



# Statement of the U.S. Chamber of Commerce

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**ON: GUEST WORKER PROGRAMS: IMPACT ON THE AMERICAN  
WORKFORCE AND U.S. IMMIGRATION POLICY**

**TO: HOUSE COMMITTEE ON EDUCATION AND THE WORKFORCE**

**BY: ELIZABETH C. DICKSON**

**DATE: JULY 19, 2006**

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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**  
**“Guest Worker Programs: Impact on the American Workforce and U.S. Immigration Policy”**

**Before**

**The House Education and the Workforce Committee**

**Elizabeth Dickson**

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**Ingersoll Rand Company**

**and on behalf of the**

**U.S. Chamber of Commerce**

**July 19, 2006**

Chairman McKeon, Ranking Member Miller, and distinguished members of the Committee, good morning, and thank you for the opportunity to testify today before the Committee.

I am Elizabeth Dickson, the Corporate Immigration Services Manager and work with the Global Mobility Services Team for Ingersoll Rand Company. I am also Chair of the U.S. Chamber of Commerce Subcommittee on Immigration and our company is a member of the Essential Worker Immigration Coalition (EWIC). I am testifying today on behalf of Ingersoll Rand Company and the U.S. Chamber of Commerce. It is a privilege for me to be here today discussing immigration policy as Congress wrestles with comprehensive immigration reform issues. It is very important to note that an overhaul of our immigration policy to meet our national security and economic needs is vital after a 20-year hiatus.

The U.S. Chamber of Commerce is the world’s largest business federation, representing more than three million businesses of every size, sector, and region. The Chamber’s membership also includes 104 American Chambers of Commerce abroad (“AmChams”) located in 91 countries, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States.

The Essential Worker Immigration Coalition (EWIC) is a coalition of businesses, trade associations, and other organizations from across the industry spectrum that support reform of U.S. immigration policy to facilitate a sustainable workforce for the American economy while ensuring our national security and prosperity.

Ingersoll Rand Company Limited, a Bermuda corporation, and its affiliated group (“Ingersoll Rand” or “IR”) with worldwide corporate headquarters located in Montvale, NJ, USA, is a global provider of products, services and integrated solutions to industries as diverse as transportation, manufacturing, construction and agriculture. The company brings to bear a 100-year-old heritage of technological innovation to help companies be more productive, efficient and innovative. Its business sectors encompass the global growth markets of Climate Control Technologies, Industrial Technologies, Compact Vehicles Technologies, Construction Technologies, and Security Technologies. Ingersoll Rand features a portfolio of worldwide businesses comprising leading industrial and commercial brands such as Bobcat compact equipment, Club Car golf and utility vehicles, Hussmann stationary refrigeration equipment, Ingersoll Rand industrial and construction equipment, Schlage Locks, and Thermo King transport temperature-control equipment.

Ingersoll Rand operates more than 80 manufacturing facilities, 38 of which are located within the United States, and markets its products and services, along with its subsidiaries, through a broad network of distributors, dealers, and independent sales and service/repair organizations. Ingersoll Rand employs approximately 40,000 employees worldwide. Annual net sales of IR products in 2005 were in excess of \$10.5 billion. Since 2000, the company has acquired more than 50 businesses, extending the range of products and services it can provide to customers and enhancing its ability to drive total and recurring revenue growth in international markets.

## **Overview**

Common demographic and job growth projections, combined with numerous “on the ground” reports from many employers across the economic spectrum faced with the day to day realities of the workplace, indicate that this country is facing, and will face, a growing shortage of workers in many areas. Depending on the state of the economy, job growth and levels of unemployment, this shortage will rise and fall and will vary across industries and in different categories of jobs.

It is apparent that the very limited nature of the country’s current temporary worker programs is inadequate to meet the challenges of the future. We are requesting that Congress consider these issues and structure expanded temporary worker programs that employers could use, in a reasonably efficient manner without numerous bureaucratic hoops and hurdles to fill jobs with immigrant workers when U.S. workers are not available. Obviously, there are many details to be sorted out as to how such a program should be structured, and how many steps employers should go through and what enforcement mechanisms are adequate. The Senate bill has outlined one version of a possible program, but it is certainly only one possible approach and has its own problems.

Importantly, as experts have often noted, a temporary worker program that meets the needs of our economy will also increase national security. Creating an orderly, legal open process by which foreign workers can be recruited into jobs when U.S. workers are not available, and screened and tracked while in the United States, will eliminate the “job magnet” which now spurs illegal immigration as those jobs would have been filled through the new temporary worker

program. Hence, adequate temporary worker programs will strongly complement our efforts to control the nation's borders.

Of course, a tougher employer verification system has to part of this mix in order to “seal the system” and prevent participants in the new programs from dispersing into the economy outside of legal channels.

Lastly, it appears that specific economic data is relatively limited with regard to the impact of temporary worker programs (with the exception of agriculture), perhaps because of the very limited nature of our current existing programs, particularly when viewed as a very small part of the workforce of over 140 million employees. However, it is clear that an economy cannot expand without the workers it needs and that an expanding economy benefits everyone. Further, the studies with regard to immigration, in general, overwhelmingly conclude that immigration provides a net benefit to the economy, with perhaps some adverse impact on the very low skilled. This adverse impact cannot be dismissed lightly and needs to be addressed, but must also be weighed against the overwhelming net benefits of immigration to the economy.

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## **Demographic Realities and Workforce Needs**

While the population of the United States as a whole is admittedly set to increase over the next few decades, the population is aging, more educated, and participating at lower rates in the workforce. A brief review of the relevant statistics and analysis may be helpful. Of course, when discussing workforce growth and future demographics, there is some guess-work involved, but in general the data leads to the conclusion that, without change, workforce growth will not be great enough to fill available jobs.

The number of people in the labor force ages 25 to 54 (the prime workforce) is projected to increase by only 0.3 percent between 2004 and 2014. Those in the age group of 16 to 24 years are actually expected to decrease in numbers as part of the labor force.<sup>1</sup> Those age 55 years and older will increase by 11 million between 2004 and 2014—going from 15.6 percent to 21.2 percent of the workforce. By 2014, those aged 55 and older will have the fastest growth rate and will be a little more than one-third of the working-age population at 33.7 percent (compared with only 26.2 percent in 1994).<sup>2</sup> According to estimates released in February 2005, 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).<sup>3</sup> By 2010, 77 million baby boomers will begin to retire and, by 2030, one in every five Americans is projected to be a senior citizen.<sup>4</sup>

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<sup>1</sup> Bureau of Labor Statistics, *Labor Force Projections to 2014: Retiring Boomers* at 26, November 2005.

<sup>2</sup> *Id* at 28.

<sup>3</sup> *World Population Prospects: The 2004 Revisions* at 71, February 24, 2005, available at [http://www.un.org/esa/population/publications/WPP2004/2004Highlights\\_finalrevised.pdf](http://www.un.org/esa/population/publications/WPP2004/2004Highlights_finalrevised.pdf).

<sup>4</sup> Jim Edgar, Doris Meissner, Alejandro Silva, *Keeping the Promise: Immigration Proposals for the Heartland* at 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).

The increase in school attendance has also affected the number in people going into lower-skilled worker positions, or positions that do not require a college degree. Young people have stayed in school longer, and there has been an overall labor force participation decline among those 16-24 years old. In fact, almost counter intuitively, the Bureau of Labor Statistics (“BLS”) declared that rising school attendance actually strengthened the impact of the recession in 2001.<sup>5</sup> Another factor that will lead to a decline in overall workforce participation is the growing phenomenon of early retirement. The participation rate of those 55 years and older drops off sharply and is about half of the 24-54 year old age group, at 43.2 percent. It is also expected that women’s participation rate in the workforce has peaked, and will no longer help fuel the labor force as it has over the last few decades. The aggregate labor force participation rate has continued to decline, from 61.7 percent over the 1997-2000 period to 66.0 percent in 2004 and is set to continue its downward trend.<sup>6</sup>

The BLS also has projected job growth, both in low-skilled and high-skilled occupations. The BLS expects between 2004 and 2014 the number of U.S. jobs will increase by 18.9 million.<sup>7</sup>

Many occupations projected to grow in our economy will not require a college degree—only two of the top 10 largest growth occupations will require a Bachelor’s degree or more. Six of the top 10 largest growth occupations from 2004-2014 require only moderate or short-term “on-the-job” training, including retail salespersons, customer service representatives, nursing aides, janitors and cleaners, waiters and waitresses, and combined food preparation and serving workers<sup>8</sup> About 37 percent of new job openings in the 2004-2015 period are projected to be filled by people with a high school education, or less.<sup>9</sup> These jobs are most often held by either younger or less-educated cohorts, which are not expected to grow in number at all.

The Construction Labor Research Council issued a labor supply outlook where it found that the construction industry would need 185,000 new workers annually for the next 10 years.<sup>10</sup> 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 percent.<sup>11</sup> However, the U.S. labor force is only projected to increase 10 percent during the next 10 years, which will make it more challenging than ever for restaurants to find the workers they need.<sup>12</sup> The 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 not predicted to grow at all in the next 10 years.<sup>13</sup>

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

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<sup>5</sup> Bureau of Labor Statistics, *Labor Force Projections to 2014: Retiring Boomers*, at 30, November 2005.

<sup>6</sup> *Id.* at 32-37.

<sup>7</sup> Bureau of Labor Statistics, *Occupational Employment Projections to 2014* at 70.

<sup>8</sup> *Id.* at 77.

<sup>9</sup> *Id.* at 80.

<sup>10</sup> Information from the National Roofing Contractors Association. See also Bureau of Labor Statistics, *Occupational Employment Projections to 2014* at 94.

<sup>11</sup> From information gathered and forwarded to the Chamber by the National Restaurant Association.

<sup>12</sup> *Id.*

<sup>13</sup> From information gathered and forwarded to the Chamber by the National Restaurant Association.

America, and the coming labor crisis will be with us for decades.”<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup>

The BLS reports that the hospitality industry will need 304,200 additional employees by 2014 and predicts a 16.4 percent growth rate. At a recent hearing, a hotel corporation in Harrisburg, Pennsylvania reported that they have on average 25 to 40 job openings posted every week. This corporation participates in about 25 job fairs a year, advertises in newspapers and recruits extensively, and yet still has trouble finding workers.<sup>17</sup>

The views of experts reflect this reality. Edward Lazear, Chairman of the President’s Council of Economic Advisers said in a speech on July 13, 2006 that “the slowing growth of the population and the aging of the baby boomers will mean a smaller supply of workers to support the economic engine. By far the single most important determinant of jobs in the economy is population.”<sup>18</sup> 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.”<sup>19</sup>

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.”<sup>20</sup> He concluded that governments in the developed world will need to use immigration in order to compliment their native workforce.

Secretary of Labor Elaine Chao has noted the phenomenon of the “Incredible Shrinking Workforce.”<sup>21</sup> She stated that to keep up with the slower growth of the workforce and the

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<sup>14</sup> American Hospital Association, *Trend Watch*, June 2001.

<sup>15</sup> *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.

<sup>16</sup> *Id.*

<sup>17</sup> Carol Green Ross, Harrisburg Hotel Corporation, testimony before the Senate Judiciary Committee, July 5, 2006.

<sup>18</sup> Edward Lazear, Chairman, Executive Office of the President Council of Economic Advisors speech before the National Economists Club July 13, 2006 “A Success Story: American Productivity.”  
<http://www.whitehouse.gov/cea/lazear-national-econ-club-speech-20060713.pdf>

<sup>19</sup> Steve Gunderson, Robert Jones, and Kathryn Scanland, *The Jobs Revolution: Changing How America Works* at 29 (2004).

<sup>20</sup> 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](http://www.hudson.org/files/publications/workforce_international_mkt_labor.pdf)

<sup>21</sup> Secretary of Labor Elaine Chao, *State of the Workforce*, August 30, 2001, available at [http://www.dol.gov/sec/media/speeches/20010830\\_stateoftheworkforce.htm](http://www.dol.gov/sec/media/speeches/20010830_stateoftheworkforce.htm).

increasing number of retired Americans we needed “to introduce new populations . . . into the workforce . . . to meet this challenge head-on.”<sup>22</sup>

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 reaffirmed the demographic trends and labor market projections explained earlier that “foreshadow increasing economic dependency on immigrant labor.”<sup>23</sup>

It should be noted that the BLS predicted that there would be job growth in lower-skilled areas, it also predicted that there would be growth in higher-skilled areas. Job growth will be most significant at opposite ends of the spectrum, in professional and related occupations and service occupations, which will make up over 60 percent of expected job growth.<sup>24</sup> The BLS expects large increases in highly-skilled occupational groups such as education and training, health care, computer and mathematical science, architecture and engineering, life and physical science, community and social services, and legal.<sup>25</sup> There will also be a need in the United States for more highly-skilled workers to fill these jobs.

The Chamber’s own surveys, not surprisingly, reflect the problems employers have in finding the workers that they need. On April 19, 2005, the Chamber’s 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, launched a Workforce Needs Assessment Survey of chambers, businesses, and associations. Difficulties in finding both entry-level and skilled workers, and developing solutions for this problem, ranked extremely high in importance to those surveyed.

### **Existing Temporary Worker Programs**

The three commonly used temporary worker programs in existence today are the H-1B, the H-2B and the H-2A programs. The H-1B program is exclusively for workers with a minimum of a bachelor’s degree or the equivalent. The cap is currently at 65,000, but there is an additional 20,000 reserved for graduates of U.S. colleges and universities with a master’s or doctorate degree. The H-1B cap has been reached eight times in the last ten years.

Companies use the H-1B visa to recruit professionals and highly-skilled workers. Companies also use these visas to recruit workers that have just graduated from U.S. colleges and universities, often in the math and science fields (which many times graduate more foreign-born students than native-born students). The employer must pay a \$1,500 fee that provides

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<sup>22</sup> *Id.*

<sup>23</sup> The quotes in this paragraph come from *Keeping the Promise: Immigration Proposals for the Heartland* at 33; a more complete citation of the report can be found in footnote 4.

<sup>24</sup> Bureau of Labor Statistics, *Occupational Employment Projections to 2014* at 71-80, November 2005.

<sup>25</sup> *Id.* at 72.

scholarships and training for U.S. workers and a \$500 anti-fraud fee. An employer must notify its U.S. workforce of the potential hire, in addition to certifying, according to established wage surveys, that it is paying the H-1B employees at the prevailing wage for U.S. workers and that the H-1B professionals are working under the same conditions as their U.S. counterparts, including hours, shifts and benefits. The employer must also attest that the H-1B worker is not a replacement worker for a labor dispute or strike. The employer must then receive approval from the Department of Labor, the Department of Homeland Security, and then receive the visa through the Department of State.

The Chamber, as part of the steering committee of the Compete America coalition, has consistently urged Congress to increase this cap or to make it market-based. The cap in 2006 was hit on June 1, and thus, without congressional intervention, most employers must wait more than a year to be able to hire new H-1B workers. Congress increased the cap on these visas during the high-tech boom at the end of the 1990s, but the cap reverted to its original number in 2003. These visas have historically responded visibly to market demand; demand decreased significantly and the cap was not even close to being hit as the tech bubble burst and the economy declined in 2001.

Ingersoll Rand prides itself on being a U.S. based company that strives to keep the majority of its manufacturing operations within the U.S. borders. We have manufacturing plants in 24 states and 120 facilities located throughout the United States. Over 45-50% of our profits are tied to export sales. Unfortunately, market forces and the lack of highly qualified U.S. workers have created a problem of identifying and retaining U.S. workers. Indeed, recruiting engineers within the U.S. often results in foreign born applicants. Let me give you some examples of the difficulties we face:

- As the company continues to expand its quality initiatives, Metrologists have become a professional engineering occupation in very short supply. There are only about five universities in the U.S. with Masters programs specializing in metrology and almost all the students enrolled in such programs are foreign nationals. Human Resource Managers advise me that they simply cannot find Americans to fill such positions. Metallurgical engineers have been an identified shortage occupation for years in the United States and are key contributors to machinery development projects for construction products.
- Thermo King refrigeration technologies unit conducted a 13-month search for a qualified plastics engineer for their product development team and could only locate a Canadian national. This same division looks for researchers on cooling technologies. We funded research at Pennsylvania State University and hired a Graduate Research Assistant performing the work. This man was a PhD candidate from China with extensive research projects experience. Thermo King could not locate any qualified U.S. applicant.
- We have also recently recruited for Product Design Engineers with specialized skills and experience. In one position, the engineer is responsible for Power Electronics Engineering, as a member of a dedicated Product Development team to create globally competitive, robust, and maintainable power products for the Industrial Technologies' electric power tool business. The minimum requirements for this position are a Master's degree in Power Electronics, with three or more years of professional experience in Power Electronics design. We had been unsuccessful in locating a U.S. worker, but were



able to recruit a U.S.-educated worker with a Ph.D. who has a thorough understanding of switched mode power supply design and all aspects of power electronics.

- At Security Technologies we hired a Senior Reliability Test Engineer with a BS degree in Engineering from Turkey and an MS degree in Industrial and Systems Engineering from a U.S. university to work on new product development for locking devices. In 2005 this sector acquired an electronic lock company based in Turkey and this foreign national engineer has been invaluable to the integration of this acquisition into our Security Technologies portfolio of products as he has a thorough understanding of both European and U.S. engineering standards.

The other major temporary worker program is the H-2B program, which is designed specifically to allow foreign nationals to work for a sponsoring employer in a job that is only temporary in nature; for example, to fill a seasonal job (but not in agriculture), to meet a one-time project or need, to add additional staff during a time of exceptionally high peak load, or to fill a position that is intermittently used in the business. H-2B visas are used in industries such as landscaping, seasonal hospitality (such as resort hotels, restaurants and attractions), and seasonal construction, as well as to meet specific needs in manufacturing, retail and other industries.

The cap on H-2B visas is 66,000 annually, and the cap has been hit the last two years, affecting small businesses in particular. Congress passed an exemption for repeat users, but that will soon sunset, and without relief, many small employers quite possibly will be adversely impacted. The H-2B program helps supplement the native-born workforce, but it cannot be used to fill all types of jobs because of the seasonal nature of the visa. A company has to first recruit and advertise for the opening in the U.S. The employer must then obtain a temporary labor certification from the Department of Labor, receive approval from the Department of Homeland Security, and then request that the visa be issued through consular process of the Department of State.<sup>26</sup>

Unfortunately, for Ingersoll Rand, market forces and the unavailability of U.S. workers has created a problem of identifying and retaining lesser-skilled workers. Here are some examples:

- Ingersoll Rand cannot find the welders it needs in the domestic economy, despite its best efforts to do so, and has no option to use a temporary worker program under current law to fit this situation. We train welders at our own facilities. Even when we train U.S. workers, many of the students cannot grasp the technique and skill nuances. Welders are neither seasonal to meet the requirements of the H-2B program, nor qualified to meet the requirements of an H-1B visa. This can mean severe delays, which impedes the good will we have with our customers, and can affect our competitiveness.<sup>27</sup>
- Technicians for the Air Solutions Group's service and repair business are also in short supply. We have identified skilled technicians at our IR Canada operations who have the product knowledge and technical experience to service IR compressors in the U.S., however as the products they would be servicing are manufactured in the U.S., not

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<sup>26</sup> Carol Green Ross, Harrisburg Hotel Corporation, testimony before the Senate Judiciary Committee, July 5, 2006. To see the process, visit the Department of Labor Web site, <http://www.flc.doleta.gov/foreign/h-2b.asp>

<sup>27</sup> "Finding What Works: Immigration Helps Fill Jobs for Many Companies" *The Record: Business* at B-1, June 4, 2006.

Canada, they would require work permits and there is no appropriate visa category to allow such skilled technicians to travel intermittently to the U.S. to perform service on U.S.-manufactured machinery.

- Experienced tool and die workers, with knowledge in stamping technology and machining are scarce. Our manufacturing plants in the Detroit area continue to experience difficulty finding electricians for their manufacturing operations, with the automotive industry being primary competitors for such skilled workers. Experienced machinists are also critical. We are very concerned about the looming shortage of these types of workers as the older generation retires, and we see no evidence of younger skilled and semi-skilled workers coming into the ranks to backfill these key positions.

Another type of temporary visa available for employers today is the H-2A agricultural visa. This visa will be covered by another panelist, but the program has proven to be difficult to use and not responsive to the realities of the agricultural workplace, and as even the Department of Labor has said, it is cumbersome and litigation-prone.<sup>28</sup>

The existing types of temporary worker programs do not begin to meet all of the complex needs of the U.S. economy. In sum, the H-1B program is focused on higher-skilled immigrant workers, while the H-2B program is limited to short-term, seasonal types of work, although it allows for recruitment of lower-skilled workers. Further, particularly when viewed against a domestic economy of over 140 million workers, and given the demographics and job growth projections already discussed, the caps are simply unrealistic. There is no temporary worker program that addresses the huge gulf between these programs and the complexities of the many different kinds of jobs and skill levels. Employers need a way to recruit foreign workers when they cannot find a U.S. worker, and currently there are few realistic mechanisms to accomplish that.

### **The Impact of Temporary Worker Programs on the Economy**

As the discussion above has indicated, based on demographic and job projection data, and reports from the employer community and various experts, this country faces worker shortages across a spectrum of occupations and industries. The discussion has also indicated that existing temporary worker programs are inadequate to meet this need.

While it appears that there are few studies that evaluate the direct effect of a low-skilled temporary worker program on U.S. workers, there is data on how H-1B temporary workers affect the wages of natives and how immigration in general affects U.S. workers. Studies have found that H-1B workers have little or no adverse impact on wages or unemployment rates on native-born workers.<sup>29</sup> The majority of more general studies have found that immigration does not, or else rarely, depresses wages. In a January 2006 study, economists Gianmarco Ottaviano and

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<sup>28</sup>John Hancock, Department of Labor before the Subcommittee on Immigration and Claims of House Committee on the Judiciary, Sept. 24, 1997 cited in Stuart Anderson, "Making the Transition from Illegal to Legal Immigration," *The National Foundation for American Policy*, November 2003, available at [http://www.nfap.com/researchactivities/studies/Nov\\_study2.pdf](http://www.nfap.com/researchactivities/studies/Nov_study2.pdf)

<sup>29</sup>Stuart Anderson, "H-1B Professionals and Wages: Setting the Record Straight" *National Foundation for American Policy*, March 2006, available at <http://www.nfap.com/researchactivities/articles/NFAPPolicyBriefH1BProfessionalsAndWages0306.pdf>

Giovanni Peri found that during the period of 1980-2000 the average U.S. worker experienced an increase of 2 percent in the real value of his wage because of immigration, primarily because capital increases as labor increases.<sup>30</sup> Even studies that have found that immigration lowers wages have estimated that a 10 percent increase in the share of foreign-born workers reduces native wages by less than 1 percent.<sup>31</sup> Immigrants spend money, which creates jobs, and can often increase the wages in areas that are depressed.<sup>32</sup> Again, the vast majority of studies indicate a net plus to the economy from immigration and workers in general.<sup>33</sup>

As labor economist Dan Siciliano stated, “the empirical evidence indicates that businesses expand through the investment of more capital when the labor supply is not artificially constrained.”<sup>34</sup> The United States sees real economic growth from immigration, and immigrants help fill the growing gaps in our labor force, as native-born workers obtain higher levels of education and retire. In fact, the Bureau of Labor Statistics includes immigrant labor in its forecasts, and it predicts high levels of growth in the U.S. economy assuming that immigrant labor, legal and illegal, continues at least at the same rate as it is now.<sup>35</sup> A temporary worker program is needed to ensure that U.S. companies have enough workers to fill the jobs they are creating.

It is a myth that employers are just pursuing a temporary worker program to avoid using domestic workers or so that they can hire “cheap labor.” Many industries pay much more than minimum wage and still cannot find workers—the debate is not about cheap labor, it is just about finding labor. For example, an average construction worker makes \$20.03 an hour.<sup>36</sup> Many roofers earn well over \$50,000 annually, yet many of these jobs go wanting.<sup>37</sup> Further, any temporary worker program enacted by Congress will require that employers pay participants in the program at least the same wages and benefits they pay comparable U.S. workers. The

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<sup>30</sup> Gianmarco I.P. Ottaviano and Giovanni Peri, University of Bologna and University of California, Berkley. “Rethinking the Gains from Immigration: Theory and Evidence from the U.S”. (Working Paper). *National Bureau of Economic Research*. See also, David Card, University of California Berkley, “Is the New Immigration Really So Bad?” *National Bureau of Economic Research*, January 2005, available at <http://www.phil.frb.org/econ/conf/immigration/card.pdf>

<sup>31</sup> *Economic Report of the President* at 105, February 2005.

<sup>32</sup> Orn Bodvarsson and Hendrik Van den Berg “The Impact of Immigration on a Local Economy: The Case of Dawson County, Nebraska.” *Great Plains Research* Vol. 13, No. 2, 2003, at 291-309. For a good summary of the differences in how economists calculate the effects immigrants have on the economy, see Alan B. Krueger, Princeton University, Memo on : “Two Labor Economic Issues for the Immigration Debate” April 4, 2006, available at [http://www.americanprogress.org/atf/cf/{E9245FE4-9A2B-43C7-A521-5D6FF2E06E03}/krueger\\_immigration.pdf](http://www.americanprogress.org/atf/cf/{E9245FE4-9A2B-43C7-A521-5D6FF2E06E03}/krueger_immigration.pdf). For a broad overview and discussion on the economic theory surrounding the impact of immigrants on wages, see Roger Lowenstein, “The Immigration Equation.” *New York Times Magazine*, July 11, 2006.

<sup>33</sup> While of course it can be debated, many economists have found that immigration represents a net plus for the economy. For example, see the open letter economists signed June 19, 2006 available at <http://www.independent.org/newsroom/article.asp?id=1727>

<sup>34</sup> Dan Siciliano, a labor economist at Stanford University, testimony before the House Committee on Education and the Workforce, November 16, 2005.

<sup>35</sup> Bureau of Labor Statistics, *Labor Force Projections to 2014: Retiring Boomers* at 26-27, November 2005.

<sup>36</sup> Information gathered from the Associated General Contractors, wage rates can also be found at the Bureau of Labor Statistics June 2006 hourly earnings on construction, available at <http://www.bls.gov>.

<sup>37</sup> Richard Birkman, President, Texas Roofing Company in Austin, testimony before the Immigration, Border Security and Citizenship Subcommittee of the Senate Judiciary Committee, February 12, 2004.

upfront fees and legal costs associated with any program provide a built in disincentive to use these programs unless a real shortage exists.

The Chamber recognizes that the business community must also help domestic workers find suitable employment, and through its Center for Workforce Preparation, these efforts include:

- 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.
- 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.

## **Realistic Temporary Worker Programs Will Strengthen National Security and Our Borders**

While much of the above discussion has focused on the need for expanded temporary worker programs to meet the needs of an expanding economy, these programs will also enhance our national security and control over our borders. This precise point was explained in a letter by several past governmental officials charged with enforcing our immigration and border security laws, which has been attached to this testimony for your review.<sup>38</sup> This linkage is also clear by a matter of simple logic. When available jobs are filled (after recruitment in the domestic labor pool) by legal foreign workers, there will no longer be jobs to be filled by those who may come here illegally and thus, the magnet that drives much illegal immigration will be gone.<sup>39</sup> Further, because these workers will have been screened and channeled through a controlled program, border officials will be able to focus their resources on those that pose a real threat to our country—not job seekers, but criminals.

### **The Senate Temporary Worker Program**

The Comprehensive Immigration Reform Act of 2006 recognizes the importance of an adequate labor force for economic growth, and creates a new temporary worker program (an H-2C visa) beyond the programs already in existence. The Senate-passed bill has numerous labor protections to both ensure that U.S. workers will not be adversely affected by the program and to ensure that those coming as temporary workers receive appropriate protection. For example, employers cannot use the program unless they have first tried to recruit U.S. workers for the job. Employers must pay the higher of the wage paid to similarly situated employees or the prevailing wage for the occupation, adding a further incentive to look for U.S. workers first. The bill includes strong provisions to ensure that these workers are not used to replace laid off workers or to be used in the case of a labor dispute, such as a strike. H-2C workers must receive the benefits and have the same working conditions typical to similarly employed U.S. workers. Temporary workers would be eligible for worker's compensation coverage, and they would be able to change jobs the day they arrived, so they would not be tied to their employer. Employers in areas of high unemployment, of 9 percent or more for workers who have not finished a high school degree, would be unable to use the temporary worker program.

The Chamber and EWIC believe the number of temporary workers in the Senate passed bill is inadequate, capped at only 200,000. The Chamber supports a market-based cap that was

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<sup>38</sup> Coalition for Immigration Security, composed of numerous former DHS officials, stated this very point in their April 2006 letter on the relationship to importance of legal channels of immigration for border security. See also Stuart Anderson "Making the Transition from Illegal to Legal Migration" *National Foundation for American Policy*, November 2003.

<sup>39</sup> For an example of how a temporary worker program would lower illegal immigration, see Stuart Anderson "The Impact of Agricultural Guest Worker Programs." *The National Foundation for American Policy*, November 2003. The bracero program operated from 1942-1964, allowed U.S. farmers and growers to employ temporary Mexican farm workers. The Immigration and Naturalization Service ("INS") encouraged farmers to use only legal labor through the bracero program, and about 300,000 to 445,000 were permitted each year. The bracero program essentially brought illegal immigration to a halt as the U.S. government increased legal means of entry. Farmers and growers willingly used the program instead of hiring illegal workers. The INS admitted itself that the bracero program helped them control the border. When the bracero program was discontinued, illegal immigration rose sharply almost overnight.

included the Senate bill as introduced. This market-based cap could increase and decrease based on need for these visas, within limitations.

The bill would also provide temporary workers with a way to obtain permanent legal status if they are sponsored by their employer. The employer must go through a labor certification process, called the PERM process, to ensure that the worker they are sponsoring will not displace a U.S. worker or be used in lieu of a U.S. worker. This is not a wide open door for a green card. This PERM process is a complicated test of the labor market. The Department of Labor must certify that there are not sufficient U.S. workers who are able, willing, qualified and available; and that the employment will not adversely affect wages or working conditions of similarly situated U.S. workers. Employers are required to perform extensive tests of the local job market prior to filing the application. The Department of Homeland Security must then approve the application, and then the employee would be required to undergo full background checks and security clearances through the adjustment process of the Department of Homeland Security or the Consular Process of the Department of State.

The temporary worker provisions of the Senate-passed bill also contain a number of troubling provisions. In particular, section 404 of the bill, related to employer obligations, includes a number of requirements that are unclear, unnecessary, or simply unwise and we hope that should Congress move to enact a new temporary worker program that these problems will be addressed. The most troubling provisions include:

- A requirement to pay adverse affect wage rates when such a provision is unnecessary because the bill also contains a requirement to pay prevailing wages (compare new sections 218B(c)(1)(A) with 218B(c)(2));
- An overly long non-displacement attestation of 180 days, where 60 days would be more appropriate (see new section 218B(c)(1)(B));
- Confusing prevailing wage language that could be read as vastly expanding the Davis-Bacon Act so that temporary worker participants on a non Davis-Bacon Act projects could have to be paid Davis-Bacon wages (see new section 218B(c)(2));
- Overly broad and vague language regarding the working conditions for the temporary worker. Conditions should be normal to those similarly employed by the employer at the same place of employment (see new section 218B(c)(3));
- Confusing new language in the no strike / lockout language. The new term “work stoppage” has been introduced, which is unclear and significantly broader than similar language for other temporary worker programs (see new section 218B(c)(4));
- We are unsure of the real world impact of requiring the provision of insurance for workers not covered by state workers compensation laws. We would certainly support the proposition that a temporary worker be covered under state workers’ compensation laws in the same manner as U.S. workers, but if state law does not cover a similarly situated U.S. worker, we do not believe it is appropriate to cover a temporary worker (see new section 218B(c)(5));
- The requirement that the petition be filed within the 60 day period before the employer needs services does not reflect reality. DHS simply cannot process applications that quickly. We suggest 180 days so that the employer can properly plan ahead and to be more consistent with other nonimmigrant program requirements (see new section 218B(c)(12)); and

- The debarment requirements do not give the government enough discretion. It appears one error on a petition would lead to a three year debarment period from use of the program. We suggest DOL be given the discretion to review the facts to see if a pattern or practice exists by making it clear the government has the discretion to debar the employer.

(Sent April 2006)

## COALITION FOR IMMIGRATION SECURITY

The undersigned each have held high-ranking positions in the Executive Branch with responsibilities for enforcing our immigration laws and securing our borders from those who would seek to harm the United States or violate its laws. We are proud to have been part of the effort since September 11, 2001, to secure our borders and bring integrity back to our immigration system.

As the Congress considers immigration legislation, some have portrayed the debate as one between those who advocate secure borders and those who advocate liberalized employment opportunities. This is a false dichotomy. The reality is that stronger enforcement and a more sensible approach to the 10-12 million illegal aliens in the country today are inextricably interrelated. One cannot succeed without the other. Without reform of laws affecting the ability of temporary, migrant workers to cross our borders legally, our borders cannot and will not be secure.

Since 9/11, the Executive Branch and Congress have worked together to make significant but incomplete efforts to secure our borders. Among the many accomplishments achieved are:

- ▶ Spending: Overall border enforcement spending is up 58% to \$7.3 billion in 2005;
- ▶ Creation of CBP and ICE: The Department of Homeland Security (DHS) created a single agency, U.S. Customs and Border Protection (CBP), devoted to securing our borders and with a priority mission of keeping terrorists and terrorist weapons out of the country, and we created a single agency, U.S. Immigration and Customs Enforcement (ICE), devoted to enforcing our immigration laws in the interior of our country.
- ▶ US-VISIT: DHS deployed an integrated entry-exit immigration enforcement system, enrolling over 50 million travelers and identifying over 1000 criminals and inadmissible aliens.
- ▶ A Single, Consolidated Terrorist Watchlist: At the President's direction, the Terrorist Screening Center now maintains the nation's single, consolidated watchlist of known and suspected terrorists against which all applicants for entry into the country and all detained illegal entrants are now checked.
- ▶ SEVIS: DHS developed a student tracking system confirming over 870,000 students in the 2004-05 academic year and removing over 60,000 questionable schools from the program.
- ▶ Border Patrol: We have increased the number of agents by over 40% and deployed sophisticated equipment, including UAVs and sensors, to secure our borders.
- ▶ Expedited Removal: ER is now operational at all Southern Border sectors to deter illegal entry by non-Mexicans and to maximize use of available detention bedspace.



- ▶ **Detention and Removal:** ICE achieved a record number of approximately 160,000 deportations, including a historic number of 13,000 fugitives with outstanding orders of removal in FY04.
- ▶ **Database Integration:** DHS has integrated legacy databases such as IDENT and IAFIS to identify tens of thousands of persons arrested or wanted by federal or local law enforcement to be detained by CBP inspectors and Border Patrol agents.
- ▶ **Application Backlog Reduction:** U.S. Citizenship and Immigration Services has reduced the backlog of benefit applications from a high of over 3.8M in January of 2004 to under 700,000 in January of 2006, a reduction of 83%.

These accomplishments and others have significantly improved the security to our international travel systems and laid the groundwork to achieve operational control of our land borders with Canada and Mexico.

Clearly, more must be done to strengthen enforcement, and we support additional programs and spending, such as increasing the numbers of Border Patrol agents, deploying more sophisticated technology through the Secure Border Initiative and additional infrastructure to build a “virtual” fence along the Southern Border; ending the “catch and release” policy, deportation procedures that allow for more streamlined litigation to deport illegal aliens, further build-out of entry-exit tracking and facilities, and strengthening our interior enforcement capabilities, such as fugitive operations teams at ICE.

But enforcement alone will not do the job of securing our borders. Enforcement at the border will only be successful in the long-term if it is coupled with a more sensible approach to the 10-12 million illegal aliens in the country today and the many more who will attempt to migrate into the United States for economic reasons. Accordingly, we support the creation of a robust employment verification system and a temporary worker program in the context of an overall reform of our border security and immigration laws.

With each year that passes, our country's shifting demographics mean we face a larger and larger shortage of workers, especially at the low-skilled end of the economy. Entire segments of the economy in a growing number of urban and rural areas depend on large illegal populations. Existing law allows only a small fraction of these workers even to attempt to enter the United States legally, even though our unemployment rate has fallen below 5 percent.

Thus, each week our labor market entices thousands of individuals, most from Mexico but many from numerous other countries, to sneak across our border, or to refuse to leave when a temporary visa expires. These numbers add up: DHS apprehends over 1 million migrants illegally entering the United States each year, but perhaps as many as 500,000 get through our defenses every year and add to our already staggering illegal immigrant population. As believers in the free market and the laws of supply and demand, we believe border enforcement will fail so long as we refuse to allow these willing workers a chance to work legally for a willing employer.

Most such migrants are gainfully employed here, pay taxes, and many have started families and developed roots in our society. And an attempt to locate and deport these 10 to 12 million people is sure to fail and would be extraordinarily divisive to our country.

But others seeking to cross our borders illegally do present a threat – including potential terrorists and criminals. The current flow of illegal immigrants and people overstaying their visas has made it extremely difficult for our border and interior enforcement agencies to be able to focus on the terrorists, organized criminals, and violent felons who use the cloak of anonymity that the current chaotic situation offers.

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. This will only happen, however, if Congress passes a comprehensive reform of our border security and immigration laws.

Moreover, current law neither deters employers who are willing to flout the law by hiring illegal workers, nor rewards employers who are trying to obey the law. Bogus documents abound, and there is currently no comprehensive and mandatory mechanism for employers to check the legality of a worker's status. An effective temporary worker program would include a universal employment verification system based on the issuance of secure, biometrically-based employment eligibility documents and an "insta-check" system for employers to confirm eligibility. We recognize the cost of such programs but believe the cost of the current morass is much greater.

Lastly, individuals who have maintained employment in the United States for many years without evidence of ties to criminal or terrorist behavior should be granted the opportunity to make in essence a plea bargain with law enforcement. By paying a stiff fine and undergoing a robust security check, these individuals can make amends for their mistake without crippling our economy and social structures by being part of a mass deportation. Each day that we fail to bring these people out of the shadows is another day of amnesty by default.

In conclusion, we encourage the Congress and Administration to work together to enact legislation that takes a comprehensive approach to immigration reform. We support strong

immigration enforcement but it will only be successful when coupled with realistic policies related to our labor markets and economic needs.

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