U.S. CHAMBER OF COMMERCE

Why Our Current Immigration System Does Not Work For the Business Community

What's Wrong with our Employment Based Immigration Laws?

- Under current law, employment based programs are extremely limited.
  - Basically, there are only three programs where employers can hire immigrant workers: H-2B for seasonal or temporary workers, capped at 66,000 per year; H-1B's for high-skilled workers, capped at 65,000 per year; and the H-2A program for agriculture, which is uncapped, but very difficult to use.
  - On the green card side, of the approximately 1 million new lawful permanent residents, only about 59,000 were issued green cards as workers, based on their skills. When mirrored against a workforce of over 155 million workers, these programs are extremely limited.
- Further, given demographic realities, we need employment-based programs that allow employers to utilize immigrant labor when U.S. workers are not available.
  - Unlike the current employment based options, these new programs cannot be so encumbered with bureaucratic hurdles that they become unworkable.
  - There will be transaction costs associated with either high-skilled or low-skilled programs, and employers will not use these programs unless there is a truly pressing need driven by the absence of available American workers.

Why Do We Need a Mandatory National Employee Verification System?

- Under current law, use of the federal E-Verify database is not mandatory.
  - As a result, patchworks of varying state and local enforcement schemes have sprung up with regards to employment verification.
  - These state and local laws often conflict with one another, and do not provide employer protections. This approach is burdensome for employers doing business in more than one state/locality and for small businesses that do not have the resources to monitor varying requirements.
  - The current federal E-Verify system is much improved over the prior version; many Chamber members report that they have success using the system.

Why Should We Legalize the Undocumented?

- There are over 11 million undocumented people residing in our country.

  - This population is not going to self-deport, nor is forced deportation realistic as it would require mass police roundups, would be inconsistent with our values, and be incredibly expensive.
  - For example, one study found that the "total cost of mass deportation and continuing border interdiction and interior enforcement efforts would be $285 billion (in 2008 dollars) over five years."

- The current system destabilizes the workplace by putting employers in an awkward place – a "don't ask, don't tell" situation.
  - Legalization is important because employers want to be assured that the people they have hired can continue to work without fear of raids by the government.
  - Studies show that there are approximately 8 million undocumented workers currently in the workforce spread across a variety of sectors including construction, agriculture, and manufacturing. Many of these workers have been approved to work under current law because of a paperwork system (the I-9 Form) which allows workers to pass muster with certain paperwork that appears facially valid. If this paperwork looks genuine, employers must accept it.
  - However, if the government (Immigration and Customs Enforcement) subsequently raids the business and finds out that an employer has hired undocumented workers, the employer must immediately discharge the undocumented workers—disrupting operations.
  - Bottom line: our employers want a stable workforce, they want to move on, and put this uncertainty behind them.

How Can Reforms to Our Current Immigration System Help Secure Our Nation's Borders?

- Over the last decade many needed improvements have been implemented at the border and in systems to protect our country from the entry of inadmissible foreign nationals. However, more must be done to strengthen enforcement.

  But enforcement alone will not do the job of securing our borders.

  - Addressing these problems in a comprehensive way will not only aid the business community but also improve national security.
  - Workers admitted under employment based visa programs will be screened against law enforcement databases prior to entering the country. Paired with a workable employment verification system, once their visas expire, these new temporary workers will be unable to work in the United States.
  - Legalization of the undocumented will reduce the lucrative fraudulent document and smuggling industry that currently persists as well as "narrow the haystack," allowing law enforcement to concentrate on removing individuals with criminal backgrounds rather than those entering the country legitimately to work.