



Statement of the U.S. Chamber of Commerce

ON: "THE NEED FOR COMPREHENSIVE IMMIGRATION REFORM: SERVING OUR NATIONAL ECONOMY"

TO: U.S. SENATE SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP OF THE COMMITTEE ON THE JUDICIARY

BY: THOMAS J. DONOHUE

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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.

Statement
On
The Need for Comprehensive Immigration Reform: Serving Our National Economy
Before the
U.S. Senate Committee on the Judiciary
Subcommittee on Immigration, Border Security and Citizenship
By
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President and CEO, U.S. Chamber of Commerce
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2:30 pm

Mr. Chairman, thank you for inviting me to speak before the Subcommittee on the issue of comprehensive immigration reform and its importance to our economy. I am Thomas J. Donohue, President and Chief Executive Officer of the U.S. Chamber of Commerce, the world's largest business federation, representing more than 3 million businesses of every size, sector and region.

On September 7, 2001, I testified before the Senate Committee on the Judiciary, four days before the tragic events of September 11th, on many of the same issues we will discuss today. Of course, much has changed since that fateful day—with a much-needed focus on national security—but much has also remained the same. So, I come before this Subcommittee to once again address the business community's continued interest in comprehensive immigration reform. It is clear from the recent three hearings held by this Subcommittee that it believes immigration reform is needed from both a national security perspective as well as an economic perspective. The Chamber agrees.

Stated simply, the Chamber supports immigration because immigrants have always been a key to the success of our economy. As stated in the Economic Report of the President transmitted to the Congress in February 2005, "Immigration has touched every facet of the U.S. economy and, as the President has said, America is a stronger and better Nation for it."¹ Immigrants not only fill jobs, but also create jobs here in the United States—helping our economy expand. Immigrants are one solution to workforce shortages that will inevitably exist in different sectors of our diverse economy. Our new

¹ *Economic Report of the President* at 93, February 2005.

immigrants come from nations around the globe to work in the full myriad of occupations “from construction and cooks to computer programmers and medical doctors.”²

Within the last year, the Chamber has been involved in several immigration policy efforts that provide small fixes to a dysfunctional system. These include obtaining an additional 20,000 “H-1B” visas for foreign students with advanced degrees granted by U.S. universities; helping small businesses who depend on seasonal labor by increasing the availability of “H-2B” visas throughout the year; and supporting the recapture of about 141,000 additional immigrant visa numbers in the employment based immigrant visa category left unused from previous years due to processing delays at the U.S. Citizenship and Immigration Services. But, we believe it is now time for Congress to turn its attention to broader reforms of the immigration system. Indeed, while there are different proposals and viewpoints, no one seems to argue that the status quo is acceptable or rational.

Immigration Reform Principles

The Chamber represents members from all industries and employers of workers at all levels. We consistently hear from Chamber members across the country that workforce availability issues are among their top priorities. Members in the restaurant, hotel, health care, manufacturing, construction, and many other predominantly service industries, have asked the Chamber for help in finding policy resolutions that will allow them to hire and retain the “essential workers” that keep our economy running. Immigration must remain, as it has been throughout our history, a tool to fulfill the demands of our growing economy.

For many of these reasons, nearly six years ago, the Chamber helped found the Essential Worker Immigration Coalition (EWIC). EWIC is a coalition of businesses, trade associations, and other organizations from across the industry spectrum concerned with the shortage of lesser skilled (“essential worker”) workers and impediments in current immigration law to addressing that shortage. EWIC and the Chamber support reform of U.S. immigration policy to facilitate a sustainable workforce for the American economy while ensuring our national security, built on several basic principles. Most, if not all, of these principles align with those of the President and provide good building blocks for reform. Above all, immigration reform must be comprehensive: addressing both future economic needs for workers and undocumented workers already in the United States—while concurrently improving our national security. Our principles for immigration reform include:

- ❑ Strengthening national security by providing for the screening of foreign workers and creating a disincentive for illegal immigration. The President’s principles also call for controlling our borders and for a program that supports ongoing efforts to enhance homeland security.³

² *Economic Report of the President* at 93, February 2005.

³ Fair and Secure Immigration Reform, The President’s basic principles, *available at* <http://www.whitehouse.gov/infocus/immigration/more-immigration.html>.

- ❑ Strengthening the rule of law by establishing clear, sensible immigration laws that are efficiently and vigorously enforced.
- ❑ Creating an immigration system that functions efficiently for employers, workers, and government agencies. The President’s principles call for a program that “is clear, streamlined, and efficient so people can find jobs and employers can find workers in a timely manner.”⁴
- ❑ Creating a program that allows hard working, tax paying undocumented workers to earn legal status. The President’s principles call for the promotion of compassion in a program that would grant currently working undocumented aliens a legal status with work authorization.⁵
- ❑ Ensuring that U.S. workers are not displaced by foreign workers. The President’s principles call for the matching of a willing immigrant worker with a willing employer when no American worker is available and willing to take a job.⁶
- ❑ Ensuring that all workers, including legal temporary workers, enjoy the same labor law protections. The President’s principles strive to guarantee that, whatever legal status is bestowed upon these individuals, they have protections from abuse by employers.⁷

Demographics and Essential Worker Shortages

The aging domestic workforce and the dilemma this country faces as population growth rates decline even while job growth continues has been much discussed by the experts. But, a brief review of the relevant statistics and analysis may be helpful.

The Bureau of Labor Statistics (BLS) estimates that the number of people in the labor force ages 25 to 34 is projected to increase by only three million between 2002 and 2012, while those age 55 years and older will increase by 18 million.⁸ By 2012, those aged 45 and older will have the fastest growth rate and will be a little more than 50% of the labor force.⁹ According to estimates released in February 2005 by the United Nations, the fertility rate in the United States is projected to fall below “replacement” level by 2015 to 2020, declining to 1.91 children per woman (lower than the 2.1 children per woman rate needed to replace the population).¹⁰ By 2010, 77 million baby boomers will retire and, by 2030, one in every five Americans is projected to be a senior citizen.¹¹

⁴ The President’s basic principles, available at <http://www.whitehouse.gov/infocus/immigration/more-immigration.html>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Bureau of Labor Statistics, *Labor Force Projections to 2012: the graying of the U.S. workforce*, February 2004.

⁹ *Id.*

¹⁰ *World Population Prospects: The 2004 Revisions* at 71, February 24, 2005, available at http://www.un.org/esa/population/publications/WPP2004/2004Highlights_finalrevised.pdf.

¹¹ JIM EDGAR, DORIS MEISSNER, ALEJANDRO SILVA, KEEPING THE PROMISE: IMMIGRATION PROPOSALS FOR THE HEARTLAND 12, Report of an Independent Task Force, which brought together forty leaders from business, academia, and civil society (The Chicago Council on Foreign Relations)(2004).

At the same time, we have, fortunately, projected job growth, including in lower-skilled occupations. Most jobs in our economy do not require a college degree. Close to 40% of all jobs require only short-term on-the-job training. In fact, of the top 10 largest job growth occupations between 2002 and 2012, all but two require less than a bachelor's degree.¹² At the same time, six of the top 10 growth occupations require only short-term on-the-job training.¹³ Some of these top 10 occupations that only require short-term on-the-job training include: retail salespersons, nursing aides, janitors and cleaners, waiters and waitresses, and combined food preparation and serving workers.¹⁴

A panel on the future of the health care labor force in a graying society concluded that “[t]his will not be a temporary shortage. . . . Fundamental demographic changes are occurring in America, and the coming labor crisis will be with us for decades.”¹⁵ Currently, the American Hospital Association reports high vacancy rates and more difficulty in recruiting workers for positions ranging from housekeeping and maintenance to nursing assistants and registered nurses.¹⁶ The impact of such workforce shortages, according to the Association, translates into severe emergency room overcrowding, emergency patients diverted to other hospitals, delayed discharge/increased length of stay, increased wait times for surgery, cancelled surgeries, discontinued programs, reduced service hours, and others.¹⁷

However, shortages of essential workers are not limited to the largest growth occupations. In fact, the need for essential workers cuts across industry sectors. In February 2004, Emily Stover DeRocco, Assistant Secretary of Labor for Employment and Training, in a speech to the National Roofing Contractors Association, explained that BLS projected an increase in jobs between 2002 and 2012 for roofers of over 30,000, while at the same time there would be attrition in this occupation of about 40,000—a net deficit of 70,000.¹⁸ The Construction Labor Research Council issued a labor supply outlook earlier this year where it found that the construction industry would need 185,000 new workers annually for the next 10 years.¹⁹

The National Restaurant Association projects that the restaurant industry will add more than 1.8 million jobs between 2005 and 2015, an increase of 15%.²⁰ However, the U.S. labor force is only projected to increase 12% during the next 10 years, which will make it more challenging than ever for restaurants to find the workers they need.²¹ The

¹² KEEPING THE PROMISE: IMMIGRATION PROPOSALS FOR THE HEARTLAND at 81, Appendix A, Table 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ American Hospital Association, *Trend Watch*, June 2001.

¹⁶ *2004 American Hospital Association Survey of Hospital Leaders*; some occupations, such as registered nurses, come under the H-1B visa program. While the primary focus of this testimony is on the projected shortages of low skilled workers, the Chamber is acutely aware of the continued need to also increase access to highly skilled workers under the H-1B visa program.

¹⁷ *Id.*

¹⁸ From information gathered and forwarded to the Chamber by the National Roofing Contractors Association.

¹⁹ Information from the National Roofing Contractors Association.

²⁰ From information gathered and forwarded to the Chamber by the National Restaurant Association.

²¹ *Id.*

National Restaurant Association study notes that the 16 to 24 year old labor force—the demographic that makes up more than half of the restaurant industry workforce—is only projected to increase 9% during the next 10 years.²²

Our own surveys, not surprisingly, reflect the problems these employers have in finding the workers that they need. On April 19, 2005, the Chamber's Center for Workforce Preparation, which I will describe later, launched a Workforce Needs Assessment Survey of chambers, businesses, and associations. Of the chamber survey participants, 36% had 1,000 or more members. On the business side, seven out of 10 had an operating budget of less than \$10,000,000 and roughly three-fourths had 50 employees or less. One out of four associations had a budget of over \$2,500,000 and a wide range of industries were represented including arts, entertainment and recreation, professional scientific, technical services, social assistance, and nonprofit organizations. Difficulties in finding both entry-level and skilled workers, and developing solutions for this problem, ranked extremely high in importance to those surveyed.

Views by the Experts

Respected economists and labor specialists have recognized the importance of immigrants to the U.S. economy. In *The Jobs Revolution: Changing How America Works* by Steve Gunderson, Robert Jones, and Kathryn Scanland, the authors note that the “most inescapable challenge facing the American workforce in the coming 20 years is that, barring substantial change, we will not have enough people to fill it.”²³

Justin Heet of the Hudson Institute acknowledged in *Beyond Workforce 2020: The Coming (and Present) International Market for Labor* that the “level of productivity gains that would be necessary to alleviate workforce growth declines will be too high to be relied on as a public solution to the triangle of retirement/healthcare/workforce considerations.”²⁴ He concluded that governments in the developed world will need to use immigration in order to compliment their native workforce.

Federal Reserve Chairman Alan Greenspan, over the last few years, has continually reiterated that immigrants are good for our economy and support the workforce. Chairman Greenspan stated before the Senate Special Committee on Aging in February 2003, that “Immigration, if we choose to expand it, could prove an even more potent antidote for slowing growth in the working-age population. As the influx of foreign workers in response to the tight labor markets of the 1990s showed, immigration does respond to labor shortages.”

²² From information gathered and forwarded to the Chamber by the National Restaurant Association.

²³ STEVE GUNDERSON, ROBERT JONES, AND KATHRYN SCANLAND, *THE JOBS REVOLUTION: CHANGING HOW AMERICA WORKS* 29 (2004).

²⁴ Justin Heet, Hudson Institute *Beyond Workforce 2020: The coming (and present) international market for labor* June 23, 2003 at 11, available at http://www.hudson.org/files/publications/workforce_international_mkt_labor.pdf

Secretary of Labor Elaine Chao in her 2001 “State of the Workforce” address noted the phenomenon of the “Incredible Shrinking Workforce.”²⁵ She noted then that to keep up with the slower growth of the workforce and the increasing number of retired Americans we needed “to introduce new populations . . . into the workforce . . . to meet this challenge head-on.”²⁶ According to a 2003 Employment Policy Foundation (EPF) study, by 2030, the demand for labor could very well outpace supply by 35 million jobs.²⁷

The Chicago Council on Foreign Relations issued a report in 2004 which noted that today’s economies are “highly dependent on immigration, legal and illegal, temporary and permanent.” It explained how the different economies rely “on the labor of those who arrived under employment-based categories as well as those who arrived under family reunification or humanitarian categories.” It also restated the demographic trends and labor market projections explained earlier that “foreshadow increasing economic dependency on immigrant labor.”²⁸

It should also be noted that studies have shown that the less-skilled workers, who compete most closely with low-skilled immigrants, experience very little downward pressure on their wages (generally, it is estimated that a 10% increase in the share of foreign-born workers reduces native wages by less than 1%).²⁹ It now seems apparent that immigrants are complementing our U.S. workforce, not displacing it. As a nation, we have made it a priority for our workers to move into higher-paying, higher-skilled jobs. In turn, immigrant workers are filling the gap by taking many manual labor jobs that American workers are either unwilling or unable to take.

Of course, we recognize that the business community must also help domestic workers find suitable employment. Previously, I mentioned the survey done by our Center for Workforce Preparation, which was created as a Chamber affiliate to address labor shortages and to engage businesses in incorporating effective recruitment, retention, and training solutions. These efforts include the following:

- Identifying and supporting programs that bring new sources of labor into the workforce—mature workers, former welfare recipients, individuals with disabilities, youth, and others. By bringing these skilled individuals into the workforce, employers will have greater access to qualified employees.

²⁵ Secretary of Labor Elaine Chao, *State of the Workforce*, August 30, 2001, available at http://www.dol.gov/sec/media/speeches/20010830_stateoftheworkforce.htm.

²⁶ *Id.*

²⁷ Employment Policy Foundation, *Despite Labor Market Weakness, A Labor and Skill Shortage is Looming in the U.S.*, August 13, 2003. The report also projects that per capita income with adequate immigration would be over \$63,000 in current dollars by 2033—more than two times the current level—while a failure to close the labor supply gap would lead to per capita personal income of less than \$50,000.

²⁸ The quotes in this paragraph come from KEEPING THE PROMISE: IMMIGRATION PROPOSALS FOR THE HEARTLAND 33; a more complete citation of the report can be found in footnote 11.

²⁹ *Economic Report of the President* at 105, February 2005.

- ❑ Replicating successful workforce and education models that focus on partnership development between businesses, chambers, government, and education institutions.
- ❑ Educating businesses on innovative recruitment and retention strategies such as workplace flexibility as a management tool that allows businesses to address the labor shortage by retaining their workers.
- ❑ Connecting businesses to qualified and skilled youth who are already trained and available to establish careers in high-demand industries such as construction and health care.
- ❑ Informing businesses on using the Earned Income Tax Credit as a retention tool to support entry-level workers.
- ❑ Working with five states and the District of Columbia to develop a national and portable credential that defines, measures, and certifies that entry-level job seekers have the employability skills like problem solving and critical thinking that employers require.
- ❑ Forming solutions around issues such as workplace housing that impact an employer's ability to recruit and retain skilled workers.
- ❑ Building the capacity of over 135 chambers to advance their role in building workforce and education partnerships between businesses, community colleges, and the public workforce system.
- ❑ Helping the Chamber's federation of 3,000 state, local, and regional chambers of commerce to effectively engage in workforce development by providing tools and promising practices.
- ❑ Connecting businesses to market-responsive community colleges and other educational programs available to them to create continuous skills training for their employees to ensure that their skills keep pace with changes in technology.

It is also important to restate the Chamber's commitment to filling jobs with U.S workers before seeking to fill these vacancies with potential new guestworkers or immigrants abroad. Indeed, industries and businesses that are our members are some of the leaders in the nation's welfare-to-work, school-to-work, and prison-to-work efforts. Because many of these jobs are entry-level, requiring little or no experience, and often few skills, they are the stepping stones for many on their road to the American dream. Employers are taking all the reasonable steps that they can to fill these jobs with the current United States workforce, but still many jobs are going unfilled.

The Dilemma of the Unauthorized Workforce

We have an existing situation in which our nation has millions of jobs available, a decreasing workforce relative to the number of openings, and an immigration system that provides no practical legal mechanism for employers and foreign nationals to fill those openings. It is no wonder that we have such a large number of undocumented workers in this country.

Who are these individuals and how many are there?

There is no exact measure, but a recent study put the number of undocumented migrants at about 10.3 million. Of these 10.3 million, about seven million are working—which is about 5% of the U.S. labor force.³⁰ In fact, while a large proportion of undocumented women with families are stay-at-home mothers, 92% of undocumented adult (age 18 to 64) men actively participate in the workforce.³¹ These undocumented migrants are here, working hard, and paying taxes.³²

Currently, Mexicans make up by far the largest group of undocumented migrants at 5.9 million (57% of the total).³³ About 2.5 million undocumented migrants, or about 24% of the total, are from other Latin American countries. Asians make up about 9% of the undocumented migrants, and 6% are from Europe and Canada. Of all of the foreign-born in the United States, Mexicans represent about 32% of them. While this is a high figure by historical standards, it is certainly not unprecedented—both German and Irish immigrants in the 19th century accounted for a higher percentage of the foreign-born.³⁴

Some ask whether the high level of employment means that employers are violating the law. No, it does not. It should be emphasized that employers are required to, and do, verify that each employee is eligible to work in the United States, but by law employees get to choose which documents from the Department of Homeland Security's approved list (set out on the "I-9" form) to present to the employer in support of their claim that they are authorized to work. These documents look valid on their face and many times they are in fact legitimate documents belonging to relatives and friends authorized to work in the United States. By law, the employer must accept these documents. To ask for additional documentation because someone may look or sound foreign is potentially a violation of that person's civil rights under both immigration and employment laws.

Due to the prevalence of these practices in the employment authorization verification process, most employers do not know their employees are undocumented. Sometimes, employers learn of their employee's lack of authorization to work only after an Immigration and Customs Enforcement (ICE) raid.³⁵ Most often, employers learn of the lack of authorization to work through a Social Security Administration "no-match" letter that tells the employers that their employee records do not match the government's records.

³⁰ Pew Hispanic Center, *Estimates of the Size and Characteristics of the Undocumented Population*, March, 2005.

³¹ Pew Hispanic Center, *Unauthorized Migrants: Numbers & Characteristics*, May 4, 2005.

³² Eduardo Porter, *Illegal Immigrants are Bolstering Social Security with Billions*, THE NEW YORK TIMES, April 15, 2005, at A1.

³³ *Estimates of the Size and Characteristics of the Undocumented Population*.

³⁴ *Id.*

³⁵ A recent enforcement action where ICE arrested 60 unauthorized workers exemplifies the troubles employers face. In this instance, the unauthorized workers were employed in critical infrastructure sites around the country. According to ICE's chief, their employer, a company that provides contract workers to companies around the country, is not a target of the investigation because they understand that the unauthorized workers "presented fraudulent documents to [the employer]." See Jerry Seper, *ICE arrests 60 illegals working in sensitive areas*, THE WASHINGTON TIMES, May 21, 2005 at A4.

The result is that the employer must dismiss these employees, if they have not already left in fear of deportation. To an employer who is facing labor shortages, this instability in the workplace exacerbates an already critical problem—especially when, as we hear from our members, it is some of their best employees that they need to dismiss.

Finally, while I will leave the national security issues to the experts, let me state what I think is obvious. Whatever some may otherwise think about providing legal status to the undocumented, surely we are better off knowing who these people are and putting them through a screening process and identifying those that are criminals or terrorist suspects. At the very least, this process will “shrink the haystack” and allow law enforcement officials to focus resources on true criminals and threats to our security rather than cooks, janitors, and caretakers. Surely the status quo of a shadow society, with today’s appropriate focus on national security, is unacceptable. In the same vein, we are simply not going to round up 10 million people and deport them. Such an action would not be consistent with this country’s principles and it would adversely impact many industries. The Chicago Council report summarized the reasons why the status quo is unacceptable; it undermines the rule of law, exposes workers to exploitation, separates families, and complicates the security problem.³⁶ The report noted:

The U.S. government lacks sufficient resources and political support to deport nearly 10 million people. Their deportation would wreak economic havoc in certain industries and communities as well as negatively impact many U.S. citizens (including children) through deportation of guardians, economic providers, or close family members. Continuing to avoid the issue will only exacerbate the challenges and postpone solutions.³⁷

Problems with Existing Immigration Laws and Proposed Solutions

Members of the Subcommittee, I believe I have adequately demonstrated the problem. Now we must look to solutions. As stated above, we must continue to do all we can to ensure that we are utilizing our domestic workforce, but because of the current lack of available job applicants, and the future demographics, we must look to our immigration system to help “fill the gap.” However, as you are by now aware, our current immigration system does not adequately allow us to draw upon this important pool of applicants.

We do currently have a temporary labor program, called the “H-2B” visa program. The H-2B visa is a temporary visa issued to individuals who will be working in temporary, seasonal jobs outside of agriculture. The H-2B process is a cumbersome and bureaucratic one that involves two separate agencies, much paperwork, and often more time than the job itself will last. In the past, this red tape has meant that very few employers bothered to use the program, although in recent years its use has escalated due to the tight labor market.

³⁶ KEEPING THE PROMISE: IMMIGRATION PROPOSALS FOR THE HEARTLAND 37.

³⁷ ID.

As many of you now know, the H-2B cap was hit this fiscal year in January, after only three months of availability. This was the second year in a row that the cap was reached so early in the fiscal year. The H-2B visa program is capped at 66,000 visas per year, and this number has not been adjusted since this visa category was initially enacted in 1990. Congress recently passed a provision, which was signed into law, that exempts H-2B workers who have participated in one of the prior three years, but the cap was not raised. This and other short-term fixes do not fully take into account the realities on the ground and the caps do not seem to have any relationship to actual market needs.

While many employers do have seasonal needs, and the changes to the H-2B visa category were warranted, many more employers have year-round and long-term needs that are not fulfilled. Such employers seeking to hire foreign nationals for their job openings do not have an opportunity to, since no long-term temporary visa exists in our current system. There is no H-1B (the high tech visa option) counterpart for essential workers. If an employer has a long-term essential worker position, there is no legal mechanism to sponsor foreign nationals to fill that need.

If the employer needs a lower-skilled worker permanently, he or she is, as a practical matter, out of luck. Current annual quotas limiting green cards to only 5,000 each year for persons coming to work in jobs that require less than two years of education or training translate into a five to 10 year wait—not a practical or reasonable solution for employers. We need comprehensive immigration reform that allows for a match between willing employers and willing employees that is fast and reliable combined with visa limitations that fluctuate in connection with the needs of the market.

From the business perspective, we have two major problems to deal with—filling the unfilled jobs, both now and in the future, and keeping our currently reliable workforce through some type of earned adjustment for undocumented workers. In looking forward, we believe that any legislative outcome must address both problems. That is why the Chamber supports a comprehensive approach to immigration. As President Bush has stated, we must develop a new legal immigration framework that will “match a willing employee with a willing employer.”

While the specifics of such a program are fair game for experts, businesses want a system that is simple, easy to understand, and responsive to their needs as well as a system that addresses the reality that some of our best workers want to stay and continue contributing to their employers and communities. We also realize that protections to prevent possible abuses and to help ensure that the interests of American workers are protected must be included. But the system must not become so encumbered with bureaucratic hurdles that it becomes, as a practical matter, unworkable.

Some are espousing a fix of the immigration system through open borders, others are pushing for draconian penalties on employers that would end up disrupting our economy, and still others want to close our borders to most, if not all, immigration. The Chamber believes that the solution lies not in a piecemeal agenda that emphasizes one

area over the other, but in a comprehensive approach that addresses all of the complicated issues and concerns facing this great nation of immigrants.

We thank the Chairman for his leadership and vision in realizing that a comprehensive approach is needed and for holding hearings on this issue. We ask that Congress take advantage of the unprecedented coalition of business, labor, and civil rights organizations—together with a receptive President that has made comprehensive immigration reform a priority of his administration—to address this important issue head-on. It has been close to 20 years since the last comprehensive immigration reform took place. It is said that “if it is not broken, do not fix it,” and I add that if it is broken, as the consensus is with regard to our immigration laws, then we must fix it. The time to act is now.

I welcome any questions you may have.