



## Statement of the U.S. Chamber of Commerce

---

**ON: "SECURING THE BORDER: DEFINING THE  
CURRENT POPULATION LIVING IN THE SHADOWS  
AND ADDRESSING FUTURE FLOWS"**

**TO: SENATE COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENT AFFAIRS**

**DATE: MARCH 26, 2015**

---

1615 H Street NW | Washington, DC | 20062

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96 percent of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on issues are developed by Chamber members serving on committees, subcommittees, councils, and task forces. Nearly 1,900 businesspeople participate in this process.

Testimony  
before United States Senate Committee on Homeland Security and Government Affairs  
Thursday, March 26, 2015

Hearing on  
Securing the Border: Defining the Current Population Living in the Shadows and  
Addressing Future Flows

Testimony of  
Randel K. Johnson  
Senior Vice President  
Labor, Immigration and Employee Benefits  
U.S. Chamber of Commerce

On September 7, 2001, U.S. Chamber of Commerce President and CEO Tom Donohue testified before the Senate Immigration Subcommittee regarding immigration reform. The expectation of many in the Senate hearing room was that immigration legislation would soon be voted on in the Senate and quickly moved to the House. That timetable of course changed after September 11<sup>th</sup>, and properly so, while Congress created a new Department of Homeland Security and the nation grappled with pressing national security concerns. But over the ensuing years the Congress has continued to be unable to pass commonsense immigration reform. There are many reasons—and much finger-pointing.

Underpinning this gridlock are misconceptions about the role of immigrants in the United States. The U.S. Chamber of Commerce addressed many of these misconceptions in its earlier publication [Immigration Myths and Facts](#), to provide a summary of the macroeconomic studies that rebut the contention that immigrants are a burden on federal, state, and local tax rolls and take away jobs from native-born Americans. In our more recent publication [Open for Business: Spurring Local Economic Growth by Welcoming Immigrants](#), we summarize some of the latest experiences of state and local governments, working with partners in the private sector, in recruiting immigrants into their communities to revitalize their economies. This revitalization in many communities recognizes both that immigrants create businesses as entrepreneurs and fill gaps in the local labor force, the former phenomenon addressed in an earlier study we completed, [Immigrant Entrepreneurs: Creating Jobs and Strengthening the Economy](#).

Most Americans and most Members of Congress, of all political stripes, appreciate that immigration is a key aspect of our nation's heritage.<sup>1</sup> As a board member of an immigration restrictionist group has said, "Of course I admire and respect immigrants, as we all should because every American is either an immigrant or the descendent of ancestors who came here from

---

<sup>1</sup> Illustrating the point, from the conservative view: "Every one of us—whether it's us, or our parents, or our grandparents or our great-grandparents—we all are the children of those who fled oppression seeking freedom. I think that's the most fundamental DNA of what it means to be an American." (Sen. Ted Cruz – R-TX); "Immigration is a vital component that helped found our country and continues to make it great." (Sen. Mike Lee – R-UT); "America's freedoms and opportunities draw people from every nation." (Rep. Raúl Labrador – R-ID). And by way of example from the liberal perspective: "The United States is a proud nation of immigrants." (Rep. Luis Gutiérrez – D-IL); "The rich tapestry of our country came together through immigration." (Sen. Elizabeth Warren – D-MA).

somewhere else.”<sup>2</sup> While there is near universal devotion to our nation’s immigrant heritage, that is not enough to drive a problem-solving commitment on immigration; instead it just means that all are passionate about the subject.

But it is time to move past passion, to problem solving. Members of Congress and the president are elected to work together to solve our country’s problems – thus, not finalizing meaningful, passable pieces of legislation that can be signed into law to address the dysfunction of our immigration system should not be an option. This goal does not dictate any set legislative path. In the last Congress, the Senate passed a comprehensive bill but that is only one possible approach. Other routes can be taken, while being fully responsive to the reality that many aspects of reform have interlocking components.

The Chamber supports immigration because immigrants have always been a key to the success of our economy. Thus, we will continue to champion commonsense immigration reform, of which future flows of temporary foreign workers – the topic of this hearing – is one key component.

Although our statement is lengthy, its major points can be summarized as follows:

- First, expanded temporary worker programs, properly constructed, will aid economic growth and enhance border control efforts and national security. Moreover, these programs can be constructed in such a way to ensure that employers are only utilizing them when U.S. workers are not available for the jobs that need to be filled by employers in order to operate.
- Second, the current existing temporary worker programs are extremely difficult to use and are capped at unrealistically low levels, particularly when viewed against the backdrop of a workforce with 148 million workers employed across the country.
- Third, demographic data, including educational trends and estimates from the Bureau of Labor Statistics (BLS) concerning future job growth, indicate that we have an aging workforce and will have shortages in a variety of types of jobs in the future. Properly constructed temporary worker programs can help meet these challenges.
- Fourth, extensive data demonstrate that immigration, as a whole, is beneficial to the nation.
- Fifth, there is a clear need to develop and train more U.S. workers in the occupations where employers have unfilled jobs. The U.S. Chamber and its members are undertaking many activities to meet this goal.

---

<sup>2</sup> Professor Jan Ting, member of the board of the Center for Immigration Studies, an immigration restrictionist organization, testifying before the Senate’s Immigration Subcommittee, December 10, 2014.

## **REFORMING TEMPORARY WORKER PROGRAMS SO THEY IMPROVE BORDER CONTROL, PROTECT AMERICAN WORKERS, AND REFLECT ECONOMIC REALITIES WHILE EXPANDING ECONOMIC GROWTH**

There has been sharp disagreement about the extent to which our nation needs or can assimilate foreign-born workers and the extent to which Congress should revise U.S. immigration laws to both reflect the realities at the border and in the economy, while protecting our domestic workforce.

### **A. LEGAL LESSER-SKILLED VISA PROGRAMS AND BORDER CONTROL**

It is clear as a matter of logic that legal temporary worker programs for lesser-skilled workers would enhance U.S. security and border control. “One cannot secure the border exclusively at the border; security requires enforcement, but enforcement requires meeting legitimate needs in legitimate ways.”<sup>3</sup> To be blunt, and less academic, job availability in this country will always be a magnet for those in less well-off countries that are looking to better themselves and their families. Unfortunately, that magnet has led to illegal immigration, despite significant efforts at improved border control. The U.S. can help eliminate the incentive for illegal immigration if temporary worker programs can be used to fill available jobs – assuming that efforts have already been made to fill those jobs through the recruitment of U.S. workers. All such temporary worker programs would not only provide a legal, systematic, and controllable process for the entry (and departure) of workers, but would also mean that each individual can be checked for any type of national security or public safety issue.

This is hardly a novel point, but is worth reemphasizing. As several national security experts have stated:

“An appropriately designed temporary worker program should relieve this pressure on the border. We need to accept the reality that our strong economy will continue to draw impoverished job seekers, some of whom will inevitably find a way to enter the country to fill jobs that are available. A successful temporary worker program should bring these economic migrants through lawful channels. Instead of crossing the Rio Grande or trekking through the deserts, these economic migrants would be interviewed, undergo background checks, be given tamper-proof identity cards, and only then be allowed in our country. And the Border Patrol would be able to focus on the real threats coming across our border. ...”<sup>4</sup>

It is well-understood that most unauthorized immigrants in the U.S. came, or remain, for economic opportunity and are working to support their families in jobs that do not require post-secondary education.<sup>5</sup> Importantly, labor migration for this group is often based on a desire not to migrate permanently, but instead to temporarily migrate in order to work, and then to return home

---

<sup>3</sup> Michael A. Clemens and Lant Pritchett, “Temporary Work Visas: A Four-Way Win for the Middle Class, Low-Skill Workers, Border Security, and Migrants” (Center for Global Development, April 2013) [http://www.cgdev.org/sites/default/files/archive/doc/full\\_text/CGDBriefs/3120183/time-bound-labor-access.html](http://www.cgdev.org/sites/default/files/archive/doc/full_text/CGDBriefs/3120183/time-bound-labor-access.html).

<sup>4</sup> See Prepared Statement of the Coalition for Immigration Security for a hearing entitled “Guest Worker Programs: Impact on the American Workforce and U.S. Immigration Policy,” 109<sup>th</sup> Congress, viewed online March 22, 2015, <http://www.gpo.gov/fdsys/pkg/CHRG-109hhrhg28808/html/CHRG-109hhrhg28808.htm>.

<sup>5</sup> See, e.g., “8<sup>th</sup> Anniversary Roundtable – The Department of Homeland Security, Year 8,” discussion at Georgetown University with Secretaries Ridge, Chertoff, and Napolitano. “Question: Isn’t it true that most illegal immigration really has to do with economic issues, people driven by jobs? Answer, Secretary Chertoff: Yes. No question.” <http://www.dhs.gov/8th-anniversary-roundtable-transcript>.

to their families.<sup>6</sup> Measures to stop unauthorized migration without creating channels for authorized movement simply do not and will not work and cut off natural circular, repeat migration patterns.<sup>7</sup>

Of the many inadequacies of the existing U.S. immigration system, few are as damaging – with worse consequences for U.S. border control and national security – than the insufficiencies of visa programs that could provide for an orderly and legal means for less-skilled immigrants seeking to enter the country to work in the United States when there are jobs left unfilled by U.S. workers. The failures of current U.S. immigration law regarding visa programs for lesser-skilled but essential workers<sup>8</sup> means that the U.S. does not provide any real-world alternative to unauthorized migration and, therefore, establishing and revising such programs is a key component of the level of border security needed to deter illegal immigration.

As leading development economists have concluded:

“What clearly deters return migration, as numerous studies have shown, is harsh measures to stop unauthorized migration without creating channels for authorized movement such as opportunities for authorized guest work. Because there is no legal channel for migration, enforcement-only policies lead many unauthorized migrants to fear that they will lose the future option to work in the United States if they return home.”<sup>9</sup>

The economic benefit of entering, or remaining, without authorization is a key, if not the principal, factor in the decision-making process of unauthorized workers in the United States. However, social scientists who have looked at the question<sup>10</sup> have found that economic benefit is not the sole driver:<sup>11</sup>

A variety of factors prompt an individual migrant’s decision to try to enter the United States illegally: The likelihood of entering successfully, including how many attempts to enter will be needed; the costs of securing a successful entry; the consequences of an unsuccessful entry; and the expected benefits of gaining entry into the U.S. including the probability of finding work.<sup>12</sup>

---

<sup>6</sup> See, e.g., research of Emily Ryo, a professor of law and sociology at the University of Southern California, as she describes in “Deciding to Cross: Norms and Economics of Unauthorized Migration” (78 *American Sociological Review*, July 2013, at p. 574-603) <http://works.bepress.com/cgi/viewcontent.cgi?article=1001&context=eryo>.

<sup>7</sup> See, e.g., research of Fernando Riosmena and Belinda Reyes in the book *Crossing the Border* (Jorge Durand and Douglas Massey, Mexican Migration Project, 2004).

<sup>8</sup> See summary of lesser-skilled visa program issues <http://immigration.uschamber.com/uploads/sites/392/Less-Skilled percent20Future percent20Flow percent202013 percent20with percent20demand percent20graphic.pdf>.

<sup>9</sup> See, statement for the record by Michael Clemens, Center for Global Development, and citations therein, before the House Committee on Education and the Workforce, March 2013 hearing on lesser-skilled guestworkers, <http://www.gpo.gov/fdsys/pkg/CHRG-113hhrg79739/pdf/CHRG-113hhrg79739.pdf> p. 58 of the Hearing Report.

<sup>10</sup> See, Emily Ryo, “Less Enforcement, More Compliance” (Volume 62 *UCLA Law Review* Issue 3, March 2015, forthcoming) <http://works.bepress.com/cgi/viewcontent.cgi?article=1013&context=eryo>. pp. 7-10, 51-52 of the article

<sup>11</sup> This is not to suggest that considering “before the border” decision-making means that U.S. temporary worker programs should be designed from the perspective of the foreign worker. “Congress should determine the size and scope of a U.S. guest worker program by balancing the needs of U.S. workers and U.S. employers. No serious economic research supports the notion of [controlling] the size or scope of a U.S. guest worker program in the interest of current or potential guest workers.” *Id.* at p. 59 of the Hearing Report. Authorized guest work (thus best avoiding exploitation) is “the economic opportunity of a lifetime.” *Id.* at p. 57 of Hearing Report.

<sup>12</sup> See, Chapter 4 in “Measuring the Metrics: Grading the Government on Immigration Enforcement” (Bipartisan Policy Council, February 2015, report by Bryan Roberts, Senior Economist at Econometrica, Inc.) [http://bipartisanpolicy.org/wp-content/uploads/2015/02/BPC\\_Immigration\\_MeasuringEnforcement.pdf](http://bipartisanpolicy.org/wp-content/uploads/2015/02/BPC_Immigration_MeasuringEnforcement.pdf), at pp. 37, 55-66.

In sum, for all these reasons, a critical addition to commonsense border reforms is a work visa program that could feasibly enable legal entry if there are circumstances when qualified U.S. workers are not available.

## **B. EXISTING TEMPORARY WORKER PROGRAMS**

The current ability of employers to legally hire foreign workers in temporary worker programs is quite narrow. Specifically, by law no more than 85,000 new H-1B professional workers can be granted status each year (with some non-profits and universities being exempt from these caps) and no more than 66,000 new H-2B seasonal<sup>13</sup> non-agricultural workers can be granted status each year, with the uncapped H-2A agricultural visa program resulting on average in the issuance of about 62,000 visas each year.<sup>14</sup> Especially when viewed in comparison to the 148 million workers employed across the country,<sup>15</sup> these temporary worker program numbers provide little space to be responsive to changing needs in various sectors.

What these legal nonimmigrant “H” visa programs do provide is a means for controlled and secure legal entry into the United States, with criminal background checks and national security checks for each and every legal worker on a temporary worker visa program. Individuals entering on the “H” visa temporary worker programs, like all legal immigrants entering the country, must satisfy a myriad of requirements concerning prior immigration history, name-checks, any interaction with the criminal justice system, and security risks.<sup>16</sup> And, these “H” temporary worker programs are thoroughly regulated by U.S. Citizenship and Immigration Services (USCIS) and (in some circumstances) the Department of Labor, under approximately 230 pages of the Code of

---

<sup>13</sup> Technically, the H-2B category can also be used for peak-load, one-time, or intermittent needs, in addition to seasonal jobs.

<sup>14</sup> See State Department’s spreadsheet for nonimmigrant visa issuance FY97-FY13, showing H-2A visa issuance the last five fiscal years to be FY13-74,192, FY12-63,345, FY11-55,384, FY10-55,921, FY09-60,112 <http://travel.state.gov/content/visas/english/law-and-policy/statistics/non-immigrant-visas.html>.

<sup>15</sup> We know from the Bureau of Labor Statistics and Census Bureau that 91.4 percent of the employed population is American citizens. We also know from the Pew Institute that 4.8 percent to 5.5 percent of employed workers are unauthorized workers. Of the remaining 2.1 percent to 3.8 percent of the employed worker population (that are not American citizens or unauthorized workers), we know that includes jobs filled by millions of Lawful Permanent Residents (“green card” holders) who are considered U.S. workers under the law. We know from the Department of Homeland Security (DHS) that there are 13 million green card holders. For estimates of the age breakdown for this group, see [https://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_lpr\\_pe\\_2011.pdf](https://www.dhs.gov/xlibrary/assets/statistics/publications/ois_lpr_pe_2011.pdf) (DHS Office of Immigration Statistics). The Current Population Survey (CPS) is the source of data comparing native-born workers to foreign-born workers. CPS is a joint project of the Bureau of Labor Statistics (BLS) and Census Bureau, with much of the data being published by BLS, and republished by the Federal Reserve Economic Data system (FRED), where excellent interactive graphs are available on the number of native-born and foreign-born workers employed 2007 to the present (<http://bit.ly/1BeZ0Kf>) and the total number of foreign-born and foreign born in the civilian workforce (<http://bit.ly/1Ch3fXp>).

<sup>16</sup> See, e.g., CRS, “Immigration: Visa Security Policies” (CRS Report R43589, June 2014). Before issuing a visa, the State Department checks, collects, and receives extensive information on each visa applicant. The State Department has the ability to check, as appropriate, the Automated Biometric Identification System (IDENT), the Integrated Automated Fingerprint Identification System (IAFIS), the Terrorist Screening Center (TSC), and the Arrival Departure Information System (ADIS), among others. The State Department also has controlled access to the Traveler Enforcement Compliance System (TECS), which is used by Customs and Border Protection to double check the admissibility of each legal visa holder, and TECS in turn provides access to the Interagency Border Inspection System (IBIS) which includes the records of the National Crime Information Center (NCIC). The State Department collects, and retains, the photos of every visa applicant (since 2001) and the 10-finger scans of the fingerprints of each visa applicant (since 2007). And, the State Department receives clearances in response to Security Advisory Opinions (SAOs) that consular officers request in a variety of circumstances. These security steps reflect dramatic improvement and expansion following September 11<sup>th</sup> (which previously focused on checking “lookouts” throughout the Consular Lookout and Support System (CLASS) and the National Automated Immigration Lookout System (NAILS), coupled with regular requests of SAOs). The most fundamental change in our current visa issuance system is that it requires resolution of all name hits in lookout systems as well as resolution of all requests for SAOs, instead of merely waiting a reasonable period of time. Notably, most SAOs require interagency cooperation in order to resolve. In general, SAO code names have been in place for decades and follow two naming conventions – clearances that “fly over” the State Department and are squarely in the domain of another agency are avian (such as Mantis – for possible risk of improper technology transfer) while clearances that the State Department must itself be involved in “walk in” to the State Department (like Donkey – for evaluation of inadmissibility for serious risk such as being from a country found to be a state sponsor of terrorism).

Federal Regulations governing employer obligations regarding “H” visa petition requests,<sup>17</sup> along with much sub-regulatory guidance issued by USCIS.<sup>18</sup> Each “H” visa program requires employers to take certain labor protection steps and make extensive filings to the government documenting the terms and conditions of employment, job duties, job requirements, qualifications of the foreign worker, employer’s ability to pay, and wages owed the foreign worker and paid similarly situated Americans, among other criteria.

Whatever the unemployment rate for the United States as a whole at any given time, the demand for specific kinds of workers in various sectors of the economy and in various locales can be high.<sup>19</sup> For instance, today there are remarkably low unemployment rates for native-born American citizens in certain jobs that do not require a college education<sup>20</sup>, such as Social and Human Service Assistants (2.9 percent unemployment), Phlebotomists (1.4 percent unemployment), Valve Repairers (3.0 percent unemployment), and Industrial Machinery Mechanics (2.8 percent unemployment).<sup>21</sup> And, currently there are very low unemployment rates for highly skilled professionals like Electrical and Electronic Engineers (1.2 percent unemployment), Financial Analysts (2.2 percent unemployment), Computer Programmers (2.4 percent unemployment), Software Developers (2.9 percent unemployment), and Accountants (3.0 percent unemployment).<sup>22</sup> These data compare to national unemployment of 5.6 percent as of January 2015.<sup>23</sup>

Immigrants are one solution to insufficient numbers of qualified and available American workers that will inevitably exist at any given time in different sectors of an economy as diverse as our country’s. Under these circumstances, the U.S. economy would benefit from channels of legal immigration that are flexible enough to respond to employer demand to hire individuals in particular occupations at a particular time and place, as long as labor protection requirements have been satisfied. Temporary worker programs, if constructed correctly, provide just the sort of flexibility that is required in many industries.<sup>24</sup>

It is safe to say that temporary worker programs under current U.S. immigration law are not constructed correctly.

First, it should be emphasized that the H-1B and H-2B visa programs are currently subject to fixed numerical limits set in 1990, while the H-2A program is uncapped but has very small annual usage because it is overly cumbersome. These 1990 numerical limits fail to recognize that demand for immigrant staff fluctuates with the condition of the U.S. economy—rising when times are good

---

<sup>17</sup> See, 8 CFR Part 214.2(h) and 20 CFR Part 655.

<sup>18</sup> See, e.g., <http://www.uscis.gov/laws/policy-memoranda>.

<sup>19</sup> Darrell M. West, “The Paradox of Worker Shortages at a Time of High National Unemployment” (Brookings Institution, April 2013) [http://www.brookings.edu/~media/research/files/papers/2013/04/10\\_percent20worker\\_percent20shortage\\_percent20immigration\\_percent20west/west\\_paradox\\_percent20of\\_percent20worker\\_percent20shortages.pdf#page=2](http://www.brookings.edu/~media/research/files/papers/2013/04/10_percent20worker_percent20shortage_percent20immigration_percent20west/west_paradox_percent20of_percent20worker_percent20shortages.pdf#page=2) at p.2.

<sup>20</sup> Such positions that do not require a college education have no existing temporary worker program through which legal sponsorship in a temporary worker program would be possible for a foreign worker absent a showing that the position is seasonal or a one-time, peakload, or intermittent need (which would then qualify the position for the H-2B program).

<sup>21</sup> Compiled as of January 12, 2015, from Current Population Survey, a project of the Bureau of Labor Statistics and the Census Bureau. The data set is pooled monthly CPS samples for 12 months --December 2013 through November 2014. Observations were weighted using the BLS composite monthly weight variable. Monthly weights were divided by 12, so totals are estimates of average monthly employment over the year.

<sup>22</sup> Id. For the 12 month period December 2013 through November 2014 (data compiled January 12, 2015), unemployment for Science, Technology, Engineering and Math (STEM) professional occupations ranged from 0 percent for biomedical engineers to 7.2 percent for nuclear engineers as the only STEM professional occupational group with unemployment higher than the 5.6 percent average for the period and with most STEM occupations at very low unemployment of 3 percent or below.

<sup>23</sup> Id.

<sup>24</sup> Alexander Nowrasteh, “How to Make Guestworker Visas Work” (Cato Institute, 2013) [http://object.cato.org/sites/cato.org/files/pubs/pdf/pa719\\_1.pdf](http://object.cato.org/sites/cato.org/files/pubs/pdf/pa719_1.pdf).

and falling when they are bad. The caps, meanwhile, are held at a constant. This should change. And, adhering to a specific, never fluctuating number of temporary workers, set in 1990, as the centerpiece of our immigration policy will not position our country to gain access to the human capital our nation needs in a changing and global economy. Since 1990, the U.S. economy has expanded. Gross Domestic Product for the country is 2.8 times larger today than in 1990 (\$16.768 trillion as compared to \$5.979 trillion). The population of the United States is 1.3 times as large (316 million people now as compared to 250 million in 1990). Similarly, the Gross Domestic Product per capita has expanded 2.2 times since 1990 (GDP per person is now \$53,259 each year as compared to \$23,934 annually in 1990). Expansion of visa numbers should not be pegged to specific ratios to the size of our economy, but the growth of our economy in the last 25 years should highlight that targeted increases to visa numbers to meet economic needs should be considered.

The disconnect between our economic needs and numerical limits on temporary worker programs is perhaps most unmistakably reflected in the H-1B program for high-skilled professionals. Economists have found that foreign-born science and engineering professionals coming to the U.S. “may explain between 10 and 25 percent of the aggregate productivity growth that took place in the U.S. between 1990 and 2010,”<sup>25</sup> that for every one percent increase in H-1B numbers there is a corresponding at least seven percent increase in wages for American workers in Science, Technology, Engineering and Math (STEM) fields,<sup>26</sup> that each approved H-1B high-skilled, legal, professional worker is associated with an additional 1.83 jobs among U.S.-born workers,<sup>27</sup> and that each foreign-born worker in the U.S. with a U.S. STEM graduate degree is associated with 2.62 jobs for U.S.-born workers.<sup>28</sup>

Yet, the H-1B visa program allows up to only 85,000 cap-subject petitions to be approved annually for highly educated workers to be sponsored for work authorization, including a set-aside of 20,000 for individuals who have earned a Master’s degree, or above, at a U.S. university. In the first five business days of April 2014 all of the 85,000 H-1B visa numbers for foreign professional hires for the government’s fiscal year 2015 were assigned,<sup>29</sup> six months before the start of the fiscal year. This meant that as of April 2014 no other business could hire a single new H-1B professional until October 1, 2015 (when the government’s next fiscal year begins). The same dynamic occurred in April 2013, as well as April 2008 and April 2009, and is expected to happen in April 2015. In every year since 1997 the H-1B cap has been met prior to the end of the fiscal year – except the three-year period where the cap was set at 195,000, when H-1B numbers utilized were 163,600, 79,100, and 78,000, showing that employers filed based on market needs and that the 85,000 figure is generally too low except when the market is slumping.<sup>30</sup> And, in nine of the years since 1997, the

---

<sup>25</sup> See, Giovanni Peri, Kevin Shih, and Chad Sparber, “STEM Workers, H-1B Visas and Productivity in U.S. Cities,” Norface Migration Discussion Paper No. 2013-09 (Norface Research Programme on Migration, February 2013), [http://www.norface-migration.org/publ\\_uploads/NDP\\_09\\_13.pdf](http://www.norface-migration.org/publ_uploads/NDP_09_13.pdf).

<sup>26</sup> Id at Table 9.

<sup>27</sup> Madeline Zavodny, “Immigration and American Jobs” (American Enterprise Institute, December 14, 2011) [https://www.aei.org/wp-content/uploads/2011/12/-immigration-and-american-jobs\\_144002688962.pdf](https://www.aei.org/wp-content/uploads/2011/12/-immigration-and-american-jobs_144002688962.pdf) at p.11.

<sup>28</sup> Id. at p. 14.

<sup>29</sup> See USCIS, April 7, 2014 <http://www.uscis.gov/news/uscis-reaches-fy-2015-h-1b-cap>. There is a 65,000 cap in general plus 20,000 for individuals who have earned a U.S. graduate degree.

<sup>30</sup> Demand for the H-1B program is not driven by the cap. Instead, demand for this program is based on employer new hiring needs and inability to find qualified American workers in sufficient numbers. See, e.g., Jill H. Wilson, “Immigration Facts: Temporary Foreign Workers” (Brookings Institution, June 2013) <http://www.brookings.edu/research/reports/2013/06/18-temporary-workers-wilson>, and Stuart Anderson, “H-1B Visas Essential to Attracting and Retaining Talent in America” (National Foundation for American Policy, May 2013) [http://www.nfap.com/pdf/NFAP\\_percent20Policy\\_percent20Brief\\_percent20H-1B\\_percent20Visas\\_percent20May\\_percent202013.pdf](http://www.nfap.com/pdf/NFAP_percent20Policy_percent20Brief_percent20H-1B_percent20Visas_percent20May_percent202013.pdf), at p. 6-7.

cap was met prior to the beginning of the fiscal year, including four years when the cap was met in the first week that petitions could be filed.<sup>31</sup>

Today, the existing visa programs for lesser-skilled immigrant workers are either inadequate or non-existent, thus driving illegal immigration and unauthorized employment for three types of workers:<sup>32</sup>

#### Lesser-Skilled for Non-Agricultural Workers (H-2B Visa Program)

The H-2B category is capped at 66,000 a year and may not be used for positions to be temporarily filled by a foreign worker unless the employer can prove it has no year-round need for hiring the type of workers in question.<sup>33</sup> This cap is divided in half to allow filings in two six month periods each year and is far too low except when the United States economy is slumping, with the cap consistently being met very early.<sup>34</sup> The H-2B program is a key for many small businesses that rely on it to complement their year-round staff of Americans, since less-skilled immigrant workers tend to work in different fields than less-skilled native-born workers.<sup>35</sup> Seasonal businesses rely on the H-2B program to fill temporary vacancies in seafood harvesting and processing, horse training, hospitality and amusement parks, forestry, landscaping, golf courses, circuses, carnivals, food concessionaires, swimming pool maintenance, stone quarries, and other industries. Without access to this vital H-2B program, seasonal businesses are left without any legal mechanism to hire workers when their efforts to recruit American workers have been exhausted. The H-2B program is not just vital to the small businesses that use the H-2B program, but also is critical to their American workers, the local community, and companies that provide goods and services to these seasonal businesses. The small and seasonal businesses that rely on the H-2B program for legal workers suffer economic losses when H-2B processing becomes unavailable through low caps or agency decisions. Over the last six years, the H-2B program has been mired in ongoing litigation and debates about the role Congress envisioned for the Department of Labor and the Department of Homeland Security in developing policy to govern this important program.<sup>36</sup>

---

<sup>31</sup> See, summary assembled of H-1B cap dates FY92-FY15 based on USCIS data

[http://immigration.uschamber.com/uploads/sites/400/U.S.CC\\_USCIS\\_H1B\\_petition\\_data\\_and\\_cap\\_dates\\_FY92\\_FY15.pdf](http://immigration.uschamber.com/uploads/sites/400/U.S.CC_USCIS_H1B_petition_data_and_cap_dates_FY92_FY15.pdf).

<sup>32</sup> An employer can unknowingly hire an employee who is an unauthorized worker even while the employer fully complies with the I-9 Employment Verification requirements, due to the presentation of fraudulent documents that prove identity and work authorization.

<sup>33</sup> The H-2B category can be used for seasonal, peak-load, one-time, or intermittent but temporary jobs, but in effect the agencies administering the program require the job to be seasonal. The H-2B category serves an important purpose and needs to be continued, in addition to creation of a separate and new category for lesser-skilled workers in any industry, not just seasonal work industries.

<sup>34</sup> The H-2B cap is divided into halves (with an equal cap of 33,000 for the first six months and second six months) in order to accommodate different seasons and different seasonal businesses (for example, ski season and seafood processing season) and the cap is typically met well before the end of the six months. See, e.g., USCIS, January 26, 2015 <http://www.uscis.gov/working-united-states/temporary-workers/cap-count-h-2b-nonimmigrants> and March 14, 2014 <http://www.uscis.gov/news/uscis-reaches-h-2b-cap-first-half-fiscal-year-2014>.

<sup>35</sup> Madeline Zavodny and Tamar Jacoby, "Filling the Gap: Less-Skilled Immigration in a Changing Economy" (American Enterprise Institute and ImmigrationWorks USA, June 2013), pp. 1-3, [http://www.aei.org/files/2013/06/10/-zavodny-filling-the-gap-immigration-report\\_140631709214.pdf](http://www.aei.org/files/2013/06/10/-zavodny-filling-the-gap-immigration-report_140631709214.pdf).

<sup>36</sup> An excellent summary of the current difficulties in the H-2B program and the legal wrangling over the last six years is provided in the February 2, 2015 comment to the Department of Labor by the H-2B Workforce Coalition, where the U.S. Chamber sits as a member of the Steering Committee <http://uscham.com/1HbgZUX>.

## Agricultural Workers (H-2A Visa Program)

In 2013, about 74,000 H-2A visas were issued authorizing legal temporary agricultural workers to enter the United States.<sup>37</sup> It is hard to know how many temporary agricultural workers are present or needed in the economy,<sup>38</sup> but demand for temporary agricultural workers far exceeds this figure. Some that have studied agriculture workforce issues estimate that about 2 million farm workers are employed each year across the country and that somewhere between 1.1 million and 1.5 million agricultural workers are unauthorized.<sup>39</sup>

Notwithstanding the lack of any numerical cap on the H-2A visa category for seasonal agriculture workers, most immigrant agricultural workers are employed without authorization due to the fact that the visa process for this category is unworkable for most employers. The dairy industry is completely excluded from the H-2A program since dairy cannot meet the current definition of either agriculture or temporary need for H-2A. The National Council of Agricultural Employers has concluded that “the H-2A program is an example of governmental regulatory abuse of small business causing economic harm to employers (farmers) seeking a legal workforce, threatening the jobs of their local year round U.S. workers and rural and urban economies.”<sup>40</sup> Without understating the difficulty of constructing the parameters of a workable agriculture visa program, it nevertheless remains clear that “the status quo – a U.S. agricultural industry almost completely dependent on unauthorized workers who have entered the U.S. illegally – is untenable. It is equally clear that [moving] U.S. production of food and fiber [abroad] is untenable.”<sup>41</sup> The U.S. will place fundamental parts of the national economy and access to food and nutrition at risk if policymakers decline to address these vital agriculture worker visa questions.<sup>42</sup>

---

<sup>37</sup> Department of State, Report of the Visa Office 2013, Table 16(B) – the 2014 report on nonimmigrant visas is not yet issued. <http://travel.state.gov/content/dam/visas/Statistics/AnnualReports/FY2013AnnualReport/FY13AnnualReport-TableXVIB.pdf>.

<sup>38</sup> There is no definitive agreement on the number of farm workers providing services annually in the U.S. The U.S. Department of Agriculture estimates there is somewhere in the range of 1.1 or 1.2 million farm workers each year in the U.S., but this is based on a “peak employment” analysis. Peak employment, of course, is different than the total number since most farm workers are in seasonal jobs and major agriculture production areas like Florida and Arizona have employment peaks that do not overlap with the overall agricultural employment peak. Most in the agriculture industry instead estimate that there are approximately 2 million farm workers every year in our country, the consensus figure referred to by academics analyzing agriculture workforce issues. With regard to how many of these farm workers are illegal, there is further question. The National Agriculture Worker Survey (NAWS) commissioned by the U.S. Department of Labor is likely the most cited source, and it suggests that about 52 percent of all farm workers in our country are unauthorized. However, the DOL figure is often considered to understate the ratio of illegal immigrants because of the lack of willingness to provide such information by workers on a government survey. Moreover, in current ICE (Immigration and Customs Enforcement) worksite audits it is most common to see issuance of a Notice of Suspect Documents (NSD) for more than 80 percent of a farm’s workers, making the NAWS estimate suspect. Lastly, since the DOL survey has continued to show a steady ratio of about half of the workforce as undocumented for over 15 years while most experts believe the ratio of illegal immigrants has markedly increased, most agriculture workforce experts believe the actual number is 70 percent or more. Sometimes reports from Pew and the Migration Policy Institute suggest that the percentage of illegal agriculture workers is closer to one-quarter to one-third, but that is because these social science reports rely on the Current Population Survey (CPS) which has a different data collection mechanism that understates agriculture sector employment. The snapshot provided by CPS is based on a two week survey period each March. This data point is at what is the seasonal low ebb for agricultural employment, thus it is misleadingly low.

<sup>39</sup> See testimony of Professor James Holt before the House Committee on Agriculture at a Hearing to Review the Labor Needs of American Agriculture, October 4, 2007 <http://www.gpo.gov/fdsys/pkg/CHRG-110hhrg48999/pdf/CHRG-110hhrg48999.pdf>, p. 11-18.

<sup>40</sup> Survey of H-2A employers by the National Council of Agricultural Employers, 2010 [http://www.ncaonline.org/images/documents/ALRP2011\\_brochure.pdf](http://www.ncaonline.org/images/documents/ALRP2011_brochure.pdf). For a detailed explanation of the paperwork burdens, time consuming, and bureaucratic nature of the H-2A process, see the 55 page report by the Social and Economic Research Center of Washington State University “H-2A Temporary Agricultural Employee Program” (Technical Report 11-67, November 2011).

<sup>41</sup> See testimony before the House Committee on Agriculture, October 4, 2007 <http://www.gpo.gov/fdsys/pkg/CHRG-110hhrg48999/pdf/CHRG-110hhrg48999.pdf> at 18.

<sup>42</sup> See, “No Longer Home Grown: How Labor Shortages are Increasing America’s Reliance on Imported Fresh Produce and Slowing U.S. Economic Growth,” (Stephen Bronars, PhD, for the Partnership for a New American Economy, March 2014) <http://www.renewoureconomy.org/wp-content/uploads/2014/03/no-longer-home-grown.pdf>.

While the H-2A visa category for agriculture work is uncapped, it is largely unused because it imposes significant delays due to its cumbersome requirements. Nearly three-quarters of growers that use the H-2A program report that sponsored workers cannot be brought in by the date of need, with workers arriving an average of 22 days late, critical days in an industry highly dependent on the weather. Significantly, the H-2A requirements do not provide ample portability allowing workers to easily work at multiple farms.<sup>43</sup>

### Lesser-Skilled Non-Seasonal Workers

It must be stressed that there are no numbers under U.S. immigration for certain categories of temporary workers. Current law provides for 0 (zero) lesser skilled workers to legally enter on temporary worker visas to perform in year-round positions even after an employer tests the local labor market. This reality is striking in light of the predictions by the Bureau of Labor Statistics that the highest number and percentage of job growth in the U.S. for the period 2012 to 2022 is expected in low and moderate skill jobs that cannot be mechanized or outsourced.<sup>44</sup>

Temporary workers are needed in lesser-skilled occupations that are both seasonal and year round. But the former has only a limited H-2B program beset by legal issues and an H-2A program abandoned by the vast majority of agriculture sector employers (and unavailable to the dairy industry) and the latter has no visa program. The United States can do better.

## **C. DEMOGRAPHIC TRUTHS AND WORKFORCE NEEDS**

The reason to focus on temporary worker programs for jobs that don't require a college education is brought into high relief when looking at the occupations that the Bureau of Labor Statistics predict will be fastest growing, several of which are lesser-skilled occupations<sup>45</sup> for which there is no current visa category.

Two of the four major occupational groups that are projected to grow more than 20 percent – nearly double the overall growth – are lesser-skilled occupational groups that do not require post-secondary education: construction and extraction occupations (21.4 percent), and personal care and service occupations (20.9 percent). In construction, the number of open construction sector jobs as of December 2014 (147,000) stands at post-recession highs, and the job open rate exceeds that prior to the housing boom.<sup>46</sup> Meanwhile, employment for Personal Care Aides and Home Health Aides is expected to grow by 48.8 percent and 48.5 percent, respectively, by 2022, while current unemployment for U.S.-born U.S. citizens is 2.9 percent in these human services assistant occupations, suggesting near full-employment. While growth in employment opportunities will hopefully encourage more native-born Americans to enter these occupations, historically these occupations have seen over representation of foreign-born workers.<sup>47</sup>

---

<sup>43</sup> See survey of H-2A employers by the National Council of Agricultural Employers, 2010 [http://www.ncaeonline.org/images/documents/ALRP2011\\_brochure.pdf](http://www.ncaeonline.org/images/documents/ALRP2011_brochure.pdf), and the 55 page report by the Social and Economic Research Center of Washington State University “H-2A Temporary Agricultural Employee Program” (Technical Report 11-67, November 2011).

<sup>44</sup> See <http://www.bls.gov/news.release/pdf/ecopro.pdf> and graphic from the Center for Global Development “As Americans’ Skill Up For Good Jobs, There Are Jobs That People Have To Do Here,” explaining the BLS data [http://immigration.uschamber.com/uploads/sites/392/Less-Skilled\\_percent20Future\\_percent20Flow\\_percent202013\\_percent20with\\_percent20demand\\_percent20graphic.pdf](http://immigration.uschamber.com/uploads/sites/392/Less-Skilled_percent20Future_percent20Flow_percent202013_percent20with_percent20demand_percent20graphic.pdf) (p.3).

<sup>45</sup> See, the employment projections for 2012-2022 by the Bureau of Labor Statistics [www.bls.gov/news.release/pdf/ecopro.pdf](http://www.bls.gov/news.release/pdf/ecopro.pdf).

<sup>46</sup> Robert Dietz, “Construction Labor Market: Quits Jump, Hiring and Job Openings Rise” (National Association of Home Builders, February 10, 2015) [http://eyeonhousing.org/2015/02/dec\\_jolts/](http://eyeonhousing.org/2015/02/dec_jolts/).

<sup>47</sup> See, e.g., “Foreign-Born Workers in Long-Term Supportive Services,” by Walter Leutz (Brandeis University), published in the Spring 2012 Public Policy and Aging Report of the National Academy on an Aging Society.

Critically, Americans are becoming more educated. In 1950, more than half of the U.S.-born population had not completed high school but today the figure is less than 15 percent.<sup>48</sup> These educational trends suggest that fewer Americans will be attracted to these jobs. Lesser-skilled immigrant workers can help fill this gap.<sup>49</sup>

Moreover, the United States faces real demographic<sup>50</sup> challenges that should not be ignored in considering how to address temporary worker visa programs for the lesser-skilled occupations. First of all, our senior population is exploding. Each day an average of 10,000 people turn 65. The retiree population is expected to more than double between 2012 and 2060, from 43.1 million to 92.0 million as Baby Boomers retire. In addition, birthrates in the U.S. are trending below replacement levels. As of 2012, it was estimated that the typical woman in the U.S. during her lifetime would have 2.0 children. This rate is projected to decline to 1.91 by 2060, providing an insufficient number of new births to replace deaths. The fact is that America is – and is becoming – much older than ever before. From 2004-2014, the annual growth rate for those 55 and older was 4.1 percent, more than four times the rate of growth of the workforce. By contrast, during the same time the annual growth rate for those 25-to-54 years old was .3 percent. By 2056, for the first time in United States history the older population (age 65 and over) is projected to outnumber the young (under age 18). In 1950, each Social Security retiree’s benefit was divided among 16 workers. By 2035, the ratio of workers to retired beneficiaries is projected to drop to two workers for every retiree. The number of children and elderly compared with the number of working-age Americans (the “dependency ratio”) has always been replenished in our country based on immigration. Between 2005 and 2050, the ratio of children and elderly people to working age adults is projected to increase by over 22 percent.

The demographic realities are undeniable: By 2035, old-age dependency in the United States will increase by more than 70 percent.<sup>51</sup> This “population age shift is especially significant for employers as the baby boomers retire.”<sup>52</sup> The aging of America is particularly critical in occupations across the economy that do not require highly-educated workers. While the highly educated may work till they are older than traditional retirement age, this trend will not cover the essential yet difficult lesser-skilled jobs that the Heritage Foundation and others recognize “as part of a modern, dynamic economy.”<sup>53</sup>

---

<sup>48</sup> See Census Bureau <http://www.census.gov/prod/2012pubs/p20-566.pdf> (issued February 2012). Other demographers have reported that between 1990 and 2010, the number of young, U.S.-born, lesser-skilled individuals declined by almost 12.3 million. Frank Bean, “A Crucial Piece of the Puzzle,” (Partnership for a New American Economy, March 27, 2014), <http://www.renewoureconomy.org/wp-content/uploads/2014/03/less-skilled-final.pdf>. See also, for a discussion of the subject generally, Madeline Zavodny and Tamar Jacoby, “Filling the Gap: Less-Skilled Immigration in a Changing Economy” (American Enterprise Institute and ImmigrationWorks USA, 2013) [http://www.aei.org/files/2013/06/10/-zavodny-filling-the-gap-immigration-report\\_140631709214.pdf](http://www.aei.org/files/2013/06/10/-zavodny-filling-the-gap-immigration-report_140631709214.pdf).

<sup>49</sup> See, e.g., Id. and Demetrios G. Papademetriou and Madeleine Sumption, “The Role of Immigration in Fostering Competitiveness in the United States” (Migration Policy Institute, 2011), <http://www.migrationpolicy.org/pubs/competitiveness-us.pdf>.

<sup>50</sup> Each data point on demographics comes from the Census Bureau or the Bureau of Labor Statistics.

<sup>51</sup> “Age Invaders: A generation of old people is about to change the global economy” (The Economist, April 26, 2014)

<http://www.economist.com/news/briefing/21601248-generation-old-people-about-change-global-economy-they-will-not-all-do-so>.

<sup>52</sup> “The Aging US Workforce” (Stanford Center on Longevity, July 2013) [http://longevity3.stanford.edu/wp-content/uploads/2013/09/The\\_Aging\\_U.S.-Workforce.pdf](http://longevity3.stanford.edu/wp-content/uploads/2013/09/The_Aging_U.S.-Workforce.pdf).

<sup>53</sup> “Advancing the Immigration Nation: Heritage’s Positive Path to Immigration and Border Security Reform” (Heritage Foundation, June 2013) <http://www.heritage.org/research/reports/2013/06/advancing-the-immigration-nation-heritages-positive-path-to-immigration-and-border-security-reform>. Some have referred to many of these essential and lesser-skilled positions as “3D” jobs – positions that are either dirty, dangerous or difficult.

Indeed, at the U.S. Chamber we hear from many industries represented in our membership about the realities of workforce demands in industries with unmet hiring needs in lesser-skilled occupations, such as, among others, nursing homes, restaurants, hotels, and trucking.

### Nursing Homes

“There are chronic shortages throughout the nursing home industry. It is difficult physically to lift, turn, transport, position, and keep up with our residents’ care day and night. It is psychologically demanding to work with our Alzheimer’s residents who are often confused, angry, scared, or lonely, and to make their days rewarding and productive.”<sup>54</sup>

### Restaurants

Workers under 26 make up over 40 percent of the workforce in the restaurant industry, while the number of potential workers in that age group is going down.<sup>55</sup> “As the nation’s second largest private sector employer, the restaurant industry was directly impacted by these shifting labor demographics in recent years.”<sup>56</sup>

### Hotels

“Since Grand Hotel first opened in 1887, it has been a continuing challenge to find a stable, dependable work force to fill the 620 jobs required to maintain the high level of service for which we are known. The fact we are open only six months, our isolated location 300 miles north of Detroit, and other factors make it difficult to develop” a work force of solely American workers, despite extraordinary efforts to do so.<sup>57</sup>

### Trucking

“The aging truck driver workforce poses a problem since the “baby boomers” will retire and there will be a need to find workers to replace them. This will further exacerbate the current shortage,” which is important since about 28 percent of all native-born truck drivers are over age 54. With 70 percent of all freight tonnage within the U.S. transported by truck, “immigrant truck-drivers are [a] group of low-skilled immigrant workers whose positive economic contributions have been overlooked.”<sup>58</sup>

---

<sup>54</sup> Testimony of the CEO of Medicalodges, Inc. before the House Committee on Education and the Workforce in a March 14, 2013 hearing about lesser-skilled guestworkers [http://edworkforce.house.gov/uploadedfiles/benjamin\\_-\\_testimony.pdf](http://edworkforce.house.gov/uploadedfiles/benjamin_-_testimony.pdf).

<sup>55</sup> See “Forecast 2015,” National Restaurant Association (Section 2 on Workforce Outlook and Trends).

<sup>56</sup> “Restaurant Demographics are Shifting,” (National Restaurant Association, March 17, 2015) <http://www.restaurant.org/News-Research/News/Restaurant-workforce-demographics-are-shifting>.

<sup>57</sup> Testimony of President of Grand Hotel before the House Committee on Education and the Workforce in a March 14, 2013 hearing about lesser-skilled guestworkers [http://edworkforce.house.gov/uploadedfiles/musser\\_testimony\\_etc.pdf](http://edworkforce.house.gov/uploadedfiles/musser_testimony_etc.pdf).

<sup>58</sup> “Who’s Behind the Wheel? Filling the Seat for Truck Drivers in the United States” (George Mason University Institute for Immigration Research, January 2015) <http://www.immigrationresearch-info.org/report/other/whos-behind-wheel-immigrants-filling-labor-shortage-us-trucking-industry>.

## D. IMPROVING WAGES, JOBS, AND ECONOMIC GROWTH FOR AMERICAN WORKERS

Certainly U.S. immigration law governing lesser-skilled visa programs needs to continue sufficient domestic labor protections, a predicate of current law. The U.S. Chamber has vocally supported reforms in the past that validate American workers are not being displaced, ensure wages paid to foreign-born workers are the greater of actual internal wages paid to an employer's similar American workers or prevailing wages in the area of employment for similar workers, and demonstrate that proper recruitment practices are in place. What the U.S. Chamber will not support are broad-brush changes in the name of "reform" that make the immigration system impossible to use by employers engaging in regular and ongoing recruitment of American workers but who still cannot find the employees necessary to operate.

When lesser-skilled immigrants help fill jobs that are being left unfilled, this does not harm Americans. Instead, this helps create jobs for Americans, helps those industries grow, and ultimately helps expand the national economy and wages. As economists have explained:

"Migrants are paid their marginal product (as is any worker), meaning that much if not most of their value added to production directly benefits the native population. If you believe that a growing economy leads to faster real wage growth due to increased productivity – a standard free-market principle established by Adam Smith's 1776 *Wealth of Nations* – then it is natural to predict a general equilibrium *increase* in the wage level because of immigration."<sup>59</sup>

After careful analysis of economic and statistical factors, research and reporting almost universally finds that immigration improves employment gains in the United States in a variety of ways including immigrant contributions to neighborhood revitalization and state and local economic growth.<sup>60</sup> In fact, economic studies overwhelmingly find that immigration promotes economic growth and creates jobs for Americans, including lesser-skilled immigration of the type being discussed at today's hearing:

- The American Enterprise Institute concluded that "policymakers could create jobs by making available more temporary visas for both skilled and less-skilled workers" – finding that the admission to the United States of each middle- and less-skilled, legal,

---

<sup>59</sup> Tim Kane, Hoover Institution, "The Economic Effect of Immigration" (February 17, 2015)

<http://www.hoover.org/research/economic-effect-immigration>.

<sup>60</sup> For example: Neighborhood Revitalization – Immigration promotes neighborhood businesses around the country, as evidenced by the fact that immigrants account for 28 percent of the nation's Main Street businesses, as described by in "Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow" (Fiscal Policy Institute and Americas Society/Council of The Americas, by David Dyssegaard Kallick, January 2015) <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>. State and Local Economies – There are many state-level reports on the positive impact of immigration on state economies, such as "Immigrant Contributions to Minnesota's Economy" (Minnesota Business Immigration Coalition, Americas Society/Council of the Americas, and the Partnership for a New American Economy, October 2014) <http://www.renewoureconomy.org/wp-content/uploads/2014/11/MN-Final-Brief.pdf>, and similarly many reports on the local positive impacts of immigration, such as an analysis of the positive impact of foreign STEM workers on the average American worker, by Giovanni Peri, Kevin Shih, and Chad Sparber in "Closing Economic Windows: How H-1B Denials Cost U.S.-Born Tech Workers Jobs and Wages During the Great Recession" (Partnership for a New American Economy, June 2014) [http://www.renewoureconomy.org/wp-content/uploads/2014/06/pnae\\_h1b.pdf](http://www.renewoureconomy.org/wp-content/uploads/2014/06/pnae_h1b.pdf). For an excellent bibliography on the economic impacts of immigration in the United States, with over 60 references covering all viewpoints (left, right, business, union, immigration restrictionist, and free market) as well as government data from the Bureau of Labor Statistics and other agencies and a summary review of how immigration benefits all Americans look at a Manhattan Institute issue brief issued in December 2014 from its E21 project (Economic Policies for the 21<sup>st</sup> Century), which also rebuts the flawed analytical approach of the Center for Immigration Studies (at p. 6-8) [http://www.manhattan-institute.org/pdf/e21\\_02.pdf](http://www.manhattan-institute.org/pdf/e21_02.pdf)

non-agricultural temporary foreign worker (of the type that currently enter in the H-2B program) is associated with an additional 4.64 jobs for U.S.-born workers.<sup>61</sup>

- Other economists have used U.S. Applied General Equilibrium (USAGE) modeling, to examine job creation resulting from immigration. “With increases in low-skilled immigration, the U.S. economy would expand, creating more jobs in higher-skilled areas,” concluded the CATO Institute. CATO found that, over time, increases in immigration would foster the ability of some workers now in low-paying jobs to move up the occupational ladder into different and sometimes newly created jobs.<sup>62</sup>
- In agriculture, an industry unable to fill its labor force needs without immigrants, the U.S. Department of Agriculture has stated that each farm worker creates 3.1 upstream jobs for Americans in packaging, shipping, marketing, and insurance for agriculture products.<sup>63</sup>
- Economists also estimate that if lesser-skilled visa programs for non-agricultural workers were expanded or new programs created (in the case of non-seasonal, non-agricultural work), these changes would facilitate a nationwide increase in employment of .15 percent or a net increase of 365,000 jobs. Using the same modeling, the Gross Domestic Product is estimated to expand by \$33 billion above the baseline economic forecast.<sup>64</sup>

Economists have presumed they would find a sizeable negative effect of immigration on wages and employment of less-educated Americans working in occupations that do not require university education, but the data do not support this finding. For example, Gerald D. Jaynes, professor of Economics and African American Studies at Yale, launched a large-scale statistical analysis on this very subject but never found the expected results. According to Dr. Jaynes, “Despite strong convictions for our hypothesis that immigration had large negative effects . . . the data forced us to conclude otherwise: negative effects were mostly absent and modest at worst for only a small segment of lowest skilled workers.”<sup>65</sup>

Another study is particularly instructive on testing the impact of immigration on lesser-educated native workers. When 125,000 Cubans arrived in South Florida within a six-month time frame following the 1980 Mariel Boatlift, it was widely assumed that newly-arrived Cuban immigrants, most of whom lacked college degrees, would take jobs away from Americans without post-secondary degrees. About half of the “Marielitos” settled permanently in the Miami area, joining an already-sizable Cuban community and immediately boosting the city’s labor force by about 7 percent. In 1989, economist David Card from the University of California at Berkeley

---

<sup>61</sup> Madeline Zavodny, “Immigration and American Jobs” (American Enterprise Institute, December 14, 2011) [https://www.aei.org/wp-content/uploads/2011/12/-immigration-and-american-jobs\\_144002688962.pdf](https://www.aei.org/wp-content/uploads/2011/12/-immigration-and-american-jobs_144002688962.pdf) at p.11.

<sup>62</sup> Peter B. Dixon and Maureen T. Rimmer, “Restriction or Legalization? Measuring The Economic Benefits of Immigration Reform” (Cato Institute, April 13, 2009) <http://www.cato.org/pubs/tpa/tpa-040.pdf>.

<sup>63</sup> See, e.g., Hearing to Review the Labor Needs of American Agriculture, before the House Committee on Agriculture, October 4, 2007. <http://www.gpo.gov/fdsys/pkg/CHRG-110hhr48999/html/CHRG-110hhr48999.htm>.

<sup>64</sup> Frederick R. Treyz, Corey Stottlemeyer, and Rod Motamedi, “Key Components of Immigration Reform: An Analysis of the Economic Effects” (Regional Economic Models, Inc., July 2013) <http://www.remi.com/immigration-report>.

<sup>65</sup> Gerald D. Jaynes, A Conversation about the Economic Effects of Immigration on African Americans, Immigration Policy Center (July 2009). [http://www.immigrationpolicy.org/sites/default/files/docs/Gerald\\_percent20Jaynes\\_percent20071409.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/Gerald_percent20Jaynes_percent20071409.pdf). Dr. Jaynes has also noted that results of competition between less-educated native-born workers and foreign-born workers are difficult to measure because such analysis “is swamped by a constellation of other factors (such as declining factory jobs and other blue-collar employment)

completed a detailed analysis on the impact of this 1980 influx of largely lesser-skilled and less-educated immigrant workers on the Miami labor market as compared to other comparison cities.<sup>66</sup> Card documented that the wages of lesser-skilled and less-educated workers in Miami actually fared better than in the control cities.<sup>67</sup> In 1981, the year after the boatlift, wages among lesser-skilled workers in Miami were slightly higher than they were in 1979.<sup>68</sup>

Interestingly, cities experiencing the highest levels of immigration tend to have relatively low or average unemployment rates for those Americans without a college education. A 2012 analysis of census data by economist Jack Strauss, now of the University of Denver, found that cities with greater immigration from Latin America experience lower unemployment rates, lower poverty rates, and higher wages among the least educated Americans. In particular, the municipal-level research showed that lesser-educated Latino immigrants and lesser-educated Black Americans fill complementary roles in the labor market—they are not simply substitutes for one another.<sup>69</sup> Economists have found the same effect at the state and national levels, concluding that “national and even state economies are much more dynamic than simple theory; it thus seems that immigration tends to complement native skill levels.”<sup>70</sup>

As the Hoover Institution has explained, the bottom line is that “when immigration reform is done right, it will use the fact-based reality that immigrants of all skill levels are good for the native economy, including wages, jobs, and economic growth.”<sup>71</sup>

## **E. EDUCATION AND TRAINING FOR AMERICANS**

In developing policies to ensure jobs in the U.S. economy are filled there is agreement that first and foremost the United States must utilize domestic labor sources. The U.S. Chamber, and our member companies and associations, are strongly committed to dedicating resources toward just that. Improving education and training so that American workers are prepared for the jobs that need to be filled is a top priority of the business community.<sup>72</sup>

Many member companies and associations of the Chamber have their own education and training programs in order to address skill gaps on their own. And, the U.S. Chamber of Commerce Foundation has its own educational arm, the Center for Education and Workforce, which promotes the rigorous educational standards and effective job training systems needed to preserve the strength of America's greatest economic resource, our workforce.

The Chamber Foundation's Center for Education and Workforce has released reports addressing what kind of business involvement it would take to truly make a difference in K-12 schooling. For example, *Partnership is a Two-Way Street: What it Takes for Business to Help*

---

<sup>66</sup> David Card, “The Impact of the Mariel Boatlift on the Miami Labor Market,” National Bureau of Economic Research (Aug. 1989) at 2,7.

<sup>67</sup> Id. at 10-11, 13-15.

<sup>68</sup> Id. at 10-11, 13-15.

<sup>69</sup> Jack Strauss, Miller Chair of Applied Economics, University of Denver, *Does Immigration, Particularly Increases in Latinos, Affect African American Wages, Unemployment and Incarceration Rates?* (Social Science Research Network, December 8, 2012), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2186978](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2186978).

<sup>70</sup> Tim Kane, Hoover Institution, “The Economic Effect of Immigration” (February 17, 2015) <http://www.hoover.org/research/economic-effect-immigration>.

<sup>71</sup> Id.

<sup>72</sup> For example, the U.S. Chamber Foundation's Center for Education and Workforce does extensive work on getting more businesses, training and education providers, and students to interface and coordinate on “work-based learning,” and has developed checklists on the subject for employers, educational institutions, and potential workers receiving such training [http://www.uschamberfoundation.org/sites/default/files/media-uploads/checklists\\_FINAL.pdf](http://www.uschamberfoundation.org/sites/default/files/media-uploads/checklists_FINAL.pdf).

*Drive School Reform*,<sup>73</sup> *Business Education Partnership*,<sup>74</sup> and *Breaking Through: A Guide for Business Engagement in Education*<sup>75</sup> explain and analyze how business can function as a critical customer, a partner, or a policy advocate in primary and secondary education. These reports, using examples in Texas, Tennessee, Massachusetts, and Oklahoma, among others, show how the Center fosters businesses adopting important roles to step 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. Many of these initiatives relate to so-called “work-based learning” and occupations that do not require a university degree.

Among its other ongoing work, the Chamber Foundation’s Center for Education and Workforce conducts regional training for local and state chamber and business leaders to create a leadership network in as many states as possible focused on the role business can play in improving education and workforce training. Also, the Center for Education and Workforce conducts an ongoing assessment of K-12 education in all 50 states and the District of Columbia through its annual *Leaders and Laggards*<sup>76</sup> report.

Recently, in response to a growing skills gap that threatens the ability of companies to grow and compete in today's economy, the Center for Education and Workforce released its *Managing the Talent Pipeline: A New Approach to Closing the Skills Gap*<sup>77</sup> report. Through this latest initiative, the Center is engaging employers and their partners across the country in developing a demand-driven approach to employer-led education and workforce partnerships. By extending lessons learned from innovations in supply chain management, this initiative calls for employers to play a new and expanded leadership role as “end-customers” of their education and workforce partnerships. From there, employers can proactively organize and manage talent supply chain partnerships with measures and incentives tied to performance. Benefits for employers include a reduced skills gap and a better prepared workforce as well as higher returns on education and workforce investments for policymakers. Over the next year, the Center will organize a network of leading practitioners and change agents that seek to accelerate talent supply chain practices in their communities all across America.

Another focus of the Center for Education and Workforce is higher education, recognizing that the U.S. higher education system and post-secondary education system generally has long been one of the country’s crown jewels and that with the right leadership and policy choices, it will remain so. For example, in *Transforming Higher Education through Greater Innovation and Smarter Regulation*,<sup>78</sup> the Center looks at how academic programs and institutions must be transformed to serve the changing educational needs of a knowledge economy. 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 post-secondary and higher education is discouraged through funding that fails to reward quality

---

<sup>73</sup> <http://bit.ly/1AsTOjG> (June 2011).

<sup>74</sup> [http://www.uschamberfoundation.org/sites/default/files/publication/edu/Business\\_percent20Education\\_percent20Partnership.pdf](http://www.uschamberfoundation.org/sites/default/files/publication/edu/Business_percent20Education_percent20Partnership.pdf) (April 2013).

<sup>75</sup> <http://www.uschamberfoundation.org/publication/breaking-through-guide-business-engagement-education> (January 2014).

<sup>76</sup> [http://www.uschamberfoundation.org/sites/default/files/Leaders\\_percent20percent26\\_percent20Laggards\\_percent202014.pdf](http://www.uschamberfoundation.org/sites/default/files/Leaders_percent20percent26_percent20Laggards_percent202014.pdf) (September 2014).

<sup>77</sup> [http://www.uschamberfoundation.org/sites/default/files/Managing\\_percent20the\\_percent20Talent\\_percent20Pipeline.pdf](http://www.uschamberfoundation.org/sites/default/files/Managing_percent20the_percent20Talent_percent20Pipeline.pdf) (November 2014).

<sup>78</sup> <http://bit.ly/18PYad9> (May 2011).

and outcomes, or simply thwarted by complacency within traditional institutions, then the U.S. might lose its edge to faster moving international competitors.

## CONCLUSION

Expanding temporary worker programs for lesser-skilled occupations, when properly structured, will be good for the economy and will clearly enhance U.S. security and border control.<sup>79</sup>

As this Committee is undoubtedly aware, the U.S. Chamber joins those answering a resounding “yes” when asked “is immigration good for America?”<sup>80</sup> As conservative, pro-growth economists have said “immigration reform is a great economic policy opportunity.”<sup>81</sup> The U.S. Chamber stands ready to work with Members of Congress on both sides of the aisle that likewise believe moving forward with responsible reforms to our immigration system is an opportunity to improve the U.S. economy and U.S. national security.

Thank you for permitting the U.S. Chamber to share its views.

---

<sup>79</sup> Undoubtedly, it is important that there be a clear mechanism to ensure that legal temporary workers depart the U.S. and return to their country of origin at the end of their authorized stay. Phasing-in mandatory use of E-Verify would help in this regard. The U.S. Chamber recently testified before Congress regarding the terms and conditions that would make such an E-Verify mandate workable for employers <http://judiciary.house.gov/cache/files/d2991fa6-c7ce-4f2e-acb2-3227b3de295e/uscc-testimony-of-r-johnson-on-legal-workforce-act-2-4-2015.pdf>. While it imposes serious penalties for employers, the Chamber supports the Legal Workforce Act (H.R.1147 in the 114<sup>th</sup> Congress) as a reasonable means to balance the competing interests in this area.

<sup>80</sup> See, e.g., compendium of articles in “Is Immigration Good for America?” (Cato Institute report, February 2012) <http://www.cato.org/cato-journal/winter-2012>.

<sup>81</sup> Former CBO Director Douglas Holtz-Eakin, quoted in The Atlantic (March 6, 2015) <http://theatlantic.com/1wecFm8>.