployment rate.

<b>Year</b>	<b>Bachelors Degree Unemployment Rate</b>	<b>National Unemployment Rate</b>
1992	3.2%	7.5%
1993	2.9%	6.9%
1994	2.6%	6.1%
1995	2.4%	5.6%
1996	2.2%	5.4%
1997	2.0%	4.9%
1998	1.8%	4.5%
1999	1.8%	4.2%
2000	1.7%	4.0%
2001	2.3%	4.7%
2002	2.9%	5.8%
2003	3.1%	6.0%
2004	2.7%	5.5%
2005	2.3%	5.1%
2006	2.0%	4.6%
2007	2.0%	4.6%
2008	2.6%	5.8%
2009	4.6%	9.3%
2010	4.7%	9.6%

In 2006 and 2007, when the economy was doing well, the national unemployment rates were 4.6%, whereas rates for college graduates were 2.0%. Based on this data I conclude that full-employment for college graduates is approximately 2.2%, or about half of what it is currently. In sum, college graduates are facing a jobs recession -- there are too many skilled workers chasing too few jobs.

We can conduct a similar analysis for computer and mathematical occupations, a field that Mr. Smith argues where there's a shortage of workers. The unemployment rates for those fields are also much higher than we would expect at full employment.

<b>TABLE 2</b> <b>Computer &amp; Mathematical Occupations</b> <b>Unemployment Rates</b> <b>Annual Average for 2000-2010</b> Source: BLS	
<b>Year</b>	<b>Computer &amp; Mathematical Occupations Unemployment Rate</b>
2000	2.2%
2001	3.6%
2002	4.9%
2003	5.5%
2004	4.2%
2005	2.9%
2006	2.4%
2007	2.1%
2008	2.6%
2009	5.2%
2010	5.2%

Table 2, above, shows that the unemployment rates for computer and mathematical occupations, the largest of all STEM occupations, had unemployment rates of 5.2% in 2009 and 2010, which are more than twice the levels at full-employment. In 2010, the 5.2% unemployment rate for computer and mathematical occupations exceeded those for college graduates, which was 4.7% (see Table 1). So, just like college graduates, computer scientists and software engineers are also experiencing a jobs recession – too many skilled workers are chasing too few jobs.

Many other STEM occupations exhibit a similar pattern. For example, electrical and electronics engineers had an unemployment rate of 5.4% in 2010, and Medical scientists had a rate of 4.1%. The U.S. does not currently face a broad-based shortage of STEM workers. Instead there are too few jobs for those skilled workers.

There are always very narrow fields and specializations that experience both cyclical and structural tightness in the labor markets, and education as well as immigration could play a role in alleviating that tightness, but the broad based claims by Mr. Smith are simply not supported by any data. I would also note that in spring 2009, Microsoft announced a layoff of 5,000 workers over the ensuing 18 months. This was a substantial share of its workforce and according to its most recent filings Microsoft's workforce in the U.S. still hasn't come back to its 2009 levels. Further, according to media reports, Microsoft's offer-acceptance rates are 93%, meaning that

93% of job applicants who were offered a position accepted it. A rate this high would indicate that Microsoft is experiencing little competition in attracting job candidates.

2. In 2008, Optional Practical Training (OPT) was extended from 12 to 29 months to fill what was then called a shortage in the STEM field. In your testimony you state there is in fact a surplus of STEM workers. In your opinion, is there still a need for the OPT extension?

There were two reasons given by DHS to extend the OPT duration from 12 to 29 months for STEM workers. Both of these are based on rationales that are no longer valid.

The first reason given was that the H-1B quota was being filled before foreign students, who were graduating from US universities, could qualify for an H-1B visa. The concern was that the existing duration of the OPT, 12 months, may not have been long enough for students to convert to an H-1B even in the following year's quota. For FY10 and FY11, the H-1B quota wasn't filled for at least eight months, and it's likely that it will be even longer this year for FY12. Therefore, the need to extend the OPT for the purposes of bridging students to an H-1B has disappeared. The second reason given by DHS for extending the OPT duration to 29 months was that there was a shortage of STEM workers. The state of the current STEM labor market is markedly different from when the rule was initiated in April 2008. There are hundreds of thousands of unemployed American STEM workers who have the skills and capabilities to fill many of these OPT positions.

For those foreign students who wish to work in the US for extended periods of time, rather than simply obtain practical training, they should have their employers use the H-1B program. While the H-1B program has loopholes that allow employers to bring in cheaper workers, the OPT has even wider loopholes and little oversight and transparency. For example, unlike the H-1B there is no wage floor for the OPT. B. Lindsay Lowell, a research professor at Georgetown University, estimates that OPT workers are paid a mere 40% of equivalent US workers. And many of the major beneficiaries of the OPT STEM extension are obscure universities with dubious credentials. For example, students from the unaccredited University of Northern Virginia, which was recently raided by USCIS investigators, received 189 OPT STEM extensions, 14th on the

list of all universities. According to media reports USCIS has revoked University of Northern Virginia's ability to issue any new F-1 student visas for international students.

3. In Mr. Greifeld's opening statement, he quoted a study by the National Federation for American Policy stating that "for every H-1B worker requested, U.S. technology companies increase their overall employment by five workers." In your research and studies of the H-1B visa program and the economy, can you validate this statistic? Please elaborate.

I believe Mr. Greifeld is referring to, "H-1B Visas and Job Creation," a report released by the National Foundation (not Federation) for American Policy (NFAP) in March 2008. The study examined the global employment levels of a subsample of S&P 500 firms.

There are numerous weaknesses in the study's methodologies. I will highlight just a few of the major ones. By selecting the sample in the way he did, the study's author excludes the most of the top H-1B employers, thus skewing, or biasing, the results. As a result, the sample does not represent typical H-1B use. Further, the study compares H-1B applications, which are jobs located in America but held by foreign workers, against the worldwide employment levels of these firms. It did not compare H-1B employment levels against U.S.-based employment levels for these firms.

So, for example, a firm might apply for 100 H-1Bs and increase its headcount in India by 500, and the firm would meet the study's (and Mr. Greifeld's) claim. Given the rapid expansion of offshoring by major S&P 500 companies, like IBM, it should be no surprise that some of these numbers look very high.

Remarking on its dubious theory in a 2009 Wall Street Journal article, Harvard University economist Richard Freeman said the NFAP study, "...has all the scientific sense of cold fusion, ... though of course it could be we have discovered the perpetual employment expansion elixir." Based on my own research of the H-1B program I have concluded on balance that it does more harm than good to the American labor market and for American workers. On the positive side, some employers do indeed use the H-1B program to bring in truly specialized and rare skills, and these workers complement the American workforce. Further, some H-1B holders, who become

permanent residents, and later citizens, turn into entrepreneurs who create new technologies and jobs for American workers. However, the typical H-1B worker merely has ordinary skills, skills that are no better than American workers who are currently unemployed or underemployed. And the firms that get the most H-1Bs are using the program to facilitate the offshoring of American jobs and work. In the worst cases American workers are being forced to train their foreign replacements as a condition of severance and eligibility for unemployment insurance.

#### 4. What impact would “stapling a green card” to every foreign student’s diploma have on our workforce and unemployment rate?

There are a number of proposals to staple a green card to a foreign student’s diploma. Some proposals have narrowly targeted only those foreign students who earn a Ph.D., while others have proposed a much more expansive benefit to include any advanced degree (MS, MA, and JD) and include non-STEM students such as MBAs. It’s important to note that a green card is very valuable economically and such proposals can have a significant impact on the workforce and higher-education.

The key issue is designing the criteria to select which type of graduate gets a green card and who doesn’t. Those criteria will significantly shape the impacts on our workforce and unemployment rate.

A selective set of criteria, such as limiting it to Ph.Ds.-only, is likely to have a small impact on the broader economy because the absolute number of Ph.Ds. is very small and universities don’t find producing Ph.D.s a lucrative business. It is unlikely that universities will find it lucrative enough to create large scale Ph.D. programs specifically tailored to paying foreign students. And foreign students will find the barrier to entry, earning a Ph.D., a fairly long and difficult and expensive proposition. A typical Ph.D. takes approximately five to seven years to complete. Further, most foreign students graduating with a Ph.D. already have a variety of immigration channels to stay permanently. Michael Finn from Oak Ridge Labs has found that the stay rates for foreign student Ph.D.s has remained at a very high level. In sum, the size of the market for foreign students studying a Ph.D. is likely to expand modestly. The untapped demand by foreign students is likely small and universities are unlikely to expand a fairly unattractive market. Of

course, some labor markets, such as faculty positions in universities, and post-doctoral researchers, may be affected more significantly.

More expansive criteria, such as including Masters degrees, is likely to induce a large influx of new foreign students and create a major new market for universities, which would create and expand degree programs that are specifically tailored to foreign students interested in staying permanently. Masters programs are very short in duration, as short as 12 months, and fairly inexpensive to run. Further, many foreign students will see this as a brief and inexpensive path towards a green card. Some universities will see this as an opportunity of selling landed status rather than as education.

Some have argued that one way to avoid diploma mills is to limit the list of approved universities to very selective criteria. This is unlikely to be effective because it misunderstands both the business models of universities and the political-economy in which they sit. I have yet to see a list of universities that would meet such a task.

5. What effects would you anticipate if the Congress allowed STEM graduates an exemption from numerical limits under employment based green cards?

While a green card exemption for STEM graduates might alleviate the employment-based green card backlog for some, it would create a clear signal to future markets that obtaining a green card is a matter of getting such a degree. Given the current labor markets, high unemployment levels for STEM workers, such a broad based exemption would distort the normal functioning of the U.S. labor and education markets.

Foreign student applications to, and enrollments in, such programs would increase significantly as many more foreign students would be induced to come to study here. This is likely to lead to a crowding out of American students from those programs. This will happen directly because of the limited number slots or indirectly by reducing the need for universities (and the government) to provide a financially attractive package to induce American students to enter such programs. The labor market is likely to have a surplus of such workers, reducing wages, increasing unemployment, and sending a signal to American workers and students to avoid STEM job markets.

To avoid such an outcome the policies should use a selective criteria and adopt an effective and efficient labor market test to ensure there's a real need for those specific workers. When those foreign students and workers have truly complementary skills, and there's a need for them in the American labor market, then they help both the country and American students and workers. Having a broad based exemption would induce the markets to supply foreign students and workers who substitute for, rather than complement, American STEM students and workers.

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August 16, 2011

The Honorable Charles E. Grassley  
United States Senator  
135 Hart Senate Office Building  
Washington, D.C. 20510-1501

Dear Senator Grassley,

I appreciated the opportunity to provide testimony before the Senate Committee on the Judiciary, Subcommittee on Immigration, Refugees and Border Security, on July 26, 2011 during its hearing on "The Economic Imperative for Enacting Immigration Reform." I also appreciate the opportunity to provide additional information in response to your questions submitted for the record and to elaborate on the importance of targeted immigration reforms. Microsoft looks forward to working with you and the other members of the Subcommittee to advance collaborative, bipartisan solutions to today's most pressing issues in high skilled immigration.

\* \* \* \* \*

*According to a recent report on the Annual Tech-Sector Job Cuts, approximately 484,319 high-skilled layoffs have taken place since 2007.*

- *Does Microsoft actively seek American workers with the required skills who have fallen to such layoffs?*

Yes, Microsoft seeks American workers with the required skills for our open positions. For our immediate workforce needs, the challenge of filling our open positions with the right talent in such a competitive environment mandates a comprehensive strategy that includes recruiting experienced workers in our industry while also pursuing the right talent graduating from universities. Our expansive search for talent extends throughout the United States and around the world. For us, it's all about the finding people with the skills to contribute to our strategies for innovation and growth, regardless of whether the individual comes to us from another job, from school, or from having been recently laid off.

I believe the report you refer to was released by Challenger, Gray & Christmas, Inc. on July 20, 2011 (hereinafter, the "CGC Report"). The CGC Report concludes that the technology sector "is one of the best performing industries in the economy at the moment," emphasizing that the sector "is currently experiencing record low downsizing" while being "one of the few areas actually

adding workers.” It also includes the following additional informative observations about the strength of jobs in the technology sector:

- In the first half of 2011, the number of job cuts fell sharply in the technology sector compared with the same period in 2010—and far faster than the decrease in job cuts across all industries.
- “The biggest decline in tech-sector job cuts was experienced by computer firms, which saw the number of planned layoffs plunge 81 percent, from 16,964 in the first half of 2010 to 3,178 this year.”
- Job cuts in the technology sector accounted for only 5.8% of job cuts across all industries.
- “[T]he overall health of the technology sector remains very strong . . . . It is highly unlikely that planned layoffs in the second half of the year will be heavy enough for the year-end total to surpass last year’s record low 46,825 job cuts.”

The question states that “approximately 484,319 high-skilled layoffs have taken place since 2007.” That number appears to come from aggregating the total number of job cuts for 2007 through 2010, as reflected by data provided in the CGC Report, shown here:

**Annual Tech-Sector Job Cuts  
2000 – 2010**

	Q1	Q2	Q3	Q4	Total	% of All Cuts
<b>2000</b>	19,478	13,940	26,673	43,175	<b>103,266</b>	<b>16.8%</b>
<b>2001</b>	161,520	151,869	213,420	168,772	<b>695,581</b>	<b>36.0%</b>
<b>2002</b>	110,247	132,953	91,450	133,511	<b>468,161</b>	<b>32.0%</b>
<b>2003</b>	61,032	36,967	47,998	82,328	<b>228,325</b>	<b>18.5%</b>
<b>2004</b>	29,513	34,213	54,701	57,686	<b>176,113</b>	<b>17.0%</b>
<b>2005</b>	59,537	39,720	41,439	34,048	<b>174,744</b>	<b>16.3%</b>
<b>2006</b>	39,379	29,226	50,957	11,619	<b>131,181</b>	<b>16.0%</b>
<b>2007</b>	32,021	32,314	26,242	16,718	<b>107,295</b>	<b>14.0%</b>
<b>2008</b>	17,345	33,644	38,269	66,312	<b>155,570</b>	<b>12.7%</b>
<b>2009</b>	84,217	33,891	24,808	31,713	<b>174,629</b>	<b>13.6%</b>
<b>2010</b>	22,338	13,037	5,150	6,300	<b>46,825</b>	<b>8.8%</b>

Source: Challenger, Gray & Christmas, Inc.®

However, this set of data does not accurately reflect the number of job *losses* in the technology sector because it does not take into account new job creation. While it therefore provides a basis to understand *overall downsizing trends* from quarter to quarter or year to year, it does not reflect *net* job losses in the industry over that period of time.

In fact, the data from the CGC Report indicates we are now seeing some of the lowest numbers of job cuts in the technology sector in the last decade. Notably, the annual job cuts in 2007, 2008, 2009 and 2010 were all below the levels reported in any of the years from 2001 through 2005. In addition to the 60% decline in job cuts in the first half of 2011, the total job cuts in 2010 represented a stunning 72% drop in job cuts from 2009. Equally striking is the dramatic decrease in the proportion of overall job cuts represented by the technology sector, steadily dropping from 36.0% in 2001 to just 8.8% in 2010 and 5.8% today. Statistics such as these confirm the dual unemployment rate that I discussed in my testimony. In today's economy more than ever, there is an increasing opportunity gap between those with a college education and those with only a high school diploma or less. Nowhere is this more apparent than in the technology sector.

The CGC Report also provides important quarterly data for 2010 and 2011, illustrating a clear and persistent overall decrease in the number of job cuts in the technology sector:

**2010 Technology Job Cuts**

	Q1	Q2	Q3	Q4	Total
<b>Computer</b>	5,823	11,141	1,219	3,867	<b>22,050</b>
<b>Electronics</b>	1,720	686	1,719	947	<b>5,072</b>
<b>Telecom</b>	14,795	1,210	2,212	1,486	<b>19,703</b>
<b>TOTAL</b>	<b>22,338</b>	<b>13,037</b>	<b>5,150</b>	<b>6,300</b>	<b>46,825</b>

**2011 Technology Job Cuts**

	Q1	Q2	Q3	Q4	Total
<b>Computer</b>	1,887	1,291			<b>3,178</b>
<b>Electronics</b>	2,202	2,115			<b>4,317</b>
<b>Telecom</b>	4,552	2,261			<b>6,813</b>
<b>TOTAL</b>	<b>8,641</b>	<b>5,667</b>			<b>14,308</b>

Source: Challenger, Gray & Christmas, Inc.®

These trends identified by the CGC Report explain why there is a very real shortage of the right talent for the job opportunities available in the technology sector. A recent article by Bloomberg Businessweek illustrates how competitive the labor market has become for technology jobs. Entitled "Hiring Like It's 1999: The tech boom is fueling a surge in jobs and creative recruiting," the article cites a national unemployment rate for technology professionals of only 3.3 percent in June 2011.<sup>1</sup> The article also notes that technology companies are in such high

<sup>1</sup> <http://www.msnbc.msn.com/id/43982573>. Last accessed August 9, 2011.

competition with one another for talent that recruitment-related strategies have turned increasingly aggressive. Alice Hill, the managing director of technology career website Dice.com, explains the effects of the extreme competition for a finite pool of talent: "There's so much poaching going on, and now we see the rise of the crazy perks." The scarcity of qualified workers also has firms looking immediately to companies with announced layoffs for potential talent: "Recruiters are also circling Cisco like vultures, anticipating the August layoffs in the hope of finding qualified employees."

For our company, the experience has been no different. As I indicated in my testimony, our primary strategy for addressing this scarcity of skilled workers has been to invest in programs to increase the educational pipeline for America's students, particularly in science, technology, engineering and mathematics disciplines. Our combined commitments of over \$100 million in K-12 education, educational innovations and scholarships during the past year alone reflect the critical nature of this issue to our company.

In addition to these investments in improved educational strategies, Microsoft has also invested heavily in programs to provide technology training and resources to help people find employment in a knowledge-based economy. Against the backdrop of the deep national recession that put millions of Americans out of work, Microsoft launched Elevate America. This program included a voucher program in participating states across the country to provide no-cost technology skills training for over 900,000 workers; a veterans initiative, to help U.S. veterans and their spouses transition from military to civilian employment; community initiative partnerships with non-profit organizations that provide technology access, training, and resources for persons seeking employment; and no-cost and low-cost online resources to help people gain the basic- to intermediate-level computer skills that so many of America's jobs require.

But our investments in education and training are necessarily a longer term solution. With the unemployment rate in the technology sector at 3.3%—better than what most economists consider full employment—and the lowest levels of downsizing in the past 11 years, our nation's approach to high skilled immigration must cultivate an environment in which companies such as Microsoft can fill our essential positions with the right talent and continue to drive the U.S. economy forward.

*In 2009, Microsoft announced that it would cut 5,000 jobs.*

- *How many jobs were in fact eliminated and what was the ratio of those held by American workers and those who held a temporary visa?*

On March 3, 2009, I wrote in response to your earlier inquiry to provide you with information about our efforts to plan our business operations effectively during an incredibly challenging economic environment for the country. In my letter I explained that in January 2009, we projected the elimination of 5,000 jobs, but that we also expected to create 2,000 to 3,000 new jobs during the same timeframe through our ongoing investments in innovation. I also explained that the numbers provided by these projections would likely involve a large number of different countries. My responses were provided with the best information we had available, given that we were only in the beginning stages of our workforce adjustment efforts.

A review of our records indicates the following:

- In 2009, Microsoft had 2,928 terminations due to job eliminations in the United States, the last of which were announced in November 2009.
- During the same period—from January 2009 to November 2009—Microsoft hired 2,614 employees in the United States, of which 1,531 were experienced hires and 1,083 joined us from university recruiting efforts.
- 482 of these hires were individuals who originally received a notification of job elimination, but who were hired into different jobs at Microsoft and therefore continued their employment.
- From December 2009 to June 2011, we have hired an additional 7,634 employees in the U.S., of whom 6,106 were experienced hires and 1,528 joined us from university recruiting efforts. A portion of this overall hiring volume is attributable to our efforts to deal with regular voluntary employee attrition, a fact of life for any employer.

All of our employment decisions—including the termination of employment of any individual—are made in a manner that complies with Title VII of the Civil Rights Act of 1964. Decisions to terminate employment as a result of job eliminations or otherwise, are never based on an employee's citizenship or nationality. Consequently, we did not consider the nationality or visa status of our employees in our 2009 decisions about job eliminations.

The job eliminations in 2009 due to the economic downturn impacted different groups within the company differently. In those job groups such as engineering and software development, where we employ more foreign nationals with temporary work authorization, the percentage of those visa holders impacted was greater than in other groups where the numbers of visa holders are much smaller and the percentages therefore less meaningful. For example, for job titles in our Engineering profession, 9.4% of the job eliminations impacted foreign nationals with temporary work authorization. For job titles in software development engineering and software testing, that percentage was 12.3%. In contrast, for job titles in our Marketing profession, only 2.8% of the impacted individuals were foreign nationals with temporary work authorization. The overall percentage of foreign nationals on temporary work visas who were affected by the job eliminations overall fell between these figures, at about 5%. Notably, Microsoft has never been an H-1B dependent employer, with well below 15% of our employees in H-1B status. We also have not seen any significant change in the overall proportion of U.S. workers as compared to foreign national employees working for Microsoft in the U.S. on temporary work visas.

- *Have you since rehired any of those who were laid off, and if so, how many were American citizens and how many were temporary workers? Were any new foreign hires, or re-hires, for jobs that were previously held by, or duties performed by an American worker? If so, how many?*

Yes, Microsoft both retained and rehired some of the employees who were informed of job eliminations. In 2009, Microsoft notified a total of 3,410 employees in the United States of job eliminations. In my response to the previous question above, I indicated that Microsoft had 2,928 terminations due to job eliminations in the United States. Along with that group, an

additional 482 employees received notifications of job eliminations, but were subsequently hired into other open positions prior to termination. Of the 2,928 terminations, an additional 279 employees have subsequently been rehired into other positions. Combined, Microsoft was able to hire 761 of the 3,410 notified of job eliminations into other positions—a 22.3% rate. For individuals who were terminated and subsequently rehired, 93.9% were U.S. workers. Again, let me emphasize that Microsoft does not take into consideration an individual's citizenship or nationality in its hiring decisions.

Microsoft's job eliminations were based on business decisions to strategically adjust our workforce in specific areas. Individuals who were hired subsequent to the job eliminations—whether a new employee or the re-hiring of a laid off employee—were not placed into jobs previously held by laid off U.S. workers. Rather, these were either new positions created in response to evolving business needs or positions opened due to voluntarily departures associated with normal employee attrition.

- *Has Microsoft partaken in the common practice of "knowledge transfer" where an American worker is tasked with training their foreign replacement and is then terminated?*

No, Microsoft does not engage in the practice of having its U.S. workers train foreign national employees with temporary work visas, only to then terminate the U.S. worker.

\* \* \* \* \*

As a significant employer and innovation leader in the U.S. economy—with 83% of our \$9.6 billion annual research and development budget invested in the U.S.—we are grateful that you and other members of this Subcommittee are considering the best approaches to addressing the current challenges with our country's approach to high skilled immigration. To continue to innovate and create jobs in the U.S., we and other industry leaders need to remove barriers to attracting and retaining the right talent. We urge this Subcommittee to collaborate on solving the pressing green card backlog and its excessive waiting periods; on finding ways to retain the best foreign students, educated at our own universities, after graduation so they can contribute to our economy; and on ensuring that our temporary professional visa programs have the right enforcement for compliance and integrity while also maintaining the flexibility to meet the needs of employers navigating shortages of skilled workers. I am confident that working together, these solutions are well within our collective grasp.

We hope this information is helpful to you. We look forward to working with you and your staff if we can be of further assistance in addressing important reforms for high skilled immigration.

Sincerely,



Bradford L. Smith  
General Counsel  
Senior Vice President, Legal and Corporate Affairs

**Senator Charles E. Grassley****Questions for the Record****David Skorton, President, Cornell University**

1. I am pleased this country serves as a beacon for foreign students to attend our many prestigious and exceptional universities. However, I am concerned that with a growing number of international students coming to the United States to study it will have a negative, crowding out effect on American students.
  - a. Can you describe the process for which Cornell University decides the admittance ratio or quota for foreign students versus American students?

Cornell University does not have quotas or set ratios for international students in any of our undergraduate, graduate, or professional programs. That being said, international students are welcome at Cornell and have been an integral part of the student body since the first class in 1868.

Admission to Cornell is very competitive. At the undergraduate level, we received 36,338 applications for the 3,229 slots in the class of 2014. Of those, 248 (7.7 percent) are international students. Our admission policy is "need-blind" for all applicants, which means a student's ability to pay is not a factor in the decision to admit. This ensures that wealthy applicants - regardless of nationality - do not receive preferential treatment over prospective students of more modest means.

International undergraduates follow the same application process as American first-year and transfer students, and must take the SAT or ACT with writing and SAT Subject Tests in addition to any national tests administered by their home countries. We also require international students to submit a Test of English as a Foreign Language (TOEFL) or International English Language Testing System (IELTS) score. Cornell will waive this requirement for students who score at least 670 on the Critical Reading section of the SAT or those who have studied at least four years in the U.S. or another nation where English is an official language. All transcripts must

be official and must be translated into English for consideration. We do not allow students to use paid agents or credentialing services to complete their applications for them. The use of such services violates University policy, and may lead to the rejection of application materials, the revocation of an admissions offer, cancellation of admission, or involuntary withdrawal from the University.

Cornell offers financial aid to a limited number of international undergraduate students, based on demonstrated financial need. In addition to institutional aid from university funds, we have scholarships that are targeted to students from particular countries, including (but not limited to) the Cornell Club of Hong Kong Scholarship, the Robert and Wendy Purcell Scholarship for students from the Philippines and Thailand, and the Tata Scholarships for students from India. All financial aid decisions are determined after admission decisions are made. Criteria include academic excellence, geographic diversity, and potential for campus participation and/or leadership.

Similar to the undergraduate admissions process, international applicants to Cornell's graduate and professional programs must meet the same criteria as U.S. applicants. In addition to a bachelor's degree or equivalent from an accredited or officially recognized college or university, international students must take the same graduate admissions exams (GRE, LSAT, MCAT, GMAT) as U.S. students. All transcripts, diplomas, or academic records must be official documents issued by the college or university and provided in the original language, and must include a certified English translation if the original language is not English. International Graduate and professional applicants must also submit TOEFL or ILETS scores. International students make up 35 percent of our total graduate and professional student population. In some disciplines, this percentage is much higher.

b. What can be done to ensure those American students are not crowded out of high skilled degree programs?

Cornell University is committed to excellence in education and research and sets the highest standards for our undergraduate, graduate, and professional students. We cannot lower our admissions requirements if we hope to retain our position as one of the top universities in the world. The biggest challenges in attracting American students to enter high-skilled STEM disciplines are first, creating and sustaining the interest from a young age and then, ensuring that interested students have the skills to succeed in a competitive academic environment.

From my work with the Business Higher Education Forum (BHEF), an organization of Fortune 500 CEOs, college and university presidents, and foundation leaders working to advance innovative solutions to our nation's education challenges in

order to enhance U.S. competitiveness, I know that one of the biggest barriers to success for U.S. students in the STEM disciplines is a lack of quality math and science teachers in our elementary and secondary schools. The BHEF's report on this subject, *An American Imperative: Transforming the Recruitment, Retention, and Renewal Of Our Nation's Mathematics and Science Teaching Workforce*, which provides an extensive analysis of the issue, is located at:

<http://www.bhef.com/solutions/stem/americanimperative.asp>

This is not a problem with a quick fix, and requires a sustained commitment of resources from federal, state, and local governments at a time when these budgets are stretched to the breaking point. As I mentioned in my testimony, reauthorization of the COMPETES Act – with its emphasis on teacher training – last December is a giant first step in this process. The goal set out in COMPETES, to train a critical mass of new math and science teachers, cannot be accomplished, however, without adequate funding.

As the land grant university of New York State, Cornell is committed to outreach, and has developed extensive programming to capture students' interest in STEM subjects and to help math and science teachers in the classroom. Much of this outreach is federally funded through research grants from the NSF and other research agencies, and through the USDA's Smith-Lever program, which provides support for the Cornell Cooperative Extension system. Our outreach programs include 4-H youth development programs focusing on health, plants and animals, science, environmental awareness, and career exploration; classroom visits, field trips, and afterschool programming for P-12 students; and curriculum development, teacher training and continuing education programs, and lending libraries for math and science teachers. An extensive list of these activities can be found at:

<http://www.cornell.edu/outreach/>

2. In your testimony you state, “[c]ontrary to concerns expressed by critics, there are not enough qualified or interested American students to fill the slots in STEM undergraduate and graduate programs.”

- a. Do you believe there is a correlation between lack of interest by American students in the STEM field and current trends of companies favoring foreign workers?

I don't think employers intentionally favor foreign workers over American citizens; rather, they are hiring the workers who have the skills that they need to develop and build their products and services. The education community – from the highest-level research university to community colleges and career training programs – must to some extent tailor appropriate programs to meet employers' needs if we expect our graduates to find jobs. American students are savvy enough to know where the jobs are, but are often unprepared to study college-level math and science. More than 50 percent of STEM majors – students who did well enough in high school to be admitted to programs at elite universities – drop out of these fields during their first two years of college. Even many of the best high school students are unprepared for the intensity of college math and science classes, and become discouraged when they receive higher grades in their non-science courses.

Some research shows that the best way to keep college students enrolled in STEM majors is to focus on the quality of undergraduate instruction, especially in introductory courses. Research-intensive universities like Cornell need to do an even better job getting our first- and second-year students over that barrier and into the more hands-on upper level courses. Providing students with mentors and role models is one of the biggest keys to success for STEM majors.

At Cornell, we have developed an alumni-student mentor program that matches new students with alumni mentors from their geographic regions with the same interests and (if possible) academic majors, to provide new students with advice and perspective on college life, academics, and career preparation. This voluntary program gives students some real-world perspective to help focus on their long-term goals.

- b. What more can be done to encourage American students to pursue studies in the STEM fields?

In recent years, numerous studies and reports that look at the falling number of U.S. STEM graduates have been published by the government and academic, philanthropic, and business communities. Several common themes run through these reports:

- Getting students interested in STEM fields must start at a young age and continue all through school.
- Hands-on experience is important all the way through the pipeline - from the most basic pre-school science experiment, all the way to Ph.D.-level research - to capture attention and illustrate concepts. This is a challenge in schools (even at the college level) that serve low-income communities and do not have the resources to provide computers, laboratories, field trips, or even up-to-date textbooks.
- Teacher quality is one of the most important factors in keeping students interested in math and science, particularly in the upper grades. Too often, high school science is taught by teachers who do not have any primary training in science. Undergraduate introductory science classes are often taught by graduate students in large lecture halls with hundreds of students. The best students are not motivated to become teachers because of negative perceptions of their classmates (particularly at elite universities), low pay, and a challenging work environment. At a time when school funding is being cut and public school teachers are being painted as greedy and lazy, it's not a surprise that the best students are opting for other careers.
- Mentors and role models are important in keeping students on track and focused on graduating. Career exploration days, job shadowing, internships, and summer research experiences provide important points of contact for students who are unsure of a career path.
- Though the private and charitable sectors play important roles, none of this will happen without adequate public support at the local, state, and federal levels.

Testimony of Bob Greifeld  
 CEO and President  
 NASDAQ OMX  
 Before the Senate Judiciary Committee  
*Subcommittee on Immigration, Refugees and Border Security*  
 July 26, 2011

Thank you Chairman Schumer and Ranking Member Cornyn for the invitation to speak to you this morning regarding "The Economic Imperative for Enacting Immigration Reform: High Skilled Immigration as a Driver of Economic Growth."

In May of 2008, my frustration with Congress and the debate about immigration led me to write an editorial that holds true today. As I said then, my office in New York overlooks the Statue of Liberty; the same statue that welcomed my own Grandparents to this great country. In America, immigration is our tradition. It bothers me dearly that Lady Liberty's message of welcome no longer resonates with politicians and that we place quotas, inexhaustible red tape and, in many cases, deportation in the path of the best and brightest who are so anxious to contribute to our free market economy.

Since I wrote that editorial in 2008, three June graduating classes have left school, and we have seen too many professionals that we need leave or been forced to leave. There are approximately 50,000 masters and doctoral students leaving a U.S. university each June, and each year we lose about one-third of those students who return to their home country or go elsewhere. That's 17,000 talented people every year.

I fervently believe to help our country Congress should:

- 1) See immigration reform as a pressing jobs issue. The current legal immigration regime with its inadequacies and costs is robbing America of the next generation of great companies. I believe that Google, Yahoo and eBay - many of the job drivers of the last 20 years - would likely not be founded in America today.
- 2) Debate Legal Immigration on its own merits: Do not link it to reform of illegal immigration laws - Americans are losing jobs and opportunity while we let one issue drag down the other. I understand the argument that we need to reform the entire immigration system, and I agree that we do, but given the urgency of our economic situation, we can no longer afford to wait for a grand plan that may not be achievable.
- 3) Enact a more flexible and stable regime for Legal Immigration: Reform must convey economic priorities about job growth and global competitiveness. Increasing H-1B numbers is no longer enough. We need to admit and keep entrepreneurs here so that the creative dynamism of our marketplace has the very best skills and minds. The default should be "yes," not "no."

This is an issue that I am passionate about, not only based on heritage, but because I know that as CEO, NASDAQ relies on *one* critical raw material for its economic vitality - *entrepreneurs*. Entrepreneurs take ideas and turn them into companies, and those companies "grow up" to become listed on NASDAQ. Many existing NASDAQ companies hire brilliant people who solve problems, invent and improve their company, making that company stronger and its employment base grow. Sometimes, these companies create not just new products, but new markets that attract even more companies. Each part of that process creates new jobs and makes America stronger.

Our economy and NASDAQ itself have directly benefited from the contributions of foreign-born talent. Looking just at the Fortune 500 companies, we found at least 14 active NASDAQ companies that have foreign-born original founders. These companies represent over \$522 billion in market capitalization and employ almost 500,000 workers.

Markets, including human capital markets, work best when there is certainty. Uncertainty always creates distortions, whether it's the derivatives market waiting on the rules of the game from regulators, the equity markets waiting for Congress and the President to agree on fiscal policy, or labor market participants that look to our restrictive, sometimes arbitrary, and unwelcoming immigration system as they decide where to take their talents. It is amazing that we teach our third graders that we are a nation of immigrants, but sadly we no longer welcome people who can best contribute to our society, who as a group will likely pay higher taxes during their professional careers, likely will not use our social welfare system, who will likely never commit a crime and who will likely leave America better than they found it.

In countries like India and China they see the graduates of America's colleges and universities as "gold in the flesh." They *mine* graduates and qualified researchers for their expertise and abilities, paying top salaries and other benefits to get graduates to return home to help their economies grow. China, for instance, has launched the 1000 Talents Program, a plan that includes top salaries and research funding for Chinese researchers who will return to China. China has vowed to increase its talent pool of creative skilled workers from 114 *million* to 180 *million* by 2020. We are past due in our recognition that the competition for smart, capable math and science graduates is a global one. America has put itself at a disadvantage in this competition by not retaining the foreign skilled workers we help to educate and train and by not properly utilizing our own education system to produce enough scientists and other knowledge workers. I think failure to solve this issue will cost everyday Americans the potential for better jobs in the future.

Let me take the job stealing issue head-on – Opponents of enhanced legal immigration argue that when a foreign born immigrant gets a job in a technology company, American graduates are the losers. But, my research and experience tell a different story. For example, the National Federation for American Policy says that for every H-1B worker requested, U.S. technology companies *increase* their employment by five workers. I was in Silicon Valley last week, and virtually every company I met said they had more jobs than there were qualified applicants for those positions. These are jobs that are advertised in many places, including a website, [www.StartUpHire.com](http://www.StartUpHire.com), which caters to venture-capital backed companies; currently they have about 19,000 openings posted. In this week's San Jose Business Journal, I read that the State of California released a June employment report that noted in just the San Jose metro region Apple listed 868 jobs, eBay 617, Google 582, and Yahoo 571.

In this area of policy, the economic data is beyond compelling that we and other fellow Americans benefit. In Silicon Valley more than half of new technology start-up companies were founded by foreign-born owners. In the most recent Intel Science Talent Search competition, 70% of the finalists were children of immigrants. When we keep the best and brightest graduates here, they help employment of American citizens: the Brookings Institution reports that economists calculate that as a result of immigration, 90% of native-born Americans with at least a high school diploma have seen wage gains in the U.S. Highly skilled immigrants don't just benefit Silicon Valley; my research for this testimony even surprised me: Duke University reports that in Texas, nearly one in five technology companies were founded by an immigrant.

Many American companies really have little choice about who they hire, but the immigration system can hurt us by determining where they locate their employees. They need great engineers, scientists and researchers. Isn't it better for all of us if they build their research and development centers here? Many

companies can, if needed, locate their personnel in Canada, Europe, India or any of a long list of countries that *want* those jobs and the investment they bring.

As I stated earlier, NASDAQ and our economy need the raw material called innovators and exchanges measure this by the production of new high-growth companies. Already in the arena of IPOs, there are clear indications that America is falling behind. So far this year, China, Hong Kong and Singapore have brought about 213 IPOs public – in the U.S. we have listed just under 100 new IPOs. Last year, China, Hong Kong and Singapore listed 458 new companies and the U.S. listed just 169. In 2000, NASDAQ and the other U.S. markets once listed 6,917 companies; today that number has fallen to 4,222. The raw materials of economic growth are dwindling...and American investors, pension funds and retirees are at the end of this food chain.

My job takes me around the U.S. and the world where I talk to the heads of businesses both large and small. The issue of access to the best human capital is one that I hear about and discuss often. Whether in Silicon Valley, Austin, Chicago, Charlotte, Atlanta or anywhere else in the United States, I hear from CEOs that the H-1B visa system is inadequate for today's human capital marketplace and that the back log for green cards is a legitimate threat to their business's ability to get the right talent. I hear that many great thinkers are not staying here or can't stay here to pursue their life's work. I hear that we have these wonderful factories - our colleges and universities - that produce brilliance, and we are depriving our own nation the fruits of this production.

Our world view must change to recognize that employers no longer have to locate jobs and workers because of physical capital requirements. Human capital is now highly mobile. The work product of STEM and other knowledge workers is just a plane ticket or an internet connection away. Other jobs will congregate around knowledge workers, and the statistics bear that out. STEM graduates can productively work in any space, in any building, around the globe.

Here is some of the anecdotal feedback I received from business leaders:

- Throughout the recession and even today they have open positions for technical staff that they can't fill.
- If they can't fill these kinds of jobs, their companies can't grow.
- If they can't fill them in the U.S., they will have to fill them in research offices overseas.
- They don't want to move any jobs overseas but current immigration laws are forcing them into a corner.
- They always mention the importance of investing in education to solve our long-term skilled worker scarcity problem.

Another continuing set of problems concerns the ever-changing targets that the federal bureaucracy imposes on companies and their workers that need to use the temporary or permanent visa solutions. The Department of Labor and the Immigration service are often cited by our listed companies for violating their own rules in denying visas for employees, often having those denials reversed, but adding substantial cost to the process and valuable time.

While the immigration system in this country for both legal and illegal immigration is broken and the debate causes us pain and mistrust across the political spectrum, it seems to me that leaders in both parties look at the *legal* immigration arena as one that can be fixed – it's achievable. While we will eventually have to face up to the broader challenges and find solutions in other areas of the immigration debate, I believe that we are at a stalemate on the illegal immigration side of this equation. To that end, Congress should divorce the illegal immigration reform issues from those that are closely aligned with solving our

most immediate problem - economic growth and job creation. We need to prioritize our laws towards the retention of skilled graduates and workers so they can invent, create companies, create markets and create jobs here within our borders.

When I wrote about immigration in 2008, it was to just ask for more H-1B visas; today we need to look at H-1B, but also additional meaningful reforms. We need workable and accessible H-1B visas to allow business to fill needs quickly – to be nimble – and we need permanent visa solutions for those people that seek not just a job, but a career and a life. Some ideas we like include:

- NASDAQ OMX supports the idea to “staple a green card” to the diplomas of advanced STEM graduates (science, technology, engineering, and mathematics) from U.S. universities. Such graduates could be exempted from green card quotas if they have a job offer in a field related to their degree.
- NASDAQ OMX strongly supports the idea to establish startup business and job creation visas. In particular, I would highlight the idea to create a venture capital startup visa. This would allow an entrepreneur who has secured venture capital to start his business in the U.S. rather than elsewhere. Why shouldn't we welcome a financed entrepreneur to set up shop here and create new opportunities for U.S. workers?
- We support H-1B visa reforms that would increase the number of visas, add portability for H-1B users caught in the green card backlog, and allow terminated H-1B users to receive 60 days to find work with another employer if they want to stay in the U.S. and help another firm with their abilities.
- Update the E-2 Investor Visa to include countries that we partner with in most other areas of trade and commerce. This visa allows individuals to work in the U.S. based on substantial investments here that they control. Currently Chinese, Indian and Israeli investors can't use this visa, but amazingly Iran is one of our treaty partners allowed to use the E-2 visa.
- NASDAQ OMX believes that Green Card backlogs could be reduced or eliminated:
  - Recapture unused visas: From 1992–2009 - 506,410 green cards went unused, but only 180,039 were recaptured.
  - Exempt spouses and children from counting against the numerical limits.
  - Eliminate the employment-based per country levels which limit knowledge-worker producing countries like China and India to the same numbers as the smallest nations on the planet.
- Directly related to this important set of issues is education. The U.S. should make promotion of math, science, engineering, computer science and other technology based degrees a critical national priority – akin to the project to go to the moon. We need a national effort to promote academic curiosity in the sciences and we need to allocate what I know are scarce resources to this task.

I know and the companies that list on NASDAQ acknowledge that controls must be in place to curb abuses, ensure that foreign workers in these areas aren't brought in to push down wages, and that the system is fair. But again, I think that we will have more jobs and be more competitive as a country if we make the default setting that you are welcome if you possess skills and knowledge that we need to solve problems and create solutions for the economy. We are a nation founded on the immigration tradition. Waves of immigrants have served the needs of our country and helped increase standards of living in

every generation of this great nation. The continued economic vitality of our nation is at stake for our generation and those that follow us.

Finally, I implore you, as our elected leaders, to find a legislative vehicle to make improvements in this area as soon as possible. Making our legal immigration system work for us will raise revenue, increase our productivity, create very good jobs and make us more competitive.

**Testimony From Utica, NY Mayor, David R. Roefaro      July 26, 2011**

Thank you for having me here today. I would like to begin by thanking the Chairman, Senator Schumer, and the Ranking Member, Senator Cornyn, for inviting me to speak before this committee today. I would also like to thank the members of this subcommittee for your hard work and commitment to fixing and reforming our nation's immigration policy. The work in front of this subcommittee has the potential to leave a lasting legacy for our country.

Many years ago, my family lived in Italy. They struggled for jobs and economic opportunity. Seeking a better life, they came to America, where the streets were paved with gold and there was a chicken in every pot.

When they came to our country, my family sought a community that would give them those opportunities. They chose the beautiful city of Utica, New York. After coming to Utica, they laid roots, raised a family, established a small business and became an active part of the city. They had the opportunity to live the American dream.

Today, that simple dream is threatened. The dream of so many to come to America and find the streets paved with gold has become vulnerable to fear. In times of economic downturn, like our country now faces, we begin to fear that which we do not know. And many choose to point the blame for our economic problems on immigrants. But to deny those who want to come to America and create a new life for themselves would be to deny our own history. Our country was built on the backs of immigrants. From the young Irishmen who built the Erie Canal across New York to Bosnian families seeking political refuge and starting small businesses in Utica today, immigrants have been the key to our past success and will serve as a catalyst to both Utica's and certainly our nation's future.

But, do not mistake my words: while immigration is crucial to the social and economic fabric of our country, we need to work harder to ensure it is done legally. We need to make sure our borders are secure. We need to keep our communities safe and keep criminals off our streets.

As the Mayor of Utica, I have spent the last four years trying to make life a little better for those who live in my city. One of my top priorities has been to help refugees assimilate, offer them a stake in our city and show them how they can assist us in growing our local economy and creating jobs- all things I have worked to accomplish.

Utica has benefited from recently welcomed immigrants from Bosnia, Belarus, Russia, Somalia, The Dominican Republic and Vietnam. Groups like this enjoy assistance from our local refugee center, a center that has helped transition so many. In my city, there are 42 languages spoken in our school district and centers like the Mohawk Valley Refugee Center help connect the dots for immigrants so no matter how you say it, 'We're in this together' is a motto everyone lives by.

Yes, our economic growth is tied directly to how we as a nation utilize the talent of immigrants. And there are statistics to back those words up. Nationwide, cities with growing immigrant populations have the fastest economic growth. Immigrants, by making our economy more productive, contribute over 37 billion dollars to the wages and output of native-born Americans.

Between 1995 and 2005, 25 percent of all high-tech startups were founded by immigrants. These new Americans paid over 162 billion in federal, state, and local taxes, proving their worth to our communities.

In Utica, economic success stories mirror national ones. Take Zaim Dedic for example. Zaim came to Utica at the age of 14 from Mrkonjic Grand, a small town in the Serb Republic. Today, at barely 30, he's built himself a business. He is the founder and owner of Multilingual Interpretation Services.

Moving forward, it is important we all work together to create an innovative solution to immigration reform. For those who are here in our country illegally, we must create a path for them to become citizens. Through a tough but fair process including security checks, payment of back taxes, and an educational requirement to learn English, we can begin to assimilate now-illegal immigrants into our country and cultivate their economic potential.

Moreover, my experience as a Mayor working on national issues has showed me how this issue, this debate, is likely one of the most important facing our nation. I proudly profess our immigrant populations have added to the vibrancy of the City of Utica. Their presence has been vital to our housing stock, our city culture, our regional economy and even our local agriculture- The refugee and immigrant community is actively involved with community gardens introducing and harvesting varieties of bountiful, fresh and healthy foods into my county. Certainly, their presence remains crucial to the development and growth in every part of Upstate New York. The national importance of this issue is why I am a proud member of the Partnership for a New American Economy -- joining over 300 other mayors and business leaders from across the country who know that smarter immigration will generate economic growth and create new American jobs.

As we go forward in this process and create a new immigration policy for our country, we need to remember our heritage- the reason we all sit here today. We are a nation of immigrants and we must preserve this legacy into our future. When my own family came to America, they came in search of a better tomorrow. It is my hope that we can ensure another generation of immigrants come to this country accepted, assisted and empowered to dream the *never* impossible dream.

I appreciate the opportunity to address you today and will gladly answer any questions you may have. Thank you.

## SUBMISSIONS FOR THE RECORD



August 2, 2011

The Honorable Charles Schumer  
Chairman  
U.S. Senate Subcommittee on Immigration,  
Refugees and Border Security  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable John Cornyn  
Ranking Member  
U.S. Senate Subcommittee on Immigration,  
Refugees and Border Security  
517 Hart Senate Office Building  
Washington, D.C. 20510

**Re: Hearing on "Immigration Reform Economic Imperatives."**

Dear Mr. Chairman and Ranking Member:

The American Subcontractors Association, Inc. (ASA) is a national trade association representing more than 5,000 construction subcontractors, specialty contractors and suppliers in the construction industry. ASA urges the Congress to expeditiously enact comprehensive immigration reform and ASA asks the Subcommittee to include a copy of this letter in the record of its hearing on "Immigration Reform Economic Imperatives."

ASA members work in virtually all of the construction trades and on virtually every type of horizontal and vertical construction across the country. As employers of both skilled and unskilled labor, construction subcontractors are struggling to comply with a patchwork of confusing, arbitrary and sometimes draconian state and local immigration laws. Employers need to be confident that they have access to a legal and skilled workforce and be able to comply with consistent and clear laws.

Thus, ASA supports comprehensive federal immigration reforms that:

- Address future economic needs for workers through the creation of a guest worker program.
- Practically address undocumented workers already in the United States.
- Function efficiently for employers and workers, and include an accurate, reliable and effective system to verify employment eligibility.
- Can be efficiently and vigorously enforced by government agencies.
- Allow hard working, tax-paying undocumented workers to earn legal status.
- Ensure that U.S. workers are not displaced by foreign workers.
- Ensure that all workers enjoy the same labor law protections.
- Strengthen national security by providing for the screening of foreign workers and creating a disincentive for illegal immigration.

In the wake of the Great Recession, construction employers have just started to re-hire to meet the infrastructure, commercial building and housing needs of the nation. A comprehensive

AMERICAN SUBCONTRACTORS ASSOCIATION, INC.  
1004 Duke Street, Alexandria, VA 22314-3588  
Phone: (703) 684-3450 Fax: (703) 836-3482  
E-mail: [ASAOoffice@asa-hq.com](mailto:ASAOoffice@asa-hq.com) Web: [www.asaonline.com](http://www.asaonline.com)

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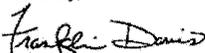
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ASA: Hearing on "Immigration Reform Economic Implications,"  
August 2, 2011  
Page Two

federal solution to our broken immigration system will help assure that these construction firms devote their resources to job creation.

ASA appreciates the opportunity to submit this letter for the hearing record. Please contact me if you have any questions or require more information. I can be reached at (703) 684-3450, Ext. 1317.

Sincerely,



Franklin L. Davis  
Director of Government Relations  
American Subcontractors Association, Inc.

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Aug-02-11 03:24P

Hearing on "The Economic Imperative for Enacting Immigration Reform"  
Statement of Richard F. Tax  
President, American Engineering Association, Inc.

**July 26, 2011**

Members of the Subcommittee: I am Richard F. Tax, President of the American Engineering Association, Inc. (AEA). Our goal is to enhance the Engineering Profession and the Engineering Capabilities of our great Nation. I have more than forty years of Engineering design and development experience for NASA, FAA the military, commercial and medical fields. During this period, I have seen the destruction of the profession due to lost opportunities and jobs for our American Engineers and young Engineering graduates.

The following is our official AEA Position relating to "The Economic Imperative for Enacting Immigration Reform." This Position can be found on our Web site.

Sincerely,  
Richard F. Tax  
President  
American Engineering Association, Inc.

**POSITION STATEMENT** of the American Engineering Association, (9/23/06)  
Rev. 11/01/09

**IMPROVE UTILIZATION AND DEVELOPMENT OF THE AMERICAN  
PROFESSIONAL WORK FORCE AND OPPOSITION TO IMPORTING  
FOREIGN WORKERS**

We believe the public policy of the United States should be to rely primarily upon U.S. workers for our supply of engineers and scientists. This Position is in response to false claims that America faces shortages of Engineers, Programmers and high tech professionals and companies must resort to importing foreign workers to meet demands.

In order to improve the utilization of American Engineers, Scientists, Programmers, Mathematicians and high tech (STEM) professionals we must first provide them with jobs and the opportunity to enhance their skills. To accomplish

this we need a balance between the supply and demand of our skilled professionals and our professionals.

AEA strongly opposes the importation of foreign Engineers, Scientists Programmers, Mathematicians and high tech (STEM) professionals. Evidence clearly shows foreign workers (H-1B, L1 etc.) are imported for the purpose of reducing labor costs and offer no skill advantages over our American professionals. In many cases American Engineers and Programmers have been directed to train their foreign replacements under penalty of losing their severance packages.<sup>2</sup>

For more than 20 years the Congress, American public, parents and students have been misinformed and inundated with reports of Engineer, Scientist, Programmer and high tech worker shortages. None of these reports have been true nor can their shortage claims be validated. The shortages never materialized. Nor do shortages of these American professionals exist today. We believe, and symptoms indicate, the United States of America has a surplus of Engineers, Scientists, Programmers and high tech professionals. When properly utilized we have more than enough to maintain and increase America's leadership at the forefront of technology. The surplus of these professionals, and importation of more, has so devastated the professions that current members advise their children against entering the colleges to study for these careers.

We have a history of shortage propaganda from the National Science Foundation, (NSF), the American Electronics Association (AeA), the Information Technology Association of America (ITAA), Corporate America and our Colleges. One can also include the National Association of Colleges and Employers (NACE) that direct their efforts to misleading students and parents of high school students about the demand for these professions.<sup>3,4</sup> None of the claimed shortages have been validated.

However, the shortage propaganda has so influenced the picture to distort conventional wisdom. Congress and current legislation has now made it a requirement for American companies to employ foreign (H-1B, L1, etc) workers to compete against each other. This legislation automatically discriminates against American citizens. This legislation has been based on false information, reports and fabrications. Now it is the responsibility of Congress and quality legislation to resolve the dilemma.

As Engineers, we realize all too well the shortcomings of using faulty components and false information or fabrications in the design of reliable systems. Briefly – garbage in, garbage out. We are all too familiar with the advances in technology, science and engineering projects due to our skills, dedication, honesty and integrity. We and the public are entitled to and expect the same, very best, from our government and legislators. Every American, displaced by a foreign worker, is a consumer who has lost his/her or their families buying power. This has had a detrimental influence on these professionals and their American dream.

**RESOLUTION:**

A rewarding career and demand, for their skills and talent will be more than enough to encourage American students to seek the education and a future career in engineering, programming and high tech professions. This should be done by developing a balance between the supply and demand of our professionals and providing them with opportunities for a rewarding career.

- We oppose the importation of foreign professionals, workers and students for these professions.
- We oppose legislation drafted to bring in these foreign workers.
- We believe H-1B and other legislation to import foreign engineers and high tech professionals should be rescinded and these programs abandoned.
- We believe our American professionals should be recognized for their contributions.
- We believe these professions should be enhanced and rewarding to encourage students to seek these careers without seduction tactics and shortage fabrications from the U.S. Government and other agencies.

**RECOMMENDATIONS:**

- Cease importing foreign workers for these engineering, programming and high tech positions.
- Rescind all legislation to import foreign engineers, programmers, and high tech workers and discontinue all programs to import H-1B, L1 and foreign workers.

- Cease funding and subsidizing foreign students in our American colleges and universities for these professions.
- Strive for a balance in the engineering, programming and high tech manpower supply/demand ratio
- Actively dispel false reports and propaganda that have distorted conventional wisdom of America facing a shortage of qualified professionals.

**NOTES:**

1. *Enhancing U.S. Productivity Through Improved Utilization of Engineers*

[www.aea.org/pdf/aea\\_position\\_utilization.pdf](http://www.aea.org/pdf/aea_position_utilization.pdf)

2. *Program abuses may be costing Americans' jobs*

By Ron Harris POST-DISPATCH WASHINGTON BUREAU, 08/20/2006

[http://www.aea.org/pdf/Program\\_Abuses\\_Jobs.pdf](http://www.aea.org/pdf/Program_Abuses_Jobs.pdf)

3. *AEA Fights Shortage Propaganda*

[www.aea.org/documents/activism/aea\\_fights\\_shortage\\_propaganda.pdf](http://www.aea.org/documents/activism/aea_fights_shortage_propaganda.pdf)

4. *AEA Critique of NSF Study Claiming High-Tech Labor Shortage*

[http://www.aea.org/documents/research/critique\\_of\\_nsb.pdf](http://www.aea.org/documents/research/critique_of_nsb.pdf)

5. John Miano testimony to the House Judiciary committee

<http://judiciary.house.gov/media/pdfs/miano033006.pdf>

The American Engineering Association, Inc. (AEA) can be reached at  
[www.aea.org](http://www.aea.org)



**Congressional Testimony**

**Senate Judiciary Committee  
Subcommittee on Immigration, Refugees and Border Security**

**“The Economic Imperative for Enacting  
Immigration Reform”**

**Written Statement of Dr. Puneet Arora**

Delivered on July 26, 2011 at 10:00 AM

Dirksen Senate Office Building

Washington DC

Introduction and Thanks

Chairman Schumer, Ranking Member Cornyn, and distinguished members of the United States Senate Judiciary Immigration Subcommittee, my name is Dr. Puneet Arora, and I am deeply honored to provide the following testimony on behalf of Immigration Voice and the roughly five hundred thousand highly skilled immigrants and their families waiting for permanent residence in America. I thank you deeply for the privilege to present my views, for the opportunity to learn firsthand the workings of the American democratic system, and for your time and attention to this issue of significance, not just for me and those like me, but for our American economy, our domestic workforce, and our current and future U.S. business owners.

As I mentioned, I am here on behalf of Immigration Voice, a national grassroots non-profit organization of over 60,000 active highly skilled immigrants. In December of 2005, Immigration Voice was founded by Aman Kapoor upon a simple goal: create awareness for highly skilled immigration system with expanded and accelerated opportunities for permanent residence for the competitive advantage of American businesses and economic advantage of the United States. To that end, Immigration Voice has met with countless legislators, agency personnel, and administration officials in Washington, DC and around the country in an effort to both educate and better understand the system we utilize for green cards. I became involved with Immigration Voice in 2006 through its advocacy in support of the Comprehensive Immigration Reform bill sponsored by the late Senator Ted Kennedy and Senator John McCain. Our membership includes highly skilled immigrants from all walks of life, most of whom are still in the process of receiving their green cards with the rest either lawful permanent residents or U.S. citizens who have been through the same process and are motivated from their experiences to help others.

What immediately struck me about my fellow Immigration Voice members was the level of commitment and desire we all have to obtain the American dream. One common theme connects all the members of our coalition: we view ourselves as future Americans. We want nothing more than to participate in the U.S. economy freely—to start businesses and change jobs without the fear of harassment or punitive measures, such as starting over in the green card line. Above all else, we want the roots we have laid in America to take hold permanently. All of us already live and work in the United States. Many of us have children that are American citizens by birth. We earn good salaries, and we pay our taxes. We create opportunities for employment and invent valuable products for U.S. companies to sell in America and around the world. We are not asking for thanks. We simply want a real place in America—a permanent place that allows us to live and invest freely, obtain a driver's license in a reasonable time, apply for insurance, and qualify for a mortgage.

My hope in testifying before you today is not only to further expand upon the systemic problems faced by highly skilled immigrants, especially those of us who come to America from large countries, but also to bring home to you the personal goals and ambitions of a group of future Americans you commonly refer to by nonimmigrant terms like H-1bs, Ls, NIWs, and TNs. We are more than letters, numbers, job titles, and economic facts. We are dedicated individuals with real lives, real families, and a real desire to be of value to this country. To that end, I hope my testimony will serve that purpose today.

Before I continue to the substance of my presentation, I would offer one final word of introduction to my testimony for purposes of clarity. I am not here to argue for more overseas recruitment of foreign born workers. I am as aware as any member of the American workforce that we face record unemployment as part of our severe and ongoing economic downturn. My view is that the market is the best determinant of the need for highly skilled immigrants in our country. Clearly, immigrants have added economic value to the U.S. A recent study by the Partnership for a New American Economy found that 40% of the Fortune 500 companies 2010 were founded in whole or in part by immigrants to America or their children. These immigrants came from all walks of life, but they share one thing in common. Not one of them could have started their business today without a green card or the help of a U.S. citizenship. This is the great opportunity cost we face. Every day that highly skilled immigrants live without green cards is one more day they are not buying homes or starting new companies and creating new jobs. My sole interest in providing testimony today is to help shed light on the highly skilled immigrants who have already given a large portion of their adult lives to the U.S. economy and who continue to wait for their turn to fully live the American dream.

#### My American Story

I was born in New Delhi, India in 1972. My home town was a large metropolitan national capital city. From the earliest memories I can recall, I always had an interest in science. Through my years in school, I participated in science symposia and won awards on numerous occasions for my presentations, including a prestigious young astronomer award. As a teenager, I was recognized with a gold medal by the Department of Biotechnology for the Government of India and given a 3 year scholarship for ranking among the top 10 biology students in the country. In 1989, I was awarded a rare perfect score on the biology portion of the national high school exit examinations.

India was a growing economy even then, but the opportunities for advancement were very limited by U.S. standards. Placement at top Universities was extremely competitive. Entrance to medical school meant taking extensive and rigorous examinations with very low rates of acceptance. My only option was to study hard, and through dedicated efforts, I was accepted to India's flagship medical college, the All India Institute of Medical Sciences in New Delhi, the top medical college in the country every single year since surveys have existed in India. Admission was based on an entrance test that was taken by nearly 100,000 candidates, all competing for 34 positions, an acceptance rate of less than 0.01%.

After obtaining my medical degree, I reached a crossroads. I knew I would continue to post graduate residency training in Internal Medicine, but I did not know where. Driven by a desire to see the world and obtain advanced medical training in the West, I applied for graduate positions in the United States. In 1996, I was fortunate to be accepted to a post graduate medical residency program at the Southern Illinois University School of Medicine in Springfield and thus began my journey to America and through the odyssey known generally as the highly skilled immigration system.

I entered the U.S. immigration system on a J-1 exchange visa, which is commonly used for post graduate medical training. It seems appropriate at this point to clarify that highly skilled immigrants enter the U.S. directly on many types of visas. My colleagues at Immigration Voice almost all began their journey

to green card on educational and/or temporary employment visas such as the H-1b. As the name suggests, these visas are meant to be used for short periods of time, and with that in mind, certain important restrictions apply to the employment of immigrants on these visas. These restrictions and regulations are the heart of the problem for highly skilled immigrants seeking permanent residence, and because of "Per Country Limits" (an issue I address later in my testimony). This is especially true for those immigrants from India, China, the Philippines, and Mexico, the countries that supply the vast majority of our highly skilled, highly educated foreign talent.

After completing my residency in 1999, I was offered a fellowship in Endocrinology, Diabetes and Metabolism at the New York University School of Medicine, which I gladly accepted thus moving from the land of Lincoln to one of the world's greatest cities, where I worked the next 2 years at Bellevue Hospital and the VA Medical Center. In 2003 I began a fellowship in Advanced Diabetes at the Mayo Clinic and Graduate School in Rochester, MN, the greatest center for Endocrinology in the country and perhaps the world. This was a dream come true. My educational journey ended with my second American Board certification in Internal Medicine in 2009—my first had been in Endocrinology in 2001. For good measure, I also certified as a physician nutrition specialist and earned a Masters of Biomedical Sciences in Clinical Research from the Mayo Graduate School in 2005.

From 1996 to 2003, I remained on a J-1 visa. Although I have heard far worse stories from my colleagues at Immigration Voice, my own experience on the J-1 was mostly uneventful barring the constant need to renew my visa and obtain a special stamp on every visit to my native country. Despite its common use by students in advanced medical programs of 2 to 3 years in duration, the J-1 visa is designed by law to expire annually. The underlying condition of the visa stipulated that I must either return to my home country for a period of 2 years after my training or obtain a waiver based on service for a period of 3 years in a medically underserved area of the United States or its territories. From a visa perspective, I was fortunate that my medical interest aligned with the latter of the two options. As an endocrinologist and diabetologist, my area of professional interest encompasses a growing and emergent public health problem with a current and projected shortage of trained medical professionals. I was thus able to qualify for a waiver.

Not every foreign STEM student is so fortunate. Under both F-1 and J-1 visas, foreign students being trained in our top universities are told that they cannot at any time declare their intent to remain in the U.S. beyond their education—in immigration speak, this is called a prohibition on "dual intent". In spite of these restrictions, I always knew I wanted to be a permanent resident in America. I had been trained in the best medical schools in our country, yet the law said in order for the U.S. to benefit from my training, I had to keep my desire to remain in America as a professional secret. I clearly remember thinking at the time that I am getting the best education in the world at the best U.S. Universities. Half the people in my classes are foreign born and are also receiving top training. When we graduate, the fastest growing industries in America will eagerly recruit us, because they cannot find all the workers they need domestically—and the U.S. government is telling us to tell these U.S. employers we plan to use our skills somewhere other than America.

My professional life began in 2003, when I entered clinical practice with Health Partners Medical Group in St. Paul, MN, at the Regions Hospital, formerly Ramsey County Medical Center, and its adjoining clinics, having obtained a J-1 waiver and an H-1b visa with the support of the State of Minnesota under the Conrad 30 program. Regions Hospital being a major teaching hospital for the University of Minnesota Medical School, I took up significant teaching and mentoring responsibilities in addition to my regular physician duties and was appointed Assistant Professor of Medicine. As a practicing physician in a medically underserved area with a substantial population of indigent patients, I qualified for a National Interest Waiver, putting me on a clear path towards a green card. I was elated. My dream of permanent residency seemed on track and within reach in a few years. However, I soon learned that USCIS had adopted an excessively restrictive interpretation of the 2001 NIW statute, prohibiting my consideration. It took a lawsuit brought by other immigrants and their benefactors to overturn the agency decision in 2007, finally breaking the logjam and allowing me to file for and receive the National Interest Waiver for which I should have qualified years before.

In late 2008, I was offered an opportunity to return to my clinical research roots as a Clinical Research Medical Director at Amgen, the world's largest biotechnology company that discovers, develops, manufactures, and delivers innovative human therapeutics and is dedicated to helping people fight serious illness. Even with my National Interest Waiver, I was only able to accept this offer again due to fortunate circumstances. Because of a quirk in the visa bulletin posted July of 2007, the Department of State kindly allowed all those in line for a green card to file for adjustment of status. This adjustment provided me with the opportunity to gain work authorization, without which the restrictions on transferring my H-1b work visa would have meant a year's wait before I could accept Amgen's offer—assuming I was lucky enough to be selected in the H-1b lottery. Without this very brief window of relief, it is doubtful my employer and I would have been able to come together to our mutual benefit.

As for my family, people often overlook the fact that many highly skilled immigrants are accompanied to America by highly educated spouses. Over the last decade and a half, my wife completed both a MEd and PhD in Education from Vanderbilt University and the University of Minnesota respectively. She has taught at the Mayo High School in Rochester, MN, and worked with Oxfam on grassroots education initiatives. She is writing, updating, and revising a textbook for teacher education, and she volunteers significant time to the local public school. Another commonly overlooked fact is that because highly skilled immigrants typically live in the U.S. on nonimmigrant visas for years—over a decade if you happen to be from India and China—many of our children are born U.S. citizens even while we are not. We now have 2 young daughters, both born in the United States. We have lived here for 15 years, and call America our home. My green card application meanwhile continues to collect dust somewhere deep in bowels of the U.S. immigration system, where it was swallowed up years ago. I will dedicate the rest of my testimony to explaining in greater detail why this is the case for me and so many other immigrants waiting in the employment-based backlog and what this committee can do to improve our immigration system to the benefit of all current and future Americans.

Employment-based Green Cards are Not H-1bs

Before we discuss numbers, the key issue in the employment-based backlog, I want to address a point of confusion among many of your colleagues that persists to this day. For many years, whenever Members of Congress spoke of highly skilled immigrants, they often used the term “H-1b” interchangeably—in much the same way a person might ask for a Kleenex when they mean a tissue or a Coke when they mean a soft drink. Very few policymakers in DC seemed to know anything about the employment-based visa system, and even fewer still could say with any certainty the difference between an H-1b visa and a green card. To most lawmakers, a highly skilled immigrant was an H-1b and nothing more. There are probably many reasons for this misunderstanding. In the early days of the tech boom in the mid to late 1990s, the U.S. technology industry was growing so fast that U.S. tech companies could hardly keep pace with demand. The decline in STEM education in the U.S. had been well documented since the early 1990s, but the spike in demand for qualified technologists created by the growth of companies like Microsoft, Intel, and Oracle brought home the problem in new ways. The emerging U.S. technology sector needed quick access to tens of thousands of highly skilled immigrants to meet labor shortages in real time. The H-1b, as a temporary visa and therefore easier to procure than a green card, became the workhorse of this effort and has been closely identified with the emergence of the technology economy and foreign technologists ever since.

The tragic side effect of the extreme focus on the H-1b is that little attention has been paid to the real needs of highly skilled immigrants, primarily employment-based green cards. America’s STEM shortage has proved to be anything but temporary. In the early days of the H-1b program, many highly skilled immigrants were kept in their temporary status for several years, as there seemed to be a persistent belief that growth would drive demand for STEM education among U.S. students and foreign workers would no longer be needed. Today, most major U.S. employers file for employment-based green cards for their highly skilled immigrants immediately upon hiring. This is especially pronounced for my colleagues on H-1bs. The truth is the H-1b program for many highly skilled immigrants—especially from India and China—is a sore subject. My colleagues do not blame the visa. An H-1b was meant to be a temporary work visa, not a placeholder in the green card line. The visa does allow many Immigration Voice members to live and work in America, but the restrictions exact a heavy toll professionally and personally on these immigrants overtime. If there is blame to be placed, it belongs to a singular chokepoint in the green card system, the result primarily of inadequate numbers and a poorly conceived policy known as per country limits.

I would offer one final thought on misperceptions about our highly skilled immigration system. Even in the early Wild West days of the U.S. tech boom, there was a deep disconnect between what policymakers believed about highly skilled immigrants and what highly skilled immigrants believed about themselves. For some policymakers, every highly skilled immigrant was Albert Einstein—this I can tell you from personal experience is not true. Others seemed to view all highly skilled immigrants as foreign versions of Bill Gates—strictly interested in making sure “spellcheck” continues to work as you type away on your computer. As you can see from my testimony, I am not a computer scientist or computer engineer. Many highly skilled immigrants are and for good reason, but a significant number are not. In contrast, highly skilled immigrants see themselves simply as individuals with deeply marketable skills in

America's largest and fastest growing sectors—highly skilled STEM fields. We are well educated, smart, and motivated, but in most cases no more so than our U.S. colleagues. We are not here because we are better than American workers—we are here because there are not enough qualified (a very important distinction) American workers to meet all the specific demands of America's growing highly skilled industries.

#### The Unintended Consequences of Per Country Limits

The wait for an employment-based green card is never easy. The uncertainty that accompanies the process is a constant source of concern and stress for immigrants. I have been waiting many years for my green card, and I doubt a day goes by that I do not worry about where my application stands vis-à-vis the end of the line. While everyone waits, a little known fact about the employment-based green card system is that some wait significantly longer than others. The reason for this discrepancy seems to be an arbitrary policy decision at the time the employment categories were created that limits the total number of green cards issued to individuals born in any one country to 7%. We can find no policy rationale for this cap other than the same limit exists for the family green card system. In the context of family, such a limit seems to make sense, where social diversity is part of the policy rationale for the system. In contrast, the employment system exists solely to serve the needs of the U.S. economy—economic necessity is in fact the first test for whether or not an individual qualifies for an employment-based green card.

Given half the world's population lives in two countries—India and China—and that these countries supply the vast majority of highly skilled immigrants to the U.S., the impact of the 7% per country limit has been profound. If per country limits are left in place, highly skilled immigrants from India will quite literally be waiting decades, most on temporary visas that limit their job mobility and prevent them from buying homes, starting businesses, and earning two incomes. This is an extremely demoralizing prospect for men and women who come to America believing their skills are valued and will be welcomed. The problem of waiting—and especially waiting longer than others for no other reason than being born in a populous country—is easily the number one cause of attrition and reverse “brain drain” by Indian and Chinese immigrants.

To illustrate the impact, look no further than Kunal Bahl, an engineer from the University of Pennsylvania with an MBA from Wharton who started a company while in college that now sells to 3,000 U.S. stores. In 2007, when his H-1b visa ran out, Kunal simply gave up on the U.S. immigration system and sought greener pastures back home in India, where he founded [snapdeal.com](http://snapdeal.com). Kunal's company now earns over \$20 million in annual revenue and is on track for an estimated \$100 million. He already employs 400 workers in India and is hiring approximately 70 more every month. At a time when the U.S. needs jobs desperately, job creators like Kunal are leaving America for no other reason than our immigration system. While we have few hard statistics on these types of opportunity costs, most immigration experts agree the number of foreign-born workers returning to India and China annually is on the rise and in the tens of thousands. The Chinese Ministry of Education estimates the number of former emigrants who returned to China last year was a record 134,800, up 25% from 108,000 in 2009. As President Obama highlighted in a recent speech, Intel, Google, Yahoo and eBay

were all founded by immigrants. Knowing what we know today, would we not do whatever it took to keep these innovators in America?

Per country limits have no place in the employment-based system. Talent is talent no matter where an immigrant is from, and the limitations on access to employment-based green cards are best determined by the needs of the market, not an arbitrary cap. The cap in many ways is the antithesis of the market, enforcing a smooth distribution of talent globally that does not match up with reality. On its face, the idea that a country with billions of people should be limited to the same number of employment-based green cards as a country with only millions is absurd. Regardless, capping the system based on the country of origin makes no sense if the goal is to get the best the world can offer. For that reason, Immigration Voice supports eliminating the per country cap altogether in favor of a "first come, first serve system", where all employment-based immigrants have the same wait and bear the same burden of a system short on green cards.

#### Green Card Numbers are the Problem and Solution

From the perspective of a future American, the single biggest problem with the employment-based immigration system is clear: there are not enough employment-based green cards to meet today's demand. The U.S. immigration system provides 140,000 green cards for employment-based immigrants every year. This accounts for approximately 16% of all green cards awarded annually, a significant number until you look more closely. The reality is many temporary visas, like the H-1b, which is capped at 85,000 visas a year, allow immigrants to enter the country with whole families. However, when the time comes for permanent residence, each member of the family must also receive an employment-based green card. In short, we estimate that more than half of the 140,000 employment-based green cards go to family members. For countries impacted by per country limits like India, China, the Philippines, and Mexico, the visa usage by family members does nothing but compound the already extremely long waits, at times causing backlogged individuals to actually move backwards in line—something commonly known in immigration circles as retrogression.

More disturbingly, we know a portion of the 140,000 green cards, as provided by Congress annually to the employment-based categories, have often gone unused despite the excessive demand in the system. We believe this is primarily the result of inefficiencies in the application process which continues to be excessively reliant on paper-based methods. Regardless of the cause, if USCIS and the agencies responsible for overseeing the green card system fail to process applications in time, the allotment of visas expire and are lost. The USCIS ombudsman estimates that between the family and employment-based categories, over 300,000 green cards have been wasted in this manner. We believe this number to be higher and that up to 325,000 thousand have been left unprocessed in the employment-based categories alone. The deeply frustrating aspect of the loss of visas due to inefficiency is that after years of waiting, the government should have little doubt as to who is next in line (yet another negative consequence of per country limits). Highly skilled immigrants plan their life around the green card process when the agency calls. It should not be too much to ask that the agency take time to plan for effective and efficient green card processing as well.

When it comes to the issues of numbers in the employment-based system, I believe it bears repeating that the shortage of available employment-based green cards remains the single biggest challenge to highly skilled immigrants. Combined with per country limits, the inadequate supply of green cards represents a significant hurdle to job mobility, professional growth, career advancement, promotions and even the education of our children if not born in the United States. In some cases, young children become adults by the time green cards are available to an applicant's family. In these cases, the adult child is no longer eligible and may find themselves separated from their families for an extended period or even permanently.

The Path Forward: Run! Don't Walk

We often hear from policymakers that the goal of the employment-based immigration system should be to welcome those individuals who can contribute immediately to the growth and prosperity of the American economy. My fellow highly skilled immigrants and I appreciate the sentiment, but we do not expect the "red carpet" treatment. We know there must be reasonable restrictions on the flow of immigrants to America. We know that reasonable protections must be in place to make sure that U.S. workers are not displaced unknowingly by those seeking permanent residency in the United States. We know these restrictions and protections add time to our wait for green cards, and we accept this process as the price for entry on a permanent basis to the U.S. We are future Americans, and we share an interest in making sure that foreign workers coming to the U.S. are truly needed.

What my fellow immigrants and I find deeply frustrating about the wait for green cards is that the majority of time spent in line has little or nothing to do with processes aimed at protecting American workers. We are not held in limbo for years to ensure that jobs that should go to Americans are protected. On the contrary, for countries impacted by per country limits, most of the highly skilled immigrants waiting for green cards have long since been deemed additive to the U.S. economy through a rigorous market test known as "labor certification". Inadequate numbers are the primary delay in the system, and because highly skilled immigrants are forced to wait on temporary visas, many of the negative externalities raised by critics, such as incentives to pay low wages and fear of leaving abusive employers lest you be removed from the country, are amplified in the system.

In order to help move the process along and remove the negative consequences for both immigrants and the U.S. economy of a permanent workforce on restrictive temporary visas, I recommend the following changes be adopted as soon as possible by Congress:

1. Eliminate per country limits--as previously discussed, this is as much an issue of fairness as it is an issue of reducing wait times. Currently, highly skilled immigrants from the largest countries in the world bear the full burden of this negative externality. Removal of these caps will distribute wait times among all immigrants, making the system fair as a "first come, first serve" process and alleviating market distorting pressures on Indian and Chinese immigrants stuck for years on temporary visas. This change is a simple, technical fix requiring no additional green card numbers be issued.

2. Recapture previously authorized but unused green card numbers—also, discussed above, recapturing previously authorized but unused green cards will allow Congress to help clear the employment-based backlog without authorizing any additional visas. These visas were already provided by law, but due in many cases to bureaucratic inefficiencies, they were lost. Recapturing is an option that requires no major changes to the immigration system.
3. Raise the employment-based green card cap to 290,000 visas per year—raising the cap on employment-based green cards is the most obvious solution to the employment-based problem. While this option may be the least politically acceptable among certain leaders in Congress, it is also the simplest with clear and absolute caps.
4. Allow for job portability, without losing the worker's place in the green card line, on the filing of an application for labor certification—this issue is also touched upon above. Highly skilled immigrants waiting for green cards are trapped on temporary visas. Even though the law allows for certain temporary visa holders, such as H-1bs, to change jobs, many immigrants opt not to do so for a simple reason: changing employers under the current system means starting over in the green card line. For highly skilled immigrants deeply impacted by per country limits, the incentives to remain with their current employer at any cost are high. Allowing highly skilled immigrants to change jobs once they have filed for green cards without losing their place in line will empower these workers to pursue their maximum employment potential, adding greatly to morale and further protecting these immigrants from potential abuses.
5. Exempt certain categories from the employment-based caps—as noted in my testimony already, family members use up a significant portion of employment-based green cards. Other categories of highly skilled immigrants may also deserve special consideration when applying for employment-based green cards. To this end, I recommend exempting from the employment-based caps individuals who meet the following criteria:
  - STEM degree holders with an advanced degree from a U.S. university
  - Spouses and children of employment-based immigrant visa recipients
  - National Interest Waiver recipients
  - Physicians that provide designated services in medically underserved areas

These are but a few examples of the creative ways in which our green card system can provide additional numbers by incentivizing positive behaviors that benefit the country and/or address the intended spirit of the law.

6. Provide for the roll-over of unused immigrant visa numbers to the following fiscal year—given the loss of visas due to bureaucratic inefficiencies on an annual basis, rolling visas forward is the best way to ensure that recapture is an imbedded principle of the employment-based system.

A Closing Thought on the Question of American Jobs

Some in Congress—perhaps on this subcommittee—believe that in certain cases highly skilled immigrants are being used to displace U.S. workers. I say if you have evidence of this, you must prosecute them. If the problem is systemic, fix the law. The fact that fraud and abuse in the temporary programs are by far the exception rather than the rule matters not to me. People must trust a system to believe in it. The actions of a few bad actors have not only eroded the reputation of the H-1b visa program, their actions have undermined trust in highly skilled immigrants themselves. To rebuild this trust, we must eliminate the bad actors. The law provides for ample enforcement in nonimmigrant programs—I urge you to use that power to restore faith in a highly skilled immigration system that can and will continue to benefit the U.S. economy and the American workforce. Our excessive reliance on temporary visas is of course largely to blame for the enforcement issues within the programs. Adopting the employment-based green card reforms I have outlined above is the surest way to refocus the attention of immigration officials on the relatively small but very damaging problem of H-1b fraud.

As to the overall question of displacement, anyone who argues that there is no shortage of qualified highly skilled workers in certain STEM fields has no practical knowledge of the STEM industry. People are not perfectly substitutable, and empirical studies will never explain fully what qualifies one worker over another. What we do know is that there is no prize for second place in the global economy, and there is no place for good enough in cutting edge technology. When a company determines it wants the best person for a job regardless of where they are from, that company in many cases is doing so as an alternative to moving jobs overseas. As we are future Americans, we are tied to the success of the US economy and the jobs that are created here. America's continued prosperity and the availability of jobs in the future, especially for our children, are of enormous importance to us. I believe the vast majority of highly skilled immigrants add far more value than they take from our economy. All we ask for in return is the opportunity to make permanent our place in the country where we work, raise our children, and call our home.

Conclusion

Thank you again for the privilege of testifying before you today. I am truly honored to have this opportunity to share my story and my views on highly skilled immigration with you. I am also honored to testify on behalf of my fellow Immigration Voice friends and colleagues, all of whom are future Americans. Everyone could tell a different story of how they got here, but our coalition comes together because we share a deep desire to make America our permanent home. I believe America is the greatest country on earth. We have freedom. We have opportunity, and today we have the advantage in emerging industries. With a serious commitment to reforming our employment-based green card system, I believe highly skilled immigrants can help America return to prosperity, creating jobs and growing our economy through innovation. I hope you will consider the recommendations I have made today, and I'll look forward to our continued work together.

**Hearing on "The Economic Imperative for Enacting Immigration Reform"**  
**Statement of Dr. Edward Beck**  
**Bridgeport, Pennsylvania**

**July 26, 2011**

Members of the Subcommittee,

I am a Ph.D. biomedical researcher, U.S. born and a citizen. The abuse of the H1-B visa program has either destroyed opportunities for people like me or deterred prospective Ph.D. students from entering the field altogether. During my seven years of postdoctoral training (continued research after earning a Ph.D.) I witnessed exploitation of both US citizens and foreign nationals at the hands of academic and government research labs.

\*Exploitation included low pay, few benefits and worst of all vanishing opportunities beyond postdoctoral positions. Sadly, most postdocs take on these fruitless positions with the hope of advancing to lab leaders.

\*For most postdocs investment of 5 to 10 years in such positions does not pay off at all. I am currently laid off from a private industry position of two years suited to a Master's level of expertise.

Postdoc positions in academic and government labs are excellent think tanks and perfect opportunities for young U.S. scientists. Yet more than half are occupied by foreign nationals of indefinable innovative potential; the "best and the brightest" is merely an unsubstantiated motto used by industry lobbyists to garner political support for insourcing (cheap) foreign laborers. Foreign nationals are readily hired for such postdoc positions because they tolerate being exploited as mentioned above.

Many US citizens with Ph.D.s in biomedical research fields opt out of science instead of competing for a chance to be exploited for 5 to 10 years in postdoc positions. Consequently, postdoc positions are readily filled with foreign nationals and over time they compete with U.S. citizens for jobs in private industry. Even private industry (i.e. biotech, pharmaceutical) has started hiring scientists as Postdocs, not full time employees. Hence, the effect of opening U.S. postdoc positions to foreign nationals ripples into every research lab in the U.S. If you earned a Ph.D. in biomedical science would you be satisfied with a starting salary between 35 and 40K/year? I think a newspaper route would pay more.

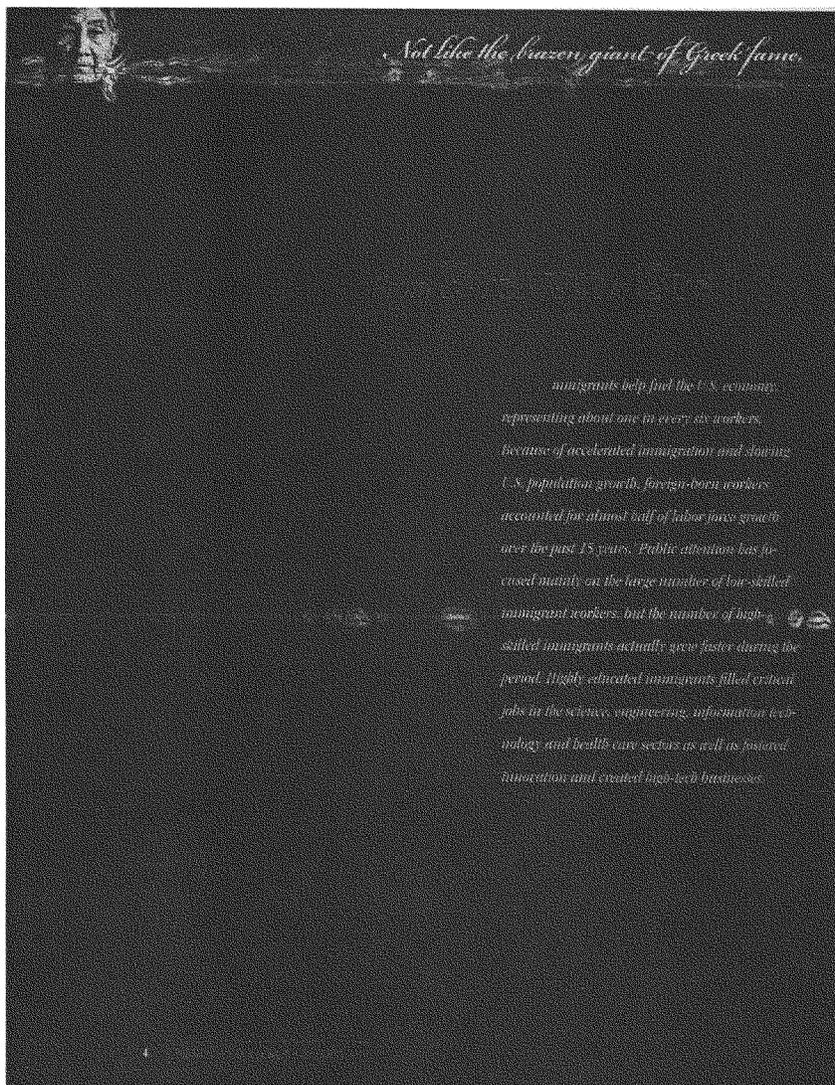
Low salaries and severely limited opportunities for Ph.D.s result in college-bound high school students opting for degrees in business, medicine, law, dentistry etc.. It is no wonder that there is a need for foreign nationals to take vacant postdoc positions. A simple solution is to increase salaries and turn postdoctoral positions into full time benefited career positions. Current postdocs are simply used by lab leaders to work on experiments that the lab leader designs. The

true spirit of training in these positions has been replaced by exploitation for the one-sided benefit of the lab leader.

Stapling green cards to foreign graduates of U.S. schools compounds the problem of labor insourcing. In the spirit of minimizing stereotypes we should acknowledge that just because a foreign national graduates from a U.S. institution doesn't mean they are better than their U.S. classmates. Given the U.S. history of innovation I would sooner speculate that U.S. workers have a fiercer spirit of innovation than workers in any other country in the world. Once again the "best and brightest" argument is invoked speciously.

Finally, there appears to be a trend for U.S. institutions to admit more foreign applicants at the exclusion of U.S. citizens. I suspect that this trend is due to the ability of rich foreign nationals to pay tuition fees in full without the need for financial scholarships or student loans. U.S. institutions knowing the wealth of foreign internationals will further inflate tuition costs putting college expenses beyond the reach of middle class U.S. citizens.

In conclusion immigration laws should be written to favor U.S. jobs for U.S. citizens. Similarly, seats in U.S. academic institutions should be reserved for U.S. citizens. Unregulated insourcing of both workers and students will eventually displace many qualified U.S. citizens and put a college degree out of reach of potentially highly innovative U.S. citizens.



*With conquering limbs astride from land to land:*

## How Immigration Works for America

By Pia Orrenius and Madeline Zavodny

Future U.S. prosperity depends on having a skilled workforce. This requires educating the native-born population and continuing to attract the world's best and brightest to the U.S. For decades, the nation has been the world leader in attracting skilled immigrants who, until recently, had few good alternatives. Today, other destination countries increasingly recognize the economic benefits of these workers and are designing policies to attract them, even as the immigrants' nations of origin seek ways to entice them to return home.

The U.S. immigration system, meanwhile, has not kept up. Piecemeal fixes have turned current law into a web of outmoded, contradictory and inefficient quotas, rules and regulations. For example, the number of high-skilled immigrant workers admitted on temporary visas has doubled since 1996, but the number of employment-based permanent-residence visas, or "green cards," has remained the same. As a result, the wait for employment-based green cards extends more than a decade. It's not known how many high-skilled immigrants are turned away by the broken system, but the U.S. risks falling behind in the global race for talent if immigration laws are not reformed.

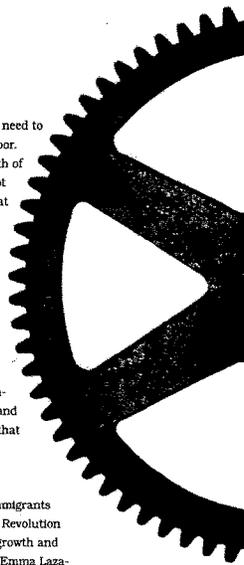
Immigration legislation has been put on the back burner while lawmakers have focused on the recession, health care, tax policy and financial reform. At the same time, the economic downturn has wracked U.S. labor markets and damped public support for comprehensive immigration reform. Given the distressed housing market, high unemployment and sluggish job growth in a still-nascent economic

recovery, U.S. workers may not see the need to replenish the workforce with foreign labor.

Although dealing with the aftermath of the recession is important, it should not stand in the way of creating policies that lay the groundwork now for stronger economic growth tomorrow. Highly educated immigrants help build the nation's human capital, which, together with physical capital and technological progress, forms the foundation of the nation's future. This report examines historical perspectives on immigration, who comes to the U.S. and why, the economic and fiscal impacts of immigration, the problems with current policy and the arguments for immigration reform that prioritizes brains over brawn.

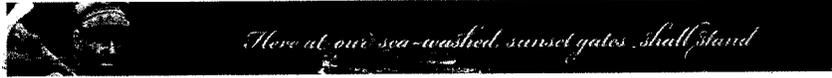
### A Historical Perspective

Since the first arrivals, waves of immigrants have shaped the nation. The Industrial Revolution ushered in a period of rapid economic growth and high levels of immigration. By the time Emma Lazarus wrote her famous poem, "The New Colossus," in 1883, the national image was not just of people remaking the nation but also of the nation remaking the people. "Give me your tired, your poor, your huddled masses yearning to breathe free," Lazarus wrote, as if coming to America changed the fate of the "homeless" and "tempest-tossed." To enter America was to go through the "golden door," presumably to a place where even the most common of men and



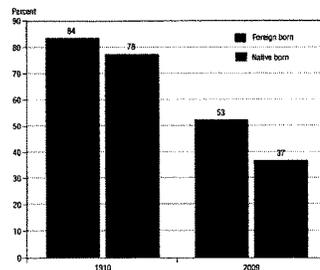
FROM BRAIN TO BRAWN: HOW IMMIGRATION WORKS FOR AMERICA • 2010 ANNUAL REPORT

5



*Technology has done away with much of the need for swaths of workers to perform manual labor, and blue-collar wages are falling.*

**Chart 1**  
**Blue-Collar Work on the Decline**



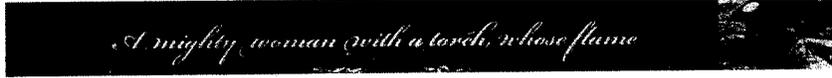
NOTE: Percentage of workers age 25 and over in blue-collar occupations in 1910 and 2009.  
SOURCES: 1910 census; 2009 American Community Survey.

women could find fortune.

Lazarus' poem is rooted in the U.S. experience during the late 19th and early 20th centuries. The economy absorbed massive immigrant influxes. The lure of economic opportunity was not lost on Europeans and Asians who struggled to survive at home. Once in the U.S., Europeans cultivated farmland in the Midwest, Chinese laborers toiled on railroads in the West and immigrants of all nationalities fueled urban industrialization in the Northeast and Great Lakes states. Before the 1880s, immigration to the United States—and throughout the world—was largely unregulated. The movement of people to the U.S. was limited more by migration costs than by restrictive government regulation. Policies were permissive by design, to settle and claim the West, but also because economic growth was possible only with more workers, and more workers led to greater growth. Land was abundant, labor was scarce and wages were rising.

How are things different today? To be sure, the country no longer has a vast expanse of empty, productive land. Agriculture and manufacturing, mainstays of the 19th-century U.S. economy, employ a shrinking number of workers. Technology has done away with much of the need for swaths of workers to perform manual labor, and blue-collar wages are falling. Meanwhile, the economy has shifted toward the service sector.

These long-run trends have manifested themselves in the labor market in an important way: fewer blue-collar workers. The proportion of native-born individuals employed in blue-collar occupations today is less than half what it was in 1910, the historical peak of U.S. immigration (Chart 1). Among immigrants, who are disproportionately employed in blue-collar occupations, the fraction working in these jobs has fallen to 53 percent from 84 percent a century ago.<sup>2</sup> These statistics highlight another important fact: immigrants' and natives' skill levels differ more today than in 1910. The gap between the immigrant and native blue-collar employment share has grown to 16



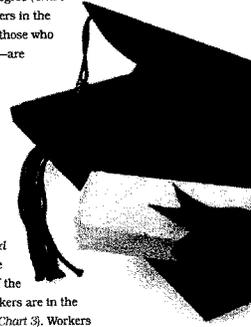
percentage points, compared with 6 percentage points a century ago.

**The Changing U.S. Workforce: Where Immigrants Fit**

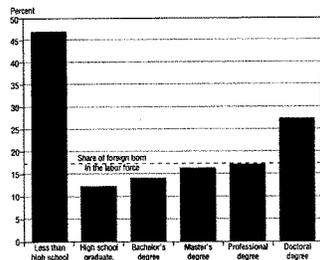
One of the most dramatic transformations of the U.S. workforce in the post-war years has been its rising educational attainment. In 1950, 64 percent of U.S.-born workers lacked a high school diploma. Today, fewer than 10 percent have not completed high school. This rapid rise in U.S. workers' education levels created an opening for low-skilled foreign labor that was readily filled, both legally and illegally. Low-skilled immigrants are increasingly employed in service jobs as well as disproportionately in the traditional industries: agriculture, construction and manufacturing. Service industries where low-skilled immigrants dominate include landscaping and building maintenance, food preparation, personal care and service, transportation and health care.

All told, immigrants make up almost half of work-

ers in the U.S. lacking a high school degree (Chart 2). The immigrant shares among workers in the middle of the education distribution—those who graduated from high school or college—are much lower at 12 percent and 14 percent, respectively. For workers with master's degrees, the foreign-born share rises to 16 percent; for those with professional degrees, such as doctors and lawyers, it is 17 percent; and among doctoral degree holders, the share reaches 27 percent. Overall, 17 percent of workers age 25 and older were foreign born in 2009 (dotted line on Chart 2). Immigrants, thus, are concentrated at the bottom and top of the education distribution. Most U.S. workers are in the middle of the education distribution (Chart 3). Workers with at least a high school diploma but not a bachelor's degree represent 57 percent of the workforce.

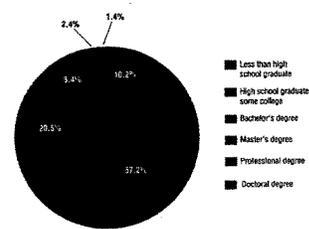


**Chart 2**  
Immigrant Workers Overrepresented at Extremes of the Education Distribution



NOTE: Percentage of foreign workers age 25 and over in the U.S. labor force by education.  
SOURCE: 2009 American Community Survey.

**Chart 3**  
Most Workers Have High School but Not College Degree (Labor force by education)



NOTE: Percentage of foreign and native workers age 25 and over in the U.S. labor force by education.  
SOURCE: 2009 American Community Survey.

*Is the imprisoned lightning, and her name*

*Although the U.S. tapped Western Europe for skilled labor for over a century, rising education levels in Asia, unrest in the Middle East and the collapse of the U.S.S.R. have generated new streams of skilled workers for U.S. employers.*

#### High-Skilled Immigrants

High-skilled immigrants tend to complement high-skilled native-born workers by flowing into fast-growing fields where native labor supply cannot keep up.<sup>3</sup> As a result, highly educated immigrants are over-represented in some of the most skill-intensive occupations (Chart 4). They make up 45 percent of medical scientists and 37 percent of computer programmers, for example. Immigrants also have a large presence in medicine, engineering, higher education, accounting

#### Of Note Mexico–U.S. Migration in Structural Decline?

The housing crisis and recession produced sharp declines in Mexico–U.S. migration. While these demand-side factors influence the volume of Mexican migrants, supply-side factors are important too, especially in the long run. Labor supply shocks caused by changes in the size of birth cohorts explain as much as a third of U.S. immigration from Mexico in recent decades.<sup>1</sup> With Mexico in the midst of one of history's most dramatic demographic transitions, declining population growth there carries significant implications for the future of Mexican immigration to the U.S.

From the late 1970s to 2010, fertility rates in Mexico fell from 6.8 to 2.2 children per woman, just above the "replacement rate" of 2.1 needed for a country's population to remain stable.<sup>2</sup> Factors leading to declining fertility rates include a large drop in infant mortality, rising education levels and increased female labor-force participation.<sup>3</sup> Public policy also had an impact. The Mexican government launched an aggressive family planning campaign in the early 1970s, since expanded to include rural areas. Population growth has slowed dramatically as a result.

If this trend continues, Mexico's population will shift significantly toward older cohorts and away from the younger generations who tend to migrate. The youngest age group (ages 0–14) is on track to represent 16 percent of the population in 2050, compared with 28 percent today.<sup>4</sup> Older cohorts (ages 65 and up), by contrast, will likely rise to 22 percent from 7 percent over the same period. Current concerns about the inflow of Mexican immigrants are likely to diminish as the Mexican population ages and the share of young workers in the labor force declines dramatically.

#### Notes

<sup>1</sup> "The Great Mexican Emigration," by Gordon H. Hanson and Craig McIntosh, *Review of Economics and Statistics*, vol. 92, no. 4, 2010, pp. 798–810.

<sup>2</sup> Data from "World Population Prospects: 2008 Revision," Population Division, Department of Economic and Social Affairs, United Nations, 2008.

<sup>3</sup> "Are Young Cohorts of Women Delaying First Birth in Mexico?," by Alfonso Miranda, *Journal of Population Economics*, vol. 19, no. 1, 2006, pp. 55–70.

<sup>4</sup> See note 2.

*Mother of Exiles. From her beacon-hand*

and auditing, nursing and architecture. On average, immigrants make up 15.5 percent of the high-skilled labor force (dotted line on Chart 4).

Although the U.S. tapped Western Europe for skilled labor for over a century, rising education levels in Asia, unrest in the Middle East and the collapse of the U.S.S.R. have generated new streams of skilled workers for U.S. employers. Census data show 80 percent of workers in the U.S. who arrived from India have at least a bachelor's degree, followed by Taiwan, Japan, Iran, the former U.S.S.R. and South Korea (Chart 5).<sup>4</sup>

**Low-Skilled Immigrants**

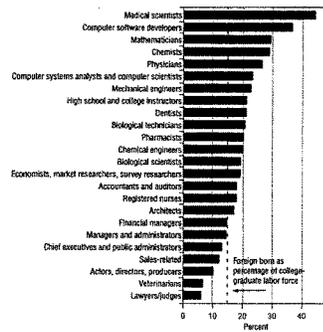
The least-educated workers come from Mexico, Central America and the Caribbean. This is largely a result of geographic proximity, continued demand for low-skilled labor among U.S. employers and large wage differentials. Research suggests a Mexican immigrant earns about 2.5 times as much (in purchasing-power-adjusted terms) in the U.S. as he would have if he remained in his native country.<sup>5</sup> For a Haitian immigrant, earnings are as much as 10 times greater in the U.S. than at home.<sup>6</sup>

Because immigration policy makes it hard for low-skilled workers to be admitted to the U.S. unless they have a close relative here who can sponsor them, many enter illegally. Estimates suggest there are almost 8 million unauthorized immigrant workers in the U.S. today, the great majority with less than a high school education.<sup>7</sup> As many as 80 percent of Mexican immigrants initially arrived as unauthorized immigrants.<sup>8</sup>

**Immigration and the Economy: A Bigger Pie**

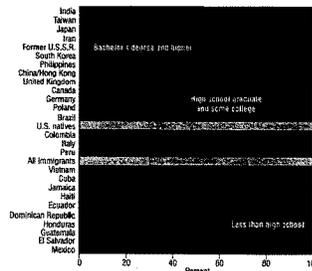
Immigrants differ from natives; they tend to have either a great deal more or a great deal less education than the average native, and they are clustered in certain occupations. Another difference is language. About 32 percent of immigrants report that they either do not speak English or do not speak it well. Although immigrants may have fewer skills than natives, being different isn't bad.<sup>9</sup> In fact, differences

**Chart 4**  
**STEM, Health Care Occupations Rely on High-Skilled Foreign Workers**



NOTES: Percentage of foreign-born workers age 25 and over with bachelor's degree or higher in selected occupations. STEM stands for science, technology, engineering and mathematics.  
SOURCE: 2009 American Community Survey.

**Chart 5**  
**Highest-Educated Immigrants Are From Asia, Iran, Former U.S.S.R.**



NOTE: Composition of educational attainment among immigrants by country of origin.  
SOURCE: 2009 American Community Survey.



are crucial. There would be no economic gains to immigration for natives if immigrants were clones of natives or, in economic jargon, *perfect substitutes*. Differences can create complementarities, with immigrant workers making natives better off.

How does immigration affect the economy? Its first-order effect is boosting the number of available workers, increasing total output and gross domestic product (GDP). Most of the gain in GDP accrues to immigrant workers in the form of their earnings, but natives gain as well. Business owners benefit from lower labor costs and a larger customer base. Natives benefit from lower prices. In cases where immigrants and natives are complements, lower prices can have far-reaching effects. For example, research shows the immigration-induced decline in the cost of child care and housekeeping has significantly increased the

labor supply of skilled native women.<sup>10</sup>

One drawback of immigration's economic effects is uneven distribution of the gains. Employers, investors and complementary workers benefit while substitutable workers lose out. These losses are concentrated at the low-wage end of the labor market because so many immigrants are low-skilled. Although there is general belief that immigration has hurt low-skilled native workers, there is no consensus on the size of the impact.<sup>11</sup>

Estimates of the immigration-induced GDP increase that accrues to natives—known as the “immigration surplus”—are typically based on simulations of macroeconomic models or back-of-the-envelope calculations. Standard competitive models produce small estimates, between 0.1 and 0.3 percent of U.S. GDP.<sup>12</sup> The immigration surplus is larger if immigrants are

#### Of Note States Fight Bright Flight

For years, a number of states, especially in the Midwest and Northeast, have dealt with either domestic net outmigration or brain drain, the mass departure of young skilled workers for other states. Net domestic emigration has been a concern in California, Iowa, Connecticut, Kansas and Ohio, Illinois, Michigan and New York have experienced especially high outmigration, with more than 1.4 million residents leaving in the past decade.

States have launched initiatives to combat brain drain and skilled labor shortages. These initiatives aim to retain and attract workers, primarily in critical skill areas. They range from boosting workforce skills through investment in community colleges and apprenticeships, such as Maryland's Skills2Compete program, to targeting high-tech job growth, as with Michi-

gan's 21st Century Jobs Fund. Other programs, such as Vermont's Next Generation Workforce project, provide cash grants to businesses that create critical-skills jobs.

Some states have even launched ambitious Internet-based campaigns that leverage online networking to connect former residents with job opportunities in advanced fields. With names such as “Move Back to Nebraska” and “You Belong in Connecticut,” these campaigns seek to brand states with skilled-labor shortages as attractive places to “Stay, Work, Play” (New Hampshire).

Though the success of these nascent initiatives remains to be seen, it is clear that many states have felt the negative ramifications of skilled-labor shortages and are working to stem the flow.



complementary to natives and complementary to capital. This is more likely to occur if immigrants are highly skilled. High-skilled immigrants tend to attract capital and work in occupations where native-born labor is scarce, creating a larger immigration surplus.

**High-Skilled Immigrants and Economic Growth**

If high-skilled immigrants are also more innovative and entrepreneurial, the immigration surplus is larger still. In this case, immigration can actually boost productivity growth, leading to a higher long-run rate of economic growth.<sup>13</sup> Recent research provides convincing empirical evidence that high-skilled immigrants play an important role in innovation and, in certain sectors, entrepreneurship. Highly educated immigrants receive patents at more than twice the rate of highly educated natives. The difference has been linked to immigrants' overrepresentation in STEM (science, technology, engineering and mathematics) fields and the growing number of immigrants entering on employment-based and student visas.<sup>14</sup> There is also evidence of positive spillovers on natives, meaning that immigrants not only raise innovation directly but also boost overall patent activity, perhaps by attracting additional resources and boosting specialization.<sup>15</sup>

High-skilled immigrants' entrepreneurial activities have been instrumental in the growth of the U.S. high-tech sector, for example.<sup>16</sup> Immigrants founded 25 percent of U.S. high-tech startups between 1995 and 2005.<sup>17</sup> Immigrants have much higher rates of business creation than natives and slightly higher self-employment rates.<sup>18</sup>

**Efficiency Gains From Immigration**

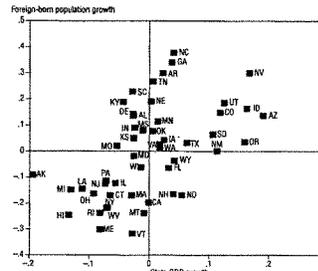
Immigration can help the economy in a number of other ways, many that economists have not studied in-depth. Immigrants are more mobile than natives, for example, responding more readily to regional differences in economic opportunity.<sup>19</sup> Foreign-born workers are more likely than natives to move to where the jobs are (and leave where jobs aren't). In this way, they increase labor market efficiency by alleviating

labor shortages and speeding up wage convergence. A simple plot of foreign-born population growth against real GDP growth by state shows the great majority of states clustered in the lower left and upper right quadrants, demonstrating that immigration and economic activity are positively correlated (Chart 6). Immigration also can lead to greater efficiency if production is characterized by economies of scale. These can occur in a number of ways when the population increases: Fixed costs per unit fall as production rises; larger markets lead to a better division of labor and greater specialization; higher production volume leads to more learning-by-doing; and a larger population makes more investment in infrastructure worthwhile. There is little empirical evidence quantifying these gains.<sup>20</sup>

**Fiscal Impact of Immigration**

Conventional estimates of the economic impact of immigration on natives, discussed above, suggest

**Chart 6**  
Immigrants Go Where the Jobs Are



NOTE: Coordinates indicate deviation from average foreign-born population growth (vertical axis) and from average real state GDP growth (horizontal axis) from 1990 to 2009.  
SOURCES: 1990 census; 2009 American Community Survey; Bureau of Economic Analysis.



*Low-skilled immigrants are a net fiscal drain, but overall, immigration need not be. High-skilled immigrants can offset the fiscal cost of low-skilled immigrants. The net effect depends on each group's relative share.*



It is a small fraction of GDP overall, but likely higher if more immigrants are skilled. Estimates of the fiscal impact of immigration are also more favorable the greater the share of high-skilled immigrants. Immigration's fiscal impact is the difference between taxes paid by immigrants and the cost of government services they receive. Since income is so highly correlated with education, the fiscal impact of an immigrant essentially depends on educational attainment. The same is true for natives.

Estimates from 1996—the most recent comprehensive estimates available—indicate that immigrants with less than a high school diploma cost \$89,000 more than they contribute in taxes over their lifetimes, while immigrants with more than a high school education contribute \$105,000 more in taxes than they use in public services.<sup>21</sup> In other words, low-skilled immigrants are a net fiscal drain, but overall, immigration need not be. High-skilled immigrants can offset the fiscal cost of low-skilled immigrants. The net effect depends on each group's relative share.

Immigration's adverse fiscal impacts are most felt at the local level. State and local governments meet many of the needs of low-skilled immigrants by bearing the bulk of the cost of education and public hospitals and part of the cost of public assistance programs, such as public health insurance (Medicaid and the Children's Health Insurance Program, or CHIP) and traditional welfare (Temporary Assistance for Needy Families, or TANF).

In 2010, about 31 percent of immigrant-headed households participated in a major means-tested public assistance program, compared with 19 percent of native-headed households.<sup>22</sup> The difference is entirely explained by Medicaid and CHIP participation, a consequence of the low rates of private health insurance coverage among immigrant families.

Some policymakers argue that more immigration can remedy the looming shortfalls in pay-as-you-go programs, such as Social Security. Although a large increase in immigration can extend trust fund solvency a few years, higher levels of immigration would



do little to reduce Social Security's overall unfunded liabilities, which are in the trillions.<sup>25</sup>

A more attainable goal may be to mitigate federal budget deficits. An interesting 2000 study showed that a selective immigration policy that admitted 1.6 million high-skilled immigrants age 40-44 years old annually into a hypothetical U.S.-style economy with a 50 percent debt-to-GDP ratio would have balanced the budget within five years and eventually eliminated the national debt.<sup>26</sup> Balancing the budget via tax increases instead would have required a 4.4 percentage point increase in income tax rates, according to that study.

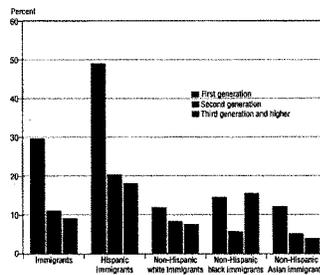
**The Second Generation**

High-skilled immigrants, thus, can help the fiscal picture. But many immigrants have relatively low education levels and impose significant fiscal costs. One silver lining is that these costs dissipate in the very long run as their descendants assimilate and "pay back" the costs imposed by their predecessors. Economic or educational assimilation is, therefore, a very important piece of the immigration calculation. Although many first-generation immigrants lack even a high school degree, their descendants generally reach typical U.S. education outcomes over time.

Patterns of educational attainment by generation suggest immigrants' children, the second generation, show a large improvement over the first generation, with the share lacking a high school degree declining steeply from 30 percent to 11 percent (Chart 7). Improvements tend to continue but at a slower pace in the third generation, with the exception of non-Hispanic blacks, who appear to backslide in the third generation.

With education playing such a central role in immigrant integration and with so many low-education immigrants, the challenge facing U.S. schools is formidable. In California, 50 percent of children enrolled in K-12 schools are either immigrants or the children of immigrants. In Texas, the share is 32 percent; nationally, it is 22 percent. These children have advantages and disadvantages—they are likely to be bi-

**Chart 7**  
**Second-Generation Education Outcomes a Big Improvement Over Parents**  
 (Individuals age 25 and over lacking a high school diploma)

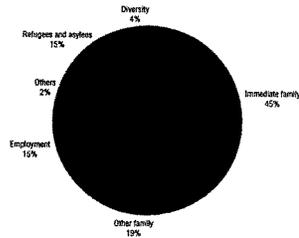


SOURCE: 2003 American Community Survey.

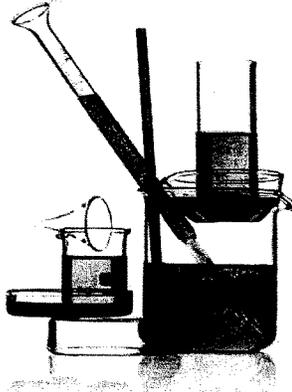
*With education playing such a central role in immigrant integration and with so many low-education immigrants, the challenge facing U.S. schools is formidable.*



**Chart 8**  
Green Cards Go Mostly to Family, Humanitarian Immigrants



NOTE: Share of legal permanent residents by admission class (2005 through 2009).  
SOURCE: Yearbook of Immigration Statistics, Department of Homeland Security.



lingual and have parents who want them to succeed, but many are from families with limited resources. Compounding the problem is that states and localities are confronting significant budget cuts in coming years, cuts that will undoubtedly impact schools.

**Implications for Immigration Policy**

The benefits of immigration accrue from high- and low-skilled immigrants. Both tend to complement the native workforce, bringing brains or brawn to locations and occupations where there is a need. The Hispanic immigrant population in Louisiana jumped nearly 20 percent following Hurricane Katrina, as workers converged there to assist the cleanup and reconstruction.

High-skilled workers, however, come with more benefits and fewer costs than low-skilled workers. And their skills are key to the vitality and growth of some of the nation's most successful industries and to research and development. In addition, many high-skilled immigrants work in industries that produce tradable goods or services, meaning companies can employ their workers here or overseas. Google can hire programmers to work in Mountain View, Calif., or in Guangzhou or Hyderabad or any of the other 49 non-U.S. cities in which it currently operates. If it cannot get visas for its workers, it can just employ them overseas.<sup>25</sup> For all these reasons, the U.S. has a lot to gain from rewriting U.S. immigration policy to focus more on high-skilled and employment-based immigration.

Existing policy is rooted in the 1965 amendments to the Immigration and Nationality Act, which made family reunification the primary objective. The U.S. annually issues about 1.1 million green cards, allowing permanent legal residence. About 85 percent go to family members of U.S. citizens or permanent legal residents, people seeking humanitarian refuge and "diversity immigrants," who come from countries with low rates of immigration to the United States (Chart 8).<sup>26</sup> The remaining 15 percent go to people who are immigrating for work reasons—but half of these are



for workers' spouses and children, meaning a mere 7 percent of green cards go to so-called principal workers, most of whom are high-skilled. No other major developed economy gives such a low priority to employment-based immigration (Table 1).

The U.S. has created several temporary visa programs in the past two decades to help compensate for the low number of employment-based green cards (Chart 9). The best known is the H-1B program, which admits about 131,000 workers in a typical year, many of them high-skilled Indians going to work in the information technology sector.<sup>27</sup> Another important temporary job-based measure is the Trade NAFTA (TN) visa, which brings in an additional 72,000 professionals, mostly from Canada. The L-1 program allows multinational corporations' intracompany transferees (about 74,000), and the O-1 program provides visas for a small number of workers of "extraordinary ability."

Unprecedented green card queues are a byproduct of expanding temporary, but not permanent, visas for high-skilled personnel. More than 1 million high-skilled workers are waiting for an employment-based green card, and untold numbers have given up on waiting or even applying. For those in the queue, their applications have been approved, but their green cards won't be available for years because of strict numerical limits on employment-based permanent visas. There also are country-of-origin limits that restrict the number of immigrants from populous nations such as China and India.

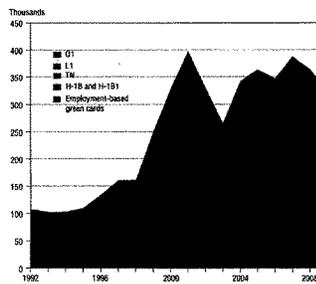
Expanding employment-based immigration would offer a host of benefits, including more high-skilled and procyclical immigration. Employment-based immigration is demand driven, which means it declines when the U.S. labor market weakens, as it did during the recent recession. The high-tech boom of the late 1990s and the housing and financial boom of the mid-2000s produced rapid expansion in visa issuance, while the 2001 recession, subsequent jobless recovery and the recession that began in late 2007 were all periods of visa declines. While temporary work-based visas responded to the business cycle, the total

**Table 1**  
U.S. Lags Behind Other Nations in Share of Work-Based Immigrants

Country	Total number (thousands)	Work (percent)	Family (percent)	Humanitarian (percent)	Other (percent)
South Korea	195	81	17	0	2
Switzerland	139	80	14	5	2
Spain	392	79	20	0	1
Italy	425	65	31	3	1
Germany	228	59	22	16	2
United Kingdom	347	58	31	7	10
Australia	206	42	51	6	1
France	168	34	52	7	8
Canada	247	25	62	13	0
United States	1,107	7	73	15	5

NOTES: Only includes OECD countries. Work includes free-movement migrants. Percentages may not add to 100 due to rounding.  
SOURCE: International Migration Outlook 2010, Organization for Economic Cooperation and Development.

**Chart 9**  
Temporary Visas, Not Green Cards, Driving High-Skilled Immigration



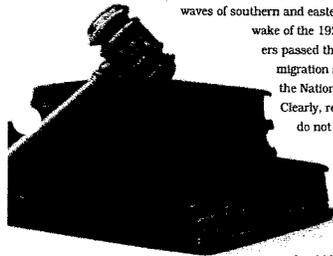
NOTE: Number of visas issued to high-skilled workers by visa type and fiscal year.  
SOURCES: Statistical Yearbook of the Immigration and Naturalization Service; Yearbook of Immigration Statistics, Department of Homeland Security; State Department visa office.



number of green cards issued has not changed much. Green card issuance barely budged in 2008 and 2009, during the worst recession in 80 years, despite the more than 6 percent drop in employment nationwide and steep rise in unemployment.

#### Conclusion

Although immigration has played a fundamental role in shaping the U.S., it has always been controversial. In the 19th century, natives agonized over the German influx, then the Irish and then the Chinese. In the 20th century, natives revolted against the waves of southern and eastern Europeans. In the wake of the 1920-21 recession, lawmakers passed the most restrictive immigration act in the nation's history, the National Origins Act of 1924.



Clearly, recessions and immigration do not mix well. Still, most of the postwar period has been devoted to loosening restrictions or finding ways around them.

Immigration laws should be rewritten to focus on economic priorities. These include leveraging high-skilled immigration to build the nation's human capital base, retain skilled jobs, foster research and development, and bolster competitiveness. These payoffs will take years to occur but require making changes now. Other economic goals, such as making inflows more cyclical, can be readily achieved with a greater share of employment-based visas. Labor demand is naturally cyclical, and work-based immigration will decline in downturns and rise in expansions.

As global growth shifts increasingly to emerging markets, such as China and India, competition for skilled workers will only increase. The share of Chinese students educated abroad—most of them in the critical STEM fields—who return to China to work has doubled since 2001. Globalization and technologi-

cal change already favor high-skilled workers, in a trend that goes back decades. Since the early 1970s, the inflation-adjusted wages of only the most highly educated U.S. workers have consistently risen. Blue-collar pay, particularly for men, has declined in real terms. The nature of economic growth has shifted from brawn and machines to brains and microchips. Immigration policy should reflect this change and be a tool that helps secure the nation's prosperity, now and in the future.

*Orrenius is a research officer and senior economist at the Federal Reserve Bank of Dallas and Madeline Zavodny is a professor of economics at Agnes Scott College.*

#### Notes

The authors thank Carlos Zarazaga and Jason Saving for comments and Linda Bi for excellent research assistance. We also thank Payton Odon for his contributions.

<sup>1</sup> This report uses the terms foreign born and immigrant interchangeably to refer to individuals born abroad to foreign-born parents and uses native born to refer to anyone born in the U.S. (or born abroad to U.S. citizens).

<sup>2</sup> The decennial census did not ask about education or income until 1940. We use data on workers' occupations to proxy for the shares of low-skilled (blue-collar) and high-skilled (white-collar) workers.

<sup>3</sup> Since 1993, the number of U.S. citizens and permanent residents enrolled in graduate studies in science and engineering (S&E) has risen, although not as fast as the number of foreign students. Foreign students who were doctoral graduates in S&E made up 33 percent of total graduates in 2007. See appendix Table 2-30 in "Science and Engineering Indicators 2010," National Science Board, Arlington, Va., 2010.

<sup>4</sup> The former U.S.S.R. consists of Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

<sup>5</sup> "The Place Premium: Wage Differences for Identical Workers Across the U.S. Border," by Michael Clemens, Claudio Montenegro and Lant Pritchett, Center for Global Development, Working Paper no. 148, July 2008, [www.cgdev.org/content/publications/detail/16352](http://www.cgdev.org/content/publications/detail/16352).

<sup>6</sup> For a historical comparison with domestic migration, personal income per capita was 2.4 times higher in New England than in the South in 1929, 2.7 times higher in the mid-Atlantic states, and 2.2 times higher in the Midwest (authors' calculations based on

*Lifting my lamp beside the golden door!*<sup>1</sup>

Bureau of Economic Analysis data not adjusted for differences in purchasing power).

<sup>7</sup> "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade," by Jeffrey S. Passel and D'Vera Cohn, Pew Hispanic Center report, September 2010, <http://pewhispanic.org/files/reports/128.pdf>.

<sup>8</sup> "Mexican Immigrants: How Many Come? How Many Leave?," by Jeffrey S. Passel and D'Vera Cohn, Pew Hispanic Center report, July 2005, <http://pewhispanic.org/files/reports/112.pdf>.

<sup>9</sup> Differences in English ability may create opportunities for native-born workers to move up the skill chain. See "Task Specialization, Immigration and Wages," by Giovanni Peri and Chad Sparbar, *American Economic Journal: Applied Economics*, vol. 1, no. 3, 2009, pp. 135-69. As Peri and Sparbar show, immigration appears to push natives into jobs that require communication skills, an area where natives have an advantage over immigrants with limited English fluency.

<sup>10</sup> "Low-Skilled Immigration and the Labor Supply of Highly Educated Women," by Patricia Cortés and José Tessada, University of Chicago Graduate School of Business, unpublished paper, 2009.

<sup>11</sup> See "The Economic Analysis of Immigration," by George J. Borjas, in *Handbook of Labor Economics*, vol. 3, part 1, 1999, pp. 1897-1762; and "Is the New Immigration Really So Bad?," by David Card, *Economic Journal*, vol. 115, no. 307, 2005, pp. 300-23. Economists agree, however, that in the long run, wages are not affected by immigration. This is because the capital stock should adjust in the long run. If the number of workers increases as a result of immigration, wages initially fall and returns to capital increase. As the amount of capital increases in the long run in response to higher returns to capital, the returns to capital and labor revert to their initial levels.

<sup>12</sup> See note 11, Borjas (1999), and "Immigration's Economic Impact," by the Council of Economic Advisers, Washington, D.C.: Government Printing Office, June 2007.

<sup>13</sup> *The Theory of Economic Development*, by Joseph Schumpeter, Cambridge, Mass.: Harvard University Press, 1934; "A Model of Growth Through Creative Destruction," by Philippe Aghion and Peter Howitt, *Econometrica*, vol. 60, no. 2, 1992, pp. 323-51.

<sup>14</sup> "How Much Does Immigration Boost Innovation?," by Jennifer Hunt and Marjolaine Gauthier-Loiselle, *American Economic Journal: Macroeconomics*, vol. 2, no. 2, 2010, pp. 31-56; "The Supply Side of Innovation: H-1B Visa Reforms and U.S. Ethnic Invention," by William R. Kerr and William F. Lincoln, Harvard Business School, Working Paper no. 09-005, December 2008; "Which Immigrants Are Most Innovative and Entrepreneurial? Distinctions by Entry Visa," by Jennifer Hunt, National Bureau of Economic Research, Working Paper no. 14520, April 2006; "The Contribution of International Graduate Students to U.S. Innovation," by Gnanaraj Chellaraj, Keith E. Maskus and Aditya Mattoo, *Review of International Economics*,

vol. 16, no. 3, 2008, pp. 444-62.

<sup>15</sup> See note 14, Hunt and Gauthier-Loiselle (2010).

<sup>16</sup> *Silicon Valley's New Immigrant Entrepreneurs*, by AnnaLee Saxenian, San Francisco: Public Policy Institute of California, 1999.

<sup>17</sup> "America's New Immigrant Entrepreneurs," by Vivek Wadhwa, AnnaLee Saxenian, Ben Rissing and Gary Gereffi, Duke Science, Technology and Innovation Paper no. 23, January 2007, [http://people.ischool.berkeley.edu/~anno/Papers/Americas\\_new\\_immigrant\\_entrepreneurs\\_1.pdf](http://people.ischool.berkeley.edu/~anno/Papers/Americas_new_immigrant_entrepreneurs_1.pdf).

<sup>18</sup> Estimates suggest immigrants are 30 percent more likely to start a business. See "Estimating the Contribution of Immigrant Business Owners to the U.S. Economy," by Robert W. Fairlie, Small Business Administration, Washington, D.C.: Government Printing Office, November 2008. Immigrant self-employment rates are 11.3 percent versus 9.1 percent for natives [authors' calculations based on 2010 Current Population Survey data]. This difference in self-employment is driven by less-educated immigrants, perhaps because of their relatively poor labor market options.

<sup>19</sup> See "Does Immigration Grasso the Wheels of the Labor Market?," by George J. Borjas, *Brookings Papers on Economic Activity*, 2001, pp. 69-119. Borjas estimates that the efficiency gains accruing to natives from a greater rate of regional wage convergence are around \$3 billion to \$10 billion per year.

<sup>20</sup> One recent study concludes that immigration raises total factor productivity, perhaps by increasing task specialization. See "The Effect of Immigration on Productivity: Evidence from U.S. States," by Giovanni Peri, National Bureau of Economic Research, Working Paper no. 15807, November 2009.

<sup>21</sup> *The New Americans: Economic, Demographic and Fiscal Effects of Immigration*, James P. Smith and Barry Edmonston, ed., Washington, D.C.: National Academies Press, 1997.

<sup>22</sup> Calculations are based on March 2010 Current Population Survey. Major means-tested programs are TANF, Medicaid, CHIP, Supplemental Security Income (SSI) and Supplemental Nutrition Assistance Program (SNAP, or food stamps).

<sup>23</sup> "The 2010 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds," Washington, D.C.: U.S. Government Printing Office, August 2010, [www.ssa.gov/OACT/TR/2010/tr2010.pdf](http://www.ssa.gov/OACT/TR/2010/tr2010.pdf).

<sup>24</sup> "Sustaining Fiscal Policy Through Immigration," by Kjetil Storesletten, *Journal of Political Economy*, vol. 108, no. 2, 2000, pp. 300-23.

<sup>25</sup> "Tech Recruiting Clashes With Immigration Rules," by Matt Richtel, *New York Times*, April 11, 2009.

<sup>26</sup> Countries eligible for the diversity visa lottery include many African and European nations. Applicants from Ghana, Bangladesh and Ethiopia were the top recipients of visas in the 2011 lottery.

<sup>27</sup> Although the official H-1B cap is 85,000 visas (65,000 plus 20,000 for holders of U.S. advanced degrees), the nonprofit sector is exempt from the cap.

FROM BRAVING BRAINS: HOW IMMIGRATION WORKS FOR AMERICA • 2010 ANNUAL REPORT

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**Testimony of The Honorable Paul Bridges**  
**Mayor, Uvalda, Ga.**  
**Before the Subcommittee on Immigration, Refugees and Border Security**  
**Committee on the Judiciary**  
**U.S. Senate**  
**July 26, 2011**

Good morning Chairman Schumer and subcommittee members. Thank you for this opportunity to speak.

My name is Paul Bridges and I am mayor of the small town of Uvalda, an agricultural community in southeast Georgia. I am also a plaintiff in a lawsuit challenging Georgia's new anti-immigrant law. I am here today to speak about this new law and how it is affecting my town.

Uvalda's story is a microcosm of the national debate about immigration. Like other states, Georgia passed a law that would supposedly address illegal immigration. Among other things, it gave local police the power to question residents about their immigration status during a traffic stop. It also made it a crime to give a ride to an undocumented immigrant if you commit another crime as innocuous as having a burnt out headlight, or even to invite an undocumented immigrant to stay in your home.

The reality is this law won't solve the immigration problem in the state. It will only devastate local economies. It will burden communities with the cost of enforcing a law designed to create a climate of fear. Even though parts of the law were blocked by a federal court, its impact can already be seen in my community and other farming communities across Georgia. We have no assurance that the block will hold.

Uvalda is a small town of about 600 people, but many more call themselves Uvaldians because our address reaches into adjoining Toombs County. Throughout the Uvalda address are neighborhoods where Latino immigrants live. We grow many different crops year round, including the famous Vidalia onion. These crops are harvested by skilled migrant farm laborers who have harvesting down to a fine art. The Georgia peaches, strawberries, blueberries and many other fruits and vegetables they harvest ends up on family dinner tables across the country. We have a multi-million dollar pine straw industry that will be just as devastated.

These workers are a critical part of Georgia's economy. Their work helps agriculture to inject \$6.85 billion into Georgia's economy.<sup>1</sup>

These workers also contribute to local economies as consumers, too. Every time they buy a good or service, they pay the same taxes that I pay. Many own their own homes and pay property taxes. Their taxes are co-mingled with my taxes and are used to pay for schools and public services. The loss of their tax revenue will be felt in Georgia.

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<sup>1</sup> "Georgia Agricultural Facts," U.S. Department of Agriculture National Agricultural Statistics Service, Sept. 1, 2010. [http://www.nass.usda.gov/Statistics\\_by\\_State/Georgia/Publications/QuickFactSheet.pdf](http://www.nass.usda.gov/Statistics_by_State/Georgia/Publications/QuickFactSheet.pdf)

But this law puts these workers – and Georgia’s economy – squarely in its crosshairs. Anyone who looks foreign will be under suspicion. Immigrant workers – regardless of immigration status – have already left the state rather than deal with the racial profiling this law will encourage. They don’t want to live with the fear that their family will be torn apart because a family member couldn’t produce the right papers at a traffic stop.

Now that migrant workers are fleeing Georgia, perfectly healthy crops have been left rotting in the field. The Georgia Agribusiness Council has already reported that farms have lost \$300 million due to a lack of workers. The economic toll could reach \$1 billion.<sup>2</sup>

This hits home for many small farms around Uvalda. When crops are left in the fields, farmers don’t get paid. Some fear the inability to re-pay a federal loan. They are unable to meet their families’ needs. And they’re not spending money and contributing to the area’s economy. If the farms are producing less, it also means consumers are paying more for the produce that makes it to the supermarket.

But this misguided law hurts Uvalda in another way. It imposes a significant burden on our area’s resources. It forces local law enforcement agencies, with untrained officers, to use its resources to enforce immigration laws. It distracts officers from their real mission of protecting residents. No family with an undocumented member will dial 911 to seek police help or medical attention.

Also, when officers arrest people for alleged immigration violations, they have to house these detainees somewhere. Uvalda, nor Montgomery County, has a jail. We will have to rent space in the jail of a nearby town – another drain on my town’s resources. The bottom line is that Uvalda – like so many towns dealing with these anti-immigrant laws – will take a major economic hit and will no doubt be less safe as a result.

There are so many wonderful things about the town of Uvalda. It’s a friendly place where our residents know each other. If a person needs a ride to the grocery store, church or doctor, I give them a ride. I don’t ask to see their papers first.

In the past, when people needed a place to stay, I opened my home to them – regardless of their immigration status. I know that I am not the only person in my town. But, under this new law, Good Samaritans face fines and jail time. Grandparents who have an undocumented in-law on an overnight visit become criminals. Spouses become criminals. Citizen children become criminals. This law threatens the very fabric of our little town.

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<sup>2</sup> Reid J. Epstein, “Ga. Immigrant Crackdown Backfires,” Politico, June 22, 2011.  
<http://www.politico.com/news/stories/0611/57551.html>

Many folks have been surprised that a conservative Republican mayor like me is involved in this lawsuit against my state. But it shouldn't be that surprising. This law isn't immigration reform. This law is government intrusion of the worst kind. It threatens our economy. It threatens our way of life. And it simply makes no sense. Famous Republicans understood immigration. Sonny Purdue warned incoming Republicans to not give in to the "gang-type mentality that could be harmful to those "who want the American dream." and, after the law passed, he said, "the GOP needs to ensure that "people of color and people who are not U.S.-born" feel welcome."

The Assistant Georgia Attorney General defending this law before Judge Thrash in the hearing to determine if the law should be blocked said that this law may be unkind; it may be unfair. She then acknowledged that an 18-year-old citizen driving his undocumented mother to the grocery store could be arrested. The Assistant Attorney General made the argument that under Georgia's new law, that 18-year-old's "crime" is the equivalent of helping his mother sell cocaine. Judge Thrash then asked the Assistant Attorney General whether this law would " ... create an immigration enforcement policy by each municipal and county law enforcement agency." Judge Thrash's questions and the Assistant Attorney General's troubling response highlight the need for comprehensive nationwide immigration reform; solutions that keep immigrants and people like me from facing a patchwork of confusing and inhumane enforcement regimens across states, counties, and even towns.

I want real immigration reform that upholds our core American values of fairness and equality. And I want real immigration reform that recognizes the economic contributions immigrants make to this country every day. The truth is immigration reform is an economic necessity. It is crucial for our national security, and our national leaders from both sides of the isle know it.

Hearing on "The Economic Imperative for Enacting Immigration Reform"  
 Statement of Jacqueline Bruely  
 Lawrenceville, New Jersey

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border  
 Security  
 July 26, 2011

I live in New Jersey, where I am an QA consultant for the life sciences. I have been working in major pharmaceutical companies since 1998, but now I am one of the few American citizens working in the IT department.

Yet, despite my experience, I have been unemployed for ~36 months out of the past 96 months. (I am not working now, and not for want of trying.)

One employer told me that it would be "cheaper" to expense a trip to Bangalore to recruit consultants in India, than it would be to hire me for a 12-month project (my hourly rate has remained steady since 2002; I actually earn less today than I earned five years ago.)

Another recruiter admitted being required to post "open" positions on his company's Web-site because they recruited in India, but these positions were not actual job openings.

***What is going on ...?***

There are millions of unemployed in the United States, YET no elected official—on the state or federal level—is speaking openly, publicly to address what is painfully obvious to those of us who have been affected by "job discrimination": Before seeking to hire an H-1B visa holder, "test" the labor market to determine whether qualified US worker are available and to hire any equally or better qualified US workers who apply.

(I already know the answer: We have the high-skilled, highly-motivated, hard-working IT professionals qualified to do the jobs being offered to foreign labor. I worked with them. They were my neighbors—until they had to sell their homes. They were contributing members of my community, until they had to relocate—sometimes separating from their young families—to accept a job (any job) in another state. They don't prefer to collect unemployment. They are ready to work now.)

***So ... what is going on?***

This is an economic issue, for the nation, and for each individual, every family, and all of the communities impacted by the continuing "job discrimination". The pain and anger of the "unfairly unemployed" IT professionals have been muted, but we are entering campaign season for the 2012 general election, so maybe we can force a serious dialogue to get serious about addressing the stagnant, staggering number of unemployed Americans.

Hearing on "The Economic Imperative for Enacting Immigration Reform"

**Statement of Donna Conroy  
Director, Bright Future Jobs**

U.S. Senate Committee on the Judiciary  
Subcommittee on Immigration, Refugees and Border Security

**Tuesday, July 26, 2011**

This testimony describes Bright Future Jobs' opposition to the "automatic" green card proposal, which would eliminate the labor market test in the PERM process, thus allowing companies to discriminate against new science and technology graduates by offering job openings only to their foreign student classmates.

Mr. Chairman,

This statement is submitted on behalf of Bright Future Jobs (BFJ) more than 1,000 information technology (IT) professionals. *BFJ is a grassroots-lobbying group dedicated to busting the myth that Americans can't cut it in science and technology.* We seek to fix corporate visa programs that allow companies to discriminate against and displace US talent.

**Expanding Discrimination Against America's "Best and Brightest" Will Never Lead to Job Creation**

We have an overabundance of experienced, highly-skilled American IT professionals and new science and technology grads whom we've paid dearly to educate – but companies can legally discriminate against us, and even displace us in favor of foreign citizens!

Technology firms have digitally re-mastered employment discrimination now, using visa programs like H-1B, L-1, B-1, along with foreign student visas like OPT and CPT.

Addressing the 21 year old H-1B program, the Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices, included comments in the GAO report released in January, 2011 (GAO-11-26). They recommended "before seeking to hire an H-1B visa holder, all employers should be required to "test" the labor market to determine whether qualified US worker are available and to hire any equally or better qualified US workers who apply."

Now is the time to implement the DOJ recommendation; not to weaken green card protections in order to serve as a replacement for the H-1B program.

For over 10 years now the assurance of segregated recruiting and hiring, a necessary pre-condition to outsourcing, has led to the withering of America's technology sector.

Silicon Valley's empty office space now fills more than 20 Empire State buildings. In the Valley alone, 75,000 highly skilled professionals have lost their cutting-edge jobs since 2008.

Erecting further employment barriers to the "best and brightest" American minds will never ensure economic prosperity. *Simply put, we cannot discriminate our way to job creation.*

Our nation's promise—that we would make a better life by working hard and playing by the rules—will be broken for the upcoming generation of American inventors if the labor market test is removed from the green card process.

**America will never be competitive until Americans can compete for job openings in our own country**

Talented American students, who enrich the nation by working in science and technology jobs and fueling innovation in their chosen fields here in the United States must have the freedom to compete for job openings across the nation, and right in their own home towns.

Yet discriminatory recruiting is so widespread and culturally accepted we have "No Americans Need Apply" Want Ads proliferating across the Internet! BFJ has collected over 2,000 job ads that specifically call for US business, tourist, work, or foreign student visa holders.

*Below are just a few of the "Help Wanted" ads for US job openings that abound for foreign citizens who are currently holding business or tourist visas:*

- **JP Morgan Services India Pvt Ltd** posted a help wanted ad on March 19th, 2011. They were recruiting to fill an opening for a "Team Member – Prime Brokerage Phase", with, I kid you not, "Max (1) Year" experience. It's in the Accounts, Finance, Tax, CS, Audit division Right in the ad it states--**Please Note: A valid US visa (B1/B2) is mandatory for applying for this position.**
- **Price Water House Coopers** Service Delivery Centre in India was recruiting in April, 2011 for a web designer with 4-8 years, stating, "**Candidates with valid US Visa (B1/B2) will be an added advantage.**"
- **Fidelity National Information Services Inc headquartered in Florida** is the first IRS tax payment processor, and counts top banking, finance and insurance companies and several US state governments among its clients. It has listed multiple job ads, adding that it "**prefers B-1 Visa holders**". The company's ad also mentions "onsite travel of 3-5 months".

*Companies are hosting US job fairs, but you've got to go to India to apply:*

- **Texas**-- Newt Global hosted US Job Fair in Chennai, India on March 5<sup>th</sup>, 2011. They were recruiting candidates with a minimum 5 years of experience stating, "**We have multiple positions open for US under H1 sponsorship.**" Their ad further states, "**Candidates with valid US visa H1 may be considered for immediate opening for US operations.**"
- **California**--Digital-X, a **Small Disadvantaged Business (SDB), 8a (Minority Owned) and GSA Certified company**, hosted a recruitment drive in late April; three days in Bangalore and one day in New Delhi for "**Software Engineers for H-1B Visa Sponsorship – 10 Openings**". They are looking for candidates with minimum 6 years of

experience stating, **“We are inviting applications for the H-1B visa filing for the year 2011 for a long term and permanent employment in USA”.**

*Companies already prefer foreign students by specifically hiring OPT recruiters:*

- **Vermont**—iTech US offices in Hyderabad posted an opening in Feb, 2011 for an OPT Recruiter, stating, **“looking for a OPT recruiter with experience in H-1B transfer and OPT hiring.”** iTech was recruiting in March, 2011 on an Indian website’s classified section, with this seductive come-on: **“Due to our exponential growth, iTech is currently looking for 100 software programmers in the US. iTech is willing to provide free training to those who qualify.”** This ad never appeared on US job sites.
- **Minnesota**—According to the DOL’s 2009 LCA filings, Target Corporation sought 2 foreign citizens to fill Campus Recruiters job openings; salaries for these two positions were \$68,000 and \$44, 283.
- **Alabama**-- SVK Systems, Inc hired an **OPT Recruiter, 2 years ago.** According to his linkedin profile, **“We focus on Hiring OPT’s** to deliver fast and effective solutions to our clients. **Currently we are looking for hiring OPT/CPT/H1 candidates.”** According to his posted advertisements, SVK provides free training and resume preparation: even mock interviews.

*On the reputable US tech job site, Dice.com, one can find at least 100 Help Wanted ads daily calling for foreign students, all filling entry-level jobs, many with free training:*

- **Connecticut**-- HTC Global Services is currently seeking to hire Java Developer in Hartford, CT. Duration: Long term/Full time. In capital letters, it states, **NOTE: ONLY OPT CANDIDATES ARE ELIGIBLE TO APPLY**
- **New York**—Adroit Professionals is currently recruiting for a Java developer (Entry Level) stating in the ad, **“Requirement for my client, client is looking for GC, OPT, CPT, H-1B TRANSFER.”**

**Allowing Companies to discriminate against American graduates for their US job openings creates unearned, unfair and insulting stereotypes about an accomplished US workforce**

The drumbeat of publicity used to cover-up this widespread discrimination actually invalidates our proven accomplishments, preferring to mislead Americans into believing that over one million bright 25 year olds *have actually lost mental capacity and skill by working in the very positions that earned us the title of Digital Pioneers!* This is a perception that must be reversed.

We are turning our backs on American ingenuity, talent and dedication; unable to recognize the talent we are surrounded by, unable to reward or even recognize a gifted generation of Americans who single-handedly created the Digital Age, transforming both our nation and the rest of the world. This is not just a shame, but a strong indication we are facing a moral and cultural collapse as well.

#### **Conclusion**

**The ease with which foreign students and foreign citizens can be hired for U.S. job openings in science and technology must be expanded to US citizen graduates and family-based green card holders. Until legislation to address this disparity is corrected, our nation will never put Americans back to work and never be able to stop the outsourcing of “the jobs of the future.”**



1 of 100 DOCUMENTS

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**DallasNews.com**  
THE DALLAS MORNING NEWSAugust 22, 2008 Friday  
FIRST EDITION**SECTION:** EDITORIALS; EDITORIALS; Pg. 18A**LENGTH:** 538 words**HEADLINE:** Exporting Jobs Green card hassles help drive our brightest overseas**BODY:**

When it comes to U.S. exports, big-ticket items like cars and aircraft come to mind. But America's No. 1 export is actually the tiny semiconductor. It's what creates thousands of jobs here and helps make Texas the top exporting state in the country.

Other nations are doing their best to take over our lead. They're trying to lure away the scholars, scientists and engineers whose research and innovation give America its competitive edge. A large percentage of these experts are foreign citizens who must endure the painstakingly slow process of obtaining permits to study and work here.

To eliminate any confusion, we're talking about legal immigrants, who are doing everything by the book - not the millions of illegal immigrants dominating the agenda in Washington. Highly skilled foreigners should be at the front of the line for the coveted "green card" that grants them permanent residency and work rights. But only 140,000 qualify because of annual limits Congress set in 1990.

Some highly skilled immigrants have had to wait up to 10 years to get their green cards. During that wait, they cannot move or be promoted. Their families live in limbo. More and more, countries in Europe and Asia are capitalizing on their frustrations and luring them away with offers of high pay and minimal visa hassles.

America's antiquated green card policy is driving one of our most precious assets - scientific and technological expertise - into the welcoming hands of our competitors. That's insanity.

Three bills with bipartisan sponsorship are awaiting a vote this fall in Congress to expand quotas or exempt foreign-born employees with advanced science or technology degrees from the employment-based green card limit. It's important that these measures pass without being drowned in the debate over illegal immigration.

CompeteAmerica, a 130-member alliance of employers, universities and trade associations, backs this legislation. One member of the alliance, Dallas-based Texas Instruments, employs more than 12,000 people in Texas - 800 of

Exporting Jobs Green card hassles help drive our brightest overseas THE DALLAS MORNING NEWS August 22, 2008 Friday Page 2

whom are foreigners in various stages of the green card waiting process.

TI staffing director Heidi Nagel says innovations by a single one of those employees can add millions of dollars to company revenue. That creates a multiplier effect, which can ripple positively through our economy. But if that foreign employee leaves, the positive effects move with him to another country.

The way America can maintain its edge is to retain, not drive away, its brightest talent. If Congress continues stalling, we might as well replace semiconductors with jobs on the list of our major exports.

\*

By the numbers

55 percent

The portion of engineering master's degrees awarded by major Texas universities that went to foreign citizens

75 percent

The portion of engineering Ph.D.s that went to foreign citizens from those same universities

30 percent

The increase in skilled foreign talent being sought by Australia next year

30 to 90 days

The waiting time planned by the European Union for skilled immigrants to obtain a new "blue card" work permit

10 years

The waiting time some skilled immigrants must wait in the United States for a green card

SOURCES: American Association of Engineering Societies, CompeteAmerica

**GRAPHIC:** CHART(S): By the numbers

**LOAD-DATE:** August 22, 2008

**Written Testimony of Steven Fink**

To the Senate Subcommittee on Immigration, Refugees and Border

On "The Economic Imperative of Enacting Immigration Reform"

July 26, 2011

I am a highly experienced Software Developer/Web Developer with over thirty years of actual software programming in the field. My resume includes many quality companies, including jobs or contracts with the likes of IBM, IBI, the Long Island Lighting Company, Yellowbook, and Restaurant Associates, among others.

Yet finding work in this economy has been extremely difficult in the last few years, due to the state of our economy, possible age discrimination, Company outsourcing, and to the high influx of foreign workers flooding the market place. This, despite having managed to keep up with the very latest in technological advances, such as learning the latest Microsoft Web Development paradigm MVC with their Visual Studio development system.

Having been laid off three times in my long career, I have always managed to reinvent myself, stay current, and move on. But it should not be this difficult for a capable Software Engineer to be able to work and pay the bills.

Furthermore, I have seen the effects of H-1B and L-1 visa programmers firsthand. Recently, a friend of mine, who happens to be the CEO of the Softheon Company gave me a contract to redo his corporate website. He told me that he had hired foreign programmers to do the work first, but he hired me because they were too slow to learn the new technology.

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Lynn Foster

Austin, Texas

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

I oppose H-1B visas and employer-sponsored green cards because those that have employed them or would employ them replace qualified American workers. How many horror stories of American workers being forced to train their foreign replacements in order to collect their severance benefits do you have to hear in order to understand the hype that you have succumbed to in supporting these terrible programs?

I have over 20 years of experience in software development in engineering related and real-time applications. These worker programs have ruined my career and I am now under-employed.

Let me tell you about an interview I had a number of years ago. It was with a former colleague who was filling positions for a large, well-known computer manufacturer. He told me that what they were doing was to interview foreign candidates, then bring in a current employee, say a programmer that was making \$60,000 per year. They would tell the employee that they wanted his new salary to be \$30,000 per year and if they didn't want it, they had "Susie Wong" waiting to take his job at \$30,000 per year. (Yes that was the exact name he used.) This was an actual occurrence that I am describing, not some hypothetical event.

So you wonder why the economy isn't producing jobs? Who can buy goods if they are underemployed or don't have a job? And even if they do buy goods, it only creates jobs in another country! Get real!

## Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Steven Freise

Massapequa Park, NY

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

Members of the Committee, I am Steven Freise. I was born and raised in New York. I have been working as a computer programmer since earning a Computer Science degree from Hofstra University in 1980. I have always worked hard in my profession and have continued to learn and program in the new technologies. I would like you all to know how the influx of foreign IT workers has hurt me and all of my other American co-workers.

- Since peaking in the late 1990's, my hourly rate as a consultant has gone down from \$75 to \$45. Currently I see \$35 as the going rate on the few jobs I see on the job posting sites.
- Permanent positions and consulting contracts are now very hard to find. Ten years ago headhunters were continually calling me with opportunities. My last job search took 11 months and resulted in a temporary position at a reduced rate.
- Due to the lack of demand/low pay for seasoned computer programmers, many of my associates have switched careers. These are highly trained computer experts with many years of experience that just got fed up with the way corporations/law makers have purposely killed their careers.
- In my previous position as an employee, I trained H-1B and L-1 visa programmers in the business and the new Oracle ERP system that we were installing. After the installation of that system, my position was eliminated. The foreign workers were kept on to provide maintenance and other system enhancements.
- In my current job, we were told that all new hires would be made from there 'other' office. Corporations today open offices in other countries for the sole reason of bringing in cheap labor.

- After working with H-1b and E-1 visa holders for many years, these people are not 'the best and the brightest' programmers I have worked with. They are all young and work hard though, working many unpaid overtime hours.
- It is not just the foreign consulting firms that are abusing the system. Corporations are doing the same thing, just cutting out the middleman.

Foreign high-tech workers, be it H-1b, L-1 or green card holders, do not help this country. The one & only reason they are here is to provide cheap labor.

With the thousands of programmers in New York having a hard time finding positions for half the rate they were getting 10 years ago, it is ridiculous for anyone to claim a shortage of high-tech workers. Is this the way these corporations should treat the work force and the country that enabled them to be as successful as they have become? Microsoft has currently has \$50 billion in cash and has a history of legal employment problems. When will they be happy, when I'm flipping burgers?

**Written Testimony of Laurent F. Gilbert, Sr.  
Mayor  
City of Lewiston, Maine  
Before the U.S. Senate  
Committee on the Judiciary, Subcommittee on Immigration,  
Refugees and Border Security  
Tuesday, July 26, 2011  
10:00 A.M.**

Chairman Schumer, Senator Cornyn, distinguished members of the Committee. Thank you for the opportunity to speak with you today on the benefits of immigration reform for renewing America's communities.

My name is Laurent F. Gilbert, Sr. and I am currently serving as the Mayor of the All-America City of Lewiston, Maine, a designation awarded to us in 2007 by the National Civic League. As my biography will attest, my lifelong career has been in law enforcement until my election as mayor in 2007.

I am a first generation American, born and residing in Maine for most of my life.. My mother was one of 18 children and my father one of 11 in his family. Both came to the U.S. during the 1920's from the Province of Quebec, Canada. They were part of the one million migrants from Canada who emigrated to the United States between 1860 and 1930. The significant majority of these Francophone immigrants arrived in New England to work in the textile mills and shoe shops. Both of my parents were part of the child labor force and developed a work ethic that is still prevalent among many Franco-Americans in New England.

As a child born in Lewiston and the son of immigrants from Quebec, French was my primary language at home. I attended Catholic Schools in this predominantly French Canadian community and received my instruction from nuns who also emigrated from Quebec. Our classes were split with courses in French instruction in the morning and English instruction in the afternoon.

At the age of 10, we moved to Southern California where I attended elementary school, high school and started college. We lived there 14 years before returning to Maine. While in school, I had a great many Mexican-American friends. As a son of immigrants, I could relate to my Mexican-American classmate friends. I would at times trade my sandwich with a Mexican student for his burrito—something I continue to love to this day.

Somali refugees started arriving in Lewiston in 2001 to seek a quality-of-life they could not find or afford in many larger cities such as Atlanta, Memphis and Nashville. These family-oriented refugees were fearful of life in those cities where they were exposed to criminal activity, drugs and gang violence. They had fled violence abroad and in some cases in their refugee camps and

were seeking what all Americans seek in their lives--a home where an individual or family can live peacefully and become part of a community.

Word of mouth to friends and relatives outside of Maine led more secondary-migrants to Lewiston, a city and state that are statistically one of the safest in the country and where these families and their children can receive a good education. Since 2001, secondary migrant relocations to Lewiston are estimated to be around 4,000 refugees primarily from Somalia. Asylum seekers from Somalia and Sudan, and more recently those seeking asylum from Djibouti, have settled in Lewiston. Our twin-city of Auburn has received some 1,000 refugees, primarily from Somalia.

As the refugee population started to grow in Lewiston a great many residents became concerned about the new secondary arrivals that have occurred every single month going back to 2002. A number of opinions about the new refugee arrivals were expressed both privately and publicly as fear and in many cases prejudice fueled the public and sometimes political discussion about Lewiston's "new Mainers." There was fear of the cultural differences, dress, and race differences in the "whitest state in the nation" (as determined by the 2000 Census).

Some of the reported conflicts in the schools and public questions about the relocations came to the attention of the then sitting mayor. The mayor wrote an open letter to the Somali leaders asking them to stem the tide of in-migration by the Somali population.

Media reports of the mayor's letter enraged the Somali leaders who demonstrated their disfavor publically which caught the attention of both the national and international media.

The intense media coverage also caught the attention of a national hate group called "The World Church of the Creator" headed by Nathan Hale who was convicted of threatening the life of a federal judge in Chicago and is now serving his sentence in a federal prison.

Though the hate group planned to demonstrate in Lewiston with some 250 demonstrators, they only attracted 30 people to their event. More notably, the hate group's public announcement of their planned presence in Lewiston produced one of the largest civil rights public demonstrations in the state's history.

Across town, at Bates College some 5,000 demonstrators from throughout New England, led by the newly created "Many and One Coalition," demonstrated in support of the refugee population. This extraordinary demonstration of public support for our new refugee residents and the counter-rally's opposition against all expressions of hate, resulted in a resounding expression of public support for our immigrant population and, as importantly, resulted in no public violence of any kind. It was truly a shining moment for our city and for the entire State of Maine.

Though there was measurably more public, state, non-profit and academic support for the refugees following the Lewiston rally, rumors and misguided myths about refugees, funding, cultural and religious customs persisted. To this day, these rumors and myths about free food, cars, special prayer rooms for Muslims in the public schools and the like add fuel to a fire that has not been fully extinguished in the minds of many residents.

For many of the misinformed, it is perceived that refugees are taking resources away from local residents as the increased competition for reduced levels of federal and state social services by qualified refugees will make it harder to qualify for welfare cash assistance; priority for low income housing; and medical services as "native" individuals are pushed to the back of an otherwise eligible list.

Lewiston's high unemployment rate, which has remained at about 9% since the beginning of 2009, is assumed to be much higher within the refugee population. In the recently published book "Somalis in Maine: Crossing Cultural Currents," Deputy City Administrator Phil Nadeau's essay showed that employment levels had been steadily declining since 2006. Nadeau postulates that the combination of higher levels of overall unemployment and the significant underfunding of workforce training for underskilled and undereducated, limited English speaking populations, will continue to fuel refugee unemployment challenges in Lewiston and in other parts of the country with similar refugee populations.

Though there are certainly many misinformed and misguided notions about our new refugee residents, what has been researched and reported by the city is that inadequate federal funding associated with a refugee resettlement program simply does not meet the many needs of our refugee residents. The thousands of secondary migrants for which the Office of Refugee Resettlement provides little to no direct funding have largely been left behind as the responsibility of local government.

For example, if a family is initially settled in Atlanta, Georgia and after two months they decide to move to Lewiston, Maine, the remaining six-months of the eight month funding does not follow them. This creates a severe financial burden on the receiving community. (See the July 21, 2010 report to the U.S. Senate Committee on Foreign Relations entitled "Abandoned Upon Arrival: Implications for Refugees and Local Communities Burdened by a U.S. Resettlement System that is Not Working." In particular see Ranking Member, Senator Richard G. Lugar's Letter of Transmittal to this committee.)

Some community members perceive that the new arrivals do not want to learn English or adapt to our culture. Some residents become angry when observing groups of refugee adults gathering on the sidewalks in our downtown and perceive that activity as their unwillingness to work. In reality, many refugee adults are in need of intense ESL (English as a Second Language) education and employment training which is severely underfunded and cannot meet the needs of an economy which demands no less than a high school education. For many refugee adults, the prospect of attaining an eighth grade education is unlikely given the federal government's unwillingness to support comprehensive work ready programming upon their arrival.

As mayor and with a law enforcement career background, I see it as my responsibility to lead by example. I have reached out to the refugee/immigrant community and advocated on their behalf in the state capital and here in Washington. I have had new immigrants serve on my advisory committee during my campaign for office. My wife and I attend their annual Somali and United States Independence Day celebrations. We eat and dance with our new Mainers. On the street I greet them in their language which at times brings surprise followed by a smile and a like response. Genuine outreach is critical. I have established friendships with many immigrants.

In my last employ before becoming mayor, I trained over 600 police officers throughout Maine in "Cultural Awareness for Law Enforcement." I would bring in three to four refugee/immigrants from nearly 20 different countries throughout the world. Although there were differences, what rose to the surface with all the different cultures, were the similarities. These were quality of life issues such as family life, employment, education, religion, music, etc., that which we all seek. Officers could see that we truly are one-humanity

Collaboration and education are keys to success. As a city, we took the lead in forming collaborative partnerships in order to service the immigrant population and educated community service providers and community members. Educating all partners on the cultures reduces anxiety and results in more welcoming attitudes as does educating the immigrants on our culture.

We collaborated with the state Career Center (employment agency) to enhance employment opportunities for refugees. Given the almost complete absence of workforce training funding, the city was awarded a special Economic Development Administration appropriation for a refugee workforce development demonstration project. The funding focused on job coaching, resume writing and other work ready skills to prepare refugees for the American workplace. Although very limited, the federal funding has demonstrated that refugees can become better prepared for the workplace and that employment can reduce the burden on local taxpayers which in turn reduces resident hostility.

Our school department has done some exemplary work to reduce student tensions and educate staff. Their work has evolved and has resulted in a student-teacher-administration approach that has produced so few internal cultural and racial conflicts within the school that the Center for the Prevention of Hate often refers to their work as a model for other schools to emulate.

Over the years, we also met with various ethnic groups to learn more about their culture and needs. Since 2001 many more players have joined the collaboration and ongoing community workshops are held to open the communication between community members and immigrants.

Education reduces the rumors and encourages a welcoming atmosphere. A few ethnic self-help groups have emerged along with many immigrant-owned businesses that have been established on the main street of our downtown and surrounding areas. This has increased overall community interaction with our refugee residents (and refugee business people) and dispels some of the misunderstandings about the immigrant work ethic.

Our immigrant entrepreneurs are bringing new life and energy to the downtown. In a couple of downtown blocks of our main street, over a dozen immigrant-owned businesses occupy formerly vacant storefronts. The businesses include general merchandise markets, specialty foods and goods, restaurants, coffee shops, tax preparation services, translation services and clothing stores. Some have started taxi-cab companies.

A large number of our residential downtown tenement buildings are from a by-gone era where our Franco-American mill workers use to live. Many of these apartments are now occupied by Somali and other immigrant families. If we didn't have our immigrant population occupying

these rents, I would be significantly concerned at the loss of property tax revenue as many of those buildings would likely experience higher vacancy levels forcing reductions in property values which would then place further strains on our local budget.

In my opinion, our immigrant population is having a positive impact on the social fabric of our community and our local economy. They purchase groceries, clothing, cars along with a number of other goods and services. They keep the dollars circulating locally. The young have integrated in our schools, play on sports teams and develop friendships while more and more adults are beginning to weave themselves into the day-to-day social, sporting, cultural and political activities of the community

One day as I was leaving city hall and going to my car parked adjacent to our city park, I saw Somali immigrant boys and girls running around and hiding behind trees, falling down and playing as they spoke only English. I asked them what they were playing. They responded "cops and robbers." What is more American than that? I thought to myself, "We're there."

The intense media and public scrutiny of years past has settled over the years and greater acceptance is occurring as time goes on. As is often the case with first generation immigrant arrivals, it is the young who are quickest to meld into the fabric of American life. Consequently, and to the chagrin of many immigrant parents, westernization is slowly taking hold with the young who appear eager to assimilate.

The road to full assimilation into American culture isn't easy but with perseverance and support it will happen. It takes at least one to two generations to truly be fully assimilated. It has happened with all ethnicities that make up America and our experience in Lewiston will be no different.

Immigration has been a hot-button issue in Maine and around the country recently, and with good reason. From birthright citizenship to in-state tuition and employee verification, the immigration debate has passionate proponents on both sides. But what gets lost in these impassioned arguments is that there are other areas of immigration reform – areas that have potentially larger importance to our day to day lives—that go largely ignored even though they enjoy broad consensus.

As mayor, I have worked with the League of United Latin American Citizens (LULAC) whose mission is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States.

To that end I have worked with LULAC's Maine Chapter in strong support for the Dream Act. To preserve our principles of fundamental fairness and justice in this country, it is imperative that this be a very fundamental first step in comprehensive immigration reform while concomitantly not wasting our human capital for our economic benefit.

I have also served as a trainer in Human Trafficking, today's modern day slavery that requires our full attention to end this, the most profitable crime in the world. No state or country is immune to this madness.

I am a member of the Partnership for a New American Economy, a group of some 300 mayors and business leaders from 40 states who believe in sensible immigration reform that will spur economic growth and create American jobs. **As a partnership we believe that any immigration reform efforts should include the following principles:**

- Secure our borders and prevent illegal immigration through tougher enforcement and better use of technology;
- Develop a simple and secure system for employers to verify employment eligibility and hold businesses that are not compliant, or abuse visa programs, accountable for their actions.
- Increase opportunities for immigrants to enter the United States workforce – and for foreign students to stay in the United States to work – so that we can attract and keep the best, the brightest and the hardest-working, who will strengthen our economy’
- Create a streamlined process by which employers can get the seasonal and permanent employees they need, when Americans aren’t filling vacant jobs;
- Establish a path to legal status for the undocumented currently living in the United States with requirements such as registering with the federal government, learning English, paying taxes and following all laws; and
- Strengthen federal, state, local, and employer-sponsored programs that offer English language, civics, and educational classes to immigrants.

**Partnership for a New American Economy facts and thoughts to consider**

**Economics of Immigrants**

- **Immigrants help create companies and businesses:**
  - o 40% of Fortune 500 companies were started by immigrants or the children of immigrants. The combined revenue of these companies would be a GDP greater than every country in the world except U.S., China and Japan.
  - o 25% of all high-tech startups have immigrant founders, creating close 450,000 jobs.
  - o Immigrants are more than twice as likely to start a new business as native-born Americans.
- **Immigrants help the high-end and low-end of the economy:**

- o Hiring high-skilled immigrants at tech companies correlates with creating 5 additional jobs because immigrants often work in R&D or exports – leading to growth for the whole company.
  - o Each agriculture job creates 3 additional, often higher-paying jobs such as managing the farm, packaging and marketing, building and selling farm equipment, etc.
  - o Without workers, we lose the farms – we have already lost 84,000 acres of production and 22,000 jobs in agriculture to Mexico.
- **Immigrants help cities:**
    - o Cities with the fastest economic growth were the cities with the greatest growth in immigrant workforce (1990 -2006).
    - o Around the country, cities are starting to actively recruit immigrants to help buy homes, start companies which will help real estate values and increase the tax base; Global Detroit, Global Cleveland, Global Pittsburgh are actively trying to increase immigration to bolster local economies.

#### **Reform Goals of the Partnership for a New American Economy**

- **Comprehensive Reform:**  
Partnership supports Comprehensive Immigration Reform that would secure our borders, increase legal immigration and provide a path for those already here illegally. But if that isn't immediately possible, we believe we will help both the debate on immigration and the economy by finding areas of bipartisan agreement where immigration can help the economy and moving forward on those measures.
- **Short-term goals:**
  - o **Green cards for immigrants with advanced degrees from U.S. universities in science, technology, engineering, math and other essential fields (possibly business, management, etc.).**
  - o Roughly 40 percent of master's degrees in engineering, computer science, and math awarded in the United States go to foreign nationals.
  - o Among people with advanced degrees, immigrants are three-times more likely to file patents than U.S. born citizens.
- **Create a new visa program dedicated to immigrant entrepreneurs. (Allow American money to bring in foreign talent to start their idea in the U.S. If they create enough jobs, they get a green card.)**
  - o Over 40 percent of Fortune 500 companies were founded by immigrants or the children of immigrants.
  - o Immigrants founded 25 percent of all high-tech startups from 1995-2005, creating almost 450,000 new jobs.

- **Raise or eliminate the caps on temporary visas and green cards for high-skilled workers**
  - o In 2007 and 2008, H-1B visas (visas for temporary high-skilled workers) were used in a matter of days and even during the recession; the limit has been reached before the end of the year.
  - o Roughly 15 percent of the annual green card total are for employment, a much lower percent than countries such as Canada or Australia.
  
- **Improve guest-worker programs for agriculture and other seasonal work for when American businesses can't fill those jobs.**
  - o According to the Department of Labor survey, roughly 50 percent of seasonal agricultural labor is here illegally. Since this is self-reported, the numbers may be higher.
  - o For example, could simplify by reducing number of government agencies involved in the program (DOL; DHS; State Department and local State Workforce Agency)

#### **Conclusion**

In conclusion, I appreciate the interest of the Chairman, the Ranking Member, and the Committee for this opportunity to share Lewiston's newest chapter in our ongoing immigrant story. I believe that the Committee's and Congress's continued involvement with immigration reform and the need for significant refugee resettlement reform is critical to the future success of a refugee resettlement program whose primary mission is economic self-sufficiency. Thank you.



Statement for the Hearing Record, "Economics / Immigration Reform" Senate Judiciary Committee, Subcommittee for Immigration, Refugees, and Border Security, July 26<sup>th</sup>, 2011

My name is Robert Gittelsohn, and I am the Co-Founder of Conservatives for Comprehensive Immigration Reform. I am writing this letter in support of the Immigration Subcommittee's July 26<sup>th</sup> hearing on the economic arguments for a federal immigration reform. While most of our coalition's participants are faith leaders, several of us, myself included, come from the business community. It is through my experience as an apparel manufacturer from 1982 through 2009 that I am speaking out on this issue today.

It is my belief that a key to our nation's success as a capitalist nation derives from a very simple formula for entrepreneurship; ambition plus opportunity equals achievement. There can be no argument - the undocumented population that has come to this country in search of a better life for themselves and their families - is indicative of their drive and ambition. However, because there is literally no opportunity for them to express their entrepreneurial spirit, there can be, and has not been, any measurable level of achievement in that arena. That has not always been the case.

In 1986, then President Ronald Reagan signed into law what amounted to a legalization of some 3,000,000 undocumented immigrants, many of whom were soon to become budding entrepreneurs. I would argue that the legalization of these immigrants help lead our nation, and especially my home state of California, to well over a decade of robust financial growth and prosperity.

In the early 1980's the apparel industry in California was little more than a cottage industry centered around downtown Los Angeles. However, soon after the legalization of the undocumented in 1986, our industry experience a true renaissance of growth, and it was entirely led by immigrants. Soon we outgrew the downtown Los Angeles area, and much of our industry resettled into Vernon, California, which was an industrial Mecca with many large warehouses that were largely unused since the economic boom of World War Two. Our industry was soon populated with new sewing and finishing facilities, button and zipper suppliers, and all kinds of new energy and excitement, and almost all of it fueled by new immigrants. The ambition had been there all along, and when the opportunity arrived, they seized it.

I can only imagine what kind of economic marvels are awaiting our nation, with some 11,000,000 undocumented and ambitious immigrants awaiting their turn at opportunity and the American Dream. Therefore, while there are very good arguments for allowing into our country more high skilled immigrants, and keeping in our country the STEM students that are allowed to come here to study, I would advise us not to overlook the current large population of undocumented immigrants that are already here, honing their skills, and awaiting their own opportunity. These are exactly the types of folks that built our country, and they are simply waiting for the chance to build their own American Dream.

Robert Gittelsohn, Co-Founder, Conservatives for Comprehensive Immigration Reform



**Statement for the Record**

**Senate Judiciary Committee  
Subcommittee on Immigration, Refugees and Border Security**

**"The Economic Imperative for Enacting Immigration Reform"**

July 26, 2011

Compete America is a coalition of U.S. employers, educators, research institutions and trade associations focused on the advancement of legal, employment-based immigration and committed to ensuring that the United States has the highly educated, highly skilled workforce necessary to ensure continued innovation, job creation and leadership in a worldwide economy.

We thank the Chairman, the Ranking Member, and members of the subcommittee for holding this hearing to explore the positive economic impact of highly skilled immigration as part of U.S. innovation in communities around our country. Our success as a nation has in part depended on the steady flow of immigrant talent to our shores. Innovation brought by highly skilled immigrants grows companies through intellectual property, driving the creation of wealth and unlocking opportunities for the entrepreneurship that form the building blocks of the American dream. As we look to the future and to our return to economic prosperity, U.S. STEM industries will need a full supply of highly educated professionals, both domestic and foreign, in order to fuel economic growth and create job opportunities for American workers.

We believe this hearing and the topics you plan to cover are of deep importance not only to the technology industry but also to the future prosperity of our nation, now more than ever, and for this reason, we submit for the record the following recommendations for reform of the highly skilled immigration system:

1. **Reform and Increase Employment-Based Green Cards**— One of the greatest challenges we face as industries on the cutting edge of technology is access to talent. Increasingly, America's competitiveness in attracting and retaining the best and brightest from around the world will depend on our nation's immigration policies. Today, highly educated immigrants from countries with the largest pool of STEM graduates wait from four to ten years for employment-based green cards. Already we see immigrants leaving our shores to pursue better opportunities in nations that compete with U.S. innovation. If we are to attract and retain the most talented people in the world, the

United States must establish a green card cap appropriate to the demands and market realities of the highly skilled employment-based industries.

2. End Per Country Limit Inequity—Due to an arbitrary and outdated cap on the number of visas any single country can receive in a year, immigrants from India and China wait significantly longer for employment-based green cards than their counterparts from around the world. These countries are the two largest sources of highly educated workers entering shortage occupations in America. Eliminating per country limits is a simple technical fix that will shorten the wait times for the most backlogged countries by many years while distributing the burden of the green card shortage in a fair and equitable manner among all immigrants.
3. Capture Top STEM Talent Graduating from U.S. Universities—More than half of all students enrolled in U.S. science, technology, engineering and mathematics (STEM) graduate programs are foreign born. We provide these students with the best technical educations the world has to offer, but when it comes time to graduate, our immigration system encourages students to leave the country. Many seek employment regardless, but they find their options limited to temporary visas while they wait for green cards. We know these students are talented, and we know we want them to stay in America. We should do all we can to capture as much talent from U.S. universities as possible, including exempting U.S. STEM graduate students from employment-based green card caps.
4. Preserve Access to Temporary Foreign Workers—America will always need ready access to talent from around the world. Immigration to the United States on a permanent basis does not make sense in every context. Temporary visas provide a straightforward solution for employers in need for immediate help in our highly skilled industries, for short-term internal company transfers or graduates of foreign universities. As we expand opportunities for permanent residency in America, we must also preserve properly enforced nonimmigrant visas.

In conclusion, the highly skilled immigration system shows great promise as a powerful tool in America's economic recovery. Beginning with the reforms listed above, we can unlock the potential of highly educated immigrants as entrepreneurs, innovators and job creators. We look forward to continuing our dialogue on these important issues with you and your staff, and we thank you again for the opportunity to provide a statement in support of this hearing.

**Statement of Senator Charles Grassley**  
**Before the Committee on the Judiciary**  
**Subcommittee on Immigration, Refugees and Border**  
**Security**  
**“The Economic Imperative for Enacting Immigration**  
**Reform”**

**July 26, 2011**

For years, our country has struggled to find a way forward on immigration reform. Since the debate reached its peak in 2007, our economy has experienced turmoil comparable to the Great Depression. Americans are out of work, families are being foreclosed on, and businesses are suffering. I agree we must do all we can to improve our economic situation. However, I have concerns with the notion that increasing immigration levels and enacting

legalization programs is the answer to the current economic downturn.

We know it's unlikely that this Administration will push immigration reform in the next year and half. However, it's my firm belief that we can find agreement on reforms for high skilled workers – and this hearing is a good first step in starting the discussion.

I've spent a lot of time and effort into rooting out fraud and abuse in our visa programs, specifically the H-1B and L visa programs. I have always said these programs can and should serve as a benefit to our country, our economy and our U.S. employers. However, it is clear they are not working as intended, and the programs are having a detrimental effect on American workers. Thankfully, the H-1B visa program has an annual cap as a stop-gap measure.

But frankly, we need to act immediately to enact true reforms. For this reason, and for many years, Senator Durbin and I have worked on legislation to close the loopholes in the programs. Our legislation would ensure that American workers are afforded the first chance to obtain the available high paying and high skilled jobs. We have worked together to make sure visa holders know their rights. We have worked to increase oversight by the executive branch and have advocated for the Departments of Labor and Homeland Security to implement tighter controls. The bill we have written would strengthen the wage requirements, ridding the incentives for companies to hire cheap, foreign labor. Our bill would require companies to attest that they have tried to hire an American before they hire a foreign worker.

The attention that Senator Durbin, I and others have put on H-1B visas has had an impact. Our efforts have increased scrutiny and have forced bad actors to find other ways to enter, live and work in the United States under false pretenses. The increased oversight of the H-1B program, for example, has caused businesses to “think creatively” to get around the program, using both the L and B-1 visa to bypass the requirements and protections under the H-1B visa program.

On February 23, 2010, an employee of Infosys filed a complaint alleging that his employer was “sending lower level and unskilled foreigners to the United States to work in full-time positions at Infosys’ customer sites in direct violation of immigration laws.” The complaint further states “Infosys was paying these employees in India for full-time

work in the United States without withholding federal or state income taxes.” Infosys, one of the top ten H-1B petitioning companies, has worked to “creatively” get around the H-1B program by using the B-1 business visitor visa in order to bring in low-skilled and low-wage workers. However, B-1 visa holders are not able to receive salary or income from a U.S. based company and thus, Infosys is being accused of visa fraud. That plaintiff, Jay Palmer, has written a statement to be placed into the record. The courts will decide if the activities of Infosys were illegal. But I can definitely say that their actions don’t comport with the spirit of the law.

In addition to using the B-1 visa to get around the H-1B, companies are looking at ways to increase their use of the L intercompany transfer visa. The L visa program has no

annual cap. It does not hold employers to wage requirements. It provides flexibility and allows businesses to bypass the red tape that comes with other work programs. On March 29, 2011, I wrote to the Acting Inspector General at the Department of Homeland Security with my concerns on the L intracompany transferee visa program and requested the office investigate the fraud and abuse. The last review of the program was completed over five and a half years ago with recommendations that have yet to be implemented. Serious loopholes continue to exist and be exploited to the detriment of the system.

That brings me to another program that is undermining American workers, and one that gets very little attention from bureaucrats and investigators. The Optional Practical Training – known as OPT – is a program that was created

entirely through regulation. There's nothing in the Immigration and Nationality Act that allows the executive branch to run the OPT program. But, it's high time that we start taking a closer look at the impact this program has on American students and workers. Originally, OPT was created to give foreign students the ability to further their knowledge before returning to their home country. However, today it is being used as a bridge to an employment visa or other immigration status. Students are allowed to work in any field for an extra 12 to 29 months. There is no limit on how many can apply for OPT, and more importantly, it is the schools and universities that principally administers the program. There are very few checks and balances when it comes to the schools and employers. The Department of Homeland Security may not even know

where the student is being employed, creating a substantial national security risk. More scrutiny must be placed on this program. This past January, Senator Durbin and I wrote to Secretary Napolitano in regards to this, and other immigration issues. The Secretary in response provided figures which were quite surprising. U.S. Citizenship and Immigration Services approved 95,259 OPT petitions in fiscal year 2010 alone. She did not, however, give any reassurances that the Department would add any safeguards nor will they commit in this economy to reduce the amount of time these foreign students are working in the U.S. I will continue to press the Department for this much needed reform to protect American students and workers.

Finally, I'd like to address the idea being pushed by many immigration advocates and some members in the

House of Representatives. As part of the solution to America's immigration problem, some policy makers have proposed the idea of giving immigrants a green card upon graduation. In their opinion, this would prevent the loss of all the resources put into these students if they are forced to return home. While it is important to keep the best and the brightest, getting a degree from a U.S. institution should not equate to a fast track to citizenship for all. Should this happen, the demand for enrollment in U.S. universities by international students would only increase and further erode the opportunities for American students.

America should continue to be the land of opportunity for those who wish to seek it. We have a rich history of multiculturalism which has helped us become the strong, proud country we are today. Our excellent system of higher

education boasts many of the best scholars and researchers in their fields. This system is one of our best resources and should be made available to all American students. For more and more students, this resource is often not available to them. As the amount of international students continues to rise, access to this precious resource for American students is lost. Attaching a green card to each international student's diploma would only accelerate this process and crowd more and more American students out of a chance to achieve their dreams.

I will continue to push for more reforms in our immigration system to ensure Americans are the number one priority and are not displaced. I thank the Chairman and Ranking Member for their courtesies in scheduling this hearing and I look forward to the testimony from our panels of witnesses.

Testimony of Ben Greifeld  
 CEO and President  
 NASDAQ OMX  
 Before the Senate Judiciary Committee  
*Subcommittee on Immigration, Refugees and Border Security*  
 July 26, 2011

Thank you Chairman Schumer and Ranking Member Cornyn for the invitation to speak to you this morning regarding "The Economic Imperative for Enacting Immigration Reform: High Skilled Immigration as a Driver of Economic Growth."

In May of 2008, my frustration with Congress and the debate about immigration led me to write an editorial that holds true today. As I said then, my office in New York overlooks the Statue of Liberty; the same statue that welcomed my own Grandparents to this great country. In America, immigration is our tradition. It bothers me dearly that Lady Liberty's message of welcome no longer resonates with politicians and that we place quotas, inexhaustible red tape and, in many cases, deportation in the path of the best and brightest who are so anxious to contribute to our free market economy.

Since I wrote that editorial in 2008, three June graduating classes have left school, and we have seen too many professionals that we need leave or been forced to leave. There are approximately 50,000 masters and doctoral students leaving a U.S. university each June, and each year we lose about one-third of those students who return to their home country or go elsewhere. That's 17,000 talented people every year.

I fervently believe to help our country Congress should:

- 1) See immigration reform as a pressing jobs issue. The current legal immigration regime with its inadequacies and costs is robbing America of the next generation of great companies. I believe that Google, Yahoo and eBay - many of the job drivers of the last 20 years - would likely not be founded in America today.
- 2) Debate Legal Immigration on its own merits: Do not link it to reform of illegal immigration laws - Americans are losing jobs and opportunity while we let one issue drag down the other. I understand the argument that we need to reform the entire immigration system, and I agree that we do, but given the urgency of our economic situation, we can no longer afford to wait for a grand plan that may not be achievable.
- 3) Enact a more flexible and stable regime for Legal Immigration: Reform must convey economic priorities about job growth and global competitiveness. Increasing H-1B numbers is no longer enough. We need to admit and keep entrepreneurs here so that the creative dynamism of our marketplace has the very best skills and minds. The default should be "yes," not "no."

This is an issue that I am passionate about, not only based on heritage, but because I know that as CEO, NASDAQ relies on *one* critical raw material for its economic vitality - *entrepreneurs*. Entrepreneurs take ideas and turn them into companies, and those companies "grow up" to become listed on NASDAQ. Many existing NASDAQ companies hire brilliant people who solve problems, invent and improve their company, making that company stronger and its employment base grow. Sometimes, these companies create not just new products, but new markets that attract even more companies. Each part of that process creates new jobs and makes America stronger.

Our economy and NASDAQ itself have directly benefited from the contributions of foreign-born talent. Looking just at the Fortune 500 companies, we found at least 14 active NASDAQ companies that have foreign-born original founders. These companies represent over \$522 billion in market capitalization and employ almost 500,000 workers.

Markets, including human capital markets, work best when there is certainty. Uncertainty always creates distortions, whether it's the derivatives market waiting on the rules of the game from regulators, the equity markets waiting for Congress and the President to agree on fiscal policy, or labor market participants that look to our restrictive, sometimes arbitrary, and unwelcoming immigration system as they decide where to take their talents. It is amazing that we teach our third graders that we are a nation of immigrants, but sadly we no longer welcome people who can best contribute to our society, who as a group will likely pay higher taxes during their professional careers, likely will not use our social welfare system, who will likely never commit a crime and who will likely leave America better than they found it.

In countries like India and China they see the graduates of America's colleges and universities as "gold in the flesh." They *mine* graduates and qualified researchers for their expertise and abilities, paying top salaries and other benefits to get graduates to return home to help their economies grow. China, for instance, has launched the 1000 Talents Program, a plan that includes top salaries and research funding for Chinese researchers who will return to China. China has vowed to increase its talent pool of creative skilled workers from 114 *million* to 180 *million* by 2020. We are past due in our recognition that the competition for smart, capable math and science graduates is a global one. America has put itself at a disadvantage in this competition by not retaining the foreign skilled workers we help to educate and train and by not properly utilizing our own education system to produce enough scientists and other knowledge workers. I think failure to solve this issue will cost everyday Americans the potential for better jobs in the future.

Let me take the job stealing issue head-on – Opponents of enhanced legal immigration argue that when a foreign born immigrant gets a job in a technology company, American graduates are the losers. But, my research and experience tell a different story. For example, the National Federation for American Policy says that for every H-1B worker requested, U.S. technology companies *increase* their employment by five workers. I was in Silicon Valley last week, and virtually every company I met said they had more jobs than there were qualified applicants for those positions. These are jobs that are advertised in many places, including a website, [www.StartUpHire.com](http://www.StartUpHire.com), which caters to venture-capital backed companies; currently they have about 19,000 openings posted. In this week's San Jose Business Journal, I read that the State of California released a June employment report that noted in just the San Jose metro region Apple listed 868 jobs, eBay 617, Google 582, and Yahoo 571.

In this area of policy, the economic data is beyond compelling that we and other fellow Americans benefit. In Silicon Valley more than half of new technology start-up companies were founded by foreign-born owners. In the most recent Intel Science Talent Search competition, 70% of the finalists were children of immigrants. When we keep the best and brightest graduates here, they help employment of American citizens: the Brookings Institution reports that economists calculate that as a result of immigration, 90% of native-born Americans with at least a high school diploma have seen wage gains in the U.S. Highly skilled immigrants don't just benefit Silicon Valley; my research for this testimony even surprised me: Duke University reports that in Texas, nearly one in five technology companies were founded by an immigrant.

Many American companies really have little choice about who they hire, but the immigration system can hurt us by determining where they locate their employees. They need great engineers, scientists and researchers. Isn't it better for all of us if they build their research and development centers here? Many

companies can, if needed, locate their personnel in Canada, Europe, India or any of a long list of countries that *want* those jobs and the investment they bring.

As I stated earlier, NASDAQ and our economy need the raw material called innovators and exchanges measure this by the production of new high-growth companies. Already in the arena of IPOs, there are clear indications that America is falling behind. So far this year, China, Hong Kong and Singapore have brought about 213 IPOs public – in the U.S. we have listed just under 100 new IPOs. Last year, China, Hong Kong and Singapore listed 458 new companies and the U.S. listed just 169. In 2000, NASDAQ and the other U.S. markets once listed 6,917 companies; today that number has fallen to 4,222. The raw materials of economic growth are dwindling...and American investors, pension funds and retirees are at the end of this food chain.

My job takes me around the U.S. and the world where I talk to the heads of businesses both large and small. The issue of access to the best human capital is one that I hear about and discuss often. Whether in Silicon Valley, Austin, Chicago, Charlotte, Atlanta or anywhere else in the United States, I hear from CEOs that the H-1B visa system is inadequate for today's human capital marketplace and that the back log for green cards is a legitimate threat to their business's ability to get the right talent. I hear that many great thinkers are not staying here or can't stay here to pursue their life's work. I hear that we have these wonderful factories - our colleges and universities - that produce brilliance, and we are depriving our own nation the fruits of this production.

Our world view must change to recognize that employers no longer have to locate jobs and workers because of physical capital requirements. Human capital is now highly mobile. The work product of STEM and other knowledge workers is just a plane ticket or an internet connection away. Other jobs will congregate around knowledge workers, and the statistics bear that out. STEM graduates can productively work in any space, in any building, around the globe.

Here is some of the anecdotal feedback I received from business leaders:

- Throughout the recession and even today they have open positions for technical staff that they can't fill.
- If they can't fill these kinds of jobs, their companies can't grow.
- If they can't fill them in the U.S., they will have to fill them in research offices overseas.
- They don't want to move any jobs overseas but current immigration laws are forcing them into a corner.
- They always mention the importance of investing in education to solve our long-term skilled worker scarcity problem.

Another continuing set of problems concerns the ever-changing targets that the federal bureaucracy imposes on companies and their workers that need to use the temporary or permanent visa solutions. The Department of Labor and the Immigration service are often cited by our listed companies for violating their own rules in denying visas for employees, often having those denials reversed, but adding substantial cost to the process and valuable time.

While the immigration system in this country for both legal and illegal immigration is broken and the debate causes us pain and mistrust across the political spectrum, it seems to me that leaders in both parties look at the *legal* immigration arena as one that can be fixed – it's achievable. While we will eventually have to face up to the broader challenges and find solutions in other areas of the immigration debate, I believe that we are at a stalemate on the illegal immigration side of this equation. To that end, Congress should divorce the illegal immigration reform issues from those that are closely aligned with solving our

most immediate problem - economic growth and job creation. We need to prioritize our laws towards the retention of skilled graduates and workers so they can invent, create companies, create markets and create jobs here within our borders.

When I wrote about immigration in 2008, it was to just ask for more H-1B visas; today we need to look at H-1B, but also additional meaningful reforms. We need workable and accessible H-1B visas to allow business to fill needs quickly – to be nimble – and we need permanent visa solutions for those people that seek not just a job, but a career and a life. Some ideas we like include:

- NASDAQ OMX supports the idea to “staple a green card” to the diplomas of advanced STEM graduates (science, technology, engineering, and mathematics) from U.S. universities. Such graduates could be exempted from green card quotas if they have a job offer in a field related to their degree.
- NASDAQ OMX strongly supports the idea to establish startup business and job creation visas. In particular, I would highlight the idea to create a venture capital startup visa. This would allow an entrepreneur who has secured venture capital to start his business in the U.S. rather than elsewhere. Why shouldn't we welcome a financed entrepreneur to set up shop here and create new opportunities for U.S. workers?
- We support H-1B visa reforms that would increase the number of visas, add portability for H-1B users caught in the green card backlog, and allow terminated H-1B users to receive 60 days to find work with another employer if they want to stay in the U.S. and help another firm with their abilities.
- Update the E-2 Investor Visa to include countries that we partner with in most other areas of trade and commerce. This visa allows individuals to work in the U.S. based on substantial investments here that they control. Currently Chinese, Indian and Israeli investors can't use this visa, but amazingly Iran is one of our treaty partners allowed to use the E-2 visa.
- NASDAQ OMX believes that Green Card backlogs could be reduced or eliminated:
  - Recapture unused visas: From 1992–2009 - 506,410 green cards went unused, but only 180,039 were recaptured.
  - Exempt spouses and children from counting against the numerical limits.
  - Eliminate the employment-based per country levels which limit knowledge-worker producing countries like China and India to the same numbers as the smallest nations on the planet.
- Directly related to this important set of issues is education. The U.S. should make promotion of math, science, engineering, computer science and other technology based degrees a critical national priority – akin to the project to go to the moon. We need a national effort to promote academic curiosity in the sciences and we need to allocate what I know are scarce resources to this task.

I know and the companies that list on NASDAQ acknowledge that controls must be in place to curb abuses, ensure that foreign workers in these areas aren't brought in to push down wages, and that the system is fair. But again, I think that we will have more jobs and be more competitive as a country if we make the default setting that you are welcome if you possess skills and knowledge that we need to solve problems and create solutions for the economy. We are a nation founded on the immigration tradition. Waves of immigrants have served the needs of our country and helped increase standards of living in

every generation of this great nation. The continued economic vitality of our nation is at stake for our generation and those that follow us.

Finally, I implore you, as our elected leaders, to find a legislative vehicle to make improvements in this area as soon as possible. Making our legal immigration system work for us will raise revenue, increase our productivity, create very good jobs and make us more competitive.

July 26, 2011

Robert Heath

Senate Judiciary Committee  
Immigration, Refugees, and Border Security Subcommittee  
224 Dirksen Senate Office Building  
Washington, DC 20510

Re: The Economic Imperative for Enacting Immigration Reform

Dear Mister Chairman,

I have great interest in the hearing that you will be conducting with the above mentioned title. The title of the hearing leads me to believe that you have already reached a conclusion before having a hearing, and the witness list further convinces that the conclusion that you will reach when conducting this hearing has been predetermined. I am convinced of your intention because of the absence of anyone that might have an opinion or experience of being victimized by a loose immigration policy that destroys the careers and innovation of US STEM workers.

One of the witnesses of this hearing is Brad Smith, Corporate Counsel of Microsoft. No company in America better represents the tactics and results of a loose immigration policy that destroys the careers creativity, and productivity of US workers than Microsoft. No other company better embodies the results of the practices of laying off US workers and replacing those workers with cheap entry level workers from the third world. Year after year after year, Microsoft is leading US tech companies with layoffs of US workers while simultaneously leading the US tech companies with the importation of cheap entry level workers by the use of the H1B visa both directly and indirectly through third party Indian H1B body shops like Infosys. Microsoft may claim that employing cheap entry level third world workers enables Microsoft to be more competitive, but the evidence supports the opposite conclusion. For the past decade, owners of Microsoft stock have been disappointed because Microsoft's stock has consistently underperformed most tech stocks, and has consistently underperformed both the NASDAQ and the S&P averages. This condition exists because innovation does not come naturally to Microsoft. Microsoft's business model depends on copying other company's products, inventions, innovation, and ideas, and then running the true innovators out of business. Microsoft's profitable product line is loaded with technologies that were created by others and reverse engineered by Microsoft into products.

Companies like Microsoft lobby our leaders claiming a need for "highly skilled" foreign workers and then when visas are granted to fulfill that imaginary need, corporate America uses those

visas to import cheap entry level workers from the third world, primarily India and Communist China. That is the conclusion reached by the GAO in a recent report prepared for Congress. That GAO reports that over 50% of the recipients of H1B visas are cheap entry level workers, that less than 7% of the recipients of H1B visas are compensated at levels customary for highly skilled workers.

The tech community has long known that the United States graduates STEM workers faster than corporate America creates jobs. In addition, many H1B advocates claim that only 65,000 to 85,000 H1B visas are granted annually, but the USCIS reports that the annual average of H1B visas granted is around 250,000. That number does NOT include L1 visas, OPT visas, B1 visas, F1 visas, and many other work visas granted to cheap entry level workers from the third world. Only the USCIS knows the true number of work visas granted, but the true number is likely to be between 500,000 and one million annually instead of being between 65,000 and 85,000 annually. Millions of highly productive, well educated US STEM workers have lost their careers because of this invasion of cheap labor. Millions of US students will never fulfill their dreams of being scientists, engineers, or mathematicians because of these visas. The dreams, creativity, innovations, and inventions of millions of US STEM workers will never be realized because of these visas.

As I mentioned these visas are not used to employ highly skilled workers. The visas are being granted to cheap entry level workers for jobs that would have otherwise been used to employ US workers. These visas are not granted for highly skilled workers. These visas are granted to replacement workers.

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Testimony Given By

**Ronil Hira, Ph.D., P.E.,**  
*Associate Professor of Public Policy*  
*Rochester Institute of Technology, Rochester, NY*

In A Hearing Before The  
Subcommittee on Immigration, Refugees and Border Security  
Judiciary Committee  
U.S. Senate

On  
**"The Economic Imperative for Enacting Immigration Reform"**

July 26, 2011

Dirksen Building

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I want to thank Chairman Schumer, Ranking Member Cornyn, and the members of the subcommittee for inviting me to testify today. My name is Ronil Hira. I am a professor of public policy at the Rochester Institute of Technology in Rochester, New York. I have been studying high-skill immigration policy for more than a decade so I appreciate the opportunity to share my thoughts about how it is impacting the U.S. economy and American workers.<sup>1</sup>

**I have concluded that our high-skill immigration policy, as currently designed and administered, does more harm than good. To meet the needs of the U.S. economy and U.S. workers, our guestworker and permanent residence programs need immediate and substantial overhaul.**

**The principal goal of the major guest worker programs – H-1B, L-1, OPT, J-1, and B-1 – is to bring in foreign workers who complement the U.S. workforce. Instead, loopholes in these programs have made it too easy to bring in cheaper foreign workers, with ordinary skills, who directly substitute for, rather than complement, workers already in America. They are clearly displacing American workers and denying them both current and future opportunities.** Many highly skilled American workers and students - engineers, computer scientists, and scientists - have concluded that these programs undercut their wages and job opportunities. Those conclusions are largely correct and the programs have lost legitimacy amongst much of America's high-tech workforce.

Furthermore, **loopholes in these guest worker programs provide an unfair competitive advantage to companies specializing in offshore outsourcing, speeding up the process of shipping high-wage, high-tech jobs overseas. It has disadvantaged companies that primarily hire American workers** and forced those firms to accelerate their own offshoring, threatening America's future capacity to innovate and ability to create sufficient high-wage, high-technology jobs.

For at least the past five years the employers receiving the most H-1B and L-1 visas are using them to offshore tens of thousands of high-wage, high-skilled American jobs. Table 1 below shows that, for fiscal years 2007 to 2009, seven of the top ten H-1B employers are doing significant offshoring. Offshoring through the H-1B program is so common that it has been dubbed the "outsourcing visa" by India's former commerce minister. The business model is so entrenched that a recent stock market analyst report by the financial advisory firm CLSA, which tracks the leading offshore outsourcing companies, quantified how much money the companies save by hiring cheaper foreign guest workers instead of Americans.<sup>2</sup> CLSA believes that if offshore outsourcing firms have more difficulty in getting H-1B and L-1 visas they would be

<sup>1</sup> This testimony is based on two papers I published with the Economic Policy Institute (EPI): "The H-1B and L-1 Visa Programs: Out of Control", published on October 14, 2010; and, "Bridge to Immigration or Cheap Temporary Labor? The H-1B & L-1 Visa Programs Are a Source of Both," published on February 17, 2010. Both papers can be found on the EPI website: [www.epi.org](http://www.epi.org).

<sup>2</sup> <http://online.wsj.com/public/resources/documents/477617892.pdf>

forced to hire more Americans at market wages. The L-1 visa program is similarly being exploited for offshoring. Table 2 below shows that, for fiscal year 2008, eight of the top ten L-1 employers are doing significant offshoring.

Rather than proving to be a win-win, as it is often described, guest worker visa programs and the offshoring of high-wage high-tech jobs is a lose-lose for American workers and for the American economy. It undercuts American workers and students and threatens our country's future capacity for innovation.

The offshore outsourcing industry is adding hundreds of thousands of jobs every year, frequently coming at the expense of American workers. The top three India-based offshore outsourcing firms, Tata Consultancy Services, Infosys, and Wipro, added a stunning 57,000 net new employees last year alone. The extraordinary growth of revenues and profits of these firms have driven their competitors to adopt a similar business model. Accenture has had more workers in India than the U.S. since August 2007, and IBM now has more workers in India than in the U.S. If the H-1B and L-1 program loopholes were closed, many of those jobs would have gone to Americans.

<b>Table 1</b>			
<b>Top 10 H-1B Employers for Fiscal Years 2007-09</b>			
<b>7 of 10 Have Significant Offshoring</b>			
<b>H-1B Use Rank</b>	<b>Company</b>	<b>H-1Bs Obtained FY07-09</b>	<b>Significant Offshoring</b>
1	Infosys	9,625	X
2	Wipro	7,216	X
3	Satyam	3,557	X
4	Microsoft	3,318	
5	Tata	2,368	X
6	Deloitte	1,896	
7	Cognizant	1,669	X
8	IBM	1,550	X
9	Intel	1,454	
10	Accenture	1,396	X

**Source:** DHS USCIS: Initial H-1B I-129 Petitions FY07-09

In a recent interview with *ComputerWorld* magazine, former Representative Bruce Morrison, a past chairman of the House Judiciary Subcommittee on Immigration and co-author of the

Immigration Act of 1990 that created the H-1B program, summed up his view about how the H-1B program has been distorted by outsourcing:

"If I knew in 1990 what I know today about the use of it [H-1Bs] for outsourcing, I wouldn't have drafted it so that staffing companies of that sort could have used it," Morrison said. Jobs are going abroad because of globalization, he said, "but the government shouldn't have its thumb on the scale, making it easier."

<b>Table 2</b>			
<b>Top 10 L-1 Employers for Fiscal Year 2008</b>			
<b>8 of 10 Have Significant Offshoring</b>			
<b>L-1 Use Rank</b>	<b>Company</b>	<b>L-1s Obtained FY08</b>	<b>Significant Offshoring</b>
1	Tata Consultancy Services	1,998	X
2	Cognizant Technology	1,893	X
3	Wipro	662	X
4	Satyam (now Mahindra Satyam)	604	X
5	Infosys	377	X
6	IBM India	364	X
7	Hewlett Packard	319	X
8	GSTechnical Services	288	X
9	Schlumberger	287	
10	Intel Corp	226	

**Source:** DHS USCIS

Below I summarize the significant problems with the H-1B and L-1 guestworker programs and how we can solve them.

#### FOUR DESIGN FLAWS WITH THE H-1B & L-1 PROGRAMS

Actual H-1B and L-1 visa use has become antithetical to policy makers' goals due to four fundamental flaws:

##### *Flaw 1 -- No Labor Market Test*

Contrary to popular perception in the media, and even amongst some policy makers, the H-1B and L-1 visa programs do not require any labor market test. In other words, employers are not required to show that qualified American workers are unavailable before hiring foreign workers through either the H-1B or L-1 visa programs. Employers can and do bypass American workers when recruiting for open positions and even replace outright existing American workers with H-1B or L-1 guest workers.

##### *Flaw 2--Wage requirements are too low or nonexistent*

Wage requirements are too low for H-1B visas and as a result the program is extensively used for wage arbitrage. Employers have told the Government Accountability Office (GAO) that they hire H-1Bs because they can legally pay below-market wages. The primary wage requirement is the setting of a wage floor, the lowest level an employer can pay an H-1B. The current wage floor is approximately the 17th percentile. A recent GAO study found that the majority (54%) of H-1B labor condition applications were for that lowest level, a level reserved for "entry level" positions, hardly a wage level that the "best and brightest" would earn. Just to provide one example of how low that wage can be, the Department of Labor has certified wages as low as \$12.25 per hour for H-1B computer professionals, an occupation where the typical median wage is more than \$70,000.

In the case of the L-1 visa program there is no wage floor and the wage arbitrage opportunities are even greater. Workers can be paid home country wages. The wage differentials between America and India, the source country for the largest share of L-1s, are staggering. In the case of an information technology worker from India, this could mean \$10,000 per year. Even including the housing allowances and living expenses often given to these workers, the wages would be far below market. For example, in 2003 Beth Verman, who was testifying on behalf of the industry trade group the National Association of Computer Consulting Businesses (NACCB<sup>3</sup>), told this subcommittee that through the L-1 visa program ... "large foreign consulting companies are able to undercut NACCB member client billing rates by 30% to 40%."<sup>4</sup> This client billing rate understates the true extent of the wage arbitrage because it includes the extraordinary net profit margins that these firms earn, ~25%, in a sector where normal net profit margins are 6%.

<sup>3</sup> NACCB is now known as Tech Serve Alliance

<sup>4</sup> Testimony of Beth Verman on behalf of the National Association of Computer Consulting Businesses before US Senate Subcommittee on Immigration and Border Security, 2003.

These firms have been able to command extraordinary profits at the expense of American workers and American firms. Firms that are competing head to head with these companies by hiring Americans are put at a disadvantage due to U.S. guest worker policies. Neeraj Gupta, CEO of Systems in Motion, a U.S. based rural-sourcing company and past executive of a major offshore outsourcing company says the following about how difficult it is for him to compete with companies that import their workforce:

“The widespread abuse of current work visa laws, be it B1, H-1B, or L-1 programs that allow companies to bring in cheap labor from other countries to replace an American labor pool is extremely damaging to our business, because it creates artificial pressure on prices, and consequently wages, of an equally qualified local workforce. Not only does the H-1B visa allow companies to bring in cheap labor, the restrictions placed on H-1B resources from moving locations or jobs ensure that their sponsors are not subject to market pricing for these resources and, in effect, create additional artificial pressure on the local workforce.”

*Flaw 3—Work permits are held by the employer*

Visas are held by the employer rather than the worker. An H-1B or L-1 worker's legal status in the country is thus dependent on the employer, giving inordinate power to the employer over the worker. As a result, H-1B and L-1 workers can be easily exploited and put into poor working conditions, but they have little recourse because the working relationship is akin to indentured servitude. A number of such cases have been highlighted in the press recently.

*Flaw 4—The visa period is far too long*

H-1B visas are issued for three years and are renewable for another three years, which magnifies the damage done by low wages and the inability of workers to change jobs freely. The visas can be extended indefinitely beyond six years when employers apply for permanent residence for their H-1B workers, keeping the visa valid beyond a decade in some cases. Extending the H-1B visa length in lieu of fixing the underlying problems associated with permanent residence creates more problems than it solves. It does more harm than good when a worker is placed in what amounts to indentured servitude for that period of time.

L-1A visas are valid for seven years and L-1B visas are valid for five years.

*Flawed administration*

In addition to the inherent flaws in the design of the program, there is little oversight or enforcement of the program.

H-1B program oversight and enforcement is deficient. The Department of Labor review of H-1B applications has been called a “rubber stamp” by its own Inspector General. And a 2008 DHS IG report found that one-in-five H-1Bs were granted under false pretenses - either through outright

fraud or serious technical violations. Critical data on actual program use is either not released or in some cases even collected. For example, the government doesn't even know how many H-1Bs are in the country. And program integrity largely relies on hope that H-1Bs would blow the whistle if they were being exploited. Whistle-blowing is highly unlikely given that H-1Bs' legal status depends on their continued employment.

The L-1 visa program hasn't been examined by the government since 2006 and no detailed fraud study has been completed. More scrutiny and transparency is needed for the L-1 program. Widespread complaints by American workers about the L-1 program have persisted for nearly a decade. To analyze the impact of the L-1 program the government must start collecting and publishing data on how many workers, at what pay, in what occupations, and to which employers L-1s are issued. We know very little about how the L-1 is being used in practice.

#### **SOLVING THE PROBLEMS WITH THE H-1B & L-1 PROGRAMS**

By closing the H-1B and L-1 visa loopholes described above, Congress would create and retain tens of thousands of high-wage American jobs and ensure that our labor market works fairly for American and foreign workers alike. The "H-1B and L-1 Visa Reform Act of 2009", S.887, introduced in the 111<sup>th</sup> Congress by Senators Durbin and Grassley, would solve the most important problems with these programs. I summarize what needs to be done to restore the integrity of the programs below.

##### *Institute an Effective Labor Market Test*

An effective labor market test, such as labor certification for each application, needs to be created. U.S. workers should not be displaced by guest workers, and employers should demonstrate they have looked for and could not find qualified U.S. workers.

As a fix, some have proposed extending H-1B Dependent firm rules to all firms. Table 1 above shows four of the top five H-1B recipients are H-1B Dependent. But these rules are clearly not effective since H-1B Dependent firms are able to avoid hiring Americans while garnering thousands of H-1Bs annually.

L-1B visas surpassed the number of L-1As over the past decade, in concert with the rise of the offshore outsourcing industry. Yet no one, including the consular officers who review the applications, can identify what constitutes *specialized knowledge*. Congress should either eliminate the category or clearly define specialized knowledge.

##### *Pay Guest Workers True Market Wages*

H-1B and L-1 workers should be paid true *market* wages. The Congressionally imposed four-level wage structure for the H-1B program should be abandoned. No guest worker should be paid less than the median wage in the occupation for all skill levels. Ensuring that employers pay market wages will remove the temptation of wage arbitrage. Further, employers should pay an

annual fee equal to 10% of the average annual wage in the occupation. Those fees could be used to increase the skills of the American workforce and will ensure that employers are hiring guest workers who are filling real gaps in the labor market.

*Limit the visa to a maximum of three years, with no renewal.*

This will ensure that employers either sponsor their H-1B and L-1 workers for permanent residence or find a suitable American worker to fill the position.

*Eliminate access to additional H-1B and L-1 visas for any H-1B Dependent firms.*

The programs are intended to help employers in the United States operate more effectively, providing them skilled workers they cannot find in the U.S. It should not be a way for businesses to compete here in the U.S. with an imported workforce. With the exception of very small businesses, no employer should be permitted to employ a workforce consisting of more than 15% H-1Bs or L-1s. There is no reason, other than wage arbitrage, for any firm to have more than 15% of its workforce on guest worker visas.

*Shine Light on H-1B & L-1 Program Practice*

There is widespread and substantial misunderstanding, in the media and even amongst some policy makers, about how the programs work in practice. Many of these misunderstandings could be cleared up through greater transparency. Congress and USCIS should publish data on program use by employer, including job title, job location, actual wages paid, and whether the worker is being sponsored for permanent residence. The data should include all H-1B & L-1 workers, not just newly issued and renewed petitions. Further, the practice and impact of L-1 blanket petitions should be examined.

H-1B & L-1 use by *H-1B Dependent* firms should be investigated and the findings publicly released. The GAO or IG should be asked to complete a study of the weaknesses of the H-1B Dependent regulations on good faith recruiting and non-displacement. So called H-1B Dependent firms must meet additional requirements prior to hiring an H-1B worker, yet it is clear that these firms are able to circumvent Congress' intent regarding those additional requirements. As noted above, these firms are able to hire literally thousands of H-1Bs annually without hiring any Americans for those positions.

*Institute Sensible Oversight*

Through their use of guest worker visas employers are asking government to intervene in the normal functioning of the American labor market. With this privilege should come accountability. Employers using guest workers should be subject to random audits to ensure they are fulfilling the obligations contained in their attestations. And government agencies in charge of these programs— the Departments of Homeland Security, Labor, and State—should be granted the authority, and allocated resources, to ensure the programs are operating properly.

Given the efforts in Congress to cut deeply into discretionary spending, some mechanism to fund these audits should be created. At a minimum, one in ten H-1B & L-1 employers should be audited and, if they are not eliminated, every H-1B Dependent firm should be audited every year.

*Establish a Clear Single Objective for the H-1B Program*

The H-1B program is a so-called "dual-intent" visa; i.e., though the visas are temporary, employers can choose to sponsor these workers for permanent residence. While this design feature appears to provide flexibility, it comes at substantial cost. Is the H-1B program supposed to be truly temporary, be used sparingly, and only for short periods of time? Or is it the way to entice very recent foreign graduates of American universities to stay permanently? Or is it the primary bridge to immigration for high-skilled workers who are trained abroad? Each of these objectives creates inherent conflicts in program design; e.g., in setting wage floors. Congress should consider how to limit the scope of the H-1B program to improve its performance.

The H-1B is often equated with permanent residence in the media's discussion of high-skill immigration policy. As I have shown, with an analysis of the PERM database, many of the largest users of the H-1B program sponsor few, if any, of their H-1Bs for permanent residency. In the case of Compete America member firm Accenture<sup>5</sup>, it received 1,396 H-1Bs between 2007 and 2009, yet sponsored only 28 (or 2%) of its H-1B workers for permanent residence. This example illustrates how the program's reality doesn't match the claims made by employer coalitions such as Compete America.

Table 3 below shows the top H-1B employers from FY07-09 and the number of greencard applications they made on behalf of their H-1B employees. The ratio of greencard applications to H-1Bs is something I call immigration yield. It indicates the extent to which a particular employer uses the H-1B program as a stepping stone to permanent residence versus using the H-1B for purely temporary guest workers.

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<sup>5</sup> <http://competeamerica.org/about/2011-members>

H-1B Use Rank	Company	H-1Bs Obtained FY07-09	Greencard Applications For H-1B workers FY07-09	Immigration Yield
5	Tata	2,368	0	0%
3	Satyam	3,557	37	1%
2	Wipro	7,216	125	2%
10	Accenture	1,396	28	2%
1	Infosys	9,625	476	5%
9	Intel	1,454	163	11%
8	IBM	1,550	382	25%
6	Deloitte	1,896	588	31%
7	Cognizant	1,669	702	42%
4	Microsoft	3,318	2,214	67%

**Source:** DHS USCIS: Initial H-1B I-129 Petitions FY07-09 and PERM Database FY07-09

*Other High-Skill Visa Programs Need Scrutiny & Fixing*

I have highlighted in detail the problems with the H-1B and L-1 visa programs. But I would like to briefly point to some other critical issues for high skill immigration policy. Other temporary visa programs, such as the B-1, OPT, and J-1, are also badly in need of an overhaul, and are being used to circumvent the annual numerical limit on H-1Bs and the regulatory controls on the L-1.

With respect to the B-1 "business visitor" visa we have even less information about how it might be being exploited, but recent news reports and an ongoing lawsuit reveal that they are being used to get around the H-1B rules and cap. Pending litigation alleges that B-1 visas are being used for shuttling in workers rather than business visitors. And job websites advertise explicitly

for jobs for foreigners with eligible B-1 & B-2 visas<sup>6</sup>, in direct contradiction of the purpose of these visas.

In 2008, the duration of the OPT work visa was extended for STEM majors to 29 months without oversight or any approval from Congress. The list of eligible majors was recently expanded by the Obama Administration. The largest beneficiaries of this extension are obscure colleges that are providing workers to the offshore outsourcing industry.<sup>7</sup> There is no wage floor for OPT and one analyst estimates they are paid a mere 40% of what Americans earn. The rationale for the OPT extension has disappeared – according an analysis of BLS data by IEEE-USA more than 300,000 American engineers and computer professionals are unemployed - so the OPT STEM extension should be rolled back to its original duration.

*Immigration Policy Should Be Made By Congress, Not the U.S. Trade Representative*

Given the widespread use of both H-1B and L-1 visas by offshore outsourcing firms, Congress should take affirmative steps to make it clear that both guest worker programs and permanent residence are immigration, and not trade, policy issues. In 2003, the U.S. Trade Representative (USTR) negotiated free trade agreements (FTAs) with Chile and Singapore, which included additional H-1B visas for those two countries, and constrained Congress from changing laws that govern the L-1 visa program. In response, many members of Congress felt it was important to re-assert that Congress, not the USTR, has jurisdiction over immigration laws. But no law was ever passed. Without legislation, the muddying of trade and immigration policy will keep recurring. Most recently, it appears that some L-1 visa provisions were included as a side agreement in the Korea-U.S. Free Trade Agreement. Many countries, including India, have pressed for more liberalized visa regimes through trade agreements including proposing a new GATS work visa. Congress, not the U.S. Trade Representative, should have the authority to change these laws, and Congress should pass a law reaffirming jurisdiction.

*Simple Administrative Fix Would Prioritize Foreign Graduates of American Universities*

Some have argued that foreign students with advanced degrees from American universities should have a priority with the H-1B program but DHS could easily do more to fulfill this goal. The quota for new H-1B workers is 85,000 per year with 20,000 of those set aside for advanced degree graduates of U.S. universities. The 20,000 additional visas were created specifically to provide prioritization for advanced degree graduates of U.S. universities. But the way in which DHS counts advanced degree holders towards the cap severely hampers its effectiveness. DHS fills the 20,000 cap with applications from advanced degree graduates before counting them

<sup>6</sup> See [www.naukri.com](http://www.naukri.com) as described in Malia Politzer & Surabhi Agarwari, "B-1 visa holders in demand on job portals," *LiveMint.com*, June 23, 2011. <http://www.livemint.com/2011/06/23014418/B1-visa-holders-in-demand-on.html>

<sup>7</sup> For the list of universities benefitting from the OPT STEM extension see, [http://www.computerworld.com/s/article/9196738/H\\_1B\\_at\\_20\\_How\\_the\\_tech\\_worker\\_visa\\_is\\_remaking\\_IT\\_in\\_America](http://www.computerworld.com/s/article/9196738/H_1B_at_20_How_the_tech_worker_visa_is_remaking_IT_in_America)

against the 65,000. If DHS instead counted them against base cap of 65,000 first it would free up more than enough spaces for advanced degree holders.

*Immigration Policy Should Be Made By Congress But It Needs Specialized Expertise From An Independent Commission*

A number of think tanks and academics, including the Migration Policy Institute and the Economic Policy Institute, have recommended that Congress create a standing commission on immigration. This commission would track the implementation of policy, the changing needs of the U.S. economy and labor market, and make recommendations to Congress on legislative changes. Given the nature of immigration policymaking Congress should seriously consider creating such a commission.

**CONCLUSION**

In conclusion, let me say that I believe the United States benefits enormously from high skilled permanent immigration, especially in the technology sectors. We can and should encourage the best and brightest to come to the United States and settle here permanently. But our future critically depends on our homegrown talent, and while we should welcome foreign workers, we must do it without undermining American workers and students. By closing the H-1B & L-1 visa loopholes we would ensure that the technology sector remains an attractive labor market for Americans and continues to act as a magnet for the world's best and brightest.

The lobbyists supporting the H-1B & L-1 programs have repeatedly made claims that the program is needed because there is a shortage of American workers with the requisite skills, and the foreign workers being imported are the best and brightest. If that is indeed the case, then those employers should not object to these sensible reforms. The policies I have proposed pose no limitations on employers' ability to hire foreign workers who truly complement America's talent pool.

Statement submitted by David Huber

for July 26, 2011 Senate Hearing:

"The Economic Imperative for Enacting Immigration Reform"

As a well-educated American citizen, and highly experienced and qualified technologist, who's testified before Congress on the negative impact of Congress-legislated guest worker visa programs,<sup>1</sup> I am appalled that Senator Schumer would be conducting a hearing on the "The Economic Imperative for Enacting Immigration Reform", and then stack the panel with people who advocate policies that we know have been causing the displacement and de facto discrimination of American citizens in our own country and labor market. This hearing, and the policies advocated by the panelists are an affront against American citizens who make this country work; especially given the high level of unemployment in our country, the current presence of millions of foreign guest workers, and the current importation of over 75,000 foreign guest workers EVERY MONTH, EVEN STILL during this high level of unemployment.<sup>2</sup>

Mr. Schumer, instead, should have a hearing on reforming these guest worker visa programs (H-1b, L-1, B, J, E, EAD, F OPT, J, etc.) and green cards (EB-2, EB-3, EB-4, EB-5, etc.), reforms that WILL STOP the displacement and bypassing of American citizens who actually do the work that makes our country work, which is practically all of us who have to get up every day to earn a paycheck.

Given the high level of unemployment, and the number of STEM graduates vs. jobs available,<sup>3</sup> there is no need to "staple" an automatic green card to foreign students, no need to increase the

<sup>1</sup> I have over 20 years high-tech experience working on projects such as NASA's X-33 Space Shuttle project, and DHS's US-VISIT program. This represents over \$1.4 Billion in projects, plus working with a small team on a \$20 Billion bank acquisition. Between 2002 and 2008, I lost over \$600,000 in income due to direct and indirect impact of legally sanctioned guest worker programs. I currently have been unemployed since late April 2011, despite countless job leads and phone calls.

[http://commdocs.house.gov/committees/judiciary/hju26768.000/hju26768\\_0.htm#51](http://commdocs.house.gov/committees/judiciary/hju26768.000/hju26768_0.htm#51)

<sup>2</sup> DHS Immigration statistics:

[http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/ois\\_yb\\_2009.pdf](http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/ois_yb_2009.pdf)  
Department of Homeland Security Immigration Statistics  
green cards: pp. 18 - 23    visas: pp. 63-65

<sup>3</sup> Urban Institute: "... each year there are more than three times as many S&E four year college graduates as S&E job openings."

[http://www.urban.org/UploadedPDF/411562\\_Satzman\\_Science.pdf](http://www.urban.org/UploadedPDF/411562_Satzman_Science.pdf)

AFL CIO DPE 2010: "... Between 2006 and 2007, the U.S. Department of Education and the Computing Research Association show that colleges and universities graduated more than 203,000 students with Bachelor's, Master's or Ph.D.s in the core disciplines of computer and information sciences, math and engineering and engineering technology. This number more than surpasses the 82,000 new jobs expected to be added in computer and mathematical science occupations during this time period."

<http://dneafcio.org/wp-content/uploads/2010/08/Guest-Worker-Programs-and-STEM.pdf>

DHS Immigration statistics:

[http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/ois\\_yb\\_2009.pdf](http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2009/ois_yb_2009.pdf)  
Department of Homeland Security Immigration Statistics  
green cards: pp. 18 - 23    visas: pp. 63-65

number of H-1b visas, and no need to create another type of "high-tech/STEM" guest worker visa.

Instead of this type of hearing, Mr. Schumer should be doing the following, and encouraging his fellow senators to do likewise:

- \* Co-sponsor a bill like S. 887 (or H.R. 5397) from the last Congress: The Durbin-Grassley reform bill on H-1b and L-1 visa programs. (If there were ever evidence of possible bi-partisan cooperation, these two previously proposed bills clearly demonstrate that.)
- \* Make sure a new comparable bill also
  - puts as much onus on companies to hire American citizens FIRST, as much as the onus is for tavern owners NOT to serve underage drinkers. This bill should offer criminal and civil recourse to American citizens who are bypassed/displaced by cheap foreign labor, in its many forms; e.g., H-1b, TN, EAD, PERM, L-1, J, B , F OPT, etc.
  - removes the "prevailing wage" cheap labor loophole, and make sure market wages that would be paid to American citizens apply to all those working in our country.
  - Rescinds the F OPT extension "decreed" by Michael Chertoff, an act which egregiously bypassed the constitutional role of Congress to legislate immigration.<sup>4</sup>
  - Reforms vendor management systems that corporations use to "screen out" American citizens for contracting work; and also remove the employer-employee relationship "denial" factor that business executives use by staffing through third party "body shops".
  - Reforms the use of visas so that staff firms/body shops are not allowed to premise their business model on foreign guest worker visas, or for that matter, use any foreign guest workers visas. This should apply to BOTH Indian outsourcing companies and American "body shops."
- \* Change the loophole in the Department of Labor Strategic Plan, that currently allows American citizens to be passed over for jobs by H-1b visa workers<sup>5</sup>

<sup>4</sup> [http://www.dhs.gov/xnews/releases/pr\\_1207334008610.shtm](http://www.dhs.gov/xnews/releases/pr_1207334008610.shtm)  
<http://www.youtube.com/watch?v=3SzpHBFUkE>  
[http://www.computerworld.com/s/article/9075478/DHS\\_extends\\_time\\_foreign\\_students\\_can\\_stay\\_in\\_U.S.?taxonomyName=outourcing](http://www.computerworld.com/s/article/9075478/DHS_extends_time_foreign_students_can_stay_in_U.S.?taxonomyName=outourcing)  
[http://www.computerworld.com/s/article/9091538/H\\_1B\\_opponents\\_challenge\\_Bush\\_administration\\_in\\_court](http://www.computerworld.com/s/article/9091538/H_1B_opponents_challenge_Bush_administration_in_court)  
[http://www.computerworld.com/s/article/9111963/Judge\\_rejects\\_student\\_visa\\_injunction\\_sought\\_by\\_H\\_1B\\_opponents](http://www.computerworld.com/s/article/9111963/Judge_rejects_student_visa_injunction_sought_by_H_1B_opponents)  
[http://www.computerworld.com/s/article/9115383/H\\_1B\\_foes\\_try\\_to\\_prove\\_student\\_visa\\_extension\\_hurts\\_U.S.\\_tech\\_workers](http://www.computerworld.com/s/article/9115383/H_1B_foes_try_to_prove_student_visa_extension_hurts_U.S._tech_workers)  
[http://www.computerworld.com/s/article/9131045/White\\_House\\_says\\_U.S.\\_needs\\_H\\_1B\\_visas\\_to\\_avoid\\_competitive\\_disadvantage](http://www.computerworld.com/s/article/9131045/White_House_says_U.S._needs_H_1B_visas_to_avoid_competitive_disadvantage)

<sup>5</sup> Department of Labor, in a 2006-2011 Strategic Plan (under Elaine Chao, Sen. Mitch McConnell's wife) states:  
 "... **H-1B workers may be hired even when a qualified U.S. worker wants the job, and a U.S. worker can be displaced from the job in favor of the foreign worker.**"  
 Dept. of Labor Strategic Plan 2006 – 2011, pp. 34 – 35  
 [ URL not working: [http://www.dol.gov/sec/stratplan/strat\\_plan\\_2006-2011.pdf](http://www.dol.gov/sec/stratplan/strat_plan_2006-2011.pdf) ]

- \* Hold hearings, and reform or dismantle the BEP program<sup>6</sup> Why should our government have ANY program that actively facilitates and further enables the use of already established guest worker visa programs?
- \* Evaluate individual appointments, government funding, and tax status to those financial, research and university organizations who are advocating a "cheap, foreign labor policy"<sup>7</sup> <sup>8</sup> NSF is an egregious example of this problem. We need to be investing in American citizens, their education, and maintaining/rebuilding a strong, middle class; instead of coming up with bogus research "shortage shouting".
- \* Increase the guest work visa fees to the equivalent of one year's real market wages. Although Mr. Schumer offered legislation that did increase visa fees, it was a paltry sum, and not at all reflecting the real value of the cheap labor savings for which these greedy business executives have such a predilection – even to the betrayal of the livelihoods of their fellow American citizens. If these desired foreign workers are truly the “best and brightest, they should be able to meet the O visa or EB-1 work permit requirements.
- \* Take the racket of security clearances for government contracts out of the hands of private defense contractors, and provide a direct way for U.S. citizens with a clean record to more easily get a clearance to work on DOD or DHS projects.
- \* Close the loophole that allows non-American citizens to work on congressional staff positions. ONLY AMERICAN CITIZENS should be working on congressional staffs!

<sup>6</sup> [http://newdelhi.usembassy.gov/nonimmigrant\\_visas/bep.html](http://newdelhi.usembassy.gov/nonimmigrant_visas/bep.html)

"Companies with physical locations in India are eligible for membership. The program is not for companies located in the United States, though many members have locations in both the U.S. and India. To qualify, **members must demonstrate a need a significant number of visas per year.**"

<http://www.thehindubusinessline.com/industry-and-economy/info-tech/article2101846.ece>

<sup>7</sup> <http://www.youtube.com/watch?v=oqx88MyUSck>

Alan Greenspan: 3:54 " . . . **We pay the highest skilled labor wages in the world. If we would open up our borders to skilled labor far more than we do, we would attract a very substantial quantity of skilled labor which would suppress the wage levels of the skilled because we skilled are being essentially subsidized by government, meaning our competition is being kept outside the country.**"

<sup>8</sup> <http://www.nber.org/~peat/PapersFolder/Papers/SG/NSF.html>

"This indicates that despite external calls for more talented Americans to enter scientific careers, internally members of NSF were actually worried about the wisdom of 'luring' talented U.S. students into the scientific labor market.

This lead directly to the idea of encouraging foreign scientists with fellowships and green cards for their effects on wages and costs:

"[Thus, to] the extent that increases in foreign student enrollments in doctoral programs decline or turn negative for reasons other than state or national policies it may be in the national interest to actively encourage foreign students. One way to do this is to ensure that foreign students have equal access to graduate student support funds provided through federal agencies. Another approach is to grant permanent resident status or immigrant status to foreign students successfully completing PhD degrees at U.S. institutions."

The effect of such a program was clear to the analysts at PRA:

"A growing influx of foreign PhD's into U.S. labor markets will hold down the level of PhD salaries to the extent that foreign students are attracted to U.S. doctoral programs as a way of immigrating to the U.S.. A related point is that for this group the PhD salary premium is much higher [than it is for Americans], because it is based on BS-level pay in students' home nations versus PhD-level pay in the U.S. ."

This hearing on July 26, as currently planned, is an expression of how Mr. Schumer seems to think big business/corporate and immigration special interest groups should have more legislative influence than American citizens who do the work to make our country work. The founding fathers of our country pledged their lives, fortunes, and sacred honor in declaring their freedom from elitist, economic royalist oppression.<sup>9</sup>

They then later articulated in the Preamble to the Constitution, the aims for our country and its laws:

a more perfect union, justice, domestic tranquility, common defence, general welfare, blessings of liberty.<sup>10</sup>

We should expect no less a commitment to our fellow American citizens from our elected representatives.

Additional Information:

<http://online.wsj.com/article/SB10001424052748703724104575379630952309408.html>  
Sen. James Webb July 22, 2010  
[Diversity and the Myth of White Privilege](#)

Fake EEOC reporting in Silicon Valley:  
[http://www.nationalbcc.org/index.php?option=com\\_content&view=article&id=1011:jim-crow-in-silicon-valley-is-exposed&catid=63:beyond-the-rhetoric&Itemid=8](http://www.nationalbcc.org/index.php?option=com_content&view=article&id=1011:jim-crow-in-silicon-valley-is-exposed&catid=63:beyond-the-rhetoric&Itemid=8)  
[Jim Crow in Silicon Valley](#)

<http://abclocal.go.com/kgo/story?section=news/business&id=7952215>  
[Silicon Valley companies face minority hiring complaints](#)  
Thursday, February 10, 2011  
David Louie

[http://www.huffingtonpost.com/mark-h-ayers/its-the-height-of-audacity\\_b\\_697347.html](http://www.huffingtonpost.com/mark-h-ayers/its-the-height-of-audacity_b_697347.html)  
Mark H. Ayers President, Building and Construction Trades Department, AFL-CIO  
Posted: August 27, 2010 03:02 PM  
[The Height of Audacity](#)

[Trade and guest worker visas; a backgrounder:](#)  
[How foreign scab labor is negotiated in WTO / GAT trade deals:](#)  
[http://www.citizen.org/documents/Mode\\_Four\\_H1B\\_Visa\\_Memo.pdf](http://www.citizen.org/documents/Mode_Four_H1B_Visa_Memo.pdf)

"A nation can survive its fools, and even the ambitious. But it cannot survive treason from within. An enemy at the gates is less formidable, for he is known and carries his banner openly. But the traitor moves amongst those within the gate freely, his sly whispers rustling through all the alleys, heard in the very halls of government itself.

"For the traitor appears not a traitor – he speaks in accents familiar to his victims, and he wears their face and their arguments, he appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation, he works secretly and unknown in the night to undermine the pillars of the city, he infects the body politic so that it can no longer resist. A murderer is less to fear."  
– Marcus Tullius Cicero 42 B.C.

<sup>9</sup> [http://www.archives.gov/exhibits/charters/declaration\\_transcript.html](http://www.archives.gov/exhibits/charters/declaration_transcript.html)

"And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

<sup>10</sup> [http://www.archives.gov/exhibits/charters/constitution\\_transcript.html](http://www.archives.gov/exhibits/charters/constitution_transcript.html)

"... form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity"



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 "Creating Jobs Through Investments"

K. David Andersson, President  
 Robert C. Divine, Vice President  
 Robert G. Honts, Secretary-Treasurer  
 Michael Gibson, Director  
 William P. Gresser, Director  
 Patrick F. Hogan, Director  
 Henry Liebman, Director  
 Tom Rosenfeld, Director  
 William J. Stenger, Director

VIA EMAIL

July 25, 2011

The Honorable Charles Schumer  
 Senate Immigration Subcommittee  
 United States Senate  
 Washington, DC 20510

**RE: Support for economic perspective on immigration reform**

Dear Mr. Chairman:

On behalf of all of all IIUSA Officers, Directors, and Members, please accept this letter of support for your upcoming hearing on immigration reform, in the context of an economic imperative. IIUSA is the 501 (c)(6) not-for-profit, national trade association of EB-5 Regional Centers and other Program stakeholders, with several primary missions:

- Stimulate economic development and job growth in the United States, while aiding to reduce foreign trade imbalances.
- Enhance immigration to the United States by qualified, educated, highly skilled and investment-oriented foreign nationals.
- Educate the public and government about the benefits derived by the Regional Centers through the EB-5 investment program.
- Help Regional Centers address administrative, regulatory and legislative issues.
- Advance and maintain Regional Center industry standards and best practices.
- Be a strong, unified voice for permanent authorization and improvement of the EB-5 Regional Center Program to enhance Regional Center U.S. job creating activities.

Congress created the EB-5 Regional Center Pilot Program in 1990 to attract the investment of capital from overseas investors to the United States and to create jobs and economic development in the United States. The "Great Recession" has left the United States with scarce "at risk" capital, leading to a renewed interest in the EB-5 Program, including a dramatic increase in the number of newly approved Regional Centers and usage of EB-5 visas. For most of the EB-5 Program's history there have been fewer than a dozen active Regional Centers using less than 1,000 visas annually. The number of

approved Regional Centers has now jumped to over 140, with many additional applications in the pipeline. The number of I-526 petitions filed (which, once approved, trigger the actual investment of the capital) continues to rise exponentially each year as well. It is an important engine of economic development and U.S. job creation in the 21<sup>st</sup> century global economy of that we are living in.

Despite existing for over twenty years, the Program remains in "pilot" status. This program must be permanently authorized to send a message to the world that the United States is serious about keeping its doors open to business investment. Private sector at risk capital is more important than ever in our current financial and economic situation. EB-5 FDI is an important source that must be made a permanent tool of 21<sup>st</sup> century economic policy. Otherwise, other countries will gladly attract the capital to their economies. **This current fiscal year alone, the EB-5 Program is on track to account for over well over \$1,000,000,000 in foreign direct investment (FDI), meaning 25,000 U.S. jobs created/saved, all at no cost to the American taxpayer.**

Thank you for your interest in the Program. Please contact me with any questions.

Sincerely,



K. David Andersson  
IIUSA President

Senate Judiciary Committee

Subcommittee on Immigration, Refugees and Border Security

The Economic Imperatives for Enacting Immigration Reform

July 26, 2011

Intel Corporation Statement for the Record

Peter M. Cleveland

Vice President, Legal and Corporate Affairs and Director of Global Public Policy

Thank you Chairman Schumer, Ranking Member Cornyn, and members of the Senate Judiciary Committee's Subcommittee on Immigration, Refugees and Border Security, for holding today's hearing on highly-skilled immigration. We appreciate your commitment to this important subject and commend you for highlighting the role of uniquely talented immigrants in innovation and job creation in the United States.

Intel Corporation is the world's leading manufacturer of computing, networking and communications products. We develop semiconductor products for a wide range of computing applications and these products are some of the most innovative and complex ever developed. We strive to accelerate the convergence of computing and communications through silicon-based integration.

Highly-skilled immigration is an important issue for Intel because our constant efforts to innovate and create new technologies require top talent. Eighty percent of our global Research and Development work is done in the United States and we seek to hire U.S. citizens for jobs based here. In most cases we are successful, but where we have skill shortages, we need to be able to hire the top students from the top U.S. universities – no matter where they were born. Highly educated, foreign born employees at Intel are instrumental in developing new technologies, creating jobs within the company and our economy, and driving the growth and prosperity of America's highly skilled industries.

When Intel hires employees, whether they are U.S. citizens or were born in another country, we do so with the hope that they will be long term contributors to our company. We generally recruit prospective employees from U.S. universities, where we find the competition for highly skilled talent rising with demand. As the pace of technology growth increases, competition to hire the best talent from U.S. universities will only grow more fierce and will expand well beyond our borders as competing nations attempt to capture more of the global market for technology.

The immigration system also poses challenges when we seek to bring employees from overseas to the United States. We recently identified software engineers with unique skills in the United Kingdom but cannot bring them to work at an Intel facility in the U.S. until visas become available in the next fiscal year. We have also hired next-generation mobile technology experts in Finland who are similarly

restricted from joining an Intel research and development team in the United States because of a lack of available visas.

At Intel, we typically use H-1B visas to secure a foreign born worker's temporary employment status within the U.S. and then quickly file an application for a permanent resident visa. Because of the shortage of available employment-based green cards, however, and depending on the employee's country of origin, the wait for a green card can be years. During that time the employee faces limitations in their job mobility, both within and outside Intel, prohibitions on spousal work authorization, and restrictions on travel outside the United States.

With these limitations in place, the current U.S. highly-skilled immigration system presents significant challenges for companies like Intel. In order to address these challenges, we propose Congress make the following changes:

- Increase the number of permanent, employment-based resident visas. The number available today is insufficient to meet demand. As a result, depending on their country of origin, Intel employees can wait over a decade before obtaining a green card.
- Award green cards to foreign born graduates of U.S. universities who earn advanced degrees in the areas of Science, Technology, Engineering and Mathematics.
- Recapture previously authorized green cards that went unused do to agency delays. Reissuing these green cards would make a significant dent in the long backlog of people waiting for permanent employment-based visas.
- Exempt spouses and children from the annual cap on employment based visas.
- Eliminate the per-country limit on employment based visas. A first come, first serve process for awarding green cards, regardless of country of origin, would be a more equitable manner to distribute permanent employment based visas.
- Provide for a market-based H-1B visa cap that would adjust the number of temporary visas made available depending on the demand in a given year.

Intel supports an immigration system that encourages the best and brightest minds to live, work and succeed in America. We depend on foreign born workers with elite skills to play vital roles in our constant efforts to create and develop new, innovative ideas. Whether they live and work in the United States on a temporary or permanent basis, these employees make lasting contributions to the success of Intel and to economic growth and job creation in America.

Thank you again for highlighting the need for an immigration system that allows highly skilled people born in foreign countries to put their talent to work for U.S. companies. We look forward to working with you on efforts to strengthen and improve our high-skilled immigration system.

**Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Subcommittee On Immigration, Refugees And Border Security  
Hearing On "The Economic Imperative for Enacting Immigration Reform"  
July 26, 2011**

I thank Senator Schumer for chairing this hearing on the economic importance of enacting comprehensive immigration reform. The economic benefits of immigration reform are just one of the many reasons why I have strongly supported broad reforms to our immigration system for many years.

The United States loses too many talented foreign-born students who graduate from professional and other higher-education institutions in the United States. We must ensure that American companies have access to the well-trained and highly skilled individuals they need to stay at the leading edge of innovation and productivity. It is self-defeating to educate foreign-born men and women in our graduate schools and then erect a bureaucratic maze between these graduates and potential employment in the United States after they graduate. The loss of skilled graduates is particularly acute in the science and engineering fields. In testimony before Congress in 2005, Dr. William A. Wulf, President of the National Academy of Engineering, stated that one-third of all Ph.D.'s granted in the United States in the fields of science and engineering are awarded to foreign-born graduate students. I strongly support an increase in the number of H-1B visas offered to highly-skilled temporary workers each year.

In addition to creating a more sensible system for foreign workers who seek employment in the United States and those who seek their assistance, other reforms to our current system will pay dividends to our overall economy. The EB-5 Regional Center program is a mechanism that has generated capital investment in a time when lending has shrunk. Since its creation in 1993, the Regional Center Program has attracted more than \$1 billion and created tens of thousands of jobs in the United States. The program has paved the way for ski resort expansion and technology development in Vermont, energy development in Oklahoma and Texas, and the manufacture of alternative energy vehicles in Mississippi. But it needs permanence so that entrepreneurs and potential investors can have the confidence that this program will carry on. In my own state, the EB-5 program has had a significant, positive impact. Hundreds of jobs have been created, fueling economic growth in areas particularly hard hit by the economic crisis.

I appreciate the hard work of all of today's witnesses to help reform our immigration system. I want to offer my gratitude to Brad Smith, General Counsel of Microsoft, for the letter of support his corporation sent to me recently endorsing S.821, the Uniting American Families Act. Microsoft and a long list of leading American corporations recognize that our immigration laws should treat all families equally, both because it is the right thing to do and because it is good for business. I greatly appreciate this support.

Recent years have been tough on our economy and even tougher on hardworking American families. The persistence of a dysfunctional immigration system compounds the economic challenges faced by our Nation. I have long believed that broad reform to this system could

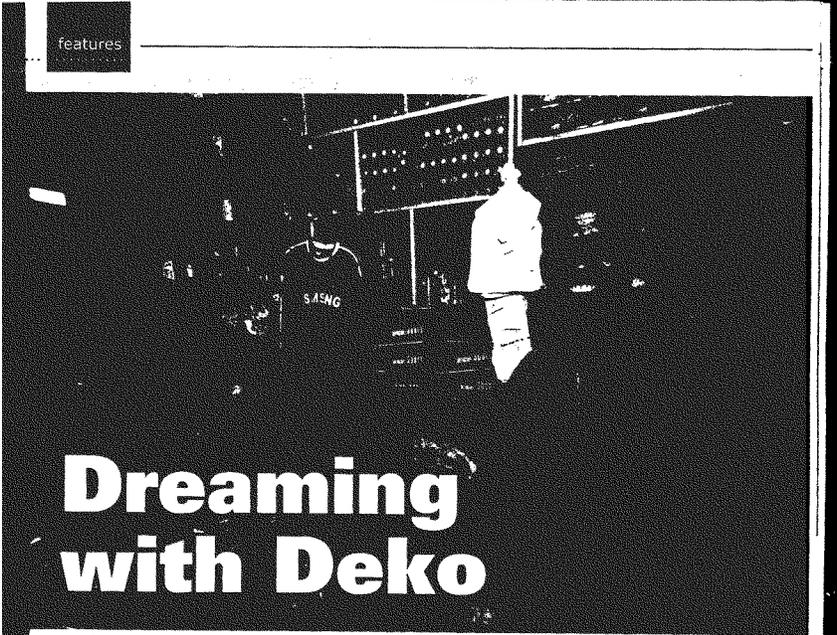
better meet the needs of our evolving economy in a responsible, productive way that both protects opportunities for American workers and strengthens American business.

A 2009 study published by the CATO Institute found that a broad legalization program for the undocumented would add approximately \$180 billion to our economy. The report found that legalization would lead to higher productivity for immigrants and create new jobs for Americans in skilled occupations. In addition, creating legal avenues for undocumented workers, and removing the incentives for the unlawful hiring and employment of foreign workers would help raise wages for all Americans.

The status quo on immigration is not sustainable. From multi-national corporations to Vermont dairy farms, I hear the constant plea for a more orderly, workable immigration system that can efficiently meet employment needs that often go unmet. We can do better. I am confident that Congress can enact responsible reforms to bolster our national economy, meet our humanitarian objectives, and protect opportunities for Americans.

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features



# Dreaming with Deko

The growing – and thriving – Somali business community helps renew Lisbon Street

Story By Cheryl Hamilton Photos By Ben Hudson

A lemonade stand is a popular first business for many American children. Girls and boys set up card tables at the end of their driveways with yellow painted signs and sell lemonade in colorful Dixie cups to their neighbors for a pocketful of change. Some spend their earnings on candy while others fill their piggy banks with dimes and quarters for the future.

Mohamed Deko's childhood was different, however. He didn't have a lemonade stand. Instead, he had a wheelbarrow filled with big dreams and even bigger responsibilities.

"Since I was young, I wanted to own a business like my cousin," Deko shared with a warm smile from inside Aliyows, his conve-

nience store on the corner of Chestnut and Lisbon streets in Lewiston.

His dream was interrupted when the civil war in Somalia forced his family to abandon their country. The militia groups were increasingly targeting farming families like his as security deteriorated and hunger spread across the region. Deko was only 10 or 11 at the time.

"When I looked around the refugee camp in Kenya, I saw other kids selling goods from wheelbarrows and I started to do the same thing," he recalled. "I didn't want to give up my dream and my family needed extra money to survive."

Wheeling his way through the dirt paths lined with thousands of tents filled with dis-

*Above: Three subjects make Mohamed Deko smile easily – talking about his family, international football and his new business on Lisbon Street.*

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Lewiston Auburn Magazine

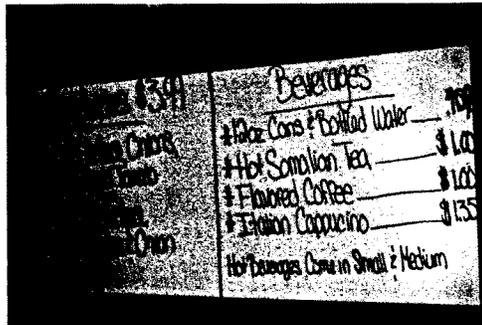


placed families just like his, Deko sold such items as sugar, rice, salt and tea – staples not always provided by humanitarian organizations – for a few Kenyan shillings. With the money he collected, his family bought soap, cloth and supplies from other young boys like himself – supplies similar to those found in his store that he opened after Hussein Ahmed moved his business across the street in 2010.

Barwoqo grocery store owner Hussein Ahmed came to Lewiston a few years before Deko, but their stories are similar. Both men lived for nearly 10 years in different refugee camps before resettling in the United States. A typical camp provided emergency shelter to as many as 90,000 people at a time – almost twice the population of Lewiston/Auburn.

"It is impossible to explain what it was like," Ahmed acknowledged, "but it was difficult. Very difficult."

With a degree in nursing from his home country, he was fortunate to work as an assistant for the organization Médecins Sans Frontières while in the camp. Unfortunately, his credentials did not transfer to the United States and he had to pursue alternative employment upon arrival. For his first job, Ahmed worked as a telecommunications operator, a position he describes as sometimes more difficult than working 12 hours



Opposite page: Married for more than ten years, Mohamed and his wife Shukri enjoy cooking together in their restaurant's kitchen.

Top: Hussein Ahmed's store features an interesting mix of groceries and clothing.

Below: A menu from Three One Café.



a day at his store six days a week.

"Ten years ago, I think my accent must have been much stronger," Ahmed recalled. "People (on the phone) could not understand me even though I spoke English fluently."

The father of six doesn't have any difficulty being understood today. As customers approach his counter to purchase international phone cards, notebooks and bags of rice, Ahmed casually switches back and forth from English to his native language with ease. He also acknowledges how business is "in his blood."

"My family owned businesses back in Somalia," Ahmed shared. "It makes sense I would own a store here in America."

Lewiston has a long history of immigrants starting businesses along the banks of the Androscoggin. In 2001, the city's newest population followed tradition when entrepreneur Rhoda Abdi opened the first Somali-owned grocery store on Bartlett Street. Her business saved her fellow newcomers from having to drive to Portland for halal meat, among other items. As a result, she also saved thousands of dollars from leaving the local economy.

Ten years later, Abdi's store continues to operate while lower Lisbon Street houses an ensemble of African-owned shops, including several additional grocery stores, retail markets and the popular Three One Café owned by Mohamed Mohamud and his wife Shukri.

"I love to cook," Mohamed explained. "I believe every new community should share food with the old community. It brings people together."

His vision is easy to see on a Saturday afternoon in April. While Somali teenagers' gazes are transfixed on an international soccer match on the television, a Caucasian couple arrives with their three children and orders plates of marinated chicken, rice and goat meat. Before they depart, the father thanks Mohamud for the delicious food and says they will be back.

StartSmart Business Counselor John Scribner believes the acceleration of African businesses in Lewiston/Auburn is consistent with American values. In his words, "American culture holds up small-businesses leaders, so it is not surprising that new Americans would want to aspire to a similar status."

An initiative of Coastal Enterprises Inc. (CEI), StartSmart is a business

development program that assists refugees and immigrants in launching or expanding businesses. Funded almost exclusively with federal grants, the program helps newcomers like Deko and Ahmed realize their dreams within the context of American business practices.

Each week, Scribner and his associates provide immigrants with an array of consulting services, including helping clients develop business plans, secure appropriate permits and licenses, complete loan applications, and develop marketing strategies.

"New residents in America want to follow the rules," Scribner explained. "They do not want to get in trouble or make any mistakes."

Deko agreed. Prior to moving to Maine from Georgia, he interviewed lots of other immigrant business owners so he could learn from their experiences. Once in Lewiston, he continued his research with his new neighbors. At the time, there were only three Somali stores in town. He made a point to speak to all the shop owners, including Ahmed, about how his new business could complement the already growing African business community.

"Everyone in Atlanta and Maine told me owning a store is hard work," Deko acknowledged.

Hard work was not a problem for him, however. Like his experience in the camp, Deko's dream compelled him forward and for a full year he worked nearly 20 hours a day as a third-shift employee at Dingley Press at night and as an interpreter during the daytime.

"I only slept three or four hours a day," Deko shared. "But I saved almost \$15,000."

Fifteen thousand dollars was only half the capital Deko needed to realize his dream. From his research and conversations with CEI, he learned he needed an additional \$20,000 to open his store. In the end, CEI helped him apply for a \$5,000 bank loan, while a friend in Minneapolis matched Deko's savings -- a personal loan he also continues to pay back.

Hussein's experience was similar. Funding for his initial business was made possible through a combination of loans, personal investment and old African traditions. Ahmed worked several jobs in Lewiston/Auburn before reserving enough money to rent his first store. He also worked with CEI and the Androscoggin Valley Council

*Opposite page, top: Three One Café owner Mohamed Mohamad believes food helps build community. Here neighbors on Lisbon Street stop by for an afternoon snack of sambusa, a popular Somali pastry filled with meat and vegetables.*

*Bottom: Max Gbetibouo runs the cash register at Three One Café.*

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of Governments to secure a non-interest-bearing loan to comply with his Muslim faith. Islam prohibits the payment or acceptance of interest fees for loans of money; however, banks and programs like StartSmart across America have developed alternative products that meet Muslims' needs while still complying with federal regulation.

"It's important for people to realize that the cost is the same to the borrower," Scribner added. "The payments are just distributed differently. In fact, non-interest-bearing accounts are not necessarily a better deal in the long run."

With his savings and bank loan combined, Ahmed turned to his African peers for the remaining balance.

"Almost every month, 10 or more community leaders come together and we pool our money to support each other's goals. We call this practice 'ayuto.'"

In ayuto, community leaders each contribute a particular sum of money to a member, which that person can then use to purchase a car, make a school payment or launch a business like Ahmed's. He noted how everyone benefits because each member is likely a recipient of their shared gifts at some point.

Having steady success with his business since the beginning, Ahmed not only moved across the street into a bigger retail space in 2010, but also saved enough money to purchase the building that houses his new store.

With several rental units in the property, the former frustrated telecommunications operator can now add the position of landlord to his growing resume.

Mohamud and his wife were among the first Somalis to arrive to Lewiston in 2000. Ten years later, there are more than 15 African businesses downtown. As the only formal Somali restaurant on the strip, Mohamud

With his office also on Lisbon Street, StartSmart Counselor John Scribner is able to easily visit his clients. StartSmart is a development program that assists refugees and immigrants in launching or expanding businesses.

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isn't worried yet about the competition. "More and more people come into the restaurant each day. Business leaders eat here. Police officers eat here. Many adults and children eat here. We will be all right." While he talks, a local professor arrives and orders a bag full of sambusas, a vegetable- or meat-stuffed pastry and popular Somali appetizer.

Scribner isn't worried either. His newer clients are considering alternative businesses such as a laundromat and taxi service; Scribner pointed out that this is American capitalism at work.

"Everyone feels they have something unique to offer or they can do better. It will work itself out."

When asked about the steady growth and his long-term sustainability, Hussein admitted the climate is more difficult but he also acknowledged how the African population has also grown and, as Scribner suggested, he believes he has unique products to offer and excellent customer service.

"Customer service is important. You have to be friendly and welcoming to everyone."

Hussein also believes he offers money wire services to more cities than any of his competitors and he knows his customers appreciate his bill-paying services. While he talks, nearly every other customer asks the owner to complete a transaction to such local companies as Central Maine Power and Central Maine Medical Center. Hussein

*"I believe every new community should share food with the old community. It brings people together."*

Mohamed Mohamud

charges a nominal fee for processing the payments that he describes as comparable to purchasing a stamp for an envelope.

Across the street, Deko said he likes the competition.

"It is motivation. It makes me work harder and be more creative."

He also acknowledged how his competition is not so much the other African shops but more the big-box stores in town.

"My competition is not the business here on Lisbon Street as much as Walmart. Everyone goes to Walmart. We try to reach the women and men who don't own cars and can just walk here."

He also makes sure that he is never out of an item someone wants. His rule is always "one on the shelf and one in stock."

Like all small-business owners in America, these African immigrants work incredibly long hours. Mohamud typically begins cooking each day at 6 a.m. and doesn't clean his last pan until 9 p.m. When asked if he ever gets to leave the restaurant and eat where someone else cooks for him, he responded, "Not very often. However, I hear

there is this really good restaurant called Fuel. I would like to eat there someday."

Deko splits his long shifts with his wife so he can spend a few hours with his seven children and continue studying for college. His wife works from 7 a.m. until 11 a.m. and then he returns and closes the shop by 9 or 10 p.m.

"We work seven days a week. We never get a break."

Nevertheless, Deko is not discouraged. In his words, "Owning something of your own is a very good feeling."

Not surprisingly, the young entrepreneur who once barely owned a wheelbarrow and now owns rows of merchandise is already dreaming of his next businesses. He would like to open a restaurant at the front of his store like Mohamud did and eventually sell merchandise online. If his track record is any indication, he will likely achieve these goals as well. But first, he must save for the equipment.

"I'm trying to save a little money each week. I know I will get there. Being a business owner gives you confidence."

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Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Brendan Kavanaugh

Miami, Florida

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

My name is Brendan Kavanaugh and I would like to give written testimony of what has directly happened to me as a result of the "guest worker" visas including the student held F1 OPT visa (which allows foreign student to actually work while still studying).

I am opposed to the H-1B visa and the promotion of even more rampant age discrimination by flooding the market with foreign students given automatic green cards.

I have 20 years of experience in large scale Enterprise Computer systems accumulating and using a wealth of knowledge to maintain and improve small to Fortune 500 companies' computer enterprise systems. My own impact of the discrimination and replacement of U.S. citizens involved myself, considered to be an integral part of a large project, being replaced by 3 "guest workers" visa consultants. They told me I was moving to another part of the project and to train these three to four people on all aspects of my involvement with the project. All 4 people were in their early to mid-twenties. Once this training was complete, I was given notice I was being rolled off the project a year early.

This has happened to nearly every one of my peers in this industry. All of them are decent hard working American citizens, many naturalized like myself.

The ruse that we have a skills shortage is a smokescreen that is destroying the very fabric of this country's middle class. Taking highly skilled jobs away from hard working Americans of all descent.

No-one said we shouldn't invite more skilled people to make this country great, but not when you bring them in to cannibalize and destroy the existing workforce.

Please, I urge you to stop this flawed logic that more foreign skilled labor being given green cards en masse will generate jobs in this economy.

I will be attending the hearing on Tuesday and will be using air-miles and hotel points to achieve this as I will be traveling from Miami, Florida.

**Testimony of Steven Kritzer**  
**Senate Committee on the Judiciary**  
**Subcommittee on Immigration, Refugees and Border**  
**On "The Economic Imperative for Enacting Immigration Reform"**  
**Tuesday, July 26, 2011**  
**Dirksen Senate Office Building, Room 226 10:00 a.m.**

**Abstract:**

Submitted is several data driven explanations of the harm that mass-immigration has caused to the United States economy. These data points suggest that benefits from immigration has a low threshold for diminishing returns, that the breaking-point threshold appears to be about 15% foreign born in the labor-force.

In addition to depressing wages, mass immigration also inflates housing costs, creating a situation where salary requirements exceed globally competitive levels. In fact, U.S. employment growth levels have been severely depressed since the turn of the 21<sup>st</sup> Century.

The current economic solution is not higher immigration levels, rather, the solution is to lower housing costs and the taxes associated with the housing expenditure.

David Ricardo on wages:

*When the market price of labour is below its natural price, the condition of the labourers is most wretched: then poverty deprives them of those comforts which custom renders absolute necessities. It is only after their privations have reduced their number, or the demand for labour has increased, that the market price of labour will rise to its natural price, and that the labourer will have the moderate comforts which the natural rate of wages will afford.*

<http://www.fordham.edu/halsall/mod/ricardo-wages.html>

### **Great Depression Great Recession Similarities: Cause or Coincidence?**

U.S. Census Bureau data displays that the foreign-born in the labor-force exceeded 15% prior to the Great Depression. Foreign-born in the labor force rates declined to about 5% by the 1970's census but rose again to the 15% level in 2007.

U.S. Bureau of Census Home-ownership rates show declines during the Great Depression (4%) and the Great Recession (exceeded 2%). These two periods are the only decline in home-ownership rates of more than 1% since the year 1900.

Within weeks of Comprehensive Immigration Reform's failed attempt to double immigration rates, investors lost faith in Mortgage Backed Securities and investment banks began to fail.

### **Employment to Population Growth Levels by Decade**

The first decade of the 2000's had the lowest employment growth in U.S. Bureau of

### Labor Statistics history

The decade ended with employment growth of 3.2 million, but only 1 million jobs went to working age persons (under 65) while the working age population grew by 22 million.

Prior to the economic meltdown of 2008, employment growth was below the levels of the 1950's.

### BLS Growth Statistic by Decade:

#### 1950's

Growth in Population = 11,516,000  
Growth in Employment = 7,215,000 (63%)

#### 1960's

Growth in Population = 19,449,000  
Growth in Employment = 13,862,000 (71%)

#### 1970's

Growth in Population = 30,811,000  
Growth in Employment = 21,224,000 (69%)

#### 1980's

Growth in Population = 20,865,000  
Growth in Employment = 17,695,000 (85%)

#### 1990's

Growth in Population = 21,667,000  
Growth in Employment = 16,998,000 (78%)

#### 2000's

Growth in Population = 28,092,000  
Growth in Employment = 3,257,000 (12%)

### The High Cost of Immigration

The elusive proof of harm from Federal Immigration policy can be displayed by comparing the fiscal success or failure of the 50 States and ranking these states by foreign-born employed in the labor force.

Displayed in the tables below are the ten worst and ten best performing states, sorted by the worst to best fiscally performing States, scored by the following criteria.

Highest percent of foreign-born employed in labor force by State  
Highest foreclosure rate by State  
Highest unemployment rate by State  
Highest percent state spending over budget by State

*(Employment based immigration is a form of borrowing, thus included in ranking criteria)*

*(The middle 30 States omitted here for brevity.)*

**10 Worst Performing States with Foreign-born Employed ranking**

1. Nevada = 4th
2. California = 1st
3. Florida = 5th
4. Arizona = 8th
5. Illinois = 9th
6. New Jersey = 3rd
7. Georgia = 17th
8. Rhode Island = 13th
9. Oregon = 16th
10. Idaho = 26th

On the other hand, the states with the least financial difficulties have predominately lower percentages of foreign-born employment.

**10 Best Performing States with Foreign-born Employed ranking**

41. Oklahoma = 28th
42. Louisiana = 40th
43. Iowa = 37th
44. Nebraska = 29th
45. West Virginia = 49th
46. Vermont = 42nd
47. South Dakota = 48th
48. Wyoming = 44th
49. Montana = 50th
50. North Dakota = 47th (The most fiscally responsible state in the nation)

The ranking criteria, foreclosure rates, state unemployment rates and state spending over budget are clear indications of fiscal failure. A later unpublished study included "On- time High School Graduation Rate" data, unfortunately this study was lost to a computer crash and has not been reconstructed at the time of this writing.

Source: Published, June 20, 2010

<http://immigration-weaver.blogspot.com/2010/06/how-much-immigration-is-too-much.html>

**Temporary High Skill Immigration:**

Computer-related occupations (IT) employ about 3.2 million persons in the United States.

Computer-related occupations data presents an opportunity to study the economist's term "shocking an occupation with immigration" -- the concise method to measure the impact of these shocks is to compare immigration levels to the levels of employment growth within the occupation.

During the high occupational growth (six year) period of 2004 through 2009 (602,180 jobs), 52% of employment growth went to new H-1B workers in the IT occupations, and if is quite that L-1 visa holders assumed another 16.8% of IT occupational growth. Meanwhile, NCES rated colleges conferred .858,874 degrees suited for Computer-related occupations from 2003 through 2008,

**Growth in Computer-related Occupations 2004-2009 = 602,180**

OES growth in sub-occupations requiring Ph.D Degree = 2,360  
 OES growth in sub-occupations requiring Bachelors. Degree = 445,160  
 OES growth in sub-occupations requiring Associate Degree = 154,660

**NCES – IPEDS Computer-related Degrees Conferred 2003-2008 = 858,874**

**Degrees Conferred Citizens and Permanent Residents = 757,762**

Professional and Ph.D. = 3,607  
 Masters Degrees = 106,614  
 Bachelors Degrees = 394,621  
 Associate Degrees = 252,720

**Degrees Conferred Temporary Residents = 101,112**

Professional and Ph.D. = 5,158  
 Masters Degrees = 60,290  
 Bachelors Degrees = 30,450  
 Associate Degrees = 5,114

**H-1B Initial employment approvals in Computer-related occupations = 315,429**  
 (H-1B = 52% of employment growth 2004-2009)

**Estimate: 50% L-1 visas issued 2005-2009 = 185,689**  
 (L-1 = 16.8% of employment growth 2004-2009)

*(The Office of Inspector General estimates that 50% of all L-1 visas are granted in Computer-related occupations)*

In order to fairly administer a temporary worker program like the H-1B and L-1 visa, we must examine the employment growth in the affected occupation, the number of applicable college degrees conferred in the period, and take into account that many of these temporary workers may apply for permanent residence. Additionally, there is no mechanism to close an occupation to temporary workers when employment growth is halted, these temporary workers, by virtue of the terms of the visa displace existing workers and prevent them from re-entering the workforce.

High skill immigration has a much higher likelihood of causing mortgage defaults and permanent mid-career displacements – laissez faire administration of employment based immigration is not an option.

**Source Material:**

<http://immigration-weaver.blogspot.com/2010/06/h-1b-visa-impact-on-computer-related.html>

**Statement of Ray L. Marr, PhD, Austin, TX, to  
Members of the Senate Subcommittee Hearing of 26 July 2011:**

**I strongly oppose expansion of the controversial H-1B visa program (and if Congress seriously wanted to rescue the US economy it would repeal H-1B and similar work visa programs including L-1 and OPT).** Implementation of these work visas has dramatically shifted the equilibrium between supply and demand against STEM workers and toward lower pay, resulting in (1) fewer STEM jobs for Americans, (2) lower pay for American STEM workers, (3) frustration of the market's inherent equilibrium mechanism that guarantees a desirable division of labor, (4) dramatically increased offshoring, (5) dramatically increased industrial and national security espionage, and (5) a serious domestic brain drain by disincentivizing the upper 5-10% of American youth suited for STEM jobs to pursue long courses of university study in STEM.

Additional technical work visas is a terrible idea designed to benefit a relative few at the peril of American economic and technical survival.

- **The H-1B visa program was created in response to bogus claims of an impending shortage of STEM workers.** Based on statistically questionable assumptions and bad methodology, its predictions have proven false over 20 years. Lobbyist Harris Miller (then of the Business Immigration Coalition) boasted after H-1B visa creation, "We were successful because we refashioned the debate from the jobs displacement issue, where we always lost, to the competitive issue."

The 1992 Congressional hearing of Reps. Howard Wolpe [D-MI] and Sherwood Boehlert [R-NY] amply documented the hoax and machinations of the Policy Research and Analysis Division of the NSF [[Projecting Science and Engineering Requirements for the 1990s: How Good Are the Numbers?](#)] that implied an imminent shortage of STEM workers and the critiques by *inter alios* NSF's Science Resources Studies Division statisticians, the venerable Office of Technology Assessment, the Bureau of Labor Statistics, and the National Research Council. Science policy investigator Daniel S. Greenberg gives further background information in *his Science, Money, and Politics: Political Triumph and Ethical Erosion*.

This injury to America's future competitiveness has never been corrected and yet Congress continually obliges every cry for cheaper STEM labor and shortage-shouting by expanding foreign work-visa programs at the expense of American STEM workers.

- **The H-1B and other work visas are creating an ominous, impending domestic STEM brain drain.** By glutting the market with cheaper, quasi-indentured labor lured by facilitation of US citizenship, the H-1B visa has created a domestic brain drain in these ways:
  - replacing experienced US STEM-professionals by cheaper imported labor (if these professionals take survival jobs, they are no longer counted as unemployed STEM workers; if they don't find STEM work -- despite their experience and learning -- they are counted only as "discouraged workers");
  - making it harder for fresh-out-of-school STEM grads to gain the experience critical to their development (most American STEM grads never find employment in their field of study);
  - disincentivizing US youth from the harder STEM majors by destroying the career paths for STEM professionals, keeping their compensation low for decades in competition with young, foreign post-docs anxious for US citizenship, and out-of-proportion to the actual costs and lost opportunity costs of an American pursuing advanced degrees; it's much easier for a smart, industrious person to support a family outside of STEM and there's more time for family life.
  - sabotaging the market mechanism of STEM labor wages in what was the world's most technologically advanced nation.
  - facilitating off-shoring of STEM work by creating an experienced foreign workforce acculturated to the company and to their homeland;
  - facilitating transfer of proprietary technology both legally and illegally (4 - 5 times as likely as Americans to transfer according to a US government study).

**H-1B contravenes equal opportunity for Americans since companies needn't announce or publicize their tech positions before seeking an H-1B worker, thereby making EEOA a dead letter.**

## Statement of Ray L. Marr, PhD (continued)

There are mountains of argument against expanding the work visa programs, especially at this time when the US has committed to terribly disadvantageous (except to a few corporate high-tech officers) terms of accession to the WTO and is suffering from massive unemployment; it's hard to know where to begin to rebut the likely testimony of the proponents of expanded tech visas, but I'm confident that the committee will hear misleading and disingenuous statistics to support their claims. As a PhD statistician, I'll address a few in brief:

**"More than half of Silicon Valley startups had a foreign founder"** – I call this the myth of the indispensable foreigner; funny, the businessmen who propagate this are quick to tell us in times of layoffs that no one [no American?] is indispensable. What is rarely explained is that the definition of "founder" used in these studies usually counts five different work titles as founders. Here the propagandists are playing on the probabilistic ignorance of Congress and the general public. If  $p$  is the probability of a foreigner within the population of Silicon Valley startup "founders," the probability of finding one or more foreigners among five people selected randomly from that population is  $1 - (1 - p)^5$ , which is greater than half whenever  $p > 13\%$ . Given the disproportion of foreign-born Silicon Valley STEM workers, the very statistic begs the question of why there are so few foreigners under that definition of "founder."

**"We can hire four American worker for each H-1B we hire."** – This is not only offensive; it is illogical and just wrong. The only evidence ever alluded to is a highschool-level regression analysis that confuses a regression coefficient as estimated without error, ignores what statisticians call "lurking variables," and confounds "correlation" and "regression modeling" with showing causality.

**All of these harmful work-visa programs should be immediately terminated until reliable data on their effects are collected and show their economic desirability.**

Reliable data on the effects of the H-1B work-visa program has never been reported. The government neither knows nor reports the actual number of H-1B-workers legally in the US on any fixed day, or for any period, or for any given duration (say >183 days). Since FY2000 CIS has reported the number of new *additional* H-1B visas authorized each year, ignoring renewals and extensions, but does not report how many remain unused; the State Department reports how many enter the US on H-1B visas, but large numbers of foreign job applicants are already here legally on F-1 student visas, 29-month F-1 OPT visas, L-1 visas, or other reasons and needn't exit the country to get their H-1B visas and others (especially lower-level body-shop managers) may even exit and enter the US several times a year, gumming up the statistics. A valid assessment of the H-1B visa program would report the number of man-years of work performed under H-1B each year in each STEM discipline, to include the estimated number of man-years of STEM work lost to H-1B recipients based on ages and percentages of those parlaying H-1B visas into eventual permanent residence. I'm fed up with the self-serving beneficiaries (immigration lawyers, upper management of hi-tech companies whose bonuses have been built on displacing American workers, and H-1B workers themselves), of the H-1B program who claim that there's "no evidence" that these programs take jobs from qualified Americans

**If it be protested that this would violate our WTO accession agreement**, then that is a compelling reason to give notice of withdrawal from that agreement that abrogates US control over our own economy and has resulted in a trade imbalance that has averaged half a trillion dollars a year since 1997, when it was ~\$100 Billion and had never exceeded \$140 Billion and rose to \$750 Billion in 2006 (it took a few years after passage of the WTO accession implementation in late 1994 for US companies to offshore and establish supplier networks). This would preserve our capital and stop control of US corporations by sovereign investors abroad. The one thing that George Bush had right about America's economic decline was that American law had not kept up with the new economy -- in the sense that legislators seemed to believe that the law didn't need to be changed radically after Gramm-Leach-Bliley and US accession to the WTO. We can have a better result from a threatened trade war now than later, after dozens of more trillions of dollars of additional debt bondage have impoverished and enslaved our children, and made us subservient to foreign powers.

Hearing on “The Economic Imperative for Enacting Immigration Reform”

Statement of James McDonald  
Alexandria, Virginia

July 26, 2011

Members of the Subcommittee, I am James McDonald. I am a licensed Civil Engineer, Virginia attorney, Patent Attorney and a member of the United States Supreme Court Bar. I am also a member of the American Engineering Association (AEA).

When my son and daughter were in high school, I was obligated as a loving parent to tell them to avoid science and engineering careers as Congress would cut the legs out from under them, my children, with H1-B visas and other visas.

Here are the essential components of meaningful reform of the U.S. immigration system.

#1 Eliminate all immigration right now including asylees and refugees. Millions of Americans are unemployed and yet Chuck Schumer, Harry Reid, Lindsey Graham, John McCain and others continue to throw road blocks in the way of American Workers, including my son and daughter, by insisting on bringing into the USA more people, driving down wages and driving Americans from jobs that should rightly be theirs.

#2 Eliminate the H1-B visa. America must depend on Americans. Slavery proved that dependence on foreigners for cheap labor is folly with long term and never-ending negative consequences.

#3 Don't consider the “Staple a green card to diplomas” plan. “Stapling a green card to every diploma” will destroy American incentives to study STEM topics. Universities must be in the business of earning money by selling quality and useful education. Universities must get out of the business of selling citizenship.

#4 Only American citizens or green card holders should be allowed to hold Post-Doctoral internships.

#5 E-verify job holders in America must be E-Verified now.

Do what is right for America and do it now.

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Christine L. Miller, Ph.D., of Baltimore, Maryland

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border

Security

July 26, 2011

Members of the Committee, as an unemployed U.S. citizen and an academic research scientist (B.S. Massachusetts Institute of Technology, Ph.D. University of Colorado Health Sciences Center, postdoctoral training Johns Hopkins University), I am unequivocally opposed to maintaining a high rate of high tech immigration into this country through employer sponsored H1b visas and green cards. Educational organizations and other non-profit organizations should be subject to caps, and the existing caps for all employers should be dramatically lowered. Universities and business would be forced to provide higher salaries, better benefits and more permanent jobs, but American citizens would benefit. At the peak of my career at Johns Hopkins University (14 years post-Ph.D.), I was employed in a temporary position as an instructor making \$65,000 per year, about the equivalent of a mid-rank police officer in my town and less than many federal workers make who have only a high school diploma.

The H-1B system as it currently stands has adversely affected my career and my life. Being a working single mother, it was not easy to balance work and family life, but I nevertheless managed to build a strong publication record of independent research that still results in regular requests to act as a peer reviewer for journals. In essence, I am good enough to decide what can get published in well-respected scientific journals affiliated with my country, but not good enough to have a bioscience job in my country.

What has undermined my continued employability in the biomedical research establishment is the ease with which university employers can bring in Ph.D.-level labor from abroad, replacing middle aged workers like myself with younger, less expensive scientists. For those of us who do not quite make it to the principal investigator (P.I.) stage through obtaining that first NIH grant (less than 5% of applications to NIMH are now funded due to the large number of scientists applying), the value that we add to a lab headed by another P.I. primarily relates to

our ability to perform the latest methods while pursuing the hypotheses of the P.I. Although trouble-shooting methods was actually my forte, it was not a unique skill and became of less value as the methods rapidly changed and vendors provided kits in a ready-to-use format. The more unique ability to generate independent ideas also was not terribly important in this venue, since most P.I.'s are quite happy with their own approach to a scientific question. Whether this training paradigm bodes well for the creative future of our science base is another issue. But on this playing field, a working mother loses out because she cannot hope to match the long working hours of a 20-something postdoctoral fellow here on an H1b visa.

During my Ph.D. training, I worked alongside a Ph.D. student from Taiwan who left her 6 month old baby behind with her husband and parents, while she came here for her studies and thesis work. She visited her baby only twice per year for over two years, which was a huge sacrifice in the name of science, one that her culture is more accepting of than is ours. If our country wishes to adhere to the human rights principles we espouse, increasing the proportion of women in high level positions will have to accommodate the work/life balance made necessary by family obligations, and the technical fields are no exception. Arguably, fathers would benefit from more family time as well, but the abundance of scientific labor made available by the H-1B system makes it possible to for employers to throw such principles out the window.

You will hear from academicians and policy makers that U.S. students cannot be coaxed into studying science, and that we are falling behind the rest of the world in test scores for science and math, so we must bring in more scientists from abroad. You will also hear that most winners of science fair contests are the children of foreign nationals. There are misperceptions in these arguments that must be rebutted.

First and foremost, no other country in the world maintains the freedom and flexibility for students to choose science as a career at any point in their lives. Thus, while almost all other countries will track students early on in their secondary school education (or earlier) for either scientific/professional studies versus non-professional tracks, it is to our credit that we leave all options open. This means that our secondary school testing scores in math and science reflect a mix of all students, those with an interest in technical subjects and those who could care less, but who may benefit from the exposure nonetheless. No one exemplifies the merits of our free-wheeling and creative educational approach better than does Dr. Craig Venter, credited with first sequencing the human genome. He confesses

in interviews that he almost flunked many of his high school math and science courses, and even performed poorly as an undergraduate. But the door remained open to him, and after Vietnam he returned with a new sense of purpose, going on to graduate school and becoming one of our great leaders in science. Test scores in high school predicted nothing about what he was eventually able to contribute. It should also be pointed out that he achieved his academic foothold prior to the advent of large scale H1b immigration.

Secondly, undergraduates who are interested in science in our country can no longer see a viable career path. In the bioscience fields, the only financially wise route to follow is to obtain an MD. But the training for an MD does not emphasize creative, high level theoretical thinking and selects against students who have those proclivities. The solution to this dilemma is simple. Create a viable career path for U.S. citizens desirous of a high level science degree and they will come. The most straightforward first step to take is to make the B.S., M.S. and Ph.D. degrees more valuable by limiting the influx of foreign technical labor.

Finally, it is true that the children of foreign nationals who are H-1B visa holders work very hard and do very well in science competitions in middle school and high school. There is definitely a positive first and second generation effect that we have seen historically with each wave of immigrant population that reaches our shores. Yet winning science fairs in high school under the direction of a nearby university faculty member is not necessarily a good predictor of future scientific creativity. As it stands now, the true test of their creativity will have to wait to be seen, as the path to an independent research career in science is long and treacherous. They themselves will have their working futures undercut by a fresh wave of foreign labor. Whether they decide to stay with science and engineering studies, or switch to the pursuit of other advanced degrees such as the MD, will be interesting to see.

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Leonard Moustakas

Lynbrook, New York

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

My name is Leonard Moustakas and I am an IT professional who has been laid off due to outsourcing many times during the last 10 years. I have a family of four to feed and send to college. It has not been easy.

I was laid off from the following companies due to outsourcing:

1. Prudential Securities in January 2002
2. Merrill Lynch in December 2002
3. Mellon Bank in December 2003
4. Merck/Medco in June 2004
5. Bank of New York in September 2009

I am currently working at Broadridge Financial Solutions in Edgewood, NY and have been told I will be laid off in October 2011. I have always received good reviews from all of the companies I have worked at. The bottom line is nobody wants Americans. Foreigners are cheaper.

The Bank of New York received bail out money from the taxpayers and they repaid the taxpayers by laying them off and replacing them with foreigners. It was like we weren't busy. We were very busy. I have been staying current with the recent technology. My rate used to be \$75 per hour and now it is \$35. If there was any problem with the supply of IT workers my rate should of increased.

**Hearing on "The Economic Imperative for Enacting Immigration Reform"**

Statement of Gene A. Nelson, Ph.D.

Unemployed American Citizen Radiation Biophysicist

July 26, 2011

Members of the Senate Subcommittee:

**I strongly oppose expansion** of the controversial H-1B Visa program (and similar work visa programs including L-1 and OPT.) All of these harmful visa programs should be immediately terminated. Kamal Nath, Commerce Minister of India, summarized the problem well when he noted that the H-1B Visa was the "outsourcing visa." *New York Times*, April 15, 2007 These visa programs are nothing more than "government subsidy" programs in the words of Nobel Economics prize winner and free-market advocate Milton Friedman as they allow employers access to high-skill labor at below-market wages. *Computerworld* July 22, 2002.

These bloated government subsidy programs endanger national security. See the attached Fall, 2007 article, "The Greedy Gates Immigration Gambit" that I authored documenting the huge cumulative impact of these programs which began in 1976. Some of the likely national security harms are included in the article text.

Professor Norm Matloff recently spoke at Georgetown University Law School in Washington, DC. I attended his talk, which focused on the immense post-1990 "**internal brain drain**" that is stifling U.S. innovation and increasing unemployment. Employers focus their hiring efforts on young, inexpensive imported technical professionals who are often educated at U.S. higher education institutions, funded in large part via U.S. taxpayer dollars. A PDF of his presentation is attached. Highly skilled and talented professionals such as myself have endured substantial periods of unemployment and underemployment since the H-1B Visa program was passed via suspect means in 1990. Since 1990, when I turned 38, I have been either unemployed or underemployed for about 81% of the time. Think of the lost tax revenues and inventions that will never see the light of day as a consequence of these immigration policies that have largely been promoted by economic and political elites.

The H-1B Visa has become a conduit for illegal immigration as the attached February 18, 2008 *San Jose Mercury* article about H-1B Visa overstays disclosed. Since nationwide E-Verify is not yet mandated, these visa overstayers displace American citizens from the white-collar positions they illegally fill. The harms to the employment prospects of Americans caused by white-collar visa overstays were also reviewed in an INS report I-97-08 that was issued in September, 1997. Additional information appears in the March, 2008 CIS Backgrounder "No Coyote Needed." Consider also "diploma mills" such as the recently shuttered Tri-Valley University in Pleasanton, California which served as immigration conduits from the developing world which tend to import poverty, just like the overall impact of work visa programs tends to increase unemployment and poverty.

A pair of recent articles echo my personal experiences. One covers the problem of overpopulation and crowding in California. I was born and raised in California. I recall when Orange County was covered with orange groves. Now, it is wall-to-wall tract homes. Immigration has played a big role in increasing the overcrowding. A second article attempts to give a human face to the problem of older American citizens such as myself facing long periods of unemployment despite our best efforts. An immigration "time out" would dramatically improve our prospects of being gainfully employed. This would help to lower future deficits as re-employed Americans would again be taxpayers rather than absorbing government support. I also note that my two college-age daughters face a very difficult employment market. I see the below-market wages paid to work visa holders who labor under conditions very similar to indentured servitude as being a key culprit. Businesses once claimed that they would fail if slavery were abolished. These employer-interest claims were shown to be hollow. Similarly, the U.S. economy was doing very well until the harmful impacts of the immigration act of 1990 destroyed a wide swath of American middle-class jobs. I believe that terminating harmful work visa programs such as H-1B would go a long way towards restoring the health of the American economy.

# The Greedy Gates Immigration Gambit

BY GENE A. NELSON

*This article establishes that "Things of Value" were provided by Microsoft Corporation in order to facilitate "Official Acts"—changes beneficial to Microsoft in H-1B Visa law in 1996, 1998, and 2000. Microsoft Lawyer—lobbyist (and felon) Jack Abramoff played a critical role in conspiring with 10 members of his network and elected officials to expand the "Abramoff Visa" (The H-1B Visa.) As a consequence of the employment discrimination against older and minority American citizens, this author seeks prosecution of the conspiring parties under RICO.*

## Introduction

The U.S. "Baby Boom" generation (born from 1946 to 1964) had to deal with the consequences of "too many all at once" from the moment of birth into typically overcrowded hospital delivery rooms. Like a "pig in a python" the Baby Boomers then endured overcrowded schools. Demographer Landon Jones noted in his influential 1980 book—where he coined the term "Baby Boomer" that as a consequence of their great numbers, the Baby Boomers would have a lifelong

*Gene Nelson has opposed expansion of increased caps in 1998 and 2000 of the controversial H-1B Visa program. He testified twice in the U.S. House of Representatives (July 1998 and August 1999) and twice to the National Academy of Science (NAS) (April, 1996 and December, 1999).*

competition for available employment that would make use of their training and experience. The Baby Boomers were the first generation in history to have ready access to a college education, with about one-fourth of them earning a bachelor's degree.

This author has noted that the U.S. government made available to colleges and universities tremendous economic resources subsequent to the Soviet 1957 launch of *Sputnik* and President Kennedy's May 25, 1961 goal to put a man on the moon before 1970. There were unprecedented increases in federal R&D funding, with a rapid rise to over 11 percent of the federal budget in FY1964 to FY1966. (See figure 1 next page.) These resources facilitated the Baby Boomer's college attendance and a massive U.S. college building boom. However, "high tech" employers enjoyed their first taste of "fresh (inexpensive) young blood" as the first Baby Boomers earned bachelor's degrees in 1967. Once high tech employers became accustomed to the resultant high profit margins, they were reluctant to give them up, as we shall see later in this article.

By the late 1970s, federal R&D funding, which is a key funding source for higher education, had returned to the more typical value of about 4 percent. Around this time, college and university administrators were apparently becoming concerned with the cost of faculty and researchers needed to staff the recently enlarged campuses. The administrators utilized their trade association, The Association of American Universities, to influence Rep. Joshua Eilberg (D-PA) who chaired the House Immigration Subcommittee. Rep. Eilberg utilized once-in-a-lifetime parliamentary tactics to sneak through a change in 1976 to U.S. immigration law that granted to colleges and universities the right to import unlimited numbers of professors and researchers—and to avoid any attestations that these employers were harming the employment

rights of qualified American citizens. More details are available in the author's 2005 article about the "Eilberg Amendment." Title 8, section 1182, U.S.C. 1976<sup>2</sup>.

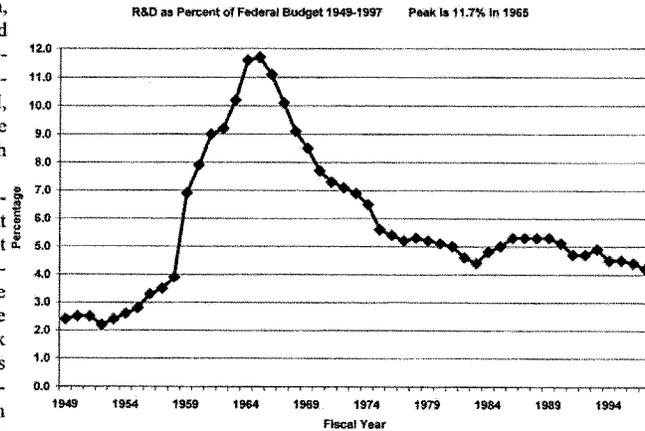
Private sector employers that learned about the "sweetheart deal" that colleges had obtained in 1976 desired to have access to the same pool of young reduced—cost highly—skilled labor. The levers of power in Washington, DC were manipulated by firms such as Microsoft, HP, IBM, Motorola, Raytheon, Intel, and DuPont in the late 1980s to accomplish this goal.

The astounding information that the U.S. government utilized taxpayer resources in the late 1980s to destroy the careers of both black and white Americans (the science, engineering, and information technology workforce

that strengthened the U.S. economy) seems implausible. Legal researcher and MIT mathematician Eric Weinstein, Ph.D. unearthed this information and has published several on line articles regarding these policies.<sup>3</sup> The policies included a set of NSF "reports" starting about 1985, claiming an incipient "looming shortage" of scientists and engineers. These "reports" were never subject to critical analysis by outside experts. (There are still versions of this myth being circulated in 2007 by public relations professionals paid by special interests.)

Weinstein noted, "The (National Science Foundation) NSF sponsored shortage initiatives emanated from a single division within the foundation. This insular unit was known as the Policy Research and Analysis division (PRA) and, together with its controversial director Peter House, maintained an especially close relationship with the then NSF director Erich Bloch."

A PRA salary analysis projected that U.S. Ph.D. researcher wages would roughly double between 1982 and 2000. Rather than allow the workings of a free marketplace, a strong government intervention was proposed by the NSF (which also employs young scientists, a conflict of interest.) Young, highly skilled foreign nationals would be imported in large numbers, mostly from "third



world" nations. *Artificially low wages would be offered in exchange for potential U.S. permanent legal residency for the immigrant—and perhaps for his family.* These immigrants could in effect move to the head of the "green card" line rather than waiting for the typically decade or more waiting times. Since significant numbers of foreigners would be imported, there would be an advantageous (from the employer perspective) depression of salaries for U.S. citizens as a consequence of the law of supply and demand. Science, Engineering, and Technology (SET) fields are the first to be harmed by this mass importation, since natural laws are not dictated by political boundaries. A physicist trained in Beijing, Bangalore, or Boston learns the same principles. *Inflation-corrected wages of U.S. SET professionals have been essentially stagnant since 1996 as a result.*

Immigration policy researcher David North

noted in his 1995 book (publication was sponsored by the Sloan Foundation) that the employer—designed provisions of the Immigration Act of 1990 stipulated that the immigrant could be subject to immediate deportation if his job were cut. This provision insured that the imported high-skill work force was docile—and could be intimidated to avoid joining unions, for example.<sup>4</sup> The visa program, like most special visa programs was “dual intent,” permitting the so-called temporary worker to apply for permanent residency if his current employer completed sponsorship documentation. This provision gave the employer unprecedented power over the immigrant, resulting in a de-facto indentured servitude during the typical seven year process to obtain permanent residency. If the immigrant left an employer, the sponsorship process would have to start all over. In a May, 1999 article, the president of a “high tech” recruiting company, John Wentworth, praised the “remarkable loyalty” that arises from this form of indenture.<sup>5</sup>

A related problem is the employer abuse of standards programs such as ISO 9000. (See the online version for more information.)

A particularly striking example of the dangers associated with intellectual property theft by high-skill nonimmigrant workers is the story of Pakistani Abdul Kadeer Khan, Ph.D. Khan was a gifted and articulate Pakistani who received a master’s level degree in West Germany followed by earning a Ph.D. in metallurgy from the Catholic University of Leuven in Brussels, Belgium in 1972. Utilizing some form of a Dutch work visa analogous to the H-1B, Khan started work in 1972 for URENCO, a European conglomerate in Almelo, the Netherlands. This author believes that the likely eventual result

of Khan’s intellectual property theft will be the detonation of a nuclear device in a U.S. city that will dwarf the September 11, 2001 attacks on the New York World Trade Center and the Pentagon. (See the online version for details.)

Overpopulation via special visa programs in the U.S. benefits many of the economic elite at the expense of the middle class (of all races.) The resultant labor gluts depress wages and benefits, enhancing employer profitability. The increasing U.S. population pushes up the demand for the necessities of life such as food, shelter and transportation, yielding higher prices and higher profit margins for the economic elite. (Overpopulation is the biggest cause of environmental degradation.)

The author believes that Bill Gates, III became the world’s wealthiest man as a



**Bill Gates, chairman of Microsoft, Corp., has been a major lobbyist for H-1B visas.**

result of U.S. special visa programs which served to provide a “government subsidy” for Microsoft Corporation in the form of young pliant, low—cost imported labor. Gates’s wealth has given him unimaginable power. As a recent example, Bill Gates, III had the ear of the U.S. Senate HELP Committee on March 7, 2007 during his solo two hour speech in which Gates demanded “infinite” H-1B visas.<sup>6</sup> See additional details online.

#### **A “bloated government subsidy program”**

The late free-market advocate and Nobel Laureate Milton Friedman accurately characterized the H-1B visa program as a “government subsidy” in a 2002 *ComputerWorld* article.<sup>7</sup> This government subsidy extends to an “alphabet soup” of work visa programs procured by special interests—and to the intentional Federal non-enforcement laws prohibiting the employment of illegal aliens in the

## American Citizens Can't Apply for These Jobs

Year	L1 Visa	H-1B Visa	TN Visa	F1/M1 Visa	J1 Visa	Ann. Totals (Millions)	Est. Total Since 1975 (Millions)
1975	12,570	15,550		107,495	46,001	0.182	0.182
1976	15,112	47,387		121,317	44,486	0.228	0.410
1977	17,673	47,387		154,507	50,507	0.270	0.680
1978	21,495	42,979		191,139	53,319	0.309	0.989
1979	16,423	32,942		106,977	30,644	0.187	1.176
1981	38,595	44,770		240,805	80,230	0.404	1.580
1982	47,893	52,482		263,176	85,382	0.449	2.029
1983	62,025	39,944		286,909	89,969	0.479	2.508
1984	62,359	42,473		227,394	94,008	0.426	2.934
1985	65,349	47,322		257,069	110,942	0.481	3.415
1986	66,925	54,426		261,081	130,416	0.513	3.928
1987	65,673	65,461		261,829	148,205	0.541	4.469
1988	63,849	77,931		312,363	166,659	0.621	5.090
1989	62,390	89,856		334,402	178,199	0.665	5.755
1990	63,180	100,446		326,264	174,247	0.664	6.419
1991	70,357	118,038		282,077	182,940	0.653	7.072
1992	75,347	110,193		241,093	189,919	0.617	7.689
1993	82,606	92,795		370,620	196,782	0.743	8.432
1994	98,189	105,899	19,806	394,001	216,610	0.835	9.266
1995	112,124	117,574	23,904	364,220	201,095	0.819	10.085
1996	140,457	144,458	26,987	426,903	215,475	0.954	11.039
1997	140,457	144,458	26,987	426,903	215,475	0.954	11.994
1998	203,255	240,947	59,061	564,683	250,959	1.319	13.312
1999	234,462	302,421	68,411	567,146	275,545	1.448	14.760
2000	294,658	355,605	91,279	659,081	304,225	1.705	16.465
2001	328,480	384,191	95,486	698,595	339,848	1.847	18.312
2002	313,699	370,490	73,699	646,016	325,580	1.729	20.041
2003	298,054	360,498	59,446	624,917	321,660	1.665	21.706
2004	314,484	386,821	66,219	620,210	321,975	1.710	23.416
2005	312,144	407,418	65,010	629,556	342,742	1.757	25.173
<b>Est. Totals 1975-2005</b>	<b>3,700,284</b>	<b>4,443,162</b>	<b>676,295</b>	<b>10,968,748</b>	<b>5,384,044</b>	<b>25.173</b>	<b>25.173</b>
<b>Grand Estimated Total</b>	<b>25,172,533</b>						

File: Visa Statistics-Complete.xls

Sources: 1976-2001 Statistical Yearbooks of the Immigration and Naturalization Service, U.S. Dept. of Justice

Federal Repository Library Reference Catalog Number J.21.2-2.982 for the 1982 Yearbook. Microfilm copies used for some years.

Per 1982 Yearbook, page 107, Basque Shepherd admissions. 1977:206, 1978:274, 1979:258, 1980:149, 1981:206, 1982:185.

Up to 500 Basque Shepherd visas issued per year by the Immigration Act of April 9, 1952

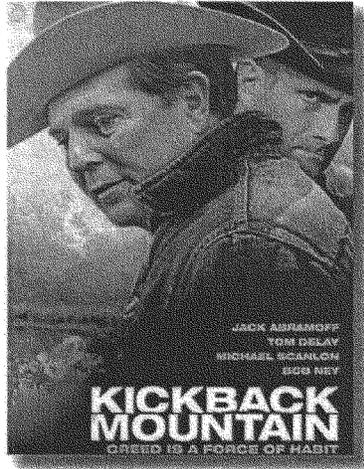
Year skipped (no data available): 1980. FY1997 duplicates FY1996 data, as no reliable INS data exists. (System re-engineering problems.)

Online Statistical Yearbooks: <http://www.dhs.gov/ximgtn/statistics/publications/yearbook.shtm>1996-2005 summary statistics: <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2005/Table26D.xls>

Prior to October 1, 1991 (fiscal year 1992), H1B admissions were termed "Distinguished merit or ability."

Note that for the H-1B visa tabulation, admissions are substantially above statutory limits from FY 1992 to Present

U.S. (Approximately 41-45 percent of the estimated 20 million U.S. illegal aliens are visa overstayers—and a large fraction of this population are employed in high-skill positions)



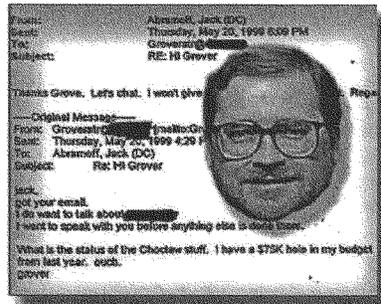
To obtain an estimate of the economic value to employer interests from these 24.4 million visa admissions, assume that a modest \$50,000 reduction in salary and benefit expenditures results from each admission as a result of the direct and indirect effects of the resulting labor gluts. Over the past two decades, employer interests pocketed a approximately \$24 trillion dollars that should have gone into the wallets of experienced American citizen technical professionals.

See the online version of the article for details regarding the total \$73.2 billion benefit of H-1B visa program in increased profitability to Microsoft Corporation since 1991. (An April 5, 2007 AP story noted that according to Microsoft Spokeswoman Ginny Terzano, about 1/3 of their 46,000 [15,333] U.S. employees are on work visas or are legal permanent residents.) Other external costs shifted to American citizens as a result of these policies include training and equipment expenditures, untreated illnesses arising from a lack of health insurance

(while unemployed or under-employed), premature death or suicide—as in the case of former Bank of America programmer Kevin Flanagan<sup>8</sup>, and an increased divorces as a consequence of economic hardships caused by the premature end of their technology-based careers.

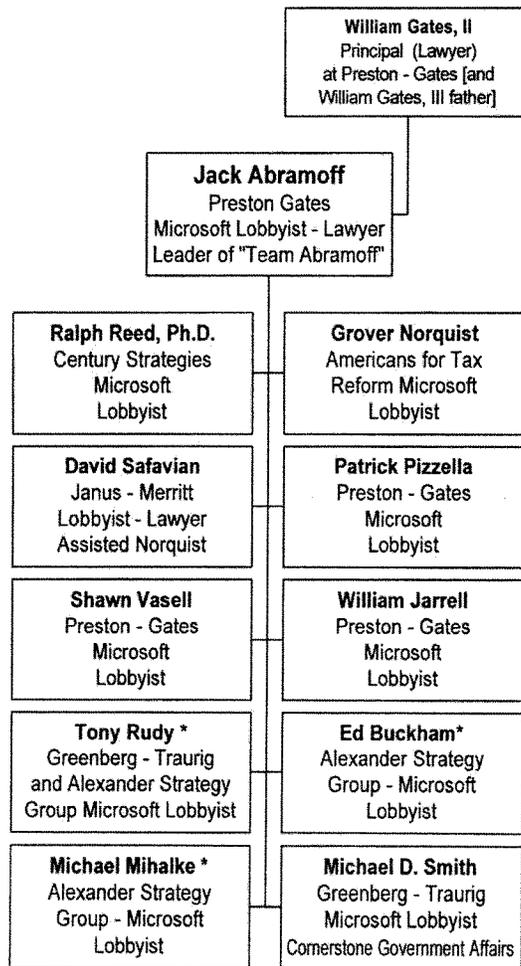
**The Corrupt roots of the "Abramoff Visa."**

Two books released in 2006 provide background regarding Jack Abramoff's tight control of "Team Abramoff"—and his desire to attract deep-pocketed lobbying clients such as Microsoft Corporation (and one of Microsoft's proxy organizations, The Business Software Alliance.) The long-term relationships between lawyer Jack Abramoff, lobbyist Grover Norquist, and lobbyist Ralph Reed are underscored. Lawyer David Safavian is also involved with Microsoft. *The K Street Gang: The Rise and Fall of the Republican Machine* by Matthew Continetti (Doubleday) was completed in late January, 2006. The second book, *Heist: Superlobbyist Jack Abramoff, his Republican Allies, and the buying of Washington* by Peter H. Stone (Farrar, Straus, and Giroux) was finished in early Summer, 2006. (Neither author anticipated that both the House and Senate would shift to the Democratic party in the November, 2006 mid-term elections as a result of the "Culture of Corruption.")



This is an organization chart for members of "Team Abramoff" that were paid by Microsoft. The three entries marked with an asterisk had roles in

**T**he Abramoff network includes Microsoft and H-1b visas (beginning around 1995 and continues to 2007). Entries with asterisks became active after 2000 to obtain preferential tax treatment for H-1b related profits for the Microsoft Corporation.



procuring 'reduced' tax obligations for the Microsoft soft profits that had been enhanced by the H-1b visa program since Jack Abramoff began work at the Washington, DC offices of Preston-Gates (now Kirkpatrick, Lockhart, Preston, Gates, Ellis LLP) in early 1995. Note that one of the principals in Preston-Gates is Bill Gates, II, the father of the head of Microsoft, Bill Gates, III. This author believes that there is a strong connection between Abramoff starting to work at Preston—Gates and with Bill Gates, III becoming the "World's Wealthiest Man" in 1995, a title that Gates has held until mid-2007.



References 11-15 (available online) document Microsoft's 1996 payments to Grover Norquist and Norquist's effectiveness in preventing Senator Alan Simpson's 1995 reforms (S. 1394.IS) of the H-1B visa program that would have required firms to make meaningful attempts to recruit American citizens before hiring H-1b visa holders, among other still-needed changes to the H-1B visa regulations in 2007. This author's February, 2007 telephone conversation with former Sen. Simpson confirmed that Simpson was angered by Norquist's dirty tricks and hopes that Grover Norquist will eventually suffer legal sanctions for his conduct.

It is likely that "Team Abramoff" was emboldened by their Microsoft-financed 1996 victory against Senator Simpson's H-1b visa program reform. Thus, they worked with House and Senate leaders to ram through H-1B visa level

increases in 1998 via S.1723, sponsored by Senator Spencer Abraham (R-MI) and passed on May 18, 1998 and the Rep. Lamar Smith sponsored (R-TX) H.R.3736 during the 105<sup>th</sup> Congress. The vehicle for 1998 passage was to bury the provisions of the employer-friendly S.1723 in the "must pass" bill, "The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999." Public Law 105-277 signed by President Clinton on October 21, 1998. The H-1b section numbers are 401-431.

Again, on October 3, 2000, devious means were used to pass S.2045, Sponsored by Orrin Hatch (R-UT) and cosponsored by Sen. Spencer Abraham (R-MI) and 23 other Senators, which further increased the H-1B cap. It was passed in the Senate in the morning of October 3. This news story summarizes subsequent events that day.

**Doggett Annoyed by Stealth House Vote**

*By Marilyn Geewax, Cox News Service*

[http://www.americanvisas.com/chronicles\\_and\\_updates/chronicles/2000/10.htm#Doggett](http://www.americanvisas.com/chronicles_and_updates/chronicles/2000/10.htm#Doggett)

WASHINGTON—The speed—and stealth—with which the House voted Tuesday to increase visas for skilled foreign workers left one lawmaker shaking his head. "Incredible," said Rep. Lloyd Doggett, D-Texas, a major supporter of increased visas. Doggett said the voice vote on a bill to increase H-1B visas for foreign professionals came as such a surprise that only about 40 of 435 lawmakers were there. The GOP leadership's decision to hold a vote on such an important issue with no warning was "pretty underhanded," he said. Doggett, who had co-sponsored a bill to increase the so-called H-1B visas for foreign workers, gave this account of the evening: "At about 3:30, it was announced that there would be no further votes" on important issues in the House, he said. Because many lawmakers wanted to get home early to watch the presidential debates, nearly everyone left, he said. "But at about 5:30, an e-mail was sent over here" announcing that an H-1B debate would begin

shortly. "I didn't see the email until about 6," he said. Doggett said he scurried to the House floor, while other major supporters of the legislation also rushed back to Capitol Hill. Using various procedural moves, the GOP leaders ended the debate quickly and called for a voice vote, even though the House was nearly empty. "It's a really sorry way to run a railroad," he said. "This was very improper. We needed this bill, but I would hope that...a better job could be done by a new Congress."

The following news release from his Congressional website documented the leadership role of Rep. Chris Cannon (R-UT). [http://www.house.gov/cannon/press\\_october18.html](http://www.house.gov/cannon/press_october18.html).

For Immediate Release, October 18, 2000

**Cannon Manages House Passage of High Tech Visa Bill**

WASHINGTON, D.C. — U.S. Rep. Chris Cannon (R-UT) hailed passage of S. 2045, the American Competitiveness in the Twenty-first Century Act of 2000, as a victory for both the economy and worldwide democracy. Cannon managed the bill on the House floor, completing swift passage of legislation approved earlier in the day by the Senate. The quick action should provide immediate relief to the high tech industry...

Representatives Dick Armey (R-TX) who was the House Majority Leader and Tom DeLay (R-TX) "The Hammer", House Majority Whip, amassed huge leadership PACs, funded by Microsoft and other high tech firms, to "enforce party discipline" during the 105<sup>th</sup> and 106<sup>th</sup> Congresses. Armey and DeLay would dole out funds to Republican U.S. Representatives that voted according to their instructions. Both Representatives aggressively promoted H-1B visa program expansion. (Please see the online version for an excerpt from a related October 16, 2000 *WSJ* story documenting \$16 million in Microsoft political expenditures since 1997.)

With lobbyist Jack Abramoff's network beginning to collapse in 2005, Microsoft saw the benefit of retaining a Democratic lawyer-lobbyist who was an original member of "Team Abramoff" named Michael D. Smith. Michael now works for Cornerstone Government Affairs. (See Mike's biography here: <http://www.cgagroup.com/staffContent.aspx?id=20>.)



This biography neglects to mention that Mike was forced to leave Greenberg-Traurig in January, 2005 after an internal investigation uncovered that Mike had received kickbacks. The biography fails to mention that he was a member of "Team Abramoff." The biography doesn't even mention Greenberg-Traurig, instead referring instead to "a leading International law firm." There are some documented irregularities in lobbyist Smith's 2007 campaign finance disclosures. Furthermore, Cornerstone's lobbying disclosure forms for 2005 and 2006 mention that the work for client Microsoft Corporation included lobbying on "H1B Visas" - perhaps to thwart research into Microsoft's recent lobbying. (The disclosure for the first half of 2007 identifies the visa correctly as "H1B".) Microsoft has expended about a quarter of a million dollars on this lobbying effort since 2005, just with Cornerstone. Microsoft continues to use many other lobbying firms in addition to a large in-house lobbying staff.

**Next Steps**

There needs to be a restoration of multi-decade long U.S. science and technology careers as

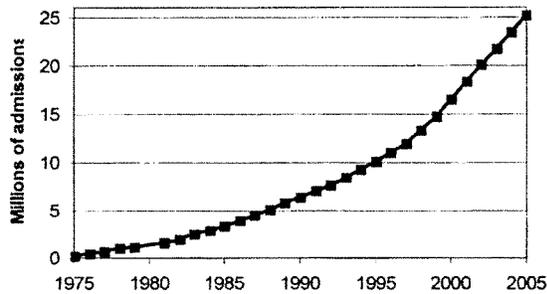
the foundation for military and economic strength of U.S. Intellectual property such as inventions takes a long time to develop. Historically, this intellectual property has enhanced the profitability of corporations. Long careers are incompatible with the current "disposable employee" practices where most employees are discarded after a few years. The majority of "high tech" employers terminate their employees before they enter the protected class (over age 40) defined by the Age Discrimination Act of 1967, as Amended. Similarly, minority employment civil rights are destroyed.

The author contacted Federal Judge Ellen Segal Huvelle via a letter on March 29, 2006. A redacted copy of this letter appears in the appendix of the online version of this article. Judge Huvelle is responsible for sentencing Jack Abramoff as a consequence of his January 3, 2006 Washington DC plea bargain. This author has learned that sentencing will occur in June, 2007. Two relevant sections of the U.S. Code should apply: 18 U.S.C. 201: Bribery of Public Officials and Witnesses and 18 U.S.C. 371: Conspiracy to Commit Offense or Defraud United States. Specifically, 18 U. S. C. §201(c)(1) (A), prohibits giving "anything of value" to a present, past, or future public official "for or because of any official act performed or to be performed by such public official."

Given the history of the program, the author believes that the H-1B visa program is an example of "bad law." The entire program should be repealed, including the removal of elements of the program from harmful trade treaties, such as GATS. During the U.S. Great Depression, there was forced repatriation of foreign nationals to Mexico to generate workforce opportunities for American citizens.

To improve the employment prospects of harmed U.S. citizens, repatriation of the approximately 9 to 17 million imported foreign nationals, perhaps through "self deportation" of those whose special visas have expired—and those who are working in the U.S.—but only holding tourist or student visas (many have also expired.) The legal

**Competition for the ~ 8 Million U.S. "High Tech" Jobs : Cumulative Estimated Admissions since FY 1975 - Five classes of noncitizen "High Tech" visas**



term for these individuals is that they are "out of status."

The history of the H-1B visa program demonstrates the need for campaign finance reform to diminish lobbyist impact.

There also needs to be prosecution of current and former corrupt federal officials and corrupt corporations. The author suggests use of applicable RICO statutes 18 U.S.C. 1961 et. seq. without time limits for prosecution.

There are many immigration reform organizations such as NumbersUSA, FAIR, CIS, US Incorporated, WashTech, Programmer's Guild, TORAW, NAEA, BrightFutureJobs, Coalition for Fair Employment in Silicon Valley, various organizations comprised of exploited special visa holders, news commentators such as Lou Dobbs, and elected officials such as Rep. Tom Tancredo (R-CO) and Rep. Bill Pascrell (D-NJ) that desire genuine H-1B visa

reform. The author believes that these organizations and individuals need to find "common ground" in order to apply their passion for reform. Otherwise, employer interests will assist in them pulling in different directions so that no reform is accomplished. The author has seen this occur in the reform organizations YSN and NES, cited in the online section of this article.

Microsoft recognizes that the corporation is associated with the Abramoff Scandal and hired the Glover Park Group to distance itself from the scandal. The challenges in these suggested next steps are outlined in a SIIA Amicus Brief co-filed by Attorney Ken Wasch against Microsoft Corporation regarding the antitrust litigation filed by the U.S. Attorney General on May 18, 1998.

"Although Microsoft used to be a member of SIIA—and a member of the SIIA Board of Directors—Microsoft resigned from SIIA and withdrew its funding after SIIA filed an amicus brief criticizing Microsoft's conduct at the liability stage of this proceeding. Microsoft has also induced some other companies dependent upon it to withdraw funding from both amici. These events shed a strong light on the remedy issue now before the Court. *Microsoft's power and wealth give it the ability to both punish its critics and retain battalions of lawyers, lobbyists, and publicists to undermine the government at every turn.*" (*Brief on Remedy of Amici Curiae*, Computer and Communications Industry Association and Software and Information Industry Association [SIIA], May 19, 2000.) ■

*Note about the author:* Gene Nelson is writing a

book, *An American Scam: How Special Interests Undermine National Security with Endless 'Techie' Gluts*. This article is excerpted from the manuscript. (There is also an unabridged version of this information, available on The Social Contract website.)

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Ranks of Long-Term Unemployed Continue to Grow 07 07 11.txt  
<http://finance.yahoo.com/news/For-Americas-99ers-jobs-rb-3590083070.html>

For America's "99ers," jobs crisis is hard to escape

(Photo caption) Unemployed operations manager Mary Kay Coyne unfurls a U.S. flag on the front porch of her residence in Sewell, New Jersey, July 7, 2011. REUTERS/Tim Shaffer

On Thursday July 7, 2011, 3:07 pm EDT  
 By Alexandra Alper

SEWELL, New Jersey (Reuters) - Mary Kay Coyne has just filed what she says is her 1,862nd job application since being thrown out of work three years ago.

She is one of millions of Americans whose unemployment benefits have expired -- after 99 weeks in many states -- as the United States suffers its highest level of long-term unemployment since 1948.

Coyne had to move in with a friend after benefit payments ran out last year. Now she gets by on Medicaid -- U.S. health insurance for the poor -- and food stamps, contributing what little she can to her friend's household costs.

"You're 56-years old and you feel like you are sitting on a big pile of nothing," said Coyne, who spends about four hours a day sending out resumes.

"For the better part of a year, I have something sitting on my chest. It's not a medical condition. It is that pressure of 'Is this going to end, when is this going to end?'"

Unlike in much of Europe, the safety net of the U.S. welfare system times out for the long-term unemployed. The federal government and many states have provided extra help for those caught up in the worst labor market in decades but the U.S. debt crisis rules out further extension of the programs.

Coyne is typical of many middle-class Americans now struggling to get by.

She used to earn \$70,000 a year as an administrative assistant until her firm began to downsize and left Coyne among the growing number of Americans struggling to live on unemployment benefits, and eventually on minimal food aid.

Now Washington is considering cuts to social welfare programs to shrink a swelling budget deficit.

It may not only be Americans like Coyne who feel the pain. Some economists say the cuts could make it even harder to shrink long-term unemployment that damages the wider economy by dampening consumer demand and lowering output.

In 2010, an estimated 3.9 million unemployed Americans exhausted unemployment benefits, according to the National Employment Law Project, an advocacy group that campaigns for lower-wage workers.

More than 14 percent of the U.S. unemployed have been out of a job for 99 weeks, or longer.

The Labor Department's report on Friday showed that the unemployment rate climbed to a six-month high of 9.2 percent in June.

Many so-called "99ers" subsist on social services like food stamps and Medicaid, programs now in danger of deep cuts demanded by many Republicans in Congress in exchange for allowing the federal government to go deeper into debt.

"An increase in demand for social services is what you would expect in a downturn of this magnitude and so the fact that they are cutting the social safety net is quite perplexing," said Sylvia Allegretto, a labor economist at the University of

Ranks of Long-Term Unemployed Continue to Grow 07 07 11.txt  
California at Berkeley. "We've just never seen (long-term unemployment) at these levels, period."

Forty six percent of those looking for work have been jobless for six months or more and the average length of job searches that eventually result in a hiring has doubled to 10 weeks between 2007 and 2010.

#### NO MORE SHOPPING TRIPS

Cindy Paoletti had no idea she would still be unemployed more than three years after being laid off by JPMorgan Chase.

The 59-year-old accountant -- who volunteered to be laid off to care for her dying father --- now survives on loans borrowed against the falling value of her home, Medicaid and food stamps.

"By the end of the month we are down to practically nothing in the house," she says.

The \$200 in food aid she now receives each month goes furthest when spent on frozen vegetables and potatoes.

That's a far cry from Paoletti's lifestyle as a 23-year veteran at JPMorgan.

Although on a modest annual salary of \$34,000, Paoletti went shopping, dined out with friends, smoked cigarettes and traveled each year to visit friends around the country.

That all changed after her severance package ran out.

"I stay home all the time," says Paoletti, who has given up smoking to save money and has found new ways of spending her spare time. "I work in the yard or play with the dog."

Paoletti says she has all but given up finding a job.

"I just got so discouraged," she said. "You apply for jobs online and you get an email the same day saying this job is no longer available."

The long-term unemployed have a tougher time than others landing a job. In 2010, someone unemployed for less than five weeks was three times more likely to get a job than someone unemployed for 27 weeks or more, according to the Bureau of Labor Statistics.

#### DEMAND SURGES FOR FOOD STAMPS

Just as the United States prepares to tighten its belt and deal with its fiscal crisis, demand for key aid programs has never been higher.

The number of Americans signed up for the Supplemental Nutrition Assistance Program (SNAP) -- which provides food stamps -- has reached its highest level since it began in 1939. One in seven Americans now receive aid from the program.

Medicaid enrollment as of 2010 surpassed 68.2 million, its highest level in the program's history.

Cuts to these programs now seem inevitable as states struggle to plug budget gaps and lawmakers on Capital Hill turn their attention to the budget deficit.

The White House has reportedly agreed to \$100 billion in cuts to Medicaid over the next 10 years. Some House Republicans want cuts of more than seven times that amount.

Last week, federal stimulus programs providing billions of dollars for state Medicaid programs ran out.

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The cuts are piling on the pressure for the long-term unemployed.

Coyne -- who has a chronic thyroid condition -- received notice last month that her New Jersey Medicaid benefits would be cut by \$25. That means she will have to skip some doctor visits because she cannot afford to cut down on her medication.

But Coyne worries most about losing her food stamps.

"That would be the kick in the mouth I could not take," she said. "To have to depend on someone completely who is not related to me, that would make me feel awful."

Cuts to the program are being negotiated in Washington. A Republican version of the U.S. budget for 2012 would cut \$127 billion -- about 20 percent -- from food stamps over 10 years.

Unemployment benefits are under pressure too. Two federal programs are set to expire in January though unemployed workers receiving emergency benefits may be eligible to draw checks through May.

There are some signs the number of people stuck in long-term unemployment may be easing from its historic highs.

The total number of people on the last available phase of jobless benefits and those exhausting them each month is falling. Economists say seasonal factors may be causing some of the decline.

Stories like Coyne's and Paoletti's make some economists question whether now is the time to cut benefits. Persistently high unemployment should spur more spending to aid the jobless and prop up consumer demand, they say.

Other economists argue the existing benefit system is overly generous and makes Americans too dependent on social services that are untenable at a time of skyrocketing debt.

"The government is not here to ensure whatever standard of living you're at, that you're not going to go below that," said James Sherk, a labor economist at the conservative Heritage Foundation. "That is just not the purpose of the safety net."

He says the benefit system is flawed because it provides support to the wealthy unemployed who could support themselves for a while without a job. Sherk says the labor market is still too weak to eliminate the federal unemployment extensions. He recommends cutting them to around 70 weeks total.

Coyne hopes government support is only a temporary fix. She keeps applying for jobs despite the hundreds of rejections and tries to keep alive her hopes that she can one day return to work and pay her friend a fair share of their living costs.

"I can curl up on the sofa and cry and pretend that it is going to get better but it is not going to go better unless I make it better."

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[http://articles.cnn.com/2011-06-27/us/california.dream.census.slump\\_1\\_groves-california-for-other-states-slower-rate](http://articles.cnn.com/2011-06-27/us/california.dream.census.slump_1_groves-california-for-other-states-slower-rate)

The California Dream is fizzling out

June 27, 2011|By John D. Sutter, CNN

(Photo caption) Elaine Cali is trying to hold onto her California of yesteryear, a relaxed place where sun-kissed orange groves thrived.

For California native Elaine Cali -- yes, that's her real name -- the best thing about growing up here was the smell of orange blossoms.

Her mom used to take the family on drives through Orange County's citrus groves, the windows down so they could take in the tangy, semi-tropical aromas. Back then in the '60s, her brown hair blowing in the wind, Cali saw this place as a coastal paradise -- where picturesque farmland stretched on forever and the idea of swimming pools and movie stars seemed shiny and new. There was room for everyone back in those days.

Now 56, the rare seventh-generation Californian is trying to save one of Orange County's last orange groves, which sits abandoned behind a chain-link fence near her Santa Ana home. A developer wants to turn the land into yet another ticky-tacky subdivision -- the kind that now occupies every valley in this sprawling greater-metro area, which extends from the Pacific Ocean to the San Bernardino Mountains, some 70 miles away.

In doing so, she's trying to preserve an older image of this state -- one before it became so congested and expensive and inaccessible to almost any average American.

She's holding onto the California Dream.

"It's a piece of history," she said of the grove. "There's not much of this left."

California isn't what it used to be. Sure, America's most populous state, with 37.3 million people, is still home to Hollywood, "The OC," Silicon Valley and other cultural and economic engines. But for average Americans, the state seems to have lost its appeal.

No longer is California the larger-than-life destination where anything's possible -- the pot of gold at the end of our collective path westward.

It's too crowded and pricey for that.

Census data outlines the state's fall from grace. California grew at a slower rate from 2000 to 2010 than in any period since statehood in 1850, according to U.S. Census Bureau data released this year. Put another way: This is the biggest population slump in California's history.

Many middle class people are leaving the state for Texas, Colorado, Nevada and Arizona, where taxes and the cost of living are lower. In the past decade, 1.5 million more people left California for other states than came to California from another part of the United States, according to analysis from the Public Policy Institute of California.

(Page 2 of 6)

New births and international immigration make up the difference, but even immigration has slowed from sky-high rates in the 1990s, according to demographers, as people such as Maribel Mota, a recent arrival from Mexico, find themselves unemployed and behind on rent in the Golden State.

Mota, a 38-year-old who spoke to CNN through a translator, said she wants to go to Minnesota, where she hears there are more job opportunities and rent is lower.

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She'll trade sun for snow, she said, if it means she can make ends meet.

It's not that California as a whole is hemorrhaging people. Streets aren't empty. Not everyone has fallen on hard times. The state actually grew by 10% in the 2000s, which puts it roughly on pace with the national rate. But this isn't just any state. It's California, a state whose history is written as a series of population explosions: Gold Rush of the mid-1800s; Hollywood in the 1920s; and the aerospace boom after World War II. Before the 1990s, California never saw a growth rate below 20%. In the '40s and '50s, the state grew by 53% and 49%, respectively. In the 1850s, during the Gold Rush, growth topped 310%.

In spirit and numbers, it's a place that's used to an upward trajectory, and the rest of us are used to thinking of it that way.

But California is starting to look more like New England than the fun-and-sun version of itself many of us keep in our memories, said Hans Johnson, a demographer at the Public Policy Institute of California.

"We're not talking about the cute little white steeple churches and things like that," he said. "The California version of that: stucco and 7-Elevens."

In some ways, this slump may have been unavoidable. The state is filling up. It's not new anymore, now that its era of explosive growth has passed. America's biggest left-coast state is no longer the wild and exciting frontier.

To prove this point, Johnson did a thought experiment in which he extrapolated California's historically crazy-fast growth rate into the future. If California's growth continued at the pace it did from 1960 to 2000, Johnson said, then there would be one person per square foot in the state within 300 years. Soon after, he said, people would have to "stand on each others' shoulders" in order to fit.

"It had to slow down at some point," he said.

Others share that view

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Dowell Myers, a professor of urban planning and demography at the University of Southern California, said the state's growth has been a "roller coaster," but he doesn't expect the ride to go back up in the future.

"For that to happen," he said, "it would depend on economic disaster in other parts of the country. So if things go really bad in the Midwest, Southern California could be a beacon of hope. But, in general, immigration has slowed down now and is not likely to turn upward."

Part of the issue is that the nice things about California are becoming less nice as the state gets more crowded. It used to be the suburban dream to move to Orange County, amid the orchards and farms. With almost all the farmland gone, parts of this one-magical county, home to Disneyland, start to seem usual and urban.

Housing prices are so high that most people can't afford to live anywhere near the coast. The search for cheap housing has pushed people away from the Pacific and into places like the "Inland Empire," which is an hour or two drive through smog-filled traffic jams from Los Angeles. A car trip from the Inland Empire toward the coast gives visitors the feeling of being stuck in looped film reel:

Suburb; strip mall; mountains; valley; highway; suburb; strip mall ...

Gia Chavez, 29, drove more than an hour from Riverside on a recent afternoon to take her kids to Newport Beach, in Orange County, where the 2009 median home sale price was more than \$1 million -- way out of her price range.

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 Her kids love the beach, but because of the long drive from her more-affordable town, she doesn't get to come very often.

"We try to get out here once or twice a year -- just to say we went to the beach," she said.

Even in less-expensive parts of California, people with low-paying jobs still struggle to make ends meet. A recent report from the American Human Development Project of the nonpartisan Social Science Research Council found there are essentially two Californias: one wealthy, one poor.

"The middle is hollowing out," said William Frey, a demographer with the Brookings Institution.

On the lower end of the spectrum are people like Maribel Vazquez Lemus, a 30-year-old who skips two meals a day so she can afford to feed her kids in San Bernardino. She works at a rundown museum dedicated to the original McDonald's restaurant -- a reminder of the old California as well as some of the only meals she can afford for her family.

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She wants to move east -- perhaps out of the state -- so she can find better employment and lower rent. Right now she pays \$400 a month for a single bedroom in someone else's house. She and her two daughters all sleep together in that room.

She said outsiders get the wrong impression of California.

"I think they only hear the part of Hollywood, L.A.," she said. "They only show the good parts of it. But the reality out here is much different."

Numbers bear out California's economic fall as well. While California still has the largest GDP of any state -- \$1.9 trillion in 2010 -- it's losing pace with the nation, growing at a slower rate than states such as North Carolina, Texas and North Dakota. California's real GDP grew by only 1.8% from 2009 to 2010, according to data recently released by the U.S. Bureau of Economic Analysis.

But what if all of this -- the economic slowdown and the population slump -- isn't such a bad thing?

David Carle, author of several books about natural resources in California, sees it that way.

The state, he said, is approaching its carrying capacity -- a point when the land can't support any more people. To his point, California has been piping in water and electricity from other states for decades. Southern California's thirst for water is blamed in part for causing the Colorado River to run dry before it reaches the coast.

"Biology controls a lot of things," said Carle, who lives at Mono Lake, due east of San Francisco and near the Nevada border. "There are resource limits and natural limits. We've fought against that in California for a long time. We've pushed for 150 years or so to make this place boom in terms of population, and it seems like we're coming up against an extreme."

The state, he said, needs to slow down.

One of the few things Southern California still has going for it these days is the natural setting: always sunny; always 70-something degrees outside; mountains in one direction; ocean in the other. Palm trees peer out from the hills like long-necked, shaggy-haired giraffes. Soil in the valleys supports all kind of exotic and lucrative plants, from avocados to lima beans.

The desert air here has been touted as a cure for arthritis and asthma. The fact

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 that it's sunny and pleasant all year here led, in part, to the emergence of  
 Hollywood. Directors could shoot year-round, not just during summer.

This setting has helped create a larger-than-life appeal.

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But when people these days come to California with dreams of it being all sunshine,  
 they are setting themselves up for a big west-coast let-down, said William Deverell,  
 director of Huntington-USC Institute on California and the West.

"The hold California has on people has been every bit as much psychological as  
 actual -- but people are leaving," he said. "It can be very, very difficult here.

"If you come out here with a level of expectation that the place will provide for  
 you and rejuvenate or renew you or make you rich -- or make you famous -- and it  
 doesn't, then that can be a tremendous disappointment."

Take Maxim Esterkin, a former real estate developer from Latvia who has been taking  
 acting classes at the Beverly Hills Playhouse, a swank school in a ritzy part of  
 town where it's not unusual to see a Bentley or yellow Mercedes on the tree-lined  
 streets.

Esterkin came here with dreams of making it big. Now he's spending his own money to  
 produce a film he wrote called "No Fun at All."

Starring: Him.

"It's sort of like a black hole," he said of Los Angeles. "You can get sucked into  
 it, and you can disappear here."

Captain America feels the same.

"This is a city of broken dreams," said Juan Diego Ciaurri, a 30-year-old who  
 dresses up as the comic-book superhero -- holding a red-and-white shield and wearing  
 a droopy, blue spandex suit, with a loose belt hanging awkwardly around his waist.

He poses for pictures with tourists on Hollywood Boulevard for tips.

He came here to be a screenwriter.

"If I don't get my dream, I'll go to Vegas," he said, "because I can be a character  
 there, too."

Many Californians, however, still love their state despite all the changes.

This is especially true of people such as Sara Flores, a 28-year-old teacher in  
 Orange County, who came to the state from Mexico as a young girl after having seen  
 pictures her brothers brought back from California.

"It's exactly what I pictured: a better life, a better opportunity," she said.  
 "Disneyland."

Captain America's sidewalk counterpart, Marilyn Monroe, said California is still a  
 place where dreams can come true -- but you have to find your own path here.

"I think people should live their own dream -- not the American Dream or the  
 California Dream," said the actor, who asked to remain anonymous to preserve the  
 myth of her assumed character, the classic Hollywood star.

Then there's Elaine Cali, who is trying to save the orange grove in Orange County.

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The California Dream is Fizzling Out 06 27 11.txt  
Scott Allen, president of the Tava Development Co., which is proposing to turn the grove into a 24-house subdivision, said enough of Orange County's agricultural legacy lives on elsewhere. That history is important, but "I'm not sure there's a need for another" orange grove preserve, he said.

Cali, however, feels tied by history to the orchard behind her home. Her mother and father met while working in an orange-packing house. Still, she knows that change can mean progress. And she actually makes a living selling an idyllic image of this place as a vice president at the Anaheim Orange County Visitor and Convention Bureau. Her office is a stone's throw from Disneyland.

On a few occasions, she and her husband have talked about moving away. But she can't bring herself to do it. She'll put up with the traffic. She'll deal with the expenses. She has to be connected to this place.

Still, it's hard for her to watch oranges fall unpicked from the grove behind her subdivision. These fruits are scattered on the ground -- left to rot.

"It's a shame for all that to go to waste," she said.

She doesn't want the old California to disappear completely.

Hearing on "The Economic Imperative for Enacting Immigration Reform"  
Statement of Larry Ochs  
Oceanside, California

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border  
Security

July 26, 2011

Members of the Committee, I am pleased that you are reaching out asking for the voice of the American worker. I have been working in the information technology field since the mid 1980's after completing my undergraduate and graduate degrees in business information systems. I have worked as an employee and not a contractor my complete career as I was raised to be studious, hardworking and loyal to my employer. I have technical expertise ranging from the mainframe to the latest SharePoint and SQL database products.

I feel very strongly that the H-1B and especially the L-1 visas are being overused by corporate America. I would like to share my background with you. I worked for Nissan North America as an employee in the information technology department at the time when I was outsourced to IBM. Once I became an IBM employee I continued to work at Nissan North America until it was outsourced to Satyam, an Indian consulting company. Then I was fortunate to be given the opportunity to be assigned to Toyota Motor Sales which was later outsourced to vendors such as Tata and Infosys. While at IBM and assigned to these auto manufacturers I began to clearly understand how big business often uses foreign workers both onshore and offshore to reduce costs. I attended many meetings where I was asked if I could continue to complete assigned tasks if management were to eliminate certain American employees from the project and replace with other workers who were primarily L-1 visa holders without the business knowledge and usually weaker technically than the staff currently on the project. The reason was to simply cut costs and therefore earn a profit as well as to provide a competitive pricing structure. The other common scenario that was used was to have a select number of employees or H-1B visa holders on shore with the majority of staff offshore whom we communicated with via Net Meeting or similar collaboration software packages.

While an IBM employee I received the highest rating for many years however that did not spare me the layoff notice in April 2009. I filed a Trade Adjustment Assistance petition in May 2009 and the petition was approved late in the year. While I am pleased that the petition was approved and I was able to assist other laid off IBM'rs, I am disturbed that the American taxpayer continues to pay for these benefits while the profits for multinational corporations soar as they eliminate American technical workers in favor of using offshore workers or workers at substantially lower wages on temporary visas.

I believe that to be in the forefront of technology and innovation we need to hire the best and hopefully provide them the ability to become green card holders and then possibly U.S. citizenship. The talent I am referring is for very unique situations. These are people who have the talent to innovate and that will employ a large number of people. However, this is definitely not what is occurring within the United States. We bring onshore business analysts without the client's business expertise, testers who have never written test plans in the work force and staff with minimal technical expertise. In previous decades, corporations would ensure that their employees would receive the necessary technical training as required. The business knowledge was highly valued and the technical knowledge was something that could be taught to high-performing staff that had the interest and aptitude. The tables turned in the late 1990's when globalization of the I.T. workforce became commonplace and the internet accelerated the globalization process.

I urge you; please stop the abuse of visas by corporate America. Talent is available within the United States. If talent is difficult to find, let the natural market forces within the American workforce occur. More students will pursue computer science degrees if the demand exists. And, schools will tailor their computer science programs to the demand of the marketplace.

Thank you for allowing me to share my thoughts.  
Larry Ochs

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of John G. Otto

Tallahassee, Florida

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

There is a great need for reform across the spectrum, from STEM workers to nurses, teachers, construction, meat-packing, fishery workers and agricultural labor. I know our time is valuable, so I will give only a sketch here and point you to additional information and source materials. Reform is greatly needed, but, instead, we've gotten many proposals and acts which have made the situation worse over the last 50 years.

What are the problems that are to be ameliorated (we're not expecting perfection)?

- \* Excessive and worsening population and over-crowding (decreasing square miles per person).
- \* Low and chronically dropping employment/population ratios; and high under-employment in many fields.
- \* Worsening pay/cost of living ratios in many fields.
- \* Worsening working conditions in some fields.

\* Undermining of professional ethics standards and product quality.

What are the aggravating factors?

\* Low standards for visa applicants.

\* Failure/refusal to conduct proper background investigations of visa applicants.

\* Under-priced visas (below costs of conscientious examination).

\* Regulations and tax changes which have encouraged bodyshopping (both domestic and across borders).

\* Excessive student visas prime the pipe-line for excessive OPT and guest-work visa applications which drive excessive demand for green cards.

Executives claim they have difficulty recruiting talent, and yet, there are many signs that they're not trying remotely as hard as they used to. Indeed, it has been well documented that many employers and immigration lawyers use various scams to spuriously declare able and willing US candidates to be "unqualified" or "unwilling", regardless of their intelligence, knowledge, ability, creativity, industriousness, productive work experience, or willingness to work at local market compensation levels. Executives and managers seem increasingly reluctant to fly able and willing US citizen candidate across the country for interviews, to relocate new US citizen employees, or to invest in training or education.

The old, pre-H-1B norm was for:

- \*\* 2-day (pre-paid airfare, hotel and rental car) interviews which were pleasant shop-talk discussions of desires of employers and the experiences of the candidates;
- \*\* near-total relocation packages;
- \*\* 2-12 weeks of formal new-hire training and 2 weeks per year of formal retained employee training.

In contrast, today:

- \*\* Apparent age discrimination has been increasing and impacting younger and younger workers;
- \*\* total compensation has NOT been soaring;
- \*\* e-mail addresses, voice phone numbers and even street addresses of employers have disappeared from job ads (in some cases replaced by an e-mail address to their immigration lawyers, and in others by forms which feed into black-hole "talent management systems").

There have been dozens of academic studies of the issue of the supply, demand and price of STEM talent, and none of them have found signs of shortage. Indeed, several have concluded that we've been producing several times as many capable STEM workers as have been being employed in STEM fields. Even former cross-border bodyshoppers have admitted that the problem is not a lack of knowledge and ability. By every measure, US STEM workers are the best according to Vivek Wadhwa. Meanwhile, Tata's VP, Vandrevala, confessed that it's all about driving down compensation, with STEM workers from India, at that time, being

paid 25% to 35% less than US STEM workers. (By comparison, even the Programmers Guild could nail down only a 12% to 15% compensation spread, so this was quite an eye-opening revelation.) Vivek Wadhwa has said the same. STEM employment along route 128, in the Twin Cities, the Research Triangle are only a shadow of what they used to be, while other locations which had shown the beginnings of some promise in the late 1980s (Cincinnati, Detroit, St. Louis) have never developed.

Prescription (it's all about recovering from artificially excessive supply of talent):

- \* Tear up and throw away GATS and GATT and the Kyoto accord, since they're not reciprocal but heavily biased against the USA.
- \* Establish standards to limit H-1B and L-1 visas to guest-workers with extraordinarily high intelligence, academic performance, etc., e.g. in the top 0.5% of those with genuinely rare knowledge and skills, and thus move away from flooding US job markets with sub-par, cheap, pliant labor with "flexible ethics".
- \* Cut numbers of student and guest-work visas -- and exchange visas which have been abused as guest-work visas -- by at least 90%. (Typically, 110K H-1B visas are issued per year, so that would make the new, firmer, more reasonable limit less than 11K.)
- \* Eliminate visa waiver programs.
- \* Conduct proper background investigations (not just data-base look-ups, or "background checks" by people sitting in an office in front of a computer, thousands of miles away from the applicant) on every visa applicant, and charge the reasonable

costs therefor. Interview co-workers, fellow students, teachers/professors, employers, landlords, family members, and, of course, the applicant and sponsor. It doesn't have to be equivalent to a Top Secret clearance investigation, but should be considerably more than a Confidential.

- \* Build the border fences, all 8600 miles, rapidly and cheaply at first, by contracting with hundreds of widely available chain-link fence installers. Assign at least 50K regular army troops, fully-armed and armored, to patrol the borders. Then build and install the 16 foot high, more difficult to penetrate barriers, including vehicle barriers. We're not expecting perfection, just a sincere effort to improve.
- \* Adopt a policy of reciprocity in tariffs and import/export regulations, tweaking up our tariffs to an average of less than 10%, and limit most penalties to 50%.

People occasionally ask about displacement of US workers. We should not pay attention only to the most blatant examples, when one person is literally shoved out the door at the same moment 4 foreign workers are being brought in to do the same work. (It reminds me of executives who tend to over-reward the salesmen who are present at the time and place where money changes hands and often fail to reward the inventors, designers, and developers of the product being sold.) Nearly all such displacement is more subtle. For example, an office employing US citizens is closed down in Sopchoppy, and a new one employing only guest-workers opens in Yakima. Another employer rejects 38-year-old US candidates who can't relocate themselves to Cincinnati or Cupertino, while flying in at company expense hundreds of Indian and Red Chinese students

newly graduated from US universities from throughout a 400- or 500-mile radius. Ignoring this more subtle displacement has worsened the economic devastation to local economies.

Further notes, links to sources, graphs, etc.:

<http://www.kermitrose.com/econSummaryAnalysis.html>

Bio: My father had difficulty reading. He was a farm laborer, construction laborer, precision machinist during WW2, and power plant operator; he paid off his new home and half-acre lot in less than 5 years, using a loan from his mother's egg-money. My mother was a housewife, chief of quality at an aircraft engine plant during WW2, and an operating room nurse. I've recently learned that our family roots and tendrils include Edmund Pendleton, George Washington, Thomas Jefferson, James Madison, John Marshall, Zachary Taylor, Patrick Henry, Richard Henry Lee, and several ancestors served in the American Revolution as privates, officers and county judges.

I've been a farm laborer, car-hop, burger flipper, janitor, printer, layout and design artist, stained glass craftsman, computer support worker and tutor and teacher, system administrator, software quality tester, data-base analyst and data-warehouse designer (notably for DoE and Military Airlift Command), a porter of software between incompatible systems, senior analyst, software engineer, economist, and author of numerous popular quips and scenes which appeared in over 30 major movies. My IQ and academic achievement have been measured in the top 2% or so (and I've always enjoyed working and associating with people who are sharper than I am).

I know a dozen programming languages (several of them object-

oriented) and a similar number of operating systems, and have collected a modicum of verbal praise for my work. In the past I've held Confidential, Secret, and Q clearances, sponsored by employers under contracts with NASA and DoE. I've never gone a year without learning something new or relearning, so I'm a perpetual student, too.

These days I typically send out 5-25 resumes, job applications, or employment agency inquiries per week, down from about that many per day in the mid-to-late 1990s. I've gotten fewer than 6 interviews over the last 20 years, while in the 1980s (when I knew much less) it was typical to get interviews a dozen at a time, and offers from all by 1. I'm currently unemployed and dependent on the charity of a semi-retired former co-worker.

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Jack (Jay) B. Palmer Jr.

Lowndes County, Alabama

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

Members of the Committee, I am Jay B. Palmer Jr. of Lowndes County Alabama. I am currently employed by Infosys as a Principal Consultant in the Enterprise Solutions Practice and have been so employed since August, 2008. In this capacity, I witnessed and received emails, screen-shots and other documents proving that Infosys intentionally violated our visa and tax laws for the purpose of increasing revenues. I filed an internal Whistleblower Complaint that was ignored. In January 2011, with the help of my attorney, Kenny Mendelsohn, I reported these violations and have been cooperating with the State Department, Department of Homeland Security, the Internal Revenue Service, and other agencies in a criminal investigation against Infosys and some of its employees. I am considered a Federal Witness and am afforded protection under this recognition. My cooperation has led to a Grand Jury investigation of Infosys. Due to an ongoing criminal investigation will purposely not divulge certain facts for obvious reasons.

I sincerely thank Senator Grassley and his staff for allowing me to provide testimony in regards to my experiences. I hope the information I provide to this Subcommittee will help you better understand the ways that Infosys and other companies are intentionally violating our visa laws and avoiding paying Federal and state income taxes.

Infosys Technologies Limited (INFY NASDAQ) provides information technology (IT) and consulting services worldwide. The company was founded in 1981 and is headquartered in Bangalore, India. Currently there are over 130,000 employees worldwide. Of the employees, 98% are Asian, 1% other, and less than 1% American. Infosys has over 15,000 foreign nationals working in the U.S. Financially, Infosys has a market cap of 40 billion dollars. Currently the company

has approximately \$4 billion (USD) cash in the bank with no debt. Annual sales are over 6 billion per year with a quarterly growth rate of 14.9%. Stock prices have risen from \$21 a share in March 2009 to a market close of \$71 per share January 20<sup>th</sup>, 2011. Currently over 3.5 billion dollars a year is derived from the U.S.

I joined the company because Infosys was founded on hard work, determination, and entrepreneurship. However, somewhere along the journey this path and ideology became jaded. I am still loyal to the core company ethics, but I could not be a part of its illegal activities. This is the reason I “blew the whistle” which led to a federal criminal investigation and Senator Grassley contacting me to hear my story.

From August 2008 until March 2010 my employment at Infosys had been a good experience and I enjoyed much success with my colleagues and customers. Factually speaking, I had been recognized by customers and Infosys Management for exceptional work. In March of 2010, as a result of hard work and delivering success at Baker Hughes Oil, an Infosys client, I was invited to India. The work at Baker Hughes Oil implemented technology to assist in preventive measures which could avoid future oils spills such as that in the Gulf of Mexico. Hence the invitation to Infosys Headquarters in Bangalore, India for an enterprise solutions “Actionize” planning meeting. As a Principal in the company, this was an honor for me and I was the only American invited from my practice. During the meeting one of the topics was the H1-B visa “crisis”. This visa category applies to people who should have special training and work in a specialty occupation such as IT. According to USCIS, “The job must meet one of the following criteria to qualify as a specialty occupation:

- Bachelor’s or higher degree or its equivalent is normally the minimum entry requirement for the position
- The degree requirement for the job is common to the industry or the job is so complex or unique that it can be performed only by an individual with a degree
- The employer normally requires a degree or its equivalent for the position
- The nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a bachelor’s or higher degree.”

Infosys is an "H-1B Dependent Employer" and is the biggest "user" of the H-1B program. Infosys' H-1B visa eligibility was reduced from over 4500 to around 400 in 2009/2010. Also, application fees were increased and more restrictions were placed on the application and approval processes.

During these meetings in India, it was discussed that there was the need to and that there were ways to "creatively" get around these H-1B limitations and processes and to work the system in order to increase profits and the value of Infosys' stock. Much of this was very new to me and I did not fully understand the implications of these decisions at the time.

There were many "side/off record" conversations between management/Indian delivery managers and US based Engagement Managers during these meetings. It was made very clear that Infosys was going to continue and increase the use of the B1 visa program to get around the tough restrictions the U. S. had placed on the H-1B program by sending lower level and unskilled Infosys Indians to the U.S. to fulfill the high demand for its customers at a lower cost to Infosys. (Please note that at a time of economic volatility and crisis in the U.S., Infosys stock tripled). There was no monitoring of the B1 system and it was understood that "no one would ever know". Infosys also decided to flood the consulate with applications in order to get as many approved as possible no matter the level of an individual's skill. This was totally about profit and not hiring Americans for jobs in the U.S. due to higher salary requirements. This was confirmed to me by several current and former HR staff members. Their names have been turned over to federal investigators. It was my understanding that Infosys submitted upwards of over 7,000 applications thinking that if some were approved it would be a win for increased profit margins.

As you know, B1 visas are designated as Temporary Business Visas. According to U.S. CIS, B1 visitors can only come to the U.S. for such things as a scientific, educational, and professional or business conventions, or a conference on specific dates, settling an estate, negotiating a contract or participating in short-term training. B1 visitors are not allowed to "work" at a job. However, Infosys sent B1 employees to the U.S. for the specific purpose of working full time jobs at client sites. Infosys saw this as a win-win; under current H-1B laws, a foreign national in the U.S. must make a minimum of 65k a year and pay U.S. taxes. However, when Infosys employees come to the U.S. on B-1 visas, Infosys pays them their Indian salaries. Infosys calls it a "stipend" to avoid Indian and U.S. laws

and taxes, but in actuality, these B-1 employees are being paid a salary for their work in the U.S. and Infosys did not withhold Federal or state taxes. Infosys, however, charged its U.S. clients/companies U.S. rates for the employees thus getting full reimbursement from their American clients for Infosys' labor costs.

During the meetings in India it was strategically talked about ways for the B-1 employees to go "undetected" while coming through the port of entry. Infosys even created an internal website of "do's and don'ts" such as "Do not mention activities like implementation, design & testing, consulting etc., which sound like work. Also do not use words like, work, activity, etc., in the invitation letter. Please do not mention anything about the contract rates as you're on a B-1 Visa."

In May of 2010, the consulate started denying Infosys B1 visa applications due to the large number of applications Infosys were submitting. The consulate told Infosys they needed "Americans" or American Companies to issue "welcome letters" in order to avoid the suspension. The way I suddenly became involved is that my Indian managers in the U.S. and India started asking me to write these "welcome letters" and were very insistent. They would state if I did not do this it would drastically affect the company's profit because we did not have people in the U.S. to complete the work. Also, they threatened it would affect my salary and standing in the company. Basically, what these letters do is falsely claim that the foreign employee is coming for a "visit" rather than to "work." I was very concerned about these letters and contacted Infosys HR because the content of the template of the letter was false. HR told me these people could not come to the U.S. to work on B1 visas. Past events in my mind started to click. Since I knew the letter was a lie and because HR confirmed that B1s were not allowed to work at client sites, I refused to write the letters. At the time, I did know that I had several illegal people working for me in Houston. This came to light when I was informed Infosys was not paying one of my employees enough in his "stipend" to survive in the US. This person emailed me asking for me to approve the "reloading" of his Indian cash card. At that time, he explained to me the process and how many of the Indians rebelled over having to come over to work and continue to receive the low Indian salaries instead of what the H-1B visa employees were making. The Indians knew Infosys was charging American companies American Salaries for illegal B1 workers and that H-1B visa people received \$60,000 + a year when they received less than \$15,000. Hence, Infosys increased their "stipends". Once the "cash cards" were reloaded with the "stipends" the employees could then make cash

withdrawals and charge/debit what they needed to support themselves in the U.S. Again, no taxes were withheld although the B1 workers were gainfully employed in the United States and Infosys was charging its customers fulltime wages.

On July 1 2010, I was asked to join a conference call in regards to me not cooperating with writing the letters. During this call I was chastised for not being a team player. At that time I was sent to another project and different division so I could do no harm to my current delivery manager. The problem was the new project with a new delivery manager had the same problem and had illegal people there too. The problem with this was the contract was not "Fixed Price" (FP) but was "Time and Material" (T&M). In order for Infosys' scheme to work, the U.S. contracts had to be written as FP contracts and not as T&M contracts. The reasoning is that on a FP contract, a customer is charged a lump sum for labor. The people who are actually doing the "work" do not have to be named to the customer but they are named on internal labor spreadsheets in order to come up with a cost and price. There were some customers such as Baker Hughes that wanted to see the names of the staff and Infosys did furnish these names and some of the people named were illegal. On a T&M contract, the people doing the actual work must be named along with their hourly rate. This is when the proverbial cat came out of the bag. It became increasingly evident of the wide spread and intentional illegal activities. There were emails and requests for me to rewrite T & M contracts to FP contracts and I would not do it. This was in August 2010. At this time I called our company attorney, Jeff Friedel. Over the next month I spoke with several people in HR and they were all scared of losing their jobs and said they could do nothing as this problem was bigger than they were.

In September of 2010, apparently I was causing problems with the Infosys Engagement Directors in the U.S. and India because I would not go along with this illegal activity. I blatantly told them how illegal it was to send people over on B1 visas and I constantly complained that Infosys was sending me "freshers" on H-1B Visas. A "fresher" is a common Indian term for a person with no experience or specialized talent, usually just out of college.

Infosys then sent an Indian Delivery Manager over from India to talk to me about how important it was to keep this quiet. She then explained to me Infosys' entire system of fraud that the U.S. Engagement Managers would need to staff the project.

(1) They would contact the Indian offshore managers.

(2) They would go into the system and create a fraudulent work letter in the system (This is an open system and anyone can access and execute this).

(3) They then go into the pay system and gather the bank information to ensure they have a debit card; all Indian employees are required to use 1 of 3 banks which are designated by Infosys.

(4) At this point there is the need for a letter from someone from the U.S. to write which falsely sets out the reason for the visit.

(5) Then you have to ensure the contract is a fixed price.

(6) At this time the person comes over for the designated time period.

Infosys had learned the "cooling off" period for B1 Visas so not to raise concern. It is important to note that this equates to thousands of people coming over and not paying taxes even though they are "gainfully employed".

On October 11<sup>th</sup> 2010, I called Infosys' in-house corporate counsel, Jeff Friedel, and informed him again of the violations. He told me to file a whistleblower complaint and said he would handle the situation. Before doing this, I read and re-read the Infosys Whistleblower Policy along with the Sarbanes-Oxley law. I expected Infosys to follow policy and bring an outside SOX counsel in and investigate the charges. They never did and to this date have not hired an unbiased independent counsel to investigate this unlawful conduct. I spoke to Mr. Friedel in order to make sure I was doing everything by the letter of the policy and law. He stated I was and he "promised that he would protect me". Therefore, I filed an Internal Whistleblower Complaint in regards to the illegal activities including B1 Visa Fraud and illegal I-9 activity. He stated it would come to him via the email system.

Over the next few days, I provided Jeff with additional information and provided names and spreadsheets which showed Jeff where illegal Infosys employees were working. Additionally, an HR Manager and I provided Jeff with thousands of people who had never filed LCA (Labor Condition) paperwork to work in different states. I also gave him cases in which Infosys Managers were intentionally committing fraud to avoid paying state and local taxes. Infosys did not enforce these changes because there are fees associated with them and the work behind the documentation. An HR manager stated that "it has been a long known problem and we can't do anything, it's just the way we do business and we can't control what they do in India."

During the last week of October 2010, I became worried because of harassing and threatening phone calls I was receiving due to the Internal Whistleblower Complaint I filed. At that time I called Kenny Mendelsohn, Attorney, and told him a little about what was happening and asked him to help me. While talking to Mr. Mendelsohn I was actually on a flight to Dallas, TX to meet with Infosys HR in regards to whistleblower evidence and threats I had received. During this meeting I gave HR copies of illegal workers visas and other information.

At the end of October I was transferred to the Axis Capital project in Alpharetta, Ga. At that site there were 2 B1 visa people on site performing paid work. They left within weeks of me being there.

Over the next three months, I repeatedly asked Jeff for updates and continued to provide him with evidence that showed that these illegal activities were still happening. I also researched and validated that I had illegal people on projects since August 2008 when I joined Infosys. Additionally, other inside Infosys employees provided me with information of illegal B1 workers at Wal-Mart, Johnson Control, Goldman Sachs, American Express and other customers. Again, during this time period I was receiving threatening and harassing emails and calls and was called names such as "stupid American". This was reported with no intervention from Infosys. I begged Infosys management and the whistleblower team to remove me from this environment which they did not. Of course all of this is heavily documented.

In November 2010, I authored an outline of how Infosys could monitor and control the illegal activities and sent it to Jeff Friedel. Infosys Management did not respond or take appropriate actions. I was only alienated more.

As December 2010 came, I was approached by an Infosys employee that sent me an alarming spreadsheet which had a list of illegal B1 workers at Johnson Control. These people were working full time testing software code and writing scripts but were paid their salaries by Infosys depositing money into the cash card accounts without withhold or paying any income tax. This spreadsheet also had people in India with their B1 status and their availability to come to the Johnson Control Project for work. Let me again say, not meetings, but gainful employment and not paying taxes. I turned this information over to Jeff Friedel and others. This resulted in more threats and harassment for me.

Infosys has withheld a large portion of my bonus because I filed the whistleblower complaint. This was admitted to me by the Indian Delivery Manager. After 8 months of trying to help solve the problem and seeing that Infosys was not going to stop the illegal activity and being subjected to retaliations including loss of bonuses, I retained attorney Mendelsohn. Infosys left me no choice. During the first week of January 2011, Mr. Mendelsohn and I decided it was imperative to report this information to the appropriate authorities. On February 23<sup>th</sup>, 2011, Mr. Mendelsohn filed a civil suit against Infosys in Lowndes County Alabama on my behalf. News spread fast of the civil action.

On the following Monday, February 28<sup>th</sup>, I reported to work at Axis Capital in Alpharetta, GA only to find a death threat on my desk. I reported this threat to Infosys, but all they did was deny that the threat came from an Infosys employee.

I think it is important for this Committee to understand the lengths that Infosys has taken to cover up these crimes and to retaliate against me. I am not asking for help from the Committee; that will come through the judicial system. This is important because based on the communications my attorney and I have received there are numerous people with more information of wrongful conduct not just by Infosys but many other companies as well. However, these people have expressed their fears of retaliation if they come forward. Based on the way I have been threatened, harassed and retaliated against, it is easy to understand their concerns.

As mentioned above, Infosys never hired an Independent SOX whistleblower counsel to review the allegations. Instead, it hired criminal defense lawyers who represented to my attorney and the attorney for the other Whistleblower that they were "Independent Infosys Whistleblower Counsel." At this time the federal authorities were in full investigative mode and I had talked to them on many occasions. When Infosys got wind of my cooperation with the authorities, their criminal defense lawyer wanted to confiscate my laptop which contains all of the documentation of the illegal activities. When I refused to give it to him because the federal government told me not to, Infosys threatened to fire me. I filed another Whistleblower Complaint against Infosys because internal Whistleblower Policy clearly tells employees to cooperate with federal authorities. Infosys did nothing towards the violation of its own policy and by their defense counsel. The Department of Homeland Security served a warrant for my laptop. They now have it in their possession.

I have received death threats from Infosys employees and Infosys has done nothing to protect me. I have suffered financial losses. Infosys has "put me on the bench" which means I draw my salary but sit at home and am not assigned to any project. I know there are openings at Infosys for my skill set, but Infosys will not assign me a project which will result in a big loss of my bonus for this year. Also, Infosys has totally alienated me from the company. They will not let me work on a project at a client site, will not let me into an Infosys office, and I cannot participate in company pursuits of business. I sit at home. No one calls me or emails me or will have anything to do with me. This is after they told me I have done nothing wrong and they would protect me. This is the most blatant disregard of a Whistleblowers rights. Infosys has maliciously violated the spirit of the Whistleblower policy and the law.

On July 18, 2011, I filed yet another whistleblower complaint in regards to the continued harassment. I even copied senior management including the CEO and CFO, and have received no response.

I do not regret blowing the whistle and refusing to be a part of this illegal conduct. However, there are many other witnesses who are scared to go through what I have been through and therefore remain silent. In fact, my attorney and I have received over 40 correspondences from individuals at other Indian companies stating that the same type of H-1B and B1 fraud is being committed.

The abuse of the B1 and H1 visa laws as well as the income tax laws is wide spread in this country. Americans are being displaced and foreigners are working full time jobs in the U.S. without paying income taxes. It is somewhat ironic that as this Subcommittee meets and considers my testimony, our President and Congress are facing very difficult financial debt ceiling decisions. In these difficult times, it is inconceivable that Infosys and other foreign companies are avoiding paying income taxes and abusing visa laws and then laughing and calling those who stand up for what is right "stupid Americans." My real life experiences have educated me to the point that if Congress decides that an increase of Green Cards or legal work visas in the U.S. is a must, then there should be limitations or ratios. For example, for every H-1B visa issued to foreign national company they should have to hire an American worker.

What I have come to learn is that H-1B's are supposed to be specialized talent. Factually, I have had customers reject H-1B workers because they did not have the experience or talent. There has not been a position that an American

citizen could not perform. I have read statements from NASSCOM stating that not increasing Green Card numbers and with the current visa restrictions, the Indian economy would suffer. Let me ask the committee, what about our economy? What about the years and years of ignoring the laws. These companies maliciously do not hire Americans and look at ways to circumvent policy and law instead of working with it. Look at the stock and growth of these large foreign companies in a down environment -- they are not suffering. However, they are still asking for more "handouts" to increase their margin. Every company is out to make a profit, but when you knowingly defraud the system it is concerning. I have witnessed outsourcing companies bring over H-1B talent that have been trained by American workers and then they replaced the American workers. Does this not violate the spirit of the H-1B laws? The only specialized talent these workers have is they work for a said company and then transfer the work to offshore teams. These are tasks that an existing worker could perform.

In closing, with the unemployment rate at over 9% and the state of the U.S. Government's debt crisis, increasing Green Cards and lessening visa restrictions will only put more Americans out of work. Thank you for your time.

**Memorandum**

To: Staff of Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security

From: The Partnership for a New American Economy

Re: PNAE backgrounder for hearing on "Economic Imperative for Enacting Immigration Reform"

Date: July 26, 2011

The Partnership for a New American Economy commends the Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security for scheduling a hearing on "The Economic Imperative for Enacting Immigration Reform." The Partnership for a New American Economy firmly believes that smarter immigration policies would lead directly to American job growth, and is pleased that four of the seven witnesses testifying at the hearing are Partnership members.

We write today to offer evidence of how immigrants drive the American economy and suggestions on discrete and sensible immigration reforms that could be enacted today to help our businesses grow and create more American jobs.

**About the Partnership for a New American Economy**

Last June, several prominent CEOs and mayors joined together to create the Partnership for a New American Economy, a bipartisan coalition of business leaders and mayors making the economic case for immigration reform. In the 13 months since its founding, the Partnership has grown to represent more than 325 members in 45 states, including mayors of cities with more than 35 million residents and leaders of companies with nearly 4 million employees and over \$1 trillion in revenue.

The Partnership's message is simple: Immigrants create jobs, and our broken immigration system constrains the ability of American businesses to grow and put Americans back to work. Immigration is absolutely a national security issue, a law and order issue, and a fairness issue. But it is an economic issue too, and we are jeopardizing our future in the global economy by ignoring this. Our labor market is not a zero sum game where a job either goes to an American or an immigrant. The right worker, no matter where he or she is from, allows a company to grow and create more jobs.

**How Immigrants Drive the American Economy**

America has the most vibrant economy in the world, and the world's brightest minds want to come here to succeed. If we are smarter about recruiting and retaining this top talent, our economy will grow and

more jobs will be created for American workers. To better understand how immigrants drive the American economy, the Partnership offers the following evidence of the positive economic impact of immigration:

#### **Immigrants Start Businesses That Create American Jobs**

- **Immigrants are twice as likely to start a business.**
  - *Kaufmann Foundation March 2011 Index of Economic Activity*
- **More than 40% of all Fortune 500 companies have an immigrant or child of immigrant founder.**
  - *Partnership for a New American Economy June 2011 Report, "The New American Fortune 500"*
- **25% of all technology and engineering businesses in the country and 50% of Silicon Valley high-tech startups between 1995 and 2005 were founded by an immigrant.**
  - *Vivek Wadhwa, AnnaLee Saxenian, Ben Rissing, and Gary Gereffi, 2007 Report, "America's New Immigrant Entrepreneurs," Duke School of Engineering*

#### **Immigrants Help Companies Grow**

- **Each temporary high-skilled visa for a foreign worker creates an estimated 5 additional jobs because these workers tend to work in high growth areas like research and development.**
  - *National Foundation for American Policy March 2008 Policy Brief, "H-1B Visas and Job Creation"*
- **The Department of Agriculture estimates that each farm job creates 3 additional upstream jobs in management, shipping, supplies, etc.**
  - *October 4, 2007 Testimony of James Holt, Committee on Agriculture, U.S. House of Representatives*

#### **Immigrants Invent the Products of Tomorrow**

- **Foreign-born inventors were behind 72 percent of Qualcomm's patents, 65 percent of Merck's patents, and 64 percent of General Electric's patents. Even the federal government relies on immigrant inventors: 41 percent of the patents filed by the U.S. government had foreign-born inventors or co-inventors.**
  - *Vivek Wadhwa, Guillermina Jasso, Ben Rissing, Gary Gereffi and Richard Freeman 2007 Report, "Intellectual Property, the Immigration Backlog, and a Reverse Brain-Drain: America's New Immigrant Entrepreneurs, Part III," Duke School of Engineering*

#### **Immigrants Have the Skills American Companies Need**

- **In recent years, immigrants were 33 percent of the doctorates – and 57 percent of the post-doctorates – in U.S. science and engineering programs.**
  - *National Science Board January 2010 Report, "Science and Engineering Indicators 2010"*

#### **As Baby Boomers Age, Immigrants Provide Much-Needed Young Labor**

- **In 2012, the median age of the American worker will be the highest in history (41.6 years).**
  - *Daniel Griswold 2006 Report, "America Needs Real Immigration Reform," Cato Institute*

Our current immigration policies undermine job growth in several ways, and numerous reforms are necessary. The Partnership for a New American Economy supports comprehensive immigration reform for the long term, but also believes that the following discrete immigration reforms, each of which would immediately help stimulate our economy, can and should be passed in this Congress this year.

1. **Provide green cards for graduates with advanced degrees in essential fields from U.S. universities.** We need to convince more American students to pursue science, engineering, math, technology, and other specialty fields that are in high demand in the global innovation economy. But until more Americans pursue these fields, we need to take advantage of the thousands and thousands of job creators we are currently training in our universities and sending home to compete against us.
2. **Create an entrepreneur visa.** If a foreign entrepreneur with a business plan and committed venture capital funding wants to come here and start a business, we should be rolling out the red carpet. Instead, we turn entrepreneurs away while countries like Chile offer \$40,000 in incentives to recruit them. The proposed temporary visa for entrepreneurs would become permanent only if the new company created a sufficient number of jobs or revenue. This visa is a no-brainer.
3. **Expand category of green cards issued for economic purposes.** Currently, just 14 percent of green cards are issued for employment purposes (as opposed to family reunification, asylum, and other reasons). This stands in sharp contrast with other countries, such as Canada and Australia, which allocate several times that percentage of permanent residency visas to economic-based categories. In addition, employment green cards have the same cap for every country, regardless of population – creating delays of nine or more years for employees coming from countries with large populations such as India or China.
4. **Streamline the visa process for low-skilled workers.** To apply for seasonal low-skilled workers, employers must work with state agencies and three separate federal agencies. The process is so bureaucratic, costly, and time-consuming that many employers simply give up. And when they can't get workers, our farms move to Mexico, our resorts don't fully open even in peak season, and Americans lose jobs and much needed tax revenue.



### What We Believe

America has always been a nation of immigrants and a beacon for all those who seek a better life and the promise of freedom. Every generation of new Americans – through their hard work and innovative ideas – has fueled our economic, cultural, and political vitality, and helped the United States become the world's preeminent leader.

To compete in the 21st-century global economy, America must fix our broken immigration system. The country needs an immigration system that secures our borders while welcoming immigrants who are essential for America's economic growth – the ability to get the right talent to the right place at the right time is critical for continued American prosperity.

The Partnership for a New American Economy brings together business leaders from all sectors of the economy and a bipartisan group of mayors from all parts of the country to make the economic case for immigration reform. Partnership members know that immigrants play a vital role in the financial health and development of American businesses and cities: 25% of the last decade's high-tech startups in America have at least one immigrant as a key founder, immigrants generate over 5% of America's gross domestic product, and immigrant-owned companies created over 400,000 jobs since 1990.

Immigration reform is an important priority for the nation's business leaders and mayors. Accordingly, the Partnership supports the following principles:

- Secure our borders and prevent illegal immigration through tougher enforcement and better use of technology;
- Develop a simple and secure system for employers to verify employment eligibility and hold businesses that are not compliant, or abuse visa programs, accountable for their actions;
- Increase opportunities for immigrants to enter the United States workforce – and for foreign students to stay in the United States to work – so that we can attract and keep the best, the brightest and the hardest-working, who will strengthen our economy;
- Streamline the process for employers to hire seasonal and permanent employees when Americans are not filling vacant jobs;
- Create a path to legal status for the undocumented currently living in the United States with requirements such as registering with the federal government, learning English, paying taxes and following all laws; and
- Establish a program for foreign entrepreneurs to start their companies in the U. S. if they have American investors and will create American jobs.

**Third Way Statement for the Record**  
**Senate Judiciary Committee Hearing: *The Economic Imperative for Enacting Immigration Reform***  
**July 26<sup>th</sup>, 2011**

Third Way is a moderate think-tank that creates and advances innovative and influential policy and political ideas. We advocate for private-sector economic growth, a tough and smart security strategy, a clean energy revolution, bold education and anti-poverty reforms, and progress on divisive culture issues. Third Way believes that the U.S must reform its immigration policy to attract and retain the global talent that can spur new innovation and increase U.S. competitiveness in a 21st century global economy. This statement and all data it contains are based on a report we released this year entitled *Becoming a Magnet for Global Talent*.

**Introduction**

From 1900 to 2000, the U.S. became home to 47.2 million legal immigrants—far more than any other country. During the same period, the U.S. economy grew by nearly 25-fold, we won two World Wars and a Cold War, and our middle class became the envy of the world. Immigrants—whether it was Albert Einstein and Andrew Carnegie or millions of factory workers, farm workers, cooks, and construction workers—were a huge part of America’s 20th century success story. Today, we are an increasingly service, knowledge, and innovation-led economy. Even our manufacturing jobs require a great deal more skill because we do not make socks anymore—we make finely tuned, high-end products. To maintain our global dominance and strengthen our economy today, U.S. immigration policy must not only maintain its current levels of legal immigration, but it must also be restructured to attract foreign-born intellectual capital to facilitate innovation and job creation. We advance this recommendation for reform on the basis of the following six economic rationales.

**#1: America Makes No Priority for Skills-Based Immigration.**

Most people who legally enter the U.S. do so with no regard to their skill level. This is the result of a policy that allows unlimited numbers of people to enter based on family ties but only a small quota based on skills. Currently nearly two-thirds of the visas issued annually in the U.S. are distributed to individuals based on family ties. Family-based immigration is important for many reasons, but we must also find ways to prioritize and streamline immigration for skilled workers who can be an important engine for American economic growth.

**#2: Arbitrary Caps Keep Skilled People Out of the Country.**

In a 2009 study, the nonpartisan Ewing Marion Kauffman Foundation determined that placing quota limits on foreign workers hurts the American workforce. The study determined that these limitations undermine technological innovation and lead firms to hire skilled people to work outside the U.S. They found that in the absence of better U.S. immigration policies, off-shoring and near-shoring would become more prevalent and thus ultimately hurt U.S. workers.

**#3: Highly Skilled Immigrants Are Encouraged to Leave the U.S.**

Educated entrepreneurs are one of America's biggest exports. During the 2009-2010 academic year, the Institute for International Education documented that 690,923 foreign students were enrolled in American colleges and universities. We teach them, and then we send them home to create billion dollar industries that compete with ours. Unfortunately, while the U.S. is educating foreign students at a faster rate than any other country, our immigration policies act as a barrier for retaining these American-educated entrepreneurs and innovators.

**#4: Immigrants Are Very Entrepreneurial.**

Immigrants are a potential gold mine of innovation for our country. Indeed, among people with advanced degrees, foreign-born university graduates are three times more likely to file patents than U.S. born citizens. Immigrants are 30% more likely to form new businesses than U.S.-born citizens. New companies are integral to producing the job growth that is needed to restore the American economy.

Studies have found that skilled immigration has a direct contribution to innovation within the United States. William Kerr of Harvard Business School and William Lincoln of the University of Michigan found that total invention increased with higher admissions of skilled immigrants—primarily through the direct contributions of immigrant inventors rather than the displacement of native workers. The consequences of failing to reform U.S. immigration policy to capitalize on the entrepreneurial and creative spirit of immigrants are grim. By failing to recognize the benefits that immigrants bring to our economy, we put in jeopardy America's ability to compete globally.

**#5: Immigrants Have Exceptional Skills in Job-Producing Sectors.**

In 2009, more than 60% of foreign-born scientists and engineers in the United States were from Asia—nearly 25% were from India and another 20% were from China, the Philippines and Taiwan. The U.S. economy relies on scientists and engineers as catalysts of prosperity. Scientific innovation has created about half of all U.S. economic growth in the last 50 years. This innovation creates jobs across all levels and sectors, including sorely needed manufacturing jobs. There is no doubt that the adequacy, supply, and quality of this workforce is integral to continued U.S. competitiveness. In order to win the future, the U.S. must focus on increasing its universe of skilled S.T.E.M. workers and entrepreneurs. If we don't, other countries will gladly pick up our slack.

**#6: Other Countries are Gaining from our Loss.**

As the U.S. fails to capitalize on retaining the human and intellectual capital that is educated here within our universities and fails to import skilled labor and talent into our economy, other countries are exploiting our shortsightedness for their gain, including Canada, Australia, and Singapore.

While the Canadian skilled-worker classification constitutes 61% of all immigrant visas annually, our country gives skilled immigrants a stingy 15% share. Not surprisingly given this focus on employment-based immigration, the International Monetary Fund expects Canada to be the only one of the seven major industrialized democracies to return to a surplus by 2015. In July 2010, an Australian government commissioned report, "Resourcing the Future," was released recommending that the government utilize temporary skilled migration to solve the expected labor shortages. The Australian

government decided to follow all of the recommendations—including increasing immigration. “Close to 4000 skilled migrants were granted [regional sponsored] visas in Western Australia in the second half of 2010, an increase of more than 44 percent over the same period in 2009.” In Asia, Singapore has led the way by liberalizing its immigration policies and making it easier for “skilled immigrants to gain permanent residency.” The country has launched “various programs aimed at attracting talent, including company grant schemes to ease the costs of employing foreign skilled labor and recruitment missions by government agencies.” In light of its revitalized high-skilled immigration policies, Singapore achieved 14.7% GDP growth in 2010—making it one of the fastest growing economies in the world.

### **Conclusion**

U.S. immigration policy should be crafted to encourage long-term economic development and innovation that will lead to greater domestic economic growth. Utilized as a strategic resource, immigration can buttress and grow a competitive U.S. economy that can win the future. Fundamentally, this shift would require an increase in the number of total employment-based visas issued each year to skilled workers, an effort to retain American-educated talent, and an increase in visas based on entrepreneurship. These changes should be done alongside—not in substitution for—a continued vibrant family-based system of immigration.

The full report, *Becoming a Magnet for Global Talent*, is available on Third Way's website: <http://thirdway.org/publications/390>.

**Testimony From Utica, NY Mayor, David R. Roefaro      July 26, 2011**

Thank you for having me here today. I would like to begin by thanking the Chairman, Senator Schumer, and the Ranking Member, Senator Cornyn, for inviting me to speak before this committee today. I would also like to thank the members of this subcommittee for your hard work and commitment to fixing and reforming our nation's immigration policy. The work in front of this subcommittee has the potential to leave a lasting legacy for our country.

Many years ago, my family lived in Italy. They struggled for jobs and economic opportunity. Seeking a better life, they came to America, where the streets were paved with gold and there was a chicken in every pot.

When they came to our country, my family sought a community that would give them those opportunities. They chose the beautiful city of Utica, New York. After coming to Utica, they laid roots, raised a family, established a small business and became an active part of the city. They had the opportunity to live the American dream.

Today, that simple dream is threatened. The dream of so many to come to America and find the streets paved with gold has become vulnerable to fear. In times of economic downturn, like our country now faces, we begin to fear that which we do not know. And many choose to point the blame for our economic problems on immigrants. But to deny those who want to come to America and create a new life for themselves would be to deny our own history. Our country was built on the backs of immigrants. From the young Irishmen who built the Erie Canal across New York to Bosnian families seeking political refuge and starting small businesses in Utica today, immigrants have been the key to our past success and will serve as a catalyst to both Utica's and certainly our nation's future.

But, do not mistake my words: while immigration is crucial to the social and economic fabric of our country, we need to work harder to ensure it is done legally. We need to make sure our borders are secure. We need to keep our communities safe and keep criminals off our streets.

As the Mayor of Utica, I have spent the last four years trying to make life a little better for those who live in my city. One of my top priorities has been to help refugees assimilate, offer them a stake in our city and show them how they can assist us in growing our local economy and creating jobs- all things I have worked to accomplish.

Utica has benefited from recently welcomed immigrants from Bosnia, Belarus, Russia, Somalia, The Dominican Republic and Vietnam. Groups like this enjoy assistance from our local refugee center, a center that has helped transition so many. In my city, there are 42 languages spoken in our school district and centers like the Mohawk Valley Refugee Center help connect the dots for immigrants so no matter how you say it, 'We're in this together' is a motto everyone lives by.

Yes, our economic growth is tied directly to how we as a nation utilize the talent of immigrants. And there are statistics to back those words up. Nationwide, cities with growing immigrant populations have the fastest economic growth. Immigrants, by making our economy more productive, contribute over 37 billion dollars to the wages and output of native-born Americans.

Between 1995 and 2005, 25 percent of all high-tech startups were founded by immigrants. These new Americans paid over 162 billion in federal, state, and local taxes, proving their worth to our communities.

In Utica, economic success stories mirror national ones. Take Zaim Dedic for example. Zaim came to Utica at the age of 14 from Mrkonjic Grand, a small town in the Serb Republic. Today, at barely 30, he's built himself a business. He is the founder and owner of Multilingual Interpretation Services.

Moving forward, it is important we all work together to create an innovative solution to immigration reform. For those who are here in our country illegally, we must create a path for them to become citizens. Through a tough but fair process including security checks, payment of back taxes, and an educational requirement to learn English, we can begin to assimilate now-illegal immigrants into our country and cultivate their economic potential.

Moreover, my experience as a Mayor working on national issues has showed me how this issue, this debate, is likely one of the most important facing our nation. I proudly profess our immigrant populations have added to the vibrancy of the City of Utica. Their presence has been vital to our housing stock, our city culture, our regional economy and even our local agriculture- The refugee and immigrant community is actively involved with community gardens introducing and harvesting varieties of bountiful, fresh and healthy foods into my county. Certainly, their presence remains crucial to the development and growth in every part of Upstate New York. The national importance of this issue is why I am a proud member of the Partnership for a New American Economy -- joining over 300 other mayors and business leaders from across the country who know that smarter immigration will generate economic growth and create new American jobs.

As we go forward in this process and create a new immigration policy for our country, we need to remember our heritage- the reason we all sit here today. We are a nation of immigrants and we must preserve this legacy into our future. When my own family came to America, they came in search of a better tomorrow. It is my hope that we can ensure another generation of immigrants come to this country accepted, assisted and empowered to dream the *never* impossible dream.

I appreciate the opportunity to address you today and will gladly answer any questions you may have. Thank you.

Highly skilled immigrants should be part of debate - San Antonio Express-News

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**Highly skilled immigrants should be part of debate**

Use foreigners, often educated here, are needed.

By Geoff Wurzel / Special to the Express-News  
Updated 12:02 a.m., Thursday, May 26, 2011

When we hear the word "immigration" in Texas, our first thought is probably about the border. But not all immigration issues are about the border, and not all immigration issues are the same.

The immigration system for highly educated foreign-born professionals is about job creation, economic growth and America's continued innovation leadership. But it's also about backlogs, quotas and frustration for U.S. and Texas employers unable to hire the scientists and researchers they need to drive growth in America. Given the great contributions these valuable professionals make to our country, America should be doing everything it can to remedy these problems and make it easier for them to stay.

Major U.S. employers, such as Intel, eBay, Yahoo! and Google, were all founded, at least in part, by foreign nationals, and according to the Brookings Institution, more than a quarter of U.S. technology and engineering businesses launched between 1995 and 2005 had a foreign-born founder. Duke University reports that here in Texas, nearly one in five technology companies were founded by an immigrant. In 2005, immigrant-founded engineering and technology companies in the United States generated more than \$52 billion in sales and created just under 450,000 jobs.

A recent comprehensive economic analysis of immigration in America from the Brookings Institution's The Hamilton Project finds that on average, immigrants raise the overall standard of living of U.S. workers by increasing wages and lowering prices. They are a net positive for the federal budget, paying more in taxes than the benefits they receive, and immigrants are 30 percent more likely to start a new business than native-born Americans.

In addition to working in our companies, foreign nationals are studying in our universities. Nationwide, the American Association of Engineering Societies reports that in the field of engineering nearly half of all master's degrees (42 percent) and more than half of Ph.D.s (53 percent) from U.S. universities were awarded to foreign national students in the 2009-2010 academic year. In Texas, foreign students make up 52 percent of all engineering masters' degrees and 54 percent of all engineering doctorates.

Critics argue that foreign-born professionals take jobs from Americans and are a source of cheap labor, but countless studies have debunked these myths. A recent study by the National Foundation for American Policy has also found that for every H-1B visa position requested, U.S. technology companies increase their employment by five workers.

Hiring from domestic pools of talent should always be a first priority — and U.S. employers support efforts to improve U.S. science, mathematics, engineering and technology education. But sometimes foreign-born talent — often those who have graduated from Texas universities — is needed to fill high-skilled positions.

Given the enormous benefits they bring, reforming the legal immigration system for highly educated professionals must top the congressional agenda for 2011. Years-long delays in the employment-based green card system should be cleared so that foreign nationals don't give up on America and go to more welcoming, competitor nations to innovate. Foreign students who receive advanced degrees in the high-demand areas of science, technology, engineering and mathematics (STEM) from a U.S. university and who have a job offer should be guaranteed a green card upon graduation. And H-1B visas should be based on employer needs, not arbitrary allocations that have no basis in the market or workplace demands.

Geoff Wurzel is executive director of the Southwest region of TechNet, a national bipartisan organization dedicated to the growth of the innovation economy.

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**TESTIMONY**

24 July 2011

**H-1B and employer-sponsored green cards****Harrison Picot, Database Administrator  
Haymarket Virginia**

I oppose employer sponsored green cards and the current H-1B visa system because (1) they lowers wages to the point where IT careers no longer represent a good investment for US citizens, all as predicted by the NSF with creation of the H-1B program(2) the effect is to socialize the cost of labor by rewarding immigrants public benefits in lieu of normal wage rates, (3) reduces our national security, denies jobs to hundreds of thousands of Americans willing to work no matter what the wages, (4) the program has no clear goals other than to reward employers with lower labor costs and no measures of the benefits from or damages to the US industry, (5) no peer reviewed study has ever shown any shortage of US born citizens, often children of taxpayers, ready and able to do IT work, and most H-1B visa holders have less than two years of relevant experience, (6) the DOL has felt compelled to deny U.S. news agencies access to data describing the people coming to USA to take jobs that U.S. college graduates could do, and finally, (7) these programs remind Americans that both parties listen to the short term goals and needs of employers and lobbyists, and not the long term needs and security of this nation.

By rewarding the sellers of software, at the expense the inventors and U.S. taxpayers, congress assures the only those U.S. citizens indifferent to needs of a middle class family and a reasonable career, go into IT.

**ARGUMENT IN SUPPORT OF CLAIMS**

1. In 1995 the entry level wage for IT graduates was \$50,000 per year. That is, adjusted for inflation, more than would be offered the median graduate today, and, in fact, there is no assurance that the median U.S.A. born IT graduate will be offered a job using the skills they paid a college or university to learn. Congress can not tell us what the current status of the industry, or even that part of the industry working as contractors for the U.S. government is. Congress proposes more immigrants without knowing what percent of the US industry is already composed of immigrants, like a doctor offering blood pressure medicine without taking your blood pressure first. There is no sign from congress that they support innovation by U.S. citizens or even care if innovation occurs in the U.S.A.; China seems just as good so long as sales in the USA are high.
2. Immigrants on H-1B visas and college graduates who remain in the U.S.A compete with U.S. citizen graduates, while imposing higher costs on the public to educate the children of immigrants and to provide HUD housing and SSI payments to parents of immigrants after citizenship and "family reunification". In fact, immigrants are nine times more likely to need SSI payments than U.S. citizens - this a at a time when congress is reducing benefits to U.S. citizens, while the Social Security Trust fund has a \$2.5 trillion surplus.
3. The current security of the U.S.A depends on innovation mostly from U.S. citizens twenty or thirty years ago. Innovation that was unavailable to many foreign nations that concern us today, because the environment in which science produces innovation did not exist everywhere in the world. By giving jobs to the people most likely to seek a larger paycheck in China or India, at the expense of U.S citizens, congress seems bent on denying the U.S.A. IT superiority, or even parity, in the future. 20% of immigrant workers leave the U.S.A. to start, or work for, firms in some other country; few U.S. citizens do.
4. When the H-1B program was proposed, it was not sold the U.S. taxpayers as the program to drive middle class wages down (and secure campaign funds) that Alan Greenspan has said it is, but as a program to fill the gap until U.S. citizens responded to the need for more technical graduates. That rational has long been abandoned, leaving no justification for this program, or for the added costs to the taxpayer of providing schools for the dependents of the engineers that got jobs that should have gone to the children of taxpayers and providing SSI payments and Medicare to the parents of immigrants, costs that congress admits it can not even pay for US citizens

5. No study by the DOL or other unbiased organization has ever shown a shortage of U.S. citizens or others already having the right to work in the U.S.A., a right immigrants obtain by a period of indentured service. Public cost, private profits. In a capitalist system, if there was a shortage, wages would go up as any economist will explain. Since wages are steady or declining, and most of the new H-1B visa holders are of average ability and little experience, it must be assumed, and has been admitted by leading proponents of greater immigration, that H-1B and handing out green cards is all about driving middle class wages down.

6. As attorney John Miano has documented, a newspaper that asked for data showing the experience of those seeking H-1B visas that was requested from the DOL (FOIA), got garbage after a two years wait, and when they requested "real" data, they were told they would have to appeal and that would take years. Congress does not know what percent of the current work force is foreign born, not even that percent working under contracts with the U.S. government. A personal note: when I applied for work at Homeland Security, CACI (contractor for large U.S. government contracts), and Fannie Mae, the work force I saw and was interviewed by, was 100% Indian or other foreign workers. If H-1B is not about wages, how come 80% of the new hires in the DC area are, accord to the headhunter that sent me to Fannie Mae, born in India? How come the IT work force for Fannie Mae or Homeland Security does not appear to include workers from Mexico, Canada, England, France, or Sweden, and the wages for the few from Canada that get H-1B visas are much higher than the median from India? Clearly congress can not answer any questions about the current conditions.

The H-1B visa allows employers to legally displace qualified U.S. workers. Immigrants from the middle-east, for example, can legally choose to ignore Americans and hire their fellow nationals - friends, classmates, and relatives. Congress mandates that DOL rubberstamp these visas. Employers challenged with displacing Americans with foreign workers can correctly claim that they are "in full compliance with the law"

A senior vice-president of one the world's largest software companies, a principal scientist, told me, "There is no longer a path into IT for U.S. citizens. The path you and I took is closed. My children will be end users of software, not creators. The wages of IT workers will go down to the level of short order cooks."

"Even former software industry entrepreneur CEO Vivek Wadhwa, now a defender of foreign worker programs, has confessed,, "I know from my experience as a tech CEO that H-1Bs are cheaper than domestic hires. Technically, these workers are supposed to be paid a "prevailing wage," but this mechanism is riddled with loopholes... I was one of the first [CEOs] to use H-1B visas to bring workers to the U.S.A. Why did I do that? Because it was cheaper."

7. "A major supporter of pending legislation which would increase the H-1B quota, Rep. Tom Davis (R-Va.), said, "This is not a popular bill with the public. It's popular with the CEOs... This is a very important issue for the high-tech executives who give the money." (as quoted in two news papers)  
Dr., Norman Matloff UC Davis,

"Those who have contributed great positive innovations to our society, from the pioneers of genetic understanding to the pioneers of the Information Age, have received a pittance compared with those responsible for the financial innovations that brought our global economy to the brink of ruin."  
Joseph Stiglitz <http://www.vanityfair.com/society/features/2011/05/top-one-percent-201105>

Barack Obama in an ad during the 2008 presidential campaign stated "I will see that your job is not out sourced" (presumably to India) Within a month he received 7.8 million in campaign funds from lobbyists want more H-1B visas. After the election he had a high level staffer (Larry Summers?) invite the same group to the White House to assure them that poor economy would not hurt them. He did not invite working engineers and make them the same promise.

[http://www.pbs.org/newshour/vote2008/reportersblog/2008/08/obama\\_nets\\_78m\\_in\\_oneday\\_fundr.html](http://www.pbs.org/newshour/vote2008/reportersblog/2008/08/obama_nets_78m_in_oneday_fundr.html)

Testimony of Harrison Picot 24 July 2011 Page 2

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of John Popescu

San Francisco, California

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

Members of the Committee, I am writing to state my very firm opposition to employer sponsored green cards, H-1B, and similar "skilled guest worker" immigration law. I wish such opposition to be part of the upcoming hearings regarding immigration as it relates to technology employment. I feel my education and sum total have been invalidated.

I have been in technology some thirty years. I hold an Associates Degree in Engineering and Industrial Technology from City College of San Francisco, a Bachelor's Degree in Computer Science from San Francisco State University. I have worked in the Embedded Systems, Banking, Software, and Construction industries.

Since a teenager I have had a certain natural, normal gravitation and curiosity to things technical. Such manifested itself in my building, from essentially discarded electronics junk, a very large and powerful audio system in the basement of my mother's home. Since 2005, I cannot find a job of any kind. It is very obvious I am being discriminated against on the basis of both age and race and alienated for younger, cheaper, indentured "skilled guest workers" on H-1B and other very dubious "skilled guest worker" visas.

My great ancestors were amongst the founding fathers of this nation. My grandfather fought in the first world war. My father was part of the second world war effort working for a defense contractor in the South Pacific. The fact I cannot find a job in a nation my family sacrificed to establish and preserve is completely outrageous and unacceptable.

I sign myself a very irate US Citizen who has been unable to find gainful employment because industry lobbyists have lied to both Congress and the

American people about a very manufactured "shortage" of "skilled" workers. The motive is nothing more than cheap labor.

### Written Testimony of Damon Scott

To the Senate Subcommittee on Immigration, Refugees and Border  
Submitted with the intention that it be entered  
Into the record of its hearing of Tuesday, 2011 July 26  
On "The Economic Imperative of Immigration Reform"

As a professor of mathematics and one who has followed this controversy for twenty years now, I have addressed the issue of foreign labor in American job markets several times: once in an article-length, peer-reviewed essay "The Immigration Law of 1990 and Its Effects," in prepared speeches, in opinion-essays, and even in entries on blogs. I must confess a personal interest in this issue, for the technical job market is one I live and work in, and it is also the job market many of my students would like to enter in their bright, but often deluded hopes of earning a living by being a technical professional in this country. This testimony is drawn from my prior writings on the subject.

\* \* \* \* \*

The following question and essay-answer provides a discussion of "the other side of the coin," which far too many people are not even aware of existing. The question was this:

*I guess that I do not see how these foreigners  
are doing anything but good for this country.  
If someone could demonstrate this for me,  
I would be thankful.*

The essay-answer here follows:

As John Stuart Mill put it, you had might as well deprive a man of his life as of his means of earning bread. When a man has a job, he has a house, can eat and support a family, and has some standing in society. When a man loses his job, he loses all of that, and one man in forty in this country dies by his own hand.

The rest of the world has twenty times the population of the United States. If foreigners have completely open access to jobs in this country, then 95% of the jobs will be filled with foreign labor, and the whole domestic population of the country is stuck playing musical chairs for the remaining 5%. Of course it will never come to that: if nothing else, the government will be overthrown long before such proportions are reached. Still, this is the path down which the country is headed with its policy of "matching willing workers with willing employers" (in George H. W. Bush's phrase) without regard to the nationality of either.

Saudi Arabia has gone through all phases of policy on the employment of foreign labor. In the 1970s, '80s, and '90s, it had a love of foreign labor. It had money enough easily to hire skilled labor from anywhere in the world. And so it did, to such extent that Saudi Arabians were effectively shut out of employment in all the technical professions in their country. At the same time, intelligence experts were noting the political instability of the Saudi regime and warning people to be prepared just in case it was overthrown. (It bears knowing that Osama bin Laden was a professionally trained engineer unable to find employment in his own country during this time.)

In the twenty-aughts, (a year or so after September Eleventh, in fact) the Kingdom embarked on a Saudization campaign (so they called it in English), where they would use foreign labor as little as possible and hire their own as much as they could. Experts are no longer predicting an overthrow of the Saudi government.

There are professions in this country where the percentage of foreigners hired is not 95%, but in fact exceeds 100%. In information technology, more foreign labor is hired than there are new jobs opening up. This is of course impossible without Americans being fired and replaced with foreign labor in large numbers. Not only are these Americans without the jobs they once held, but they are forced into the situation of competing amongst themselves for the negative number of jobs that will open up and become available to them. They are shunted to permanent, long-term unemployment, as they have lost not merely their job, but their job *market*— and all by act of Congress with its various visa programs and other invitations of foreign labor to work in this country.

As a professor of mathematics at a university, I know all about globalized job markets. I daily go to work in an environment where U.S. citizenship is of absolutely no account whatsoever. By act of Congress, universities can hire foreign labor without limitation, and do so. In fact, people at universities believe that if they give the slightest preference to domestic labor over foreign, they are liable to be found guilty of discrimination on the basis of national origin, the penalty for which, again by act of Congress, is unlimited personal liability (that is, to be sued for every penny you are worth).

At a conference I was at a table with some people at another university. “We’re hiring this year,” someone said, “and we have over three hundred applications for our single vacancy.” Then she talked, with a little laugh, at how they cope with the situation. “We pitch applications for the silliest of reasons. Someone on the committee didn’t like the color of the paper the applicant used when he had his C.V. (= resume) printed, and so we just tossed it into the reject pile so we wouldn’t have to consider it any more. I know it sounds bad, but how else are you to cope with going through three hundred and fifty applications to fill just one vacancy?”

It may be funny to the hiring committee, but it definitely is not to the person on the other end, who spent his life preparing for a career in mathematics only to be treated like this upon entering the job market. Other places I am sure do it in a bit more dignified manner, but nearly all places toss applications for very minor reasons just to cope with the sheer volume of applications received. Such is the reality of a globalized job market.

Some years ago was a news story on television about an employee at Wachovia Bank having to train his H-1B replacement. The idea that the foreigner was more skilled than the American is absurd, for it is the American who had to train the foreigner, not the other way around. Again, just a slice of life, but multiply that by tens of thousands of instances annually, and you will again see the damage done to Americans by the open employment of foreign labor.

Finally, everyone should know that the statistics the U.S. Government publishes concerning unemployment are cooked. By an act of creative accounting, persons who have been without a job for more than a year are called “discouraged workers” and don’t count among the unemployed in the federal government’s eyes. Of course, they are as unemployed as anyone else, if not more so. Many people have adopted as a rule of thumb that the actual rate of unemployment in this country is double what the federal government reports as its official figures.

In sum, the laws of supply and demand are inexorable and are far more powerful than anything that labor laws and “protections” can erect countervailing. When a global supply of labor is readily available to meet a demand that is only domestic, workers’ jobs, and thus their lives, become cheap indeed.

*Damon Scott is a citizen of the United States and lives in Florence, South Carolina.*

**TESTIMONY OF DAVID J. SKORTON**  
**PRESIDENT, CORNELL UNIVERSITY**  
**ON BEHALF OF**  
**THE ASSOCIATION OF AMERICAN UNIVERSITIES**

**THE ECONOMIC IMPERATIVE FOR ENACTING IMMIGRATION REFORM:**

**HIGHLY SKILLED IMMIGRANTS AS DRIVERS OF ECONOMIC GROWTH**

**HEARING BEFORE THE SENATE JUDICIARY COMMITTEE**

**SUBCOMMITTEE ON IMMIGRATION, REFUGEES & BORDER SECURITY**

**226 DIRKSEN SENATE OFFICE BUILDING**

**WASHINGTON, D.C.**

**JULY 26, 2011**

Good morning, Chairman Schumer, Senator Cornyn, members of the Subcommittee. My name is David Skorton. I am the President of Cornell University. Cornell University, located in Ithaca, N.Y., with campuses or programs in New York City, including Weill Cornell Medical College; Geneva, N.Y.; Appledore Island, Maine; France; England; Italy; Singapore; India; China; Tanzania; Qatar and elsewhere, is the largest and most comprehensive school in the Ivy League and is the land-grant university of the State of New York. Founded in 1865, it is composed of 10 privately endowed and

four state contract colleges, including seven undergraduate colleges and seven graduate and professional units. Our four contract colleges are units of the State University of New York (SUNY). Enrollment is approximately 20,000, with students from every state and more than 120 countries studying under an internationally renowned faculty. Forty Nobel Prize winners have been affiliated with Cornell University as alumni or faculty members, and three Nobel laureates currently are on the faculty, in chemistry and physics.

Cornell is among the top research universities in the world, based on research expenditures, faculty quality, and reputation. It is a magnet for excellent students: undergraduate, graduate, and professional, from around the globe. It is home to four national research centers, in physics, astronomy, and nanotechnology, as well as three National Resource Centers for Foreign Language, Area, and International Studies, supported in part by Department of Education Title VI funding, focusing on East Asia, South Asia, and Southeast Asia. In addition, it has many interdisciplinary research centers, covering advanced materials, manufacturing, agriculture, astronomy and atmospheric science, biotechnology, electronics, environment, computing, and mathematics. Cornell also boasts the nation's first colleges devoted to hotel administration, industrial and labor relations, and veterinary medicine. The Weill Cornell Medical College in New York City is a pioneer in biomedical education, research, patient care, and global health, with special-treatment and research facilities including the Center for Reproductive Medicine, the AIDS Care Center, the Hypertension Center, the Institute of Genetic Medicine, and the Burn Center.- It is also home to a prominent Clinical

Translational Science Center and is committed to moving biomedical discoveries from bench to bedside.

The Association of American Universities is a nonprofit association of 59 leading U.S. public and private research universities and two Canadian universities. It focuses on national and institutional issues that are important to research-intensive universities, including funding for research, research and education policy, and graduate and undergraduate education. AAU's 59 U.S. member institutions perform 54 percent of federally funded university-based research and award more than half of all Ph.D. degrees earned in our country. Cornell University has been a member of AAU since its inception in 1900.

I want to thank Chairman Schumer for calling this important hearing and for inviting me to share my perspective as a university president on the topic of highly skilled immigrants as drivers of economic growth. There is no doubt that our current immigration system is broken, yet the most recent efforts at reform have gotten lost in a shouting match of angry rhetoric that focuses on only one set of issues – border security and enforcement. I applaud your efforts to break the stalemate by bringing some much-needed attention to the many positive economic benefits that immigration reform would bring to America. I have the privilege of being a member of the National Security Higher Education Advisory Board, a group of some 20 university presidents and chancellors, appointed by the director of the FBI to meet with senior officials of the bureau and the CIA to discuss issues of national security related to higher education, prominent among which are issues related to immigration policies and procedures. Through the NSHEAB,

I have gained an appreciation of the importance of ceaseless vigilance to maintain national security in our universities and elsewhere. But I have also learned of the need for balance in our approach to this volatile set of issues. I applaud your seeking that balance.

This issue is personal for me: I am a first-generation American, the son of immigrants. When my father and his family left western Russia (now Belarus) for the United States, he took it for granted that through hard work, adherence to the law, and an earnest desire to become an American citizen, he would create a better life for himself and his children and contribute to the advancement of this country. Although he never attended college, he was convinced that higher education was the ticket to success for the next generation. My own life and the lives of countless other first-generation Americans have proven him right.

The recent debate, however, suggests that many Americans have stopped seeing immigration as an integral part of the American Dream. Anti-immigrant sentiments and prejudices are nothing new, but the 24-hour instant news cycle amplifies and magnifies our collective fears and anxieties about security risks and economic competition from other countries. Still, by any objective measure, the benefits of immigration significantly outweigh the risks. We cannot afford to close the United States off from the rest of the world, and we must reach a consensus on comprehensive immigration reform that balances our physical and economic security with the realities of our growing immigrant population and our changing national workforce needs.

American colleges and universities are educating a record number of international students. According to the Institute of International Education (IIE), there were 690,923 international students in the U.S. during the 2009–10 academic year, a 3-percent increase over the previous year. At Cornell, there are currently 3,667 international students – 17.5 percent of our student body – enrolled in our undergraduate, professional, and graduate schools. This is a record number for us, but it builds on a long tradition, dating back to our founding, when five international students enrolled in the first class in 1868. International students contribute nearly \$20 billion to the U.S. economy, through payment of tuition, purchases of books and supplies, transportation, health insurance, and other living expenses, according to the U.S. Department of Commerce. In a small town like Ithaca, the \$138.7 million economic impact of our international student population cannot be overstated – it is one of the reasons why Tompkins County has one of the most robust local economies in New York State.

Throughout American history, and especially during the Cold War, it went without saying that the U.S. should encourage international students to enroll in our undergraduate, graduate, and professional programs. The idea was that U.S.-educated foreign nationals would return home and become leaders in their countries, bringing with them an appreciation and understanding of America that would benefit us both politically and economically. This has been borne out over time, as we have watched our international alumni succeed, rising to positions of prominence at the highest levels of government, education, and industry in their home countries, while staying connected – scientifically, culturally, and emotionally – to the U.S.

In the 21<sup>st</sup> century, however, the American relationship with international students has become more complex – especially after 9/11 – as national security concerns have made it more difficult for them to come or to stay in the U.S. As a result, the U.S. is not always the top choice of students from Asia who are applying to graduate school in science and engineering. This is a real cause for concern, because nearly half of all recent graduate degrees awarded by U.S. universities in science, technology, engineering, and mathematical (STEM) fields were to foreign nationals. In engineering, for example, international students earned 44 percent of the master’s and 54 percent of the Ph.D. degrees in 2008–2009. If our immigration policy causes the number and quality of international students who matriculate in STEM disciplines at U.S. universities to decline significantly, it will reduce our capacity for research, innovation, and ultimately economic growth.

Contrary to concerns expressed by critics, there are not enough qualified or interested American students to fill the slots in STEM undergraduate and graduate programs. Congress took a giant step toward addressing this issue when it reauthorized the COMPETES Act last year. I know it did not originate in the Judiciary Committee, but I cannot emphasize how strongly I – and the rest of the higher education community – thank you for that legislation. The emphasis on elementary and secondary STEM education and teacher training programs – along with initiatives by organizations such as the Business–Higher Education Forum and the Council on Competitiveness – will help fill the pipeline with American students. These are long-term initiatives that will not address our immediate needs and that cannot succeed without adequate funding. If

COMPETES is as successful as we believe it can be, there will still be a need and demand for foreign-born students in our universities, research programs, and industries.

The student visa program works reasonably well while international students are in school, even with the extra security procedures that were added after 9/11. Even so, the visa approval process, as I'm sure every Senator on this panel knows, is complex, expensive, often very slow, and commonly very frustrating. Still, for the most part – and we know there will always be exceptions – it works. When we run into a problem at Cornell, we've often relied on Senator Schumer's caseworkers to help resolve it. Needless to say, we are grateful for the assistance. I know it is not in the Judiciary Committee's jurisdiction or within the scope of this hearing, but adding additional consular staff at U.S. embassies to process student visa applications would be extremely helpful.

The most difficult immigration issues arise when international students graduate and want to enter the U.S. workforce. While some students always intend to return home, many others want to stay here—to work, invent, innovate, start companies, create jobs, and contribute to economic growth in the U.S. Universities can extend student visas for "Optional Professional Training" (OPT) to allow graduates to stay in the U.S. for up to 29 months – 12 months initially, with a 17-month extension in high-priority STEM fields. OPT extensions are not only good for our graduates, but they are also very helpful for employers, as they are considered to be student visas that do not require sponsorship or count against the employment-based caps for highly skilled workers. At Cornell, we currently have about 800 graduates in the U.S. on OPT extensions, about one-quarter of

our total international student population. Once an OPT extension has expired, there is little a university can do to influence the immigration process.

We know from our career placement offices and alumni associations that U.S. companies want to hire our international graduates – not surprising, when you consider that foreign-born inventors are responsible for a large share of patents granted in the U.S. We hear, as my colleagues on the panel will certainly tell you, that businesses are frustrated by complex immigration laws and extremely low quotas that do not differentiate between countries of origin for highly skilled workers. According to Bill Swanson, chairman and CEO of Raytheon, “Raytheon, like the nation, depends upon highly educated and experienced STEM graduates, many at the doctoral level. Foreign nationals with these qualifications, with appropriate immigration status, are critical to our country’s competitiveness.”

Sources as diverse as the non-partisan Congressional Budget Office (CBO), the Libertarian CATO institute, and the liberal Center for American Progress all agree that comprehensive immigration reform would result in economic growth and generate considerably more revenue from taxes on wages than expenditures on services. According to the CBO, even under the most conservative economic assumptions, immigration reform would boost the American economy by between 0.8 and 1.3 percent during the next four years, resulting in \$12 billion in additional revenue over a 10-year period. After three years of anemic growth and amid the debate on the budget deficit, these facts alone should be enough to encourage action on immigration reform.

If that is not enough to convince Congress to act, the Partnership for a New American Economy—a national bipartisan group founded by New York City Mayor Michael Bloomberg that includes more than 300 mayors and business leaders who believe sensible immigration reform can help the economy grow and create American jobs—has compiled some impressive statistics about the economic and entrepreneurial activity of immigrants:

- More than 40 percent of the current Fortune 500 companies were founded by immigrants or their children. These are established companies that employ more than 10 million people worldwide and have combined revenues of \$4.2 trillion – a figure greater than the GDP of every country in the world except the U.S., China, and Japan.
- Immigrants are nearly twice as likely as U.S.-born individuals to start new businesses, according to an analysis of entrepreneurial activities between 1996 and 2008.
- More than one quarter of all technology and engineering businesses launched in America between 1995 and 2005 had an immigrant founder. In Silicon Valley, over half of the new high-tech startups had an immigrant founder, according to the National Venture Capital Association.
- Immigrant-founded start-up companies created 450,000 jobs in less than a decade, and collectively they have generated as much as \$52 billion in sales in a single

year. The Center for American Progress estimates that, with comprehensive immigration reform, those numbers could increase by 900,000 additional jobs over the next three years.

- About a quarter of the international patents filed from the United States in 2006 were based on the work of non-citizen immigrants living in America, according to an analysis of patent filings by Duke University. Many major American companies rely on foreign-born inventors. For example, foreign-born inventors were behind 72 percent of Qualcomm's patents, 65 percent of Merck's patents, and 64 percent of General Electric's patents. Additionally, 41 percent of the patents filed by the U.S. government had foreign-born inventors or co-inventors. These are our graduates: more than half of these inventors obtained their highest degree from a U.S. university.
- Immigrant STEM graduates will help fill projected job shortages. McKinsey Global Institute projects that as many as 190,000 positions for data analytics experts such as industrial engineers and mathematicians will go unfilled in the U.S. by 2018. The institute also projects a shortage of 1.5 million managers and analysts who have the ability to understand and make decisions using large and complex data sets.

Mayor Bloomberg summed up the work of the Partnership for a New American Economy when he wrote in the *Wall Street Journal*: "We would not have become a

global superpower without opening our doors to immigrants – and we cannot long remain one without continuing that practice. Smart, self-motivated immigrants spur the inventions and create the jobs our economy needs to thrive.” I couldn’t agree more.

Our immigration policy is causing us to lose our international graduates and other highly motivated immigrants to countries like England, Australia, and Canada that encourage and promote immigrant entrepreneurs with streamlined visa application processes, more flexible pathways to permanent residence or citizenship, and special consideration for entrepreneurs with venture funding. Further, as other countries like China and India develop graduate education programs and cultures of innovation and entrepreneurship based on the U.S. model, we see that some of the best young scientists and engineers are opting to go home – if they even come to the U.S. to study in the first place – and use their skills to compete with the U.S. This trend was one of the factors identified in the initial *Rising Above the Gathering Storm* report that could knock the U.S. off its pedestal as the world leader in innovation. In light of these facts, I offer the following suggestions for reform.

The administration has laid out a good blueprint for comprehensive immigration reform that starts with enforcement and addresses everyone from the most highly educated and skilled workers to seasonal farm workers to the nearly 11 million undocumented individuals already in the country. Though I believe we need comprehensive reform, and support the administration’s and Senator Schumer’s efforts, I

will limit my recommendations to proposals that address international students and highly skilled workers.

I believe Congress should:

- Create a streamlined green card process for international students who graduate with STEM degrees from U.S. universities. Highly educated, foreign-born students who have earned advanced degrees in science, technology, engineering, and mathematics from U.S. universities should be fast-tracked toward permanent residency and not counted against the annual limit on employment-based green cards.
- Reduce the backlog of skilled immigrants waiting to become permanent residents by increasing the number of employment-based visas. The higher education community has consistently supported efforts to reduce the number of skilled immigrants waiting for green cards through legislation to eliminate per-country caps for green cards and to authorize the use of unclaimed green cards from previous years.
- Enact policies that allow families to stay together and allow for reasonable visits back home without too much red tape upon return. This is an important provision for students studying in the U.S., who have limited time between semesters to travel and can't afford to miss classes at the beginning of a term, waiting for a new visa.

- Pass the DREAM Act. Even though the DREAM Act is not the subject of this hearing, it is vitally important that undocumented children who are in the U.S. through no fault of their own be given the chance to earn citizenship through hard work: either college education or military service. CBO estimates that passage of the DREAM Act alone would generate \$1.4 billion in revenue over the next 10 years, through increased taxes on wages earned by these young people as they enter the workforce in higher-skilled positions.

Chairman Schumer, thank you again for the opportunity to testify today. I would be pleased to answer any questions that you and members of the Subcommittee may have.

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**Statement of Brad Smith  
General Counsel  
and Senior Vice President, Legal and Corporate Affairs  
Microsoft Corporation**

**United States Senate Committee on the Judiciary  
Subcommittee on Immigration, Refugees and Border Security**

**“The Economic Imperative for Immigration Reform – High-Skilled  
Immigration as a Driver of Economic Growth”**

**Washington, D.C.**

**July 26, 2011**

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Chairman Schumer, Ranking Member Cornyn, and distinguished members of the subcommittee, I'm grateful for the opportunity to join you at this hearing. My name is Brad Smith, and I am the General Counsel and Senior Vice President for Legal and Corporate Affairs at Microsoft Corporation. We at Microsoft appreciate your continued focus on the need to reform this country's immigration laws. Reform is long overdue, and postponing it only works against the national interest. Microsoft especially appreciates the recognition that a new policy approach to attracting the world's talent into our workforce is critical if we are to both keep and grow jobs in this country.

The path to this new approach should be based on some key points.

- In today's economy, jobs often follow the talent supply, not the reverse.
- This means that countries with the strongest talent supply will have an advantage in attracting and keeping jobs; it will be those countries whose economies thrive.
- Building this talent supply depends, foremost, on education.
- Particularly where shortages of core expertise exist, though, local talent needs should be supplemented in part by attracting experts from other countries.
- If done right, attracting the talents of the best and brightest from other countries can help, rather than hurt, prospects for American workers, because in an innovation economy, jobs often beget jobs.

***The New World Economy: Jobs Follow Talent***

If we're going to devise policy reforms that will spur economic growth in this country, we need to start with a clear understanding of the talent supply and the emerging patterns of job flows in today's world. The world economy has changed in a way that often causes jobs to move to where the talent is. This reflects a fundamental economic shift that in turn reflects the technological changes of the information era.

Since the early 1700s, a predominant economic fact of life was that people moved to where jobs were located. This gave rise to a steady global trend of population movement from rural to urban areas and large-scale migrations across the Atlantic and to some degree across the Pacific. While economic migrations have by no means disappeared, the information age has enabled people to work from anywhere to a much greater extent than ever before. Now jobs often move more readily in search of the best talent. Wage competition, though still relevant, is decreasingly a factor. We are in fact seeing wages equalizing across the globe in the information technology sector much faster than people would have predicted a decade ago. For example, information technology salaries in India are expected to rise 12 percent this year. In China, the median pay for software engineers rose by an average of 13.8 percent each

year between 2006 and 2010, with a total increase over that period of 67 percent. In Brazil, the median pay for software engineers rose by an average of 9.6 percent each year between 2006 and 2010, with a total increase of 43.7 percent.

These trends make it clear that we should not base our thinking on innovation and high-skilled immigration policy on the misperception that, if jobs go to another country, it is a simple matter of wage competition. When jobs flow elsewhere, it increasingly reflects the fact that there is an overall shortage of certain talent. While traditional labor market forces would normally draw the talent to the places where labor was needed, technology has made a wide range of high-skilled jobs far more portable, so that jobs can move quickly and globally to where the talent is located.

In short, in some fields such as computer science and engineering, jobs can move more quickly across borders than people. This is a profound technological and economic change that governments are beginning to recognize. Increasingly, it highlights the central challenge we face: how do we develop the best possible talent pool in the United States? The country with the best talent within its borders will have the strongest economy.

***The Talent Supply and the "Dual Unemployment Rate" Paradox***

Any economic policy adjustment, including high-skilled immigration policy, must be made with a careful eye on the country's serious unemployment rate. Too often, the debate on high-skilled immigration reform has bogged down based on the view that the unemployment problem is solely a jobs problem. Increasingly, however, the unemployment problem in the United States is also a skills problem.

We see this in the markedly different unemployment rates for different groups of Americans. For example, the Bureau of Labor Statistics last month estimated that the unemployment rate for individuals with only a high school diploma is 10 percent. In contrast, unemployment for individuals with a college degree or more is only 4.4 percent.

This education-based difference in unemployment rates is mirrored in the IT job environment. In April, for example, the unemployment rate for computer and mathematical operations hovered around 4 percent, under half the overall unemployment rate. What is clear is that our country is operating with a "dual" unemployment rate, one for those with a strong postsecondary education, and another starkly different one for those without it.

Evolving job skills requirements will only deepen this divide. In a recent study released, the Georgetown University Center on Education and the Workforce estimated that, by 2018, the large majority of new jobs will require more education and greater skills than was the case even a few years ago. Between 1973 and 2008, the share of jobs in the U.S. economy that required postsecondary education rose from 28 percent to 59 percent. This share is projected to rise even further, to 63 percent, by 2018. Postsecondary education, as the study's authors put it, has become the "gatekeeper to the middle class and upper class."

When one considers that full employment is traditionally defined as unemployment at a rate of 5 percent, this explains the paradox we are seeing in the economy. We're currently experiencing both persistently high unemployment overall and increasing wage inflation in the IT sector at the same time. In reality we currently have two economies and two separate categories of demand: one for those with a postsecondary education and another for those without. We will not bring unemployment down to the extent desired until we skill up the population to attract the jobs that otherwise will be located elsewhere.

***"Skilling" up the American Workforce***

Our first priority should be to elevate and enhance the skill set of American citizens so they can compete for the higher-skill jobs in today's economy. We need to bring more Americans up to at least the postsecondary level that makes such a major difference in employability. We must also do more to ensure that our students are focused in the fields that our economy needs.

Unfortunately, this is an area in which the country is falling dangerously short. The Georgetown study projecting jobs and education requirements shows that by 2018, the United States will need 22 million new college degrees, but that the country is on course to fall short of that number by at least 3 million. Moreover, we are falling short in many of the fields we need the most. Computer-related bachelor's degrees awarded in the United States – about 60,000 in 2004 – had dropped to 38,000 by 2008. Nor are these shortfalls limited to the bachelor's degree level. Last year only about 1,600 computer science Ph.Ds. graduated from U.S. universities. Of these, some 60 percent were foreign nationals. This leaves only a very small pool of talent for the private sector, government, and academia to recruit from in this critical area.

Not surprisingly, companies that rely heavily on higher-skilled labor are among those most acutely affected by higher-skilled labor shortages. This is also why Microsoft and many other technology-based companies increasingly are making investments to help strengthen education in the United States.

For example, this spring, Microsoft came together with a number of other co-founders to launch Washington STEM, a new privately funded program to improve teaching and learning in science, technology, engineering and math. Mirroring the national education gap described above, Washington State ranks fourth in the nation in technology-based corporations, yet is near the bottom in student participation in science and engineering graduate programs. America must do a better job of preparing our students for the opportunities that await them. Washington STEM aims to tackle this challenge starting when students are in elementary or middle school. Our \$6 million commitment will help this program make focused investments in programs that will improve student learning in these crucial fields in our home state. We hope as well that it will serve as a shining example of what can happen when businesses, non-profit groups, and educators join forces to improve educational opportunities to the students of our nation.

Similarly, last month Microsoft pledged \$25 million over the next five years to a new public-private Washington Opportunity Scholarship, an innovative approach to provide funding to help stabilize the higher education system and increase the number of students earning bachelor's degrees. Together with a similar pledge by our partner The Boeing Co., and with matching state contributions, this program will raise \$100 million for scholarships for low- and middle-income students. It is expected to blossom into a billion-dollar endowment for financial aid by the end of this decade

And just last week, Microsoft Education announced a new \$15 million investment in research and development for immersive learning technologies, including game based instruction and the creation of a lifelong learning digital archive. Over the next three years, Microsoft is committing to train over 150,000 educators and leaders and to provide access to professional learning communities and training to every teacher in the United States through the new Partners in Learning Network.

In addition to these investments in improved educational strategies, Microsoft has also invested heavily in programs to provide technology training and resources to help people find employment in a knowledge-based economy. Against the backdrop of the deep national recession that put millions of Americans out of work, Microsoft launched Elevate America. This program included a voucher program in participating states across the country to provide no-cost technology skills training for over 900,000 workers; a veterans initiative, to help U.S. veterans and their spouses transition from military to civilian employment; community initiative partnerships with non-profit organizations that provide technology access, training, and resources for persons seeking employment; and no-cost and low-cost online resources to help people gain the basic- to intermediate-level computer skills that so many of America's jobs require.

Given the magnitude of the skills gap in the United States, it is apparent that a sustained commitment and private-public partnerships will be needed in order to fundamentally improve the country's competitiveness. Microsoft is but one of many companies that increasingly are stepping forward with commitments to help the country move forward.

***Attracting Skilled Workers to Meet Unfilled Talent Needs and Remain Competitive***

Improving education strategies is a first-tier need but a longer-term process. Skilling up the population also involves focused and targeted efforts to attract relatively small numbers of the best people from elsewhere in the world, so we can persuade them to bring their special skills and put them to work for the U.S. economy. As we consider the reforms needed to our high-skilled immigration policies, we need to recognize that bringing more smart people to work in this country does not necessarily take jobs they occupy away from American workers. A strategic high-skilled immigration policy can create more new jobs in this country for American workers to take up.

Microsoft's experience helps illustrate this phenomenon. Microsoft has been a major job creator in this country. When Microsoft moved to Washington State in 1979, it was a \$3 million

company employing 30 people. Today it is a global company operating in over 100 countries, with more than 90,000 employees worldwide and a U.S. workforce of 54,000 employees.

Although Microsoft has directly created U.S. jobs at a significant rate, this is not where the economic effect ends. A 2010 study by the University of Washington's Economic Policy Research Center illustrates the powerful downstream economic effect of high technology jobs. This study found that the \$9.16 billion Microsoft injected into the state's economy in 2008, through total compensation to its Washington employees and local operating expenditures, in turn created job opportunities for other state businesses through a "multiplier effect" amounting to 267,611 jobs in that year. Through this multiplier effect, every job at Microsoft supported 5.81 jobs elsewhere in the state economy.

Microsoft's economic contributions have been possible by combining American brainpower with the talents of some of the brightest professionals from around the world. Our U.S. workforce is made up overwhelmingly of U.S. workers, but as part of our talent recipe, we have also relied on our ability to attract an essential complement of the best minds from other countries.

Microsoft and other technology companies have a powerful ongoing capacity to create jobs in America. This capacity is fragile, however, because of our persistent and ongoing need for talented high skilled workers in order to compete. Microsoft is innovating in incredibly competitive markets, and we struggle, just as our peers do, to fill all of the research and engineering positions needed to stay at the forefront of that competition. In what we call our "core tech" positions—those involving research and engineering—we have had consistent growth in head count from 2007 through 2011, even during the down economy. And we have kept our focus on jobs in this country, with more job growth and hires in the United States than internationally in core tech positions, when measured in real numbers.

Because of shortages and intense competition, however, filling our talent needs remains a serious challenge. For example, in May, Microsoft had 4,551 unfilled job openings, of which 2,629 were for computer science positions. In 2011, it has taken us on average 65 days to fill openings for experienced candidates in core tech positions in the United States. Our continued ability to help fuel the American economy depends heavily on continued access to the best possible talent. This cannot be achieved, and certainly not in the near term, exclusively through educational improvements to "skill up" the American workforce. We need to be able to attract – and have adequate access through the immigration system to – skilled workers from abroad.

#### ***Keeping Room for the Best and Brightest***

As Congress grapples with designing a new, smarter high-skilled immigration policy, we must not treat that policy exclusively as a means of filling shortages that cannot be fully filled by U.S. workers. A baseball team aiming to win the World Series will use the midseason trading period to recruit the top player available to fill a gap, whether he is from the United States or the Dominican Republic or Japan, and even if qualified American players are available. We must preserve our ability to do some of the same with intellectual talent. If American technology

companies are going to continue to lead the world, they need to remain free to attract the best in the world – that echelon of “impact talent” with a special capacity for innovation and for the U.S. job creation that follows.

Many of our top leaders at Microsoft prove this point. Qi Lu, the President of our Online Services Division, came to this country from China and earned a PhD at Carnegie Mellon. Dr. Lu holds 20 U.S. patents and was instrumental in the launch of our Bing search function initiative. Don Matrick, the President of our Interactive Entertainment Business, came to the United States from Canada. He is responsible for the businesses that develop key entertainment experiences such as Xbox 360 and Kinect. Earlier in his career he was named one of America’s “Top Ten Influentials” in Fortune Magazine’s “40 Under 40” list and was appointed to the World Economic Forum’s Forum of Young Global Leaders.

Another important example of this “impact talent” phenomenon is Alex Kipman. Alex came to this country from Brazil, where he had become enthralled with the idea of software development as a child of five, when he started playing video games. He studied in the U.S. at the Rochester Institute of Technology. From the time he graduated and joined Microsoft in 2001, he has been the primary inventor for 60 patents filings; 14 have been granted in this year alone. Alex is one of the fathers of Kinect, and is the director of the team responsible for “incubating” the project: he and his team took the vision and drove it through proof and execution. Kinect, if you are not yet familiar with it, is the device that enables a person to control through voices and gestures the software and games for Microsoft’s Xbox. It is also incredibly fun.

This is a good example of the multidimensional ways that innovation and innovators – often innovators from abroad – help generate jobs and growth and opportunity in the American economy. Kinect holds a Guinness World Record as the fastest-selling consumer electronics device, selling an average of over 133,000 units each day during its first 60 days on the market after it launched last November. It has therefore been a key revenue driver, generating more than \$1.2 billion in revenues in its short life so far. Kinect is also an important job creator at Microsoft in its current application through Xbox Hardware and MS Game Studios, and will continue to be as well through extended future adaptation in our core businesses, as the next level of Natural User Interface.

There is also an important downstream economic effect for the creation of a product like Kinect: packaging; transportation; buyers and stock clerks and salespersons in the stores that sell it; the list goes on. This is the real-life case study of the multiplier effect that the University of Washington researchers demonstrated.

Beyond the multiplier effect, there are also the avenues of innovation, not yet even imagined, that this revolutionary technology will open for others. As just one example of its game-changing potential, Kinect is being used by surgeons for no-hands operation of computers displaying CT images during surgery. This frees them of the need to leave the sterile surgical field and then re-scrub after using their hands to manipulate and consult the computer image.

Kinect acts as a job creator in the U.S. economy as companies and developers capitalize on the technology, whether through games or novel applications such as health care, robotics, and more. On this point, Alex has said it best: “This is a new era, and it’s going to require a ton of pioneering, a ton of innovation, and a ton of incubation. That’s not going to happen all within Microsoft.”

Finally – and this is perhaps the most important point for a smarter high-skilled immigration policy – we as a country should be doing everything we can to make sure that ideas like Kinect bloom here, in the United States. This means making sure that people like Alex, who sits near the top of Fast Company magazine’s list of the Hundred Most Creative People in Business for 2011, are attracted to study in this country and bring their talent to bear in the American workplace, with a ready path to permanent residence in the United States.

***Enabling High-Skilled Immigration to Drive Economic Growth***

For a country to remain competitive in a changing environment, its laws need to evolve to address changing economic realities. It is striking that despite the fundamental changes in the global economy, there has not been a major structural change in U.S. immigration law since 1990 – more than 21 years ago. Entire industries now exist that were only in their infancy in 1990, creating hundreds of thousands of new jobs. Other countries now compete vigorously for high skilled workers. Many of these countries had few if any jobs to offer in key sectors two decades ago, yet today they provide an attractive alternative to a career in the United States. We are hopeful that today’s hearing propels a legislative effort to reform and modernize our immigration laws in a meaningful way that will benefit the country, encourage investment, retain and attract high-skilled talent, and create jobs.

There are clear policy steps Congress can take that will enable the country to do a better job of attracting and retaining foreign talent and putting it to work in a manner that will best serve the economy as a whole. We recommend that Congress should:

- ***Ensure that the supply of employment-based green cards matches the demands of a knowledge economy.*** The supply of employment-based green cards has not been brought up to date since 1990. That supply remains at 140,000 permanent visas per year, and the limit includes not just the workers we seek to attract, but also their family members, effectively shrinking the supply of green cards for professionals to less than half that number. Today’s green card limits mean that it can take more than a decade to obtain permanent residence for highly valued professionals. Per-country limits that are overlaid on the overall cap result in particularly pronounced delays for those born in China or India, two of the most important recruiting pools for experts in the STEM fields. From these two countries, even those with advanced degrees must sit through a backlog lasting over four years. When it takes America’s innovation employers many years to secure permanent residence for key foreign experts, it is more and more difficult to persuade the best and brightest to join the U.S. workforce in the first place. Retaining these employees through

the years of the green card backlog is a rising challenge. Prospects for permanent residence even affect the decisions of the world's top students about where to study. Especially as professional, economic, and lifestyle prospects improve in other countries around the globe, incentives are intensifying for the best and brightest to take highly sought-after skills to competitor countries, often even after they have gained those skills through education in this country's universities.

- **Modernize student visa policies to attract the world's top talent to this country's universities and then, after they graduate, to this country's economy, rather than economies abroad.** Today, in order to get a student visa, a person must demonstrate to a U.S. consular officer, and then again to an immigration inspector on arrival in the country, that he or she does *not* intend to stay here permanently. This is often backward. Our student visa policies should specifically welcome the prospect that the world's very top students should want to stay and work here when they graduate. We should facilitate their doing so, by recognizing that students may permissibly come with "dual intent" to study in this country and then, if the right job is available, remain to contribute their skills to the U.S. workforce. We should also extend the period that they can work here for post-graduation training. We should streamline the path to permanent residence for those who have gained the education and expertise we need. For many students with selected educational accomplishments, this would eliminate the necessity of relying on professional visas such as the H-1B or the L-1 as a many-year bridge to a green card.
- **Keep the temporary professional visa programs healthy.** There will always be a need to use the nonimmigrant visa programs to get critical recruits on board quickly, no matter how effectively the green card process and the student visa program are reformed. Many prized recruits will have studied in other countries' universities, or have a particular expertise that can only come from experience in another market, or will be bringing critical knowledge that could only be gained through experience at a U.S. employer's operations overseas. Many important assignments in this country are truly temporary. Yet the visa programs that serve these important purposes have come under unnecessarily severe fire through overly broad concerns that the visas are being used to the detriment of American workers. To be sure, there are employers who violate program rules, including critical U.S. worker protections. Microsoft fully supports reforms to better enforce these protections and to ensure program integrity. Yet Congress must take care that any reforms to the H-1B, L-1, and other temporary professional visa programs ensure that these visas remain freely available to the compliant employers that can drive economic recovery, so that those employers can respond nimbly to new ideas and market opportunities.

#### **Conclusion**

Attracting in reasonably small numbers the best and brightest talent from around the world has been a key part of the country's economic growth ever since the large waves of immigration ended in the early part of the 20<sup>th</sup> century. We've seen this time and time again in key economic sectors. It was vital to the country's ability to win World War II. It was equally vital

to our ability to win the Space Race in the two decades that followed and spur American leadership in the aerospace, information technology, and other sectors. Given the new global mobility of jobs, the ability to add talent to our population is as important now as it has ever been.

We as Americans have been the best in the world at incorporating intellectual talent into our national fabric, for business purposes, academic purposes, and scientific purposes. We have done it across party lines, we have done it across regions, and we have done it across disciplines. It is one of the things that we do best, and we should continue this proud American tradition. Just as it took congressional and federal leadership in prior times to make sure the country could be successful in this area, the country needs leadership from Congress and the Administration to take the types of steps that will revitalize economic and employment growth. We look forward to working with you toward achieving this critical goal.

Thank you.

**Brad Smith**  
**General Counsel and Senior Vice President, Legal and Corporate Affairs**  
**Microsoft Corporation**

Brad Smith is Microsoft's general counsel and senior vice president, Legal and Corporate Affairs. He leads the company's Department of Legal and Corporate Affairs (LCA), which has just over 1,000 employees and is responsible for the company's legal work, its intellectual property portfolio and patent licensing business, and its government affairs and philanthropic work. He also serves as Microsoft's corporate secretary and its chief compliance officer.

Since becoming general counsel in 2002, Smith has overseen numerous negotiations leading to competition law and intellectual property agreements with governments around the world and with companies across the IT sector. He has helped spearhead the growth in the company's intellectual property portfolio and the launch of global campaigns to bring enforcement actions against those engaged in software piracy and counterfeiting, malware, consumer fraud, and other digital crimes. As software has migrated online and into a computing "cloud," one of LCA's current principal goals is to help establish the legal foundation for this next generation of technology.

Smith has played a central role in ensuring that Microsoft fulfills its corporate responsibilities. In recent years Microsoft has consistently ranked in the top 2 percent of the S&P 500 for corporate governance scores. During Smith's tenure, the company's citizenship programs have reached almost 300 million people in 120 countries through technology training programs that help individuals develop the skills needed to obtain jobs. Smith has also helped advance several significant diversity and pro bono initiatives, both within Microsoft and in the broader legal profession. He currently co-chairs the board of directors of Kids in Need of Defense (KIND) and serves as chair of the Pipeline Committee of the Leadership Council on Legal Diversity.

Smith also serves as Microsoft's senior executive responsible for the company's corporate citizenship in Washington State. He has served as chair of the Washington Roundtable, a leading Washington state-based business organization. In 2010 he chaired for Washington State Governor Christine Gregoire her Higher Education Funding Task Force, and in 2011 he helped advocate for the successful adoption by the legislature of the Task Force's recommendations, including tuition-setting authority and increased accountability for the state's public universities and for the nation's first private-public funded endowment to enable more students to attend college. During the past year, Smith and his wife, Kathy Surace-Smith, co-chaired the annual campaign for the United Way of King County, the country's largest United Way campaign.

Before joining Microsoft in 1993, Smith was a partner at Covington & Burling, having worked in the firm's Washington, D.C., and London offices. He graduated summa cum laude from Princeton University and received his law degree at the Columbia University School of Law. He also studied international law and economics at the Graduate Institute of International Studies in Geneva, Switzerland.

Smith has written numerous articles and commentaries regarding international intellectual property and Internet policy issues, and has served as a lecturer at The Hague Academy of International Law.

Hearing on "The Economic Imperative for Enacting Immigration Reform."  
Tuesday, July 26, 2011

Statement of Dan Stein  
President, Federation for American Immigration Reform

to the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

This testimony describes FAIR's position that the adoption of an amnesty for the millions of illegal aliens presently in the U.S. would perpetuate the negative economic impact from illegal immigration, increase the negative fiscal impact, undermine respect for the law, and perpetuate the perception abroad that the U.S. will continue to accommodate illegal immigration.

Mr. Chairman,

This statement is submitted on behalf of the Federation for American Immigration Reform's (FAIR) more than a quarter million members and activists. FAIR is a national, non-profit interest organization that works to end illegal immigration, restore moderate legal immigration levels, and reform our immigration laws to bring them into accord with the national interest. In addition to representing the views of our members, FAIR represents the views of a majority of American voters in viewing an amnesty proposal as wrong headed. A Rasmussen poll this month found that by more than a two to one majority (66 percent to 27 percent), likely voters feel that gaining control of the border is a more important objective than amnesty for illegal aliens.

#### **The Economy and Jobs**

There are an estimated seven million illegal aliens in U.S. jobs. Meanwhile, Bureau of Labor Statistics data put the share of persons unemployed, employed part time but looking for full time work, and marginally employed in June at 16.7 percent of the civilian workforce, or about 25 million persons. Most Americans recognize what is wrong with giving illegal workers permanent access to jobs when millions of Americans are looking for work. In case after case where illegal workers have been apprehended or dismissed from their jobs, American workers have lined up to take those jobs. It is patently false to say that illegal workers only take jobs Americans do not want.

It is correct, however, that there are some exploitive jobs that most Americans would not want. Those are employment outside the law. They may be sweat shops or other illicit activity of marginal economic value and should not be tolerated in a country that values respect for the law. Nevertheless, an economist would argue that those jobs contribute to the national Gross Domestic Product (GDP). While that may be true, it demonstrates that an argument based on that kind of reasoning should be mistrusted.

Adoption of an amnesty similar to the counterproductive amnesty of 1986 would improve the ability of illegal aliens to compete with American workers. Thereby, it would offer them an opportunity for better wages. But, as the law of supply and demand dictates, more workers

competing for jobs has the effect of lowering the value of that work and leading to wage stagnation or depression. That is precisely what has happened as illegal immigration has skyrocketed to 11 to 13 million persons since the 1986 Immigration Reform and Control Act amnesty. Not only have wages for low skilled workers stagnated, but the presence of so many low-skilled workers has contributed to the increase in income inequality in the country. As noted in a report to the President by the Council of Economic Advisors, "Several factors have contributed to widening inequality . . . Immigration has increased the relative supply of less educated labor and appears to have contributed to the increasing inequality of income . . . ."<sup>1</sup>

#### **The Negative Fiscal Impact of Amnesty**

As we have documented in our report last year on "*The Fiscal Burden of Illegal Immigration on United States Taxpayers*," the current burden of about \$113 billion dollars expended from federal, state and local budgets on programs for illegal aliens and their U.S.-born children is only marginally offset by an estimated \$13.2 billion in tax receipts. That report also explains how an amnesty would exacerbate that enormous fiscal imbalance.

Illegal aliens are currently barred from collecting the federal and many state and local benefits of social services provided to poor Americans and legal immigrants. An amnesty would have the effect of either qualifying that population to social assistance programs they previously have not been able to access or at least put them on the path to eligibility for those programs. Perhaps the greatest fiscal cost that would result from an amnesty would be qualifying those workers for claiming the Earned Income Tax Credit (EITC). For a large share of low-wage workers, the EITC would work as a negative tax, meaning they would get back more money from the Treasury Department that may have been withheld from their wages.

Research on the well-being of illegal aliens amnestied by the 1986 law demonstrates that there was no significant economic benefit to them – and, therefore, to the economy – as a result of their gaining legal status. They had some increase in earnings, but only in proportion to the gain in earnings to the overall workforce.

In addition, the benefit to the Social Security Trust Fund currently realized when illegal alien workers are using fake or stolen identities, estimated by the Social Security Administration (SSA) at between \$120 billion to \$240 billion, could be reclaimed by those workers when they have a new legal Social Security Number (SSN). Adding to the loss of those billions to the system, the newly legalized population would be made eligible to the retirement system thereby hastening the date of its insolvency.

#### **Undermining Respect for the Law**

The more often exceptions are made to the law, the weaker it becomes. What the nation experienced with the 1986 amnesty was about 2.5 million of 3 million amnesty applicants granted legal status. In theory, this was supposed to end illegal immigration because it was accompanied by a new sanction against employers hiring illegal alien workers. After a short hiatus in illegal immigration following the adoption of this law, illegal immigration not only resumed, it increased in volume to the extent that the illegal alien population was estimated to be

increasing by a net half a million persons per year up until 2008 when it slowed due to increased border enforcement and decreased job opportunities. But, illegal entry and visa overstay by foreigners persists with the most recent estimate of the Department of Homeland Security documenting a slight increase in the illegal alien population from 2009 to 2010.

#### **Perpetuating Illegal Immigration**

The continued magnet for illegal immigration is partly better paying job opportunities and partly the hope that by being already in the country – albeit illegally – that the alien will stand to benefit from being granted legal status in a new amnesty. The introduction of amnesty legislation and the continuing calls for adoption of an amnesty by the President and senior administration officials may be seen abroad as an invitation to come illegally and take advantage of American forgiveness of that illegal activity. Similarly, the proclamation by local governments that they offer “sanctuary” for illegal aliens or tangible benefits such as a driver’s license invite continued illegal immigration. The corollary is that it is unrealistic to expect respect by foreigners for the ordered entry process set out in our immigration law until it becomes clear that there is a determined commitment at all levels of government to work together in enforcing the law.

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<sup>1</sup> *Council of Economic Advisors, Annual Report to the President*, February 1994, GPO, Washington DC.

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ANNIVERSARY  
1980 - 2010

July 21, 2011

Senator Charles E. Schumer  
322 Hart Senate Office Building  
Washington D.C. 20510

Re: Economic Impact of HR 2164

Dear Senator Schumer,

As Congress considers the economic arguments for an immigration overhaul at its July 26, 2011 Hearing, United Agribusiness League (UAL) respectfully urges members of the Senate Judiciary Subcommittee on Immigration to remember the unique financial and legal work force challenges California agribusiness employers face every day.

To be sure, UAL's 14,000 employer members' support improved immigration enforcement, but aggressive worksite enforcement without broader reform would deprive California growers (as well as specialty crop growers throughout the U.S.) of most of their workforce. The economic impacts to California's largest industry will be devastating.

As a matter of national policy, UAL wants Congress to understand that mandating enforcement without immigration reform is to accept that "third world" countries will soon control the U.S. food supply.

Bills like HR 2164, the Legal Work Force Act, would make it increasingly difficult to hire enough legal farm workers which would force farmers to leave millions of dollars of specialty crops like fruits and vegetables rotting in the fields.

The bill requires that employees performing "agricultural labor or services" be subject to an E-Verify check within 36 months from the date of enactment - a trap door for California growers.

It is imperative for any legislation requiring mandatory use of e-verify to have a "Safe Haven" provision for employers that exercise due diligence in resolving issues with employee's mismatched Social Security Number versus official records. We propose that after 120-days, an employer may terminate an employee that cannot or will not resolve their issue with the Social Security Administration or the Department of Homeland Security. Without such a provision, employers are unfairly being exposed to complaints from other government agencies or civil actions.

Senator Charles E. Schumer  
July 21, 2011  
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UAL is particularly concerned about a provision in HR 2164 that states an individual engaged in seasonal agricultural employment is not considered a new hire if the individual starts work with an employer for whom they have previously worked.

Farm labor contractors provide much of the labor used to harvest specialty crops in California and other states. Under the bill, each worker would have to be hired directly by the farmer, not the labor contractor. Though likely an unintended consequence of a well-intentioned bill, it creates significant problems for farm labor contractors and could put many of these needed companies out of business.

HR 2164 creates potentially devastating economic impact for growers who depend on labor contractors.

California farmers can have thousands of dollars per acre invested in hundreds of acres of fruits and vegetables. They are "betting" that they'll have a labor force to harvest these specialty crops in the limited time when the product is ripe and ready to pick - generally just three days or less. Go beyond that window and there is no longer a market for most fruits and vegetables. To make matters worse there is no crop insurance or federal subsidy for specialty crops.

UAL asks Subcommittee Members to consider a special five-year visa for agricultural workers as part of any mandatory E-Verify legislation maintain a viable farm economy in California and other states where specialty crops are grown.

A five-year agricultural-worker visa, which would mandate workers granted the special visa could only work in agriculture, would help ease UAL's grower-member concerns and some illegal immigration fears.

Some suggest that the existing H-2A agricultural worker program can fill the breach. However H-2A has historically provided only about two percent of agriculture's labor needs. At its peak in 2009, it accounted for nearly five percent of total workforce. The program has long needed extensive reform. It is now in virtual collapse under the administration of new rules that took effect last year.

The instability of the H-2A program is not worth the gamble for UAL's grower members. Yet even if H-2A could be substantially improved, reform of that program cannot alone stabilize the farm labor situation. Extensive program changes, farms building to capacity and participation of American consulates abroad would be needed for H-2A to provide a meaningful percentage of needed farm labor.

Senator Charles E. Schumer  
July 21, 2011  
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UAL contends that the special agricultural worker visa may be the best answer for today's political and economic climate. The Agriculture Work Visa need not contain any special privileges. The Guest Worker would receive pay and benefits that are provided to U.S. Domestic workers doing the same job. It would not be a path to legalization or a citizenship. Instead, it would clear a path to a reliable legal agricultural work force in California and across the country.

In conclusion, a regimen of worksite enforcement alone, or mandating the use of E-Verify, without broader reforms that ensure a stable, properly authorized and affordable labor force, will deprive labor-intensive California agriculture (and the specialty crop industry throughout the U.S.) of its workforce.

This would mean a loss of production, loss of farm income, loss of on-farm and farm-dependent jobs, and diminished economic activity in California's rural communities.

We look forward to working with you to achieve improved immigration enforcement without the untenable and irreversible economic consequences that will be especially felt in California if an enforcement-only regime is imposed.

Please feel free to contact me or UAL's Executive Vice President and General Counsel, Clare Einsmann (at (800)223.4590 or ceinsmann@ual.org) if you would like further insights into our position.

Sincerely,



Richard G. Schmidt  
President and CEO

FC:cme

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July 26, 2011

The Honorable Charles Schumer  
Chairman  
Senate Judiciary Committee  
Subcommittee on Immigration, Refugees &  
Border Security  
Washington, DC 20510

The Honorable John Cornyn  
Ranking Member  
Senate Judiciary Committee  
Subcommittee on Immigration, Refugees &  
Border Security  
Washington, DC 20510

Re: For the hearing record, concerning the July 26, 2011 hearing on:  
*The Economic Imperative for Enacting Immigration Reform*

Dear Chairman Schumer and Ranking Member Cornyn:

On behalf of the U.S. Chamber of Commerce, we would like to express our view that one of the most significant areas where Congress can legislate reforms today with a direct impact on expanding job creation is immigration reform. Thus, indeed, there is an economic imperative for employment-based immigration reform. The Chamber applauds the Committee for holding this hearing and requests that this letter be included in the hearing record, along with the attached (electronic version) of the Executive Summary of our study *Regaining America's Competitive Advantage: Making our Immigration System Work*.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses of every size, sector and region across the United States. The Chamber federation also includes American Chambers of Commerce abroad ("AmChams") located in 91 countries, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States.

As this Committee is undoubtedly aware, the U.S. Chamber has long advocated for workable visa programs for both higher skilled and lesser skilled immigrant workers, both of which play a role in the vitality of the American economy. Such workers contribute to creating new jobs as well as retaining positions for U.S. workers. Neither high-skilled or lesser skilled worker programs currently function appropriately, or even rationally. While our statement today focuses on high-skilled immigration, the U.S. Chamber implores the Committee to recognize the direct connection between lesser skilled immigrants and their creation of new businesses in our communities as well as the essential need for such lesser skilled workers to perform the hard work in many sectors of our economy with insufficient numbers of U.S. workers.

#### **AN ECONOMIC IMPERATIVE: HIGH-SKILLED IMMIGRATION REFORM**

In August 2010, the U.S. Chamber of Commerce, in conjunction with the American Council on International Personnel, published a study entitled *Regaining America's Competitive Advantage: Making our Immigration System Work*<sup>1</sup> which highlighted the rather obvious point, among other fundamental points, that the competition for high-skilled labor is global, not domestic, and that our immigration policy must reflect this reality. This principle continues to be instructive for the debate on immigration reform.

The report details how an immigration system which operates to prevent a company from hiring a foreign national identified by the business as the best qualified for a particular job in the U.S. does not necessarily translate to employment for a U.S. worker. When faced with an H-1B cap which is often met 8-12 months prior to the end of the government's fiscal year,<sup>2</sup> many companies have felt forced to establish major design centers in Canada, Europe, and India, and elsewhere to establish an orderly means to address research and design projects. It is important to remember that many employers in a variety of industries utilize the H-1B category each year to hire only one specialty occupation worker. The category is widely used as the sole means to hire a professional foreign national already lawfully in the U.S., either as a student or as an H-1B worker for another company, following completion of a competitive recruitment by the employer. An artificial H-1B cap, and for that matter an artificial cap for employment-based green cards, does not reflect a 21<sup>st</sup> century reality on the movement and availability of professional workers.<sup>3</sup>

Globalization of the workforce, especially in the science and engineering fields, is expanding, not contracting. The multi-disciplinary dynamics of geography, education and mobility mean that most work can be located and performed beyond the borders of where the employer's business is based, due not only to increasing numbers of individuals with Science and Engineering skills in developing nations but also because of increasing international mobility. The result is interlocking trends where talented people cross borders in search of

<sup>1</sup> [http://www.uschamber.com/sites/default/files/reports/100811\\_skilledvisastudy\\_full.pdf](http://www.uschamber.com/sites/default/files/reports/100811_skilledvisastudy_full.pdf). Study prepared for the Chamber and ACIP by Stuart Anderson, Executive Director of the National Foundation for American Policy. The study also rebuts misleading allegations by the AFL-CIO concerning the H-1B program.

<sup>2</sup> The H-1B cap has been met prior to the end of the government's fiscal year in 1997-2000 and 2004-2010. Id. Pages 11, 59.

<sup>3</sup> Id. Pages 11, 17, 30, 32.

interesting and lucrative work, employers recruit and move people internationally, and businesses invest and capitalize research and development beyond national borders.<sup>4</sup> In other words, as reiterated recently by the 2010 Annual Report of the Federal Reserve Bank of Dallas, since U.S. companies can often employ their workers here or overseas “the U.S. has a lot to gain from rewriting U.S. Immigration policy to focus more on high-skilled and employment-based immigration.”<sup>5</sup>

Another point highlighted by the Chamber study is that the employer, not a government bureaucracy, is best placed to decide which employees, with which skill set are most likely to make their enterprise successful and time the hire of new staff.<sup>6</sup> “In the few years where Congress enacted a higher ceiling for H-1Bs, employers did not hire additional skilled foreign nationals simply because the annual cap was higher.”<sup>7</sup> In the fiscal years when the cap was set at 195,000 many visas went unused. Specifically, in FY01, FY02, FY03 the H-1B cap was set at 195,000 and in each year, respectively, 163,600, 79,100 and 78,000 new H-1B workers were sponsored, following the business cycle mandates. Other studies have likewise found that demand for the H-1B program tracks the business cycle, and is not driven by an employer desire to rely on the H-1B on the program for cheap labor.<sup>8</sup>

As the Chamber discussed in our study, “the best policy for the United States is one that sides with freedom and innovation.”<sup>9</sup> Echoed by other economists, high-skilled immigrants have been found by recent empirical evidence to play an important role in innovation.<sup>10</sup> Indeed, skilled immigrants are credited by Chamber member companies for many innovative developments the businesses are currently pursuing in the U.S. For example:

- ❖ The pharmaceutical industry views an immigrant business processes innovator as a leader in transforming the American life sciences industry from a reactive “pill and vaccine” approach into a progressive wellness and prevention model. This highly skilled immigrant earned a Masters of Science in the U.S. and also completed graduate studies in management in the U.S. Among other awards, last year this individual was named to the PharmaVoice 100, a listing of industry thought leaders. This individual’s business process transformation expertise has been integral to the success and profitability of the life sciences activities of his employer. Moreover, he has made vital contributions to the underlying model for pharmaceutical development in our country, improving health care quality and potential outcomes while reducing costs.
- ❖ A major manufacturing company established its own Center for Energy, Efficiency and Sustainability in order to integrate best practices for the long-term use of energy and

<sup>4</sup> National Science Board. 2010. *Science and Engineering Indicators 2010*. Arlington, VA: National Science Foundation (NSB 10-01), see Chapter 3 conclusion, page 58.

<sup>5</sup> Pia Orrenius and Madeline Zavodny, *From Brawn to Brains: How Immigration Works for America*, 2010 Annual Report (Dallas, TX: Federal Reserve Bank of Dallas, 2010), Page 14.

<sup>6</sup> *Regaining America’s Competitive Advantage*, August 2010, Pages 17, 41.

<sup>7</sup> *Id.* Page 57.

<sup>8</sup> See, e.g., *Prosperous Immigrants, Prosperous American*, Marhsall Fitz, Center for American Progress, December 2009, Page 13.

<sup>9</sup> *Regaining America’s Competitive Advantage*, August 2010, Page 9.

<sup>10</sup> See, e.g., *From Brawn to Brains*, P. Orrenius and M. Zavodny, at Page 11.

other resources for the company, their customers, and the communities in which the company operates and serves. In recruiting for the position, the ideal candidate emerged whose doctoral thesis was on “Design Optimization of Renewable Energy Systems.” This individual had completed his Ph.D. at a U.S. institution and had post-completion employment experience in residential thermal energy management, a close connection to one of the company’s products. With the academic research record and employment experience, he was uniquely placed to identify breakthroughs in the net-zero energy home space, which is exactly what he is doing.

- ❖ A French-born IT specialist and thought leader is currently working with major US universities on research to develop new models of organizational behavior.
- ❖ An Indian-born IT specialist developed an innovative social media platform that is currently transforming the way a multinational company’s strategic planning operations collaborate and share knowledge.
- ❖ A Chinese-born engineer developed expertise through his U.S. graduate studies in “Optimal Excitation Controllers and Generator Excitation Systems,” which is directly related to a U.S. company’s power electronics business.

#### **A RELATED ECONOMIC IMPERATIVE: COUPLING EDUCATION REFORM WITH IMMIGRATION REFORM**

As the Chamber pointed out in our recent Immigration Myths and Facts report,<sup>11</sup> current immigrants make up a disproportionately large segment of both the population holding graduate degrees as well as those without a high school diploma.<sup>12</sup> To the extent that graduate education or university studies in certain fields is a prerequisite to the specialized skills and expertise needed in today’s knowledge economy, pushing the interest and development by U.S. students in these fields is also an economic imperative, starting at the K-12 level and continuing into higher education. Importantly, it is not just technology companies looking for high-skilled workers, and high level skills are not solely in computer-related occupations.

The National Science Foundation’s most recent annual report to Congress on science and engineering education, employment and competitiveness, *Science and Engineering Indicators 2010*,<sup>13</sup> reiterates that “science and engineering” (S&E) fields are not just computer-related occupations. Beyond computer sciences and electrical engineering, S&E includes the social sciences, especially economics and public

<sup>11</sup> *Immigration Myths and Facts*, U.S. Chamber of Commerce May 2011.

[http://www.uschamber.com/sites/default/files/reports/16628\\_ImmigrationMythFacts\\_OPT.pdf](http://www.uschamber.com/sites/default/files/reports/16628_ImmigrationMythFacts_OPT.pdf)

<sup>12</sup> Id. Page 1, citing Pia Orrenius and Madeline Zavodny, *From Brawn to Brains: How Immigration Works for America*, 2010 Annual Report (Dallas, TX: Federal Reserve Bank of Dallas, 2010), Pages 6-7,

<http://www.dallasfed.org/fed/annual/2010/ar10b.pdf#page=3>.

<sup>13</sup> National Science Board. 2010. *Science and Engineering Indicators 2010*. Arlington, VA: National Science Foundation (NSB 10-01)

administration, as well as the medical sciences and atmospheric sciences, along with the other engineering disciplines and the physical sciences.

Sponsorship of H-1B specialty occupation workers likewise mirrors the diversity of skill sets for which employers have found that the most qualified candidate happens to be a foreign national. For FY2009, 34.6% of new H-1B petitions were for computer-related occupations, but the remaining new petitions for initial H-1B classification were for architects and other engineers (12.5%), project leaders, technical and professional managers, and other managers not elsewhere classified (12.5%), teachers (12.5%), public administration and other administrative specialties (11.6%), medicine and health jobs (9.4%), life sciences occupations (4.1%), mathematicians and physical scientists (3.1%), economists and other social scientists (2.5%), along with a variety of other occupations (less than 2% each).<sup>14</sup> The Chamber's study found that "H-1B visa holders are spread across many fields, including accounting, engineering, medicine, and education."<sup>15</sup>

Of course many companies attempt to address these skill gaps on their own. Some Chamber companies have their own education support programs.<sup>16</sup> For example, one large diversified manufacturing company has taken the following steps: While the company typically recruits only graduate students for its professional jobs, it also has created a program where it seeks out highly qualified candidates with undergraduate degrees who the company puts through a two-year corporate professional management program for recruited university graduates in the fields of engineering, manufacturing, finance, and other business specializations to expose participants to rotational assignments throughout the organization to develop both technical and management skills and create a diverse, knowledgeable global talent pool. Additionally, the company is a major contributor to U.S. colleges and universities and academic research projects.

The U.S. Chamber of Commerce has its own educational arm, the Institute for a Competitive Work Force (ICW), which promotes the rigorous educational standards and effective job training systems needed to preserve the strength of America's greatest economic resource, our workforce.

Recently, ICW released a report addressing what kind of business involvement it would take to truly make a difference in K-12 schooling. *Partnership is a Two-Way Street: What it Takes for Business to Help Drive School Reform*<sup>17</sup> explains and analyzes how business can function as a critical customer, a partner, or a policy advocate in primary and secondary education. As discussed in the report, leaders in Texas, Tennessee, and

<sup>14</sup> *Characteristics of H-1B Specialty Occupation Workers for FY2009*, USCIS April 2010.

<http://www.uscis.gov/USCIS/Resources/Reports%20and%20Studies/H-1B/h1b-fy-09-characteristics.pdf>.

<sup>15</sup> *Regaining America's Competitive Advantage*, August 2010, Page 35.

<sup>16</sup> See the Compete America coalition website for a summary of what some of the nation's largest high tech companies are doing to support education and workforce development.

<http://www.competeamerica.org/workforce/american-workforce>.

<sup>17</sup> *Partnership is a Two-Way Street: What it Takes for Business to Help Drive School Reform*, U.S. Chamber of Commerce, Institute for a Competitive Workforce June 2011

[http://icw.uschamber.com/sites/default/files/Partnership%20is%20a%20Two%20Way%20Street\\_2011.pdf](http://icw.uschamber.com/sites/default/files/Partnership%20is%20a%20Two%20Way%20Street_2011.pdf)

Massachusetts adopted each of these roles, thus stepping up to make a big difference in K-12 schooling. In each case, business leaders talked seriously and bluntly with educators. They recruited respected experts to lead the reform efforts. They built sustainable structures, brought top-level executives to the table, and stayed engaged. They tackled tough questions, understood that some steps would be political and unpopular, and took the heat when there was pushback. Among its other ongoing activities, ICW conducts regional training for local and state chamber and business leaders, to create a leadership network in as many states as possible that is focused on the role business can play in improving education and workforce training. Also, ICW conducts an ongoing assessment of K-12 education in all 50 states and the District of Columbia through its *Leaders and Laggards*<sup>18</sup> report.

Another recent report from ICW focuses on higher education. *Transforming Higher Education through Greater Innovation and Smarter Regulation*<sup>19</sup> focuses on how academic programs and institutions must be transformed to serve the changing educational needs of a knowledge economy. The U.S. higher education system has long been one of the country's crown jewels. With the right leadership and policy choices, it will remain so. Higher education has not changed its basic structure and delivery model because it hasn't been forced to do so. However, an array of forces is now working to disrupt the traditional business model of higher education. Increasing international competition, a decline in government funding, changing demographics, and an increasingly mobile population are just some of the factors threatening the status quo. If innovation in higher education is discouraged through funding that fails to reward quality and outcomes, or simply thwarted by complacency within traditional intuitions, then the U.S. is likely to lose its edge to faster moving international competitors. In encouraging students to be ready for post-secondary education, ICW maintains active participation in coalitions focusing on both S&E and K-12 education, including Change The Equation, the Coalition for a College and Career Ready America, and the Business Coalition for Student Achievement.

## RECOMMENDATIONS

Addressing the needs for worker visa programs that allow U.S. employers to hire staff central to business success, without ignoring the educational reform also needed in our country, is within reach. Given the economic imperative for immigration reform, now is the time to act on at least a few areas of common agreement concerning the most pressing needs in our immigration system, including:

- ❖ Establish that graduates who have earned a Masters or higher at a U.S. institution are exempt from the H-1B and green card caps, without numerical limit. Or exempt Masters or higher graduates of US institutions in certain fields from of the employment-based H-1B and green card quotas, without numerical

<sup>18</sup> <http://www.uschamber.com/reportcard>.

<sup>19</sup> *Transforming Higher Education through Greater Innovation and Smarter Regulation*, U.S. Chamber of Commerce, Institute for a Competitive Workforce May 2011  
[http://icw.uschamber.com/sites/default/files/HigherEducationReport\\_final\\_high%20res.pdf](http://icw.uschamber.com/sites/default/files/HigherEducationReport_final_high%20res.pdf)

limit, such as those in the science and engineering fields as defined by the National Science Foundation. This would allow the very individuals to remain in the U.S. who are interested in making contributions to the American economy, who have already successfully navigated American culture, who have already shown they speak English and who have already started adopting the American research or business philosophy.

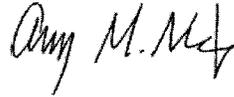
- ❖ Exclude spouses and dependent children as part of the employment-based green-card quota, which would raise the percentage of workers relative to annual Lawful Permanent Residents (LPR) to 12% to 14% of the annual LPR total. While this is still a percentage that we would say is too small, it is a minor change that will have a huge impact on the long lines that immigrants and their employers currently face without the necessity of a major overhaul of the employment-based system.
- ❖ Require USCIS to allow early filing of Adjustment of Status applications for employment-based immigrants in First, Second and Third Preference, to allow sponsored workers to file for Adjustment once an I-140 Immigrant Visa Petition is approved according to new “adjustment cut off dates” (after the date of I-140 approval but in advance of the State Department’s “qualifying date”). This would allow USCIS to accurately report to the State Department concerning how many immigrants are documentarily eligible for permanent resident status at any given time. With pending Adjustment requests, employment based immigrants could complete their immigration paperwork, be adjudicated documentarily eligible, and obtain interim benefits as a pending permanent resident, but no immigrant would obtain permanent resident status early or out of turn, or without all necessary security clearances.
- ❖ Exclude those who completed medical specialty certification (residency) in the U.S. from the employment-based green card caps, once they complete their obligation to work in an underserved area in the U.S.
- ❖ Raise the H-1B cap raised to 115,000 total (instead of 85,000 total based on 65,000 capped + 20,000 exclusion for Masters or higher) to escalate or retract going forward based on actual use – if cap met then next year increase 20%, if cap not met then revert to prior year numerical limitation or another set percentage decrease.

We look forward to supporting the employment-based immigration reform process.

Sincerely,



Randel K. Johnson  
Senior Vice President  
Labor, Immigration and  
Employee Benefits



Amy M. Nice  
Executive Director  
Immigration Policy

Attachment: Executive Summary for *Regaining America's Competitive Advantage:  
Making our Immigration System Work*  
[http://www.uschamber.com/sites/default/files/reports/100811\\_skilledvisastudy\\_execsummary.pdf](http://www.uschamber.com/sites/default/files/reports/100811_skilledvisastudy_execsummary.pdf)

Hearing on "The Economic Imperative for Enacting Immigration Reform"

Statement of Brian Valek

Ortonville, Minnesota

To the Senate Judiciary Subcommittee on Immigration, Refugees and Border Security

July 26, 2011

Members of the Committee, I am Brian Valek and I've lost my high skilled tech job more than once to H1-B visa workers. I'm 52 years old have experienced age discrimination due to the younger (and cheaper) H1-B Visa workers and oppose everything about this program and believe that it should be abolished.

It would be nice to see some changes that would put a higher priority on American Citizens vs. catering to foreigners in the high skilled job market. Please get rid of the H1-B Visa Program and do not give automatic green cards to foreign students.

I also oppose any proposals to give automatic green cards to foreign students as I believe it would flood the market with young people, exacerbating even more the rampant age discrimination problem in the industry.

I've been working in a High Skilled Tech jobs for over 30 years now. In 2003-2004, I was unemployed for over a year looking for a tech job. I was very much qualified for the positions that I was going after but could hardly even get a response from potential employers. I finally found a contract position and spent the next 5 years commuting 200 miles 1 way to work. I was desperate for a job so I suffered, spending the weekdays 200 miles from my wife and kids, coming home only on the weekends. I finally found a position closer to home and am still working there for a salary of about 1/2 of the salary that I made in 1995. I had to settle for this job as I could not even get a response from most employers where I sent my resume. I believe that the reason they would not look at me was because of my age and not my qualifications. Please don't get the impression that I am unqualified for work due to out-of-date skill sets, etc, as I have broad experience, and, contrary to popular belief, I CAN LEARN NEW TECHNOLOGIES very

easily. I have over 100 different computer languages that I either picked up on the fly or took classes for and am always looking for something new to learn.

Again, please put a higher priority on American Citizens in the High Skilled Job Market vs. catering to foreigners, get rid of the H1-B Visa Program, and, do not give automatic green cards to foreign students.

