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FOCUSING ON THE SOLUTIONS

Future Flow: Repairing our Broken Immigration System

In "Breaking Down the Problems, What's Wrong with Our Immigration System?" the Immigration Policy Center laid out the key structural problems within U.S. immigration law, as well as the inadequate enforcement-only responses to unauthorized immigration, that have given rise to our current immigration crisis. Genuine immigration reform requires a thoughtful, coordinated approach that restores balance to our immigration policies, giving America the tools it needs to remain a leader in a rapidly changing world.

One of the greatest challenges in immigration reform is the need to realistically assess our future employment-based immigration needs. This includes permanent and temporary visas, high-skilled and low-skilled workers. Many people agree that our current legal immigration flow is drastically out of sync with America's labor needs and the global realities of the 21st century. Meanwhile, some employers have been able to misuse the broken system to the detriment of U.S. and foreign workers. Policymakers must recognize that if we create a legal immigration system that functions well, there will be less pressure on immigrants to come to the U.S. illegally and for employers to hire unauthorized workers. Given the current weakened economy and high unemployment rates, it is difficult to estimate the U.S.'s future labor needs. However, the economy will eventually improve, and a reasonable, flexible legal immigration system must be put into place to fill our future labor needs. If the U.S. is to thrive in the globalized 21st century economy, employment-based immigration must be seen as a strategic resource that can both meet labor market needs and foster economic growth and competition while still protecting U.S. workers and improving wages and working conditions.

Improving the visa system would provide the following benefits to the United States:

➢ Create a more reliable system for determining the number of employment-based visas needed to supplement the U.S. workforce.

➢ Allow Congress to make decisions about visa numbers based on additional research and data about U.S. labor market conditions.

➢ Better position the U.S. in the global economy and the global labor recruitment arena.

➢ Remove the incentive for immigrants to come to the U.S. illegally as well as the incentive for employers to hire unauthorized workers.

➢ Remove the incentive for U.S. employers to work around, or to abuse, the visa system.

➢ Reduce exploitation, discrimination, and other abuse of U.S. and foreign workers.

The following are principles for visa reform within the context of comprehensive immigration reform, and apply equally to high-skilled and lower skilled labor flows.

> **Create a more flexible visa system that more accurately adjusts to the economy and labor market conditions.** The current number of permanent employment-based visas available each year was set by Congress in 1990 and has not been adjusted since. The number of temporary visas has been adjusted infrequently. This current system does not have the flexibility to nimbly adjust the number of visas available to align with changing economic conditions. A reformed visa system would enable the U.S. to better manage our legal immigration system by allowing immigration flows to rise and fall during periods of prosperity or job scarcity in order to maximize the economic benefits of immigration. Some have proposed a standing commission to examine labor market conditions and make recommendations to Congress on a more regular basis. Others suggest that employers should play a larger role in determining the legitimate demand for foreign labor. Whether by a commission or some other mechanism, comprehensive immigration reform must include a more flexible decision-making process.

> **Conduct research and gather and analyze data about worker shortages, labor market trends, and other critical factors in order to aid decision making.** Under the current system, Congress sets visa numbers with little regard for actual labor market conditions and needs. A system should be created so that experts have access to reliable data about future projections of labor needs. Congress should identify and require government agencies to track and produce accurate data on key factors including national and regional needs, industry-specific trends and needs, unemployment rates, and wages, working conditions, and recruitment of U.S. workers.

> **Protect worker and employer interests by streamlining the transition from temporary to permanent immigration status.** While many workers enter the United States on long-term but temporary visas, such as high skilled H-1B visas, it is often difficult to become a permanent resident because of backlogs, bureaucracy, and lack of protections (such as work authorization) in the interim. Similarly, only 5,000 permanent visas are available each year for lower skilled workers, making it virtually impossible for someone who comes on a temporary visa to transition to a more permanent status. This lack of flexibility ensures that good workers who want to stay and contribute often have no choice but to return home or go elsewhere, making American companies less competitive.

> **Be smart about the allocation of permanent visas.** Similar to the family-based system, there are backlogs for employment-based green cards, especially for temporary workers transitioning to permanent status. While the key problem is a lack of available visas, it is exacerbated by the government's failure to use the full number of available visas each year as well as the disjointed way visas are allocated under the statute. For instance, the family members of employment-based immigrants count against the visa cap, effectively reducing the number of visas that are available for workers. Students educated in U.S. universities, particularly in the science and technology fields, often return home rather than stay in the U.S. because the wait for a visa is so long. Fixing these problems can improve American competitiveness and increase productivity by ensuring that we maximize our use of available visas.

➢ **Re-examine current temporary worker programs.** Temporary worker programs should be used to fill real temporary needs in the labor force. Current caps on the number of visas available should be reconsidered in light of 21st century realities. Measures to protect both foreign and U.S. workers and level the playing field should be taken, such as enhancing temporary workers' ability to change employers and adjust to permanent residency, improving recruitment requirements for U.S. workers, and enhancing labor protections. Fraud and abuse of these programs should be targeted for enforcement.

➢ **Ensure that any changes in our workforce immigration programs are matched with strong economic development programs for native-born workers**. Importing foreign workers is one solution to filling gaps in the labor market, achieving growth, and improving competitiveness. Legislation should provide provisions to educate, train, recruit, relocate, and hire U.S. workers to fill positions in the labor force whenever possible.