Minutes of the Meeting of  
The Commission to Study the Impact of Immigrants in Maryland  
Monday February 14, 2011  
Maryland House of Delegates Office Building  
Annapolis, Maryland 21401

The meeting was called to order at 9:22 a.m.  Attendance:

<table>
<thead>
<tr>
<th>Members</th>
<th>Affiliation</th>
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<tbody>
<tr>
<td><strong>Commission Chair (Acting)</strong></td>
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<tr>
<td>1 Mark Shmueli</td>
<td>Attorney, Maryland Bar Association</td>
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| Appointed by Speaker of the House | |
| 2 James E. Malone | House of Delegates Member |
| 3 Susan L.M. Aumann | House of Delegates Member |

| Ex Officio | |
| 4 Martin Ford | Associate Director, Department of Human Resources |
| 5 Mark Goldstein | Planner, Maryland Department of Planning |
| 6 Nancy McCrea | Department of Business & Economic Development |

| Appointed by the Governor | |
| 7 J. Henry Montes | Consultant, JHM Consultation |
| 8 Kien S. Lee | Community Psychologist, Community Science |
| 9 Naima Said, Esq. | Attorney, Naima Said & Associates, PC |

| Staff | |
| 10 Hiram Burch | Manager, Department of Legislative Services |
| 11 Adam Fogel | Sen. Richard Madaleno's Office |
| 12 Jeffrey Werling | Executive Director, Inforum / UMCP |

| Guests | |
| Randy Capps | Senior Policy analyst, Migration Policy Institute |
| Steven A. Camarota | Director of Research, Center for Immigration Studies |
| Stuart Anderson | Executive Director, National Foundation for American Policy |
| Chuck Jenkins | Sheriff, Frederick County, MD |
| Michael Cutler | Retired, Immigration and Naturalization Service (INS) |
| Paromita Shah | Associate Director of the National Immigration Project |
1. Introduction
On behalf of Chair Larry Shinagawa, Commission member Mark Schmueli welcomed attendees to the Commission meeting.

Jeff Werling noted that the Demographic Report prepared by the Department of Legislative Services on behalf of the Commission was published and distributed widely across the Maryland government and community. Similarly, the Commission’s Status Report was completed in January and also distributed.

The extension of the Commission’s term was still pending. Representative Malone provided an update about the bill to extend the Commission for another year.

Jeff Werling explained the purpose of the Commission. Mr. Schmueli introduced the speakers.

2. Testimony by Randy Capps of the Migration Policy Institute
Mr. Capps made several points concerning migration in Maryland. At about 12 to 13 percent of the population, Maryland was about average compared to the United States as a whole.

It is estimated that there is about 275,000 unauthorized immigrants in Maryland, and this number has been flat over the past several years, mostly because of the weak economy. Although this number is big, it’s only 4.5 percent of total Maryland population and about a third of total immigrants in Maryland, again near the national average. Estimates of unauthorized population also include people who have various forms of temporary status because of the way we categorize “illegal” and “legal.”

Maryland is different from other states in several ways. It has a better economy in terms of growth and employment (7.5% unemployment vs. 9% nationally). The Maryland population is far better educated than the national average, including both the immigrant and native-born populations. Immigrants have more diverse origins compared to the nation as a whole, with a larger proportion of Asians relative to Latinos. Also, Maryland is far from the southern border. Therefore, changes in immigration enforcement that have defined the debate in states such as Arizona are less relevant to Maryland.

If the economy picks up, we are likely to see another wave of immigration; Maryland will be a magnet. Moreover, growing diversity in the state is being driven by the children of immigrants, including the number of children with unauthorized parents. Since these children will be an integral part of the workforce of the future, public policy needs to consider explicitly how to provide the most effective education, at all levels, to these students.

Maryland has been ranked number 1 in K-12 education for three years in a row. Education is the key to sustaining the foundation of the state’s economy and standards of living. Education may be expensive at the time of recession and budget cuts, but the pay off will be visible in the future.

To a large extent, immigrant workers in Maryland are particularly complementary to the native born workforce. The presence of immigrant workers increases the productive capacity of the economy and can especially relieve bottlenecks when the economy is growing. Both theory and empirical evidence shows that the economic benefit from these workers is significant, on average. However, economists such as George Borjas have produced evidence that low-skilled immigration tends to depress wages and employment for low-skilled native-born workers.
What policy makes sense?

When looking at the economic impact of immigration, it is important to distinguish between the recent recession with high unemployment and “normal” times of full employment. During the economic boom that lasted through 2007, legal immigration was a “floor” for the actual demand for new immigrant labor. The excess demand for labor encouraged illegal immigration. Once the recession hit, unauthorized immigrants were often the first to lose their jobs.

So at least two issues bear on how immigration benefits the economy: The position of the economy in the business cycle and the extent of complementary of the immigrant labor force. Given these factors, what policy makes sense? How can the system be improved to enforce a “rule of law” and still meet the demand for immigrant labor for economic growth?

First of all, the immigration law must be more effective in controlling illegal immigration. The unauthorized flow should be replaced by some low skilled legal immigration, and the numbers of these immigrants should be reviewed on a regular basis. Some low skilled immigrants should be offered a pathway to permanent status in some situations, and not in others.

Indeed, coming out of the recession it will be important for Maryland to be ready with a well educated and productive workforce. While low-skilled immigrants will be an important part of the economy, opportunities will favor not only the college educated, but those with vocational education. Indeed, this middle group is critical. Many jobs in health care and other services that require only two years after high school will be growing quickly. English proficiency will be essential.

Delegate Susan Aumann enquired as to how the federal government helps to integrate children of unauthorized immigrants and to get them citizenship. Mr. Capps replied that most of these children are citizens born here, but there are some who are not. They need language help (successful programs in public schools to help them learn English relatively quickly) and more opportunities (e.g., DREAM Act).

Students with interrupted education have a harder time making it. Lower socioeconomic status of lower skilled immigrant families is a clear risk factor for school performance. Maryland’s population is diverse, but the parental education rate is a lot higher than in other states. The education system helps the students learn English, but it could do better in creating a pipeline to take them from high schools to two year college programs.

Delegate Aumann asked about students, for example, who come in to the country unauthorized at middle school age. Mr. Capps replied that at present there is no federal DREAM Act, so they have no rights to higher education or employment.

3. **Testimony by Steve Camarota**

Mr. Camarota provided a handout which is attached.

The growth of foreign born in Maryland has been dramatic, especially over the last 20 to 30 years. From 4.6 percent of the population in 1990, immigrants now make up 14.6 percent of the population, or approximately 828 thousand persons. The illegal immigrant population is now estimated to be around 275 thousand persons, up from just 35 thousand in 1990.
Comparing households headed by illegal immigrants vs. those headed by a native born person, Camarota shows that immigrant households are more likely to live in or near poverty and to not have health insurance. Moreover, given that many of these households contain legal residents and citizens, compared to all native households, they are more likely to have someone in the household receiving benefits from a major welfare program (e.g., Medicaid, food stamps, housing assistance, etc.). This incidence is somewhat smaller among such households in Maryland. Illegal immigrants and their children tend to be poor, young, and less educated.

Mr. Camarota cited evidence to show that there is no evidence of labor shortages in Maryland. He showed that the employment rate of various lower-skilled groups -- high school educated, less than high school educated, and teens -- had fallen from 2000 to 2007. The rates fell even more during recession. How many of these people would reenter the labor force if illegal immigrants left the region?

The average 27 year old immigrant worker is probably a better worker than the average 17 year old native Maryland kid. That’s good for Maryland in the short run, but there is a catch. There is research showing that if you don’t work in high school, the probability of you working after that is lower, especially for those who don’t make it out of high school.

Mr. Camarota distinguished between the economic and fiscal impacts of illegal immigration. From a fiscal point of view, illegal immigrants are a net fiscal drain on Maryland when the cost of educating their U.S.-born children is included. These services cost about half a billion dollars per year. You have to decide how to categorize this cost.

In economic terms, illegal immigration does not significantly increase the average per capita income of the native-born. The main economic effect is to redistribute income from low-wage workers to owners of capital and high income workers. Of course, the immigrants gain as well. The real question is: How does one weigh the reduced wages and employment for low-income natives against the gains immigrants receive by coming here?

Maryland policy makers face several questions: Does Maryland want to buttress federal immigration enforcement through 287g/Secure Communities initiatives, using E-Verify for contractors and businesses, and cut off in-state tuition to those without status? The goal would be to encourage illegal immigrants to go home or move out of state. He claimed that the goal for pro-illegal immigrant policies is to make life easier for some illegal immigrants, making an amnesty more likely in the long run.

Delegate Aumann asked why he would compare a 27 year old illegal immigrant with 17 year old Maryland native. He replied that there are not a lot of immigrant teens working, rather the competition to teens holding jobs comes from immigrants who are somewhat older.

Mr. Camarota clarified that the percentage of households headed by illegal immigrants using major welfare program is mainly due to the presence of US born children in the household. Hiram Burch asked if there was a way to detect what proportion of total benefits was actually accruing to those households, given that most persons in the households were ineligible for benefits.

Mark Shmueli asked how these figures counted persons with Temporary Protected Status (TPS) given that many of these persons were entitled to work. Mr. Camarota replied that the department of Homeland Security defined these persons as “illegal” because they don’t have legal presence, they only have job authorization.
4. **Testimony by Stuart Anderson**

Mr. Anderson’s written testimony is attached here as Appendix B.

Mr. Anderson stated that a common mistake is to assume that more workers mean more troubles. That is, many people feel that there is a fixed number of jobs and when immigrants come in, they take jobs from natives. But there is not fixed number of jobs. Rather, economists understands that more labor means a larger economy, and, to the extent that the new labor complements existing workers, overall productivity and income is enhanced by a greater division of labor.

High skilled immigration is especially beneficial to existing workers because they not only complement the existing workforce, but their unique talent and skills can generate important entrepreneurial, technological or creative spillovers that enhance the income of everyone. But the green card wait times for skilled immigrants range from 6 to 12 years (or more) in most categories. It is the low quota of 140,000, rather than bureaucratic delays, that lead to long waits for skilled immigrants. The significant wait times for green cards is one reason H-1B temporary visas are so important, since without such visas the vast majority of high-skilled foreign nationals, including international students, could never work or start a career in the United States.

Efforts to cripple the use of H-1B visas through additional bureaucratic requirements will succeed mostly in preventing foreign nationals from working in America, which is the general goal of those proposing such measures. Yet like most government regulatory actions such new restrictions will carry unintended consequences – as more highly skilled foreign nationals are pushed abroad, more innovation and work in important fields will take place in other countries, limiting new opportunities for U.S. workers and lessening growth in the United States for both large and small companies in technology, finance, and other sectors. Contrary to what is often asserted, studies show that among professionals in the same fields and age groups, H-1B professionals generally earned the same or more as their U.S. counterparts. H1-B visas are not a source of cheap labor.

Mr. Anderson discussed the role of international students at U.S. universities. International students play an important role in universities in Maryland and nationwide, especially at the graduate level in important science, technology, engineering, and mathematical (STEM) fields. Some people are concerned that the high proportion of foreign students in these positions could be pushing aside native Americans. However, considering the possibilities of economies of scale, Mr. Anderson posited that it was likely that the foreign students attending U.S. universities make it easier to develop and maintain many more programs that can serve Americans as well as foreigners. In other words, international students are likely helping to keep viable advanced degree programs in certain disciplines, and indirectly undergraduate programs as well.

Indeed, research shows there is no evidence that U.S. students are not able to attend engineering or other graduate-level programs in the United States due to the presence of international students. While the enrollment of international students has increased over the past few decades, so has the enrollment of U.S. citizens and permanent residents.

Mr. Anderson addressed the plight of unauthorized, low skilled immigrants. One of the most common accusations hurled against illegal immigrants is the rhetorical question: “Why can’t they just wait in line?” The problem for lower-skilled workers is that no such line exists. For example, if an employer were to ask: “How does one obtain a legal visa for an employee to work as a maid fulltime at a hotel or as a waiter at a restaurant?” The short answer would be: “There is no such visa for those jobs.” Temporary visas or green cards do not represent realistic path to citizenship for low-skilled immigrants because the numbers given out are so low.
For example, the Washington Post described a job fair that showed native workers had no interest in moving to the Chesapeake Bay area to work in the crab industry. That’s why the industry relies on foreign workers.

Why do immigrants come to work these difficult jobs? Simply by moving to the US, Mexican workers earn 2.5 times more income. The way to reduce illegal immigration is to provide more temporary job visas. Perhaps a new temporary visa category for portable work permits (untied to a particular employer) with bilateral agreements between US and country of origin should be considered. This approach would provide labor market freedom and, therefore, protection for new workers, at the same time it would elicit cooperation on immigration enforcement from Mexico and (eventually) other key countries. Reducing illegal immigration can also be accomplished by establishing a new temporary visa category, if the category is relatively free of bureaucracy (easy to use by employers and employees) and of a sufficient annual number to replace the illegal flow of workers.

5. **General Questions and Answer**

Hiram Burch asked about the ramifications of temporary visas: What is likelihood of someone with temporary visa returning to their country of origin, especially if that country is economically disadvantaged? Mr. Anderson replied that we don’t now see an enormous number of people who abuse the policy. Right now, the unintended consequence of stronger border enforcement is that once you make it harder to come into the US, unauthorized immigrants will stay for a longer period. This is why the total illegal population has increased over time because many decide to stay for fear of not being able to get back in. We need a more circular migration, where people come in work, and then go back, and, perhaps, they come again. Under this system, immigrants are less likely to have family in the US. The more you can regularized process to give people legal access to work and to go back and forth, the more you can control illegal immigration.

Mr. Camarota replied that every country that has shown temporary workers pathway, a large proportion of the workers have stayed over time. Examples include Great Britain, Germany etc. Most will stay. However, if you legalize more immigration, then we would have less need for enforcement, freeing up money in the long run.

Henry Montes stated that regardless of the status issues, education is essential for all children even the children of illegal immigrants.

Randy Capps stated for maximizing the economic and fiscal benefits of immigration, especially low-skilled immigration, temporary visa programs might make sense. However, from the standpoint of integrating immigrants into the community, and from the standpoint of the immigrants themselves, permanent status is better. For these reasons, he is skeptical of large scale temporary visa schemes.

Mr. Camarota is also skeptical of these plans for similar reasons. Green cards mean that people learn to integrate from day one and will be more committed to obtaining citizenship. The American public will also perceive them as fellow citizens. European experience with temporary work permits has not been very successful.

Mr. Anderson replied that it would probably be best to provide the unauthorized who are already here with a legal pathway to permanent status. The temporary visa programs that he espouses would be for new immigrants. The current “no-man’s land” between completely temporary and permanent is just not working.
Mr. Schmueli added that there does indeed seem to be a lot of occupation, especially in agriculture and food processing, that Americans just do not want to do. Mr. Anderson added that businesses in those fields cannot raise wages without losing international competitiveness and eventually being driven out of business.

Mr. Camarota disagreed, adding that legal immigration to work has exploded at the same time of illegal immigration. The driver of illegal immigration is the social network of legal immigration. Once you have a family member in the United States, the barrier to immigration goes down. Meanwhile, the real wages for worker with High School degree has gone down 11 percent. The meat processing and other industries now dominated by immigrants paid over 40 percent more in 1980. Most of these industries probably have not increased wages. Real wages for California fruit workers have increased by only 1%. As a society we pay much less for food, but at the prices of greater inequity.

Mr. Anderson stated that despite what might be happening to wages, firms in these industries are not making exorbitant profits.

Jimmy Malone asked whether workers in the seasonal industries getting more than minimum wage? Mr. Camarota replied that most workers, including illegal workers, get paid more than minimum wage. Employers generally adhere to federal minimum wage law.

Mr. Capps added that the issue was not so much hourly wages, but the overtime wages not being paid and deductions for things that are not legal (e.g., equipment). Furthermore, the way immigrants have integrated into the job market is more evenly distributed than the false dichotomy of high vs. low skilled.

Mr. Werling asked that given economic growth that there was a certain demand for immigrant labor, and assuming it was feasible to insure that all workers were authorized in some fashion (permanent or temporary), what would be the optimum level of annual immigration. Would it be more or less than the apparent immigration now of 750,000 to 1 million workers?

Mr. Capps noted that the number should vary for different kinds of jobs, high, medium, low. In the United Kingdom, they tried to give out more visas for occupations where there was a “shortage,” but that had not worked out very well because it was not static situation. We need to set some numbers for legal immigrant workers and study how well people have integrated. In the United States during the economic upturn, the legal number was certainly lower than ideal.

Mr. Camarota mentioned that the American population grows by about 3 million every year at least due to immigrants and their children. The question is do you want to be a dramatically more dense country? If not, then immigration has to be kept at about 300000 per year. He feels that more emphasis should be placed on how a more moderate pace of immigration would reduce problems of sprawl, environment, and so on.

Mr. Anderson would also look at categories of skills and goals and consider exemptions. The current system allows immigrants to sponsor family members. We also let in a certain amount of refugees. Perhaps we should look at the annual flows of illegal immigrants (250K) and start with a number like that for temporary portable visas. He was not in favor of a commission to determine these quotas because he doesn’t trust government systems.
6. **Testimony by Sheriff Chuck Jenkins**

Sheriff Jenkins stated that the questions of immigration cannot be separated from the issues of education, public safety and national security. Faced with mounting problems from illegal immigrants, Sheriff Jenkins chose to participate in the Federal 287g program after visiting, in 2006, a jurisdiction near Charlotte, NC, which was participating in the program.

Frederick County currently participates with both arms of the 287g Program, the detention center program and the law enforcement / task force program. The detention center program was implemented on April 11, 2008, and the law enforcement / task force program was implemented on August 1, 2008. Frederick County personnel trained with the Immigration and Customs Enforcement (ICE) and obtained the highest grade point of any agency participating.

Frederick County also has an Intergovernmental Service Agreement (IGSA) with ICE to house detainees from other jurisdictions, and this program started in late 2007. Frederick County currently houses about 50 detainees a day and gets reimbursed for the detainees. This works for them because they are not overcrowded, it may not work for jurisdictions that are overcrowded.

Sheriff Jenkins described how the program works in Frederick County. After an arrest, whether for a misdemeanor or felony, every intake is asked where were they born. For anyone answering anything other than the United States, their status is investigated by searching ICE data bases.

One of the misconceptions about 287g is what is done on the street. He stressed that immigration status is checked only after an arrest, not as part of a routine traffic stop. People are not asked about immigration status at a traffic stop. Routine checks for driving records and outstanding warrants are, of course, run at traffic stops. Only when an arrestee is booked into the detention facility is birth location and status questioned, and every person booked is subjected to the same question. These questions are asked after arrest. To date, there have been no incidents of profiling or complaints of discrimination with this process.

The first arrest in the Frederick County program was an illegal alien driving through school zone above speed limit with twice amount of alcohol in system. This is a public safety issue. Once arrested, he was then turned over to ICE. Through the 287g program Frederick County has filed more than 84 detainers for gang members who were found to be here illegally.

Through the 287g Program, Frederick County Sheriff’s Deputies and Correctional Officers are authorized to and supervised to act as immigration officers in the enforcement of the United States Immigration Laws, in effect a force multiplier for ICE. I view this as critical that state/local law enforcement participate with ICE in accomplishing the overall mission of enforcing the immigration laws in accordance existing federal laws and the removal of criminal illegal aliens.

Most of those detained are Hispanics. Other countries of origin include Vietnam, Cuba, Uzbekistan, and Eastern Europe. A total of 808 persons have been detained and logged. Out of these, 733 cases originated at traffic stops.

This program has not been a huge cost to the citizens of Frederick County. The training was hosted at no cost, other than the normal salaries of those FCSO deputies and officers attending. Other expenses were paid through ICE program funding, not local taxpayer dollars. Indeed, the reimbursement for housing detainees has helped balance the country budget.
Delegate Aumann asked about the possible perception that law enforcement is “profiling,” especially at traffic stops. Sheriff Jenkins replied that you cannot arrest someone for any traffic violation. If someone is stopped for having an air freshener on their rear view mirror, for example, an officer would not arrest them unless they had cause for a more serious offense, such as if they smelled dope, for instance.

Jeff Werling noted that since most of the traffic stops were done by the county police, did the Sherriff’s office track the reason why the driver was stopped in the first place. Sherriff Jenkins replied that they did not. On a systematic basis, he would know only why the arrest was made, not the stop.

Delegate Aumann asked if the program would discourage illegal immigrants from coming to law enforcement if they had problems, such as if their child is abused or something? He replied that people are more fearful of the violence in their own communities and less about how the police would act.

Mark Shmueli asked if a victim calls for help, is there an inquiry about the victim’s immigration status? Sheriff Jenkins replied no, unless the investigation leads to that person or someone related to the crime being detained, triggering an inquiry.

Kien Lee asked if 287g could work in all counties. Sheriff Jenkins said that he felt that it could work in any county willing to restructure, though some smaller counties with few personnel might have trouble. The program works because it allows law enforcement to turn over problems to ICE.

Jimmy Malone noted that he heard that ICE was not coming in at a timely time to get people who were illegal. What is the time standard from establishment of unauthorized status to when ICE comes in? Sheriff Jenkins replied that this period varies on a case by case basis, from hours to days. It depends sometimes on the type of charge. In cases where charges are filed, the county will keep the person until the charge is adjudicated.

7. **Testimony of Michael Cutler**

Mr. Cutler discussed the purpose of immigration laws. The real issue is not if it is a crime when an alien evades the border inspections process but to consider why there is an inspections process in the first place. The immigration laws of our nation specify various reasons why an alien should be excluded from entering the country. Among the reasons are aliens who have dangerous communicable diseases, suffer from serious mental illness and pose a threat of violence, aliens who are convicted felons, are war criminals, have committed human rights violations, are human traffickers or drug smugglers, or are involved in espionage or terrorism. There are a number of other categories of aliens whose presence is supposed to be prevented by our officials of Department of Homeland Security.

Immigration touches the nation in so many areas including economics, education, health care, public safety and national security. But the current system is broken, not least because it is too difficult to identify, exclude or deport persons who should not be here, especially criminal aliens and/or terrorists. For example, in New York City, 60 percent of those detained by the Drug Enforcement Agency on related crimes were foreign born. Transnational gangs are becoming more and more dangerous. Not only is the border insecure. The visa system is also riddled with inadequacies. It is far too easy to obtain a visa fraudulently, and Mr. Cutler provided examples.
As an INS agent, Mr. Cutler had worked closely with police departments closely over his career. In those days, INS had big carrot and big stick. They could offer someone who would cooperate a path to citizenship. On the other hand, if there was not enough evidence to charge a criminal for drug dealing or other serious offences, they could be charged with unlawful entry. These tactics were used frequently to bust drug and other crime activities and rings.

The key for administering immigration policy is to serve the American community, not the immigrant community. There are only 6,000 ICE officers for the whole country, half of them working on border and customs enforcement. That’s why state and local law enforcement needs to work with ICE.

8. **Testimony of Paromita Shah**

State and local collaboration is not good idea. Not the best thing for most states. The 287g program has a stated purpose: target serious criminal immigrants and deport them. But as operated in most communities, 287g is largely unregulated and lacks sufficient oversight. The biggest problem is that is fails to do what it was intended to do. Rather than deporting criminal aliens, it is deporting the immigrants who happen to detained.

This is important because violation of immigration laws are a civil violation, there is no right to counsel, and judicial review and challenges are very difficult. Therefore, in a large a sweeping program, there might be many errors that cannot be reversed. Not only can persons be deported wrongly, but many have been detained for extended periods without cause.

New York City has not found 287g appropriate to include in their criminal justice system because it didn’t serve their city. There are many reports that describe how 287g is mostly apprehending noncriminal unauthorized immigrants rather than serious offenders.

The cost of 287g is not negligible. When local officials place a detainer on someone who is suspected not to be citizen, ICE has 48 hours to get the person. ICE does not reimburse the detaining facility for that time. Typically, immigrants spend more time in detention facility. Noncitizens spend more time in jail for same offense as citizens. The cost of the additional jail time is taken up by the state, not ICE. Federal reimbursement does not offset state cost for detention. Of course, ICE itself pays for over 30,000 detainees per day, a large cost to the federal government.

Finally, the premise of 287g is faulty. The program operates at point at arrest not conviction. But most detainees usually are not harmful to community. Indeed, there is no immigrant “crime wave.” Indeed, studies show that immigrants are less likely to commit crime, relative to native-born persons. Over the last decade we see clearly lower rates of crime even as immigration increased. Communities with high proportion of immigrants have lower rates of crime. Though immigrants are about 14 percent of the population, they make up only about 6% of the combined federal and state prison populations.

Shah was asked whether the unauthorized immigrant who was recently arrested for allegedly assaulting an 8-year old girl in Loudon County Virginia would have been detained under 287g rather than the Secure Communities program. Shah replied that she was not sure.

**The meeting was adjourned at 1:15 p.m.**
Illegal Immigration in Maryland:
Assessing a Conflicted Issue

Steven A. Camarota
Center for Immigration Studies Washington, D.C.

February 14, 2011

www.cis.org
Maryland’s immigrant population has grown dramatically.

- **Total Immigrant Pop.**
- **Illegal Immigrant Pop.**
- **Immigrant Share of State Pop.**

- **Source:** Total immigrant population is from the 1970 to 2000 Census, 2010 data is from the Current Population Survey. Number of illegal immigrants is from the INS and Pew Hispanic Center.
MD Illegals worse off than natives, but do better than US average

Illegal Immigrants impact in MD

- Illegal immigrants + children are 10% of low-income population (<200% of poverty).

- Illegal immigrants + children are 21% of those without health insurance.

- Illegal immigrants + children are 6-8% of school age population.

- Illegal immigrants are 6% of workers, but 13% of less-educated workers.

No evidence of labor shortage in MD
Less-educated natives holding a job was declining before recession

- 76%
- 74%
- 65%
- 53%
- 49%
- 43%
- 35%
- 28%
- 29%

- HS only (18-65)
- <HS (18-65)
- Teens (16 to 19)

* 200,000 illegals hold jobs in MD.
* 800,000 less-educated natives not working in MD.

Economics versus fiscal Impact of illegal immigration. Don’t confuse them

- Fiscal effects (taxes paid minus services used): illegal immigrants are a net fiscal drain in MD, when you count US-born children.

- Illegal immigration makes MD economy bigger.

- But it does not significantly increase per-capita income because it mainly adds to least-educated part of labor force, who account for only a small share of economic output.

- Main economic effect is to redistribute income from low-wage workers to owners of capital and higher-income workers.
  - If no wage reduction, then there is no economic benefit either.

- Immigrants are the big winners from immigration. Real question is: How does one weight the reduced wages and employment for low-income natives against the gains immigrant receive by coming here?
Key policy question for law makers

- Does Maryland want to buttress federal immigration enforcement?
  - 287g/Secure Communities initiative.
  - Use E-verify for state contractors or business licenses.
  - No in-state tuition.

- Goal of enforcement is to get some illegal immigrants to return home or move to another state.

- Does Maryland want to work against federal immigration enforcement?
  - In-state tuition for illegal immigrants.
  - Oppose 287g/Secure Communities.
  - Licenses/IDs for illegal immigrants.
  - Sanctuary policies.

- Goal of pro-illegal immigrant policies is to make life better for some illegal immigrants, and in the long run make an amnesty more likely.
Thank you for the opportunity to testify before the Commission to Study the Impact of Immigrants in Maryland. I am going to speak primarily about job creation and competitiveness, focusing on policies on high skill immigration, international students, lower-skill visas and immigrant investor visas. From August 2001 to January 2003, I served as executive associate commissioner for policy and counselor to the Commissioner at the INS and before that was staff director of the Senate Immigration Subcommittee, and in that context will do my best to relate federal policies to the state of Maryland. The National Foundation for American Policy is a nonpartisan research organization based in Arlington, Virginia focusing on trade, immigration and related issues.

Background on Immigrants and the Labor Market
Do more people entering the labor force mean depressed wages and increased unemployment? If simply having a large labor force meant living standards are bad for workers, then people in Haiti, Cuba and other small countries would be much better off than Americans, which is certainly not the case. Donald Boudreaux, chair of the Department of Economics at George Mason University, said it is a common mistake to assume more workers means trouble. “Unsophisticated economic theory sees a larger pool of workers as a drag on wages,” said Boudreaux. “Correct theory, in contrast – dating back to Adam Smith – understands that productivity, wages, and prosperity are enhanced by a deeper division of labor made possible by a larger supply of the ultimate resource: human effort and creativity.”

Concerns about unemployment and immigrants derive from the false notion that a fixed number of jobs exists, so a newcomer must “take away” a job from a current job holder to become employed. “There is no fixed pie or fixed number of jobs, so there is no way for immigrants to take away jobs from Americans. Immigrants expand the economic pie,” said University of Michigan-Flint economist Mark J. Perry. As consumers, immigrants increase the demand for goods and services, and thereby expand the demand for labor. Savings, investment, creating jobs through starting businesses, allowing for economies of scale and filling niches in the labor market are all ways immigrants and other newcomers to an economy can create additional jobs.

If new entrants to the labor market increased unemployment, then the U.S. unemployment rate would rise significantly every summer when college and high school graduates enter the labor market after completing their degrees, which does not happen. Economists Richard Vedder, Lowell Gallaway and Stephen Moore found no evidence that immigration increases state unemployment levels.

Economist Giovanni Peri has found in several studies that immigrants are economically beneficial to America. An analysis Peri performed for the Federal Reserve Bank of San Francisco, concluded: “Statistical analysis of state-level data shows that immigrants expand the
economy’s productive capacity by stimulating investment and promoting specialization. This produces efficiency gains and boosts income per worker. At the same time, evidence is scant that immigrants diminish the employment opportunities of U.S.-born workers. There is no evidence that immigrants crowd out U.S.-born workers in either the short or long run.

High Skill Immigration

The first important distinction to understand in our immigration system is the difference between 1) temporary status and 2) gaining lawful permanent residence, sometimes known as receiving one’s “green card.” An employee in temporary status or on a temporary visa (also known as a “nonimmigrant” visa) can stay in the United States for a period of time but is not entitled to remain permanently or become a U.S. citizen. In contrast, a worker who receives permanent residence (a green card) can remain in the United States for the rest of his or her life (barring long absences or certain criminal convictions) and can become eligible for U.S. citizenship. Foreign nationals seeking to work in areas like computers, finance and engineering have it better than those in lower-skilled jobs. Still, even the visas in high skill categories tend to be oversubscribed and burdened by long delays and frequent demands for additional documentation from government examiners.

To remain in the United States on a permanent basis a skilled professional generally must receive lawful permanent residence (green card). Temporary visas such as H-1B or L-1 entitle an individual to stay only for limited periods of time. Under U.S. law, no more than 140,000 employment-based green cards are issued in a fiscal year. Wait times for skilled immigrants (green card holders) range from 6 to 12 years (or more) in most categories. It is the low quota of 140,000, rather than bureaucratic delays, that lead to long waits for skilled immigrants.

The significant wait times for green cards is one reason H-1B temporary visas are so important, since without such visas the vast majority of high-skilled foreign nationals, including international students, could never work or start a career in the United States. From FY 1997 to FY 2011, employers exhausted the supply of H-1B visas every year except when the ceiling was temporarily increased for the years 2001 to 2003. When Congress revised the H-1 category in 1990 and designated it H-1B, lawmakers established an annual limit of 65,000. Since then, Congress has approved exemptions from the annual cap for those hired by universities and non-profit research institutes and 20,000 individuals who received a master’s degree or higher from a U.S. university. When the economy is sluggish, such as in FY 2010 and FY 2011, the visa supply was used up more slowly, demonstrating hiring is based on market conditions.

Efforts to cripple the use of H-1B visas through additional bureaucratic requirements will succeed mostly in preventing foreign nationals from working in America, which is the general goal of those proposing such measures. Yet like most government regulatory actions such new restrictions will carry unintended consequences – as more highly skilled foreign nationals are pushed abroad, more innovation and work in important fields will take place in other countries, limiting new opportunities for U.S. workers and lessening growth in the United States for both large and small companies in technology, finance, and other sectors.

Employers must pay H-1B visa holders the higher of the prevailing or actual wage paid to other similarly employed Americans. Jobs generally must require a B.A. or its equivalent through
work experience. Contrary to popular belief, H-1B visa holders are free to change jobs, needing only a new employer to petition for them. Changing jobs is actually common among H-1B visa holders. A balanced use of whistleblower protections already in the law can help protect H-1B visa holders who feel unable to change employers. Liberalizing green card quotas would help prevent a situation where an H-1B professional feels he or she must stay at a current job while waiting for approval of a green card.

In a recent report, the Government Accountability Office (GAO) compared the median reported salaries of U.S. workers to H-1B professionals in the same fields and age groups, finding H-1B professionals generally earned the same or more as their U.S. counterparts. Such a result, while supported by much other research, contradicts the arguments made by opponents of H-1B visas.

Table 1

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
<th>Persons Obtaining Permanent Resident Status in FY 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Preference (EB-1 priority workers)</td>
<td>aliens with extraordinary ability, outstanding professors and researchers, and certain multinational executives and managers.</td>
<td>40,924</td>
</tr>
<tr>
<td>Second Preference (EB-2 workers with advanced degrees or exceptional ability)</td>
<td>aliens who are members of the professions holding advanced degrees or their equivalent and aliens who because of their exceptional ability in the sciences, arts, or business will substantially benefit the national economy, cultural, or educational interests or welfare of the United States.</td>
<td>45,552</td>
</tr>
<tr>
<td>Third Preference (EB-3 professionals, skilled workers, and other workers)</td>
<td>aliens with at least two years of experience as skilled workers, professionals with a baccalaureate degree, and others with less than two years experience, such as an unskilled worker who can perform labor for which qualified workers are not available in the United States.</td>
<td>40,398</td>
</tr>
<tr>
<td>Fourth Preference (EB-4 special immigrants)</td>
<td>workers such as those in a religious occupation or vocation.</td>
<td>13,472</td>
</tr>
<tr>
<td>Fifth Preference (EB-5 employment creation)</td>
<td>known as an immigrant investor visa.</td>
<td>3,688</td>
</tr>
</tbody>
</table>

A 2009 study by University of Maryland researchers Sunil Mithas and Henry C. Lucas, Jr. found foreign-born professionals in information technology (IT) actually earned more than their native counterparts. “Contrary to the popular belief that foreign workers are a cheap source of labor for U.S. firms, we find that after controlling for their human capital attributes, foreign IT professionals (those without U.S. citizenship and those with H-1B or other work visas) earn a salary premium when compared with IT professionals with U.S. citizenship,” wrote Mithas and Lucas. “Firms pay a premium not for the education of non-US citizens, but for their IT skills as reflected in their IT experience.” The study examined the skills and compensation of over 50,000 IT professionals in the United States between 2000 and 2005. Mithas and Lucas conclude, “This result implies complementarity among American and foreign IT professionals and supports the view that high-skill immigration can potentially make everyone (i.e., American as well as foreign workers) better off.”

### Table 2
**Key Temporary Visa Categories for Employment**

<table>
<thead>
<tr>
<th>Visa Category</th>
<th>Description</th>
<th>Annual Quota</th>
</tr>
</thead>
<tbody>
<tr>
<td>H-1B</td>
<td>for professionals for jobs requiring the equivalent of B.A. or higher; separate requirements for fashion models. Typical visa for international students who work long-term in U.S. after graduation.</td>
<td>65,000 plus exemption of 20,000 for advanced degree holders from U.S. universities; there is also an exemption for those hired by universities and nonprofit and government research institutes.</td>
</tr>
<tr>
<td>L-1</td>
<td>intracompany transferee visa for managers, executives and those with specialized knowledge who have worked abroad for employer at least one year.</td>
<td>no quota</td>
</tr>
<tr>
<td>H-2A</td>
<td>seasonal agricultural workers</td>
<td>no quota</td>
</tr>
<tr>
<td>H-2B</td>
<td>seasonal nonagricultural workers</td>
<td>66,000</td>
</tr>
<tr>
<td>O</td>
<td>persons of extraordinary ability</td>
<td>no quota</td>
</tr>
<tr>
<td>P-1</td>
<td>primarily for professional athletes and those in the entertainment industry.</td>
<td>no quota</td>
</tr>
<tr>
<td>R</td>
<td>religious workers</td>
<td>no quota</td>
</tr>
<tr>
<td>TN</td>
<td>professionals from Mexico and Canada qualified under NAFTA</td>
<td>no quota</td>
</tr>
</tbody>
</table>

U.S. Citizenship and Immigration Services, U.S. Department of State.
Today, in a connected global economy, L-1 visas have become essential to companies as a means of moving – and integrating – employees from around the world. L-1 visas allow U.S. companies to transfer executives, managers and personnel with specialized knowledge from their overseas operations into the United States to work. To qualify, L-1 beneficiaries must have worked abroad for the employer for at least one continuous year (within a three-year period) prior to a petition being filed. This would prevent, for example, someone hired overseas from being sent to work immediately in the United States. Also, based on USCIS regulations, an executive or manager is limited to seven years, while an individual with specialized knowledge can stay for five years.

International Students
According to the American Association of Engineering Societies, international students play an important role in Maryland universities. In the 2008-2009 academic year, 40 out of 90 engineering Ph.D.s at Johns Hopkins University were awarded to foreign nationals. At the University of Maryland-Baltimore County, 25 of 38 engineering Ph.D.s, or 66 percent, were awarded to foreign nationals. At the University of Maryland-College Park, 142 of 386 master’s degrees in engineering, 37 percent, went to international students, while 90 of 140 (64 percent) engineering Ph.D.s were awarded to foreign nationals.¹²

National data indicate the proportion of international graduate students in specialties like electrical engineering and computer science can be even higher. In 2007, U.S. universities awarded about half of master’s degrees and 73 percent of Ph.D.s in electrical engineering to foreign nationals, according to the National Science Foundation.¹³ Patents produced by foreign nationals are indicators that international students completing their studies end up producing important innovations.

The data raise a question that should be on the minds of anyone who has thought about issues related to economies of scales: What would happen to existing electrical engineering or other graduate programs with large proportions of international students if such students stopped coming to universities in Maryland or elsewhere? I think one plausible answer is that it would be difficult to sustain such graduate-level programs and have them available for U.S. students. In other words, international students are likely helping to keep viable advanced degree programs in certain disciplines, and indirectly undergraduate programs as well.

International Students Do Not “Crowd Out” U.S. Students
Research shows there is no evidence that U.S. students are not able to attend engineering or other graduate-level programs in the United States due to the presence of international students. While the enrollment of international students has increased over the past few decades, so has the enrollment of U.S. citizens and permanent residents.

Examining all U.S. graduate programs from 1982 through 1995, Mark Regets of the National Science Foundation found no sign that U.S. citizens were displaced in graduate programs by international students. Increases in the number of international students in a graduate department were associated with increases, not decreases, in the enrollment of U.S. citizens and permanent
residents—about one extra U.S. student for every three extra international students. A rise in enrollment for one group that is associated with enrollment increases for all groups is “a result inconsistent with displacement,” notes Regets.14

Other research has produced similar conclusions. Examining degree granting over a period of years (1965-2001), economists Keith Maskus, Aaditya Mattoo, and Granaraj Chellaraj found, “The number of Ph.D.s granted to undergraduates of U.S. institutions, most of whom were U.S. citizens, did not change much during this period, while there was a substantial growth in the number of foreign bachelor’s graduates obtaining U.S. doctorates. Thus the change in proportion is mostly due to the expansion of Ph.D. programs, with a majority of the new slots being taken for foreign students rather than through substitution.”15

The economists concluded, “Foreign students, skilled immigrants, and doctorates in science and engineering play a major role in driving scientific innovation in the United States.” The bottom line: “reducing foreign students by tighter enforcement of visa restraints could reduce innovative activity significantly” in the United States.16

U.S. Students and H-1Bs
Some have argued that U.S. students are not entering high technology fields because of the annual flow of H-1B visa holders. Despite this assertion, there is no evidence that American college students, never mind high school students, are watching or making career decisions based on something as esoteric as the annual H-1B visa numbers. If they were paying attention to immigration policy, then the students would know H-1B visa fees have funded scholarships in technology-related fields for more than 50,000 American college students since 1999.17 Moreover, H-1B visas represent a tiny proportion of the overall U.S. labor force—only about 0.07 percent of the U.S. labor force.18 In many recent years, the supply of new visas has run out for 12 months at a time, which means there would not even be any potential competition in the domestic labor market from new H-1B visa holders for up to a year at a time.

Given the innovations and productivity increases that can come from skilled professionals, foreign-born scientists and engineers are likely to complement the skills of Americans and increase employment opportunities. It is easy to forget that many of the jobs some argue should now be protected did not even exist 30 years ago.

Preventing high-skilled foreign nationals from working in the United States will not help U.S. students. It will harm them. Encouraging employers to hire foreign nationals overseas, rather than in America, will push capital from the United States to locations where the foreign talent is allowed to be hired. The entrepreneurship we have witnessed from skilled immigrants also would be lost. As America loses its leadership in technology fields, then there would likely be even less interest in U.S. students pursuing these fields. Finally, as noted earlier, without international students, it is likely many graduate programs in science and engineering at U.S. universities would have insufficient numbers to sustain them.

American young people still aspire to careers in science and technology fields and pursue these dreams. They are not deterred from studying math, science, or engineering by the presence of
foreigners in these fields. If U.S. students are so fearful of competition, then why have so many chosen such highly competitive fields as law and finance?

Foreign-born athletes such as the St. Louis Cardinals first baseman Albert Pujols and the Dallas Mavericks forward Dirk Nowitzki are visible on American television, yet that has not prevented American kids from playing baseball or basketball. The argument that U.S. students are so afraid of competition they will not enter technology-related fields does not stand up under scrutiny.

The “Brain Drain” Argument
Even individuals who otherwise support a liberal immigration policy can be heard making the argument that the U.S. government should not allow international students to stay in America after completing degrees in their fields. The argument is that if an individual stays in America after completing his or her studies that is a loss to the student’s home country.

However, this argument about “brain drain” rests on false premises and ignores the role immigrants can play in their home countries after achieving success in the United States. If an international student stays in America and becomes successful, he or she will likely maintain ties to his or her home nation by returning to invest in a business, establishing export ties, or conducting charity work, as has been done by many successful Indian Americans, such as Vinod Khosla, a cofounder of Sun Microsystems. They will also retain family ties that will keep them connected to their native land.

There is nothing wrong – and indeed much that is positive – with international students voluntarily choosing to return to their home country after earning a degree in the United States. But there is also nothing wrong with such individuals deciding to stay in America if they can make a positive contribution and achieve gainful employment. The reality is that those international students who desire to leave their home—the most ambitious—will go to other countries if they are not allowed to stay in the United States. Rather than attempting to choose for an individual whether or not he would be “better off” in his home country, the United States should err on the side of freedom.

In the end, U.S. policies toward international students come down to freedom. The freedom of U.S. universities to admit the students they wish to their programs. The freedom of employers to hire individuals at competitive wages to work in the United States. And, finally, the freedom of people, regardless of where they were born, to better their lives by obtaining the best education the world has to offer.

H-2B Visas and Lower-Skill Visas
One of the most common accusations hurled against illegal immigrants is the rhetorical question: “Why can’t they just wait in line?” The problem for lower-skilled workers is no such line exists. For example, if an employer were to ask: “How does one obtain a legal visa for an employee to work as a maid fulltime at a hotel or as a waiter at a restaurant?,” the short answer would be: “There is no such visa for those jobs.”
The closest available categories for low-skilled workers are H-2A and H-2B visas. Both are used for short-term seasonal jobs. H-2A visas are used for such jobs in agriculture. While there is no numerical limit on H-2A visas – approximately 60,000 were issued in FY 2009 – employers consider the process bureaucratic, not timely for their employment needs and prone to litigation. This is a major reason the majority of agricultural seasonal workers are believed to be in the country illegally. On the other hand, farm worker advocates would like to make the H-2A rules even tighter. Both growers and farm worker advocates have favored compromise legislation called AgJobs, which would streamline certain rules for growers and provide legal status for illegal immigrants now working in agriculture.

H-2B visas can be used for jobs like picking crabs over a three to 7 month period, not for permanent positions. The annual quota is 66,000 a year, which has regularly been exhausted by employers, although with the economic slowdown only 44,847 H-2B visas were issued in FY 2009. Immigration attorneys say recent regulatory changes have made the H-2B process more cumbersome and less predictable for employers. Overall, the core problem is the visas cover too few of the types of jobs most employers need filled, which creates a mismatch between the law and the labor market.

Individuals on H-2A and H-2B visas cannot be sponsored for green cards. Even if they could, the annual quota for employer-sponsored green cards is limited to only 10,000 so-called “other workers” (5,000, in practice, due to a Congressional offset in green cards). In short, neither temporary visas nor green card sponsorship present realistic paths to work legally in the United States in jobs at the lower end of the skill spectrum.

Arguments Made Against H-2B Visas
A primary argument made against increasing the annual H-2B visa limit is that U.S. employers should simply raise wages to attract many more native-born Americans to these jobs. However, industries in which many less desirable jobs reside generally do not produce goods or services with high margins. While it is undoubtedly true that a landscape company can attract more workers if it paid $200 an hour to employees who mow lawns, it is unlikely that a consumer or company possessing many choices would pay $200 or more for someone to cut their lawn. Even if all resorts or restaurants, for example, charged vastly more for their services as a result of paying much more for workers, it is likely most consumers would choose to stay home rather than pay significantly higher prices for their meals. In short, there is a wage beyond which it is not profitable to employ a worker. Companies that are consistently unprofitable do not employ anyone, American or otherwise.

Some say businesses should use technology rather than adding foreign-born workers, which would seem to contradict the argument more native-born should be hired for certain jobs. While technological improvements are desirable, it should be self-evident that even where a technological advancement may be a suitable substitute for human labor, the capital investment may be beyond what a company can expect to recoup in sales.

One needs to take a broad view of consumer choice in a market economy. If prices are too high for individuals to vacation at U.S. resorts, then American and foreign tourists may decide to travel to non-U.S. locations or to take shorter trips close to home. Similarly, restaurants compete
not only with other eating establishments but also with the ability of consumers to choose to stay home and eat their meals. And businesses and consumers can choose the degree to which they will pay for outside landscaping services, escaping higher prices by scaling back their landscape needs or doing more of the work themselves.

In addition to this more general competition for the consumer dollar, many industries also face international competition. The U.S. seafood industry competes with exporters from Asia and elsewhere. Blocking all seafood imports would raise prices for U.S. consumers and eventually lead to retaliation against American exports. Therefore, simply paying much higher wages to attract workers to the seafood industry is not an option. Companies are in business to earn profits while they provide their good or service. Companies, of course, are not in business simply to employ people and cannot do so, in any case, without earning a profit.

The *Washington Post* described a job fair at which few Hispanic workers showed interest in moving to the Chesapeake Bay for seven months to earn relatively low wages picking crabmeat. The industry has often relied on workers on H-2B visas.23

The Best Way to Reduce Illegal Immigration

“Illegal immigration occurs because foreign workers can earn much more in the United States than they can at home and U.S. immigration restrictions prevent them from entering the country through legal means,” according to economist Gordon H. Hanson. “Simply by moving to the United States, the [Mexican] worker’s annual income would rise by 2.5 times, even after controlling for cost-of-living differences between the two countries.”24

The only proven way to reduce illegal immigration is to increase the use of temporary visas. That would allow Mexicans, Salvadorans and others to work legally in the United States and free up law enforcement resources that can be focused on genuine criminal or security threats.

One idea our organization has proposed to accomplish this is by combining a sufficient number of fully portable work permits – not tied to a specific employer – with bilateral administrative agreements between the United States and countries that send illegal immigrants to America.25 This approach would provide labor market freedom and, therefore, protection for new workers, at the same time it would elicit cooperation on immigration enforcement from Mexico and (eventually) other key countries. Reducing illegal immigration can also be accomplished by establishing a new temporary visa category, if the category is relatively free of bureaucracy (easy to use by employers and employees) and of a sufficient annual number to replace the illegal flow of workers.

The actions of Mexican farm workers between 1953 and 1959 demonstrate that allowing legal paths for work can reduce illegal immigration and save lives. After enforcement actions in 1954 were combined with an increase in the use of legal visas via the Bracero program, illegal entry, as measured by INS apprehensions at the border, fell by 95 percent between 1953 and 1959. This demonstrated how access to legal means of entry can affect the decision-making of migrant workers. “Without question, the Bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940’s and 1950’s,” wrote the Congressional Research Service.26
The 1986 IRCA legislation adopted a policy of legalization and increased enforcement, while failing to allow the means for individuals to work legally in the United States at lesser-skilled jobs. As a result, illegal immigration increased dramatically in the years following passage. One can expect a similar outcome should Congress repeat the mistakes of 1986 and leave out a significant temporary visa component in any new immigration reform legislation.

Immigrant Entrepreneurs
Job creation through immigrant entrepreneurship receives little attention in most economic debates or immigration policy discussions. A 2008 study by the Small Business Administration found, “Immigrants are nearly 30 percent more likely to start a business than are nonimmigrants, and they represent 16.7 percent of all new business owners in the United States.” The report concluded: “Immigrant business owners make significant contributions to business income, generating $67 billion of the $577 billion in U.S. business income, as estimated from 2000 U.S. Census data. They generate nearly one-quarter of all business income in California – nearly $20 billion – and nearly one-fifth of business income in New York, Florida, and New Jersey.”

A study I co-authored with Michaela Platzer for the National Venture Capital Association found that between 1990 and 2005, immigrants were a founder in 25 percent of the U.S. publicly traded companies started with venture capital, many of the country’s most innovative companies.

A key fact about job creation in America is that startup businesses are responsible for much of the net increase in employment each year. In fact, a groundbreaking analysis from the Ewing Marion Kauffman Foundation concludes, “Put simply . . . without startups, there would be no net job growth in the U.S. economy.”

While this conclusion may not surprise economists, it is largely non-existent in the current policy debate over jobs and the economy, most of which centers on how to encourage existing firms to hire more employees. The paper by the Kauffman Foundation’s Tim Kane finds, “For comparison, there are an average of 800,000 jobs created at firms in their first full year and 500,000 at firms in their third full year. In a given year, firms in the age group six to ten total 335,000 gross jobs created, for a typical year. That means that all firms in a latter age group create one-tenth the jobs created by startups. For example, in 2005, startups created 3.5 million jobs, compared to the 355,000 gross jobs created that year by firms founded in 1995. However, the 1995 firms also lost a gross 422,000 jobs. Indeed, existing firms in all year groups have gross job losses that are larger than gross job gains.”

The bottom line is an understanding that startups are crucial to job creation in America should lead to adopting policies to promote business startups. The research makes this clear: “In terms of the life cycle of job growth, policymakers should appreciate the astoundingly large effect of job creation in the first year of a firm’s life. In other words, the BDS [Business Dynamics Statistics] indicates that effective policy to promote employment growth must include a central consideration for startup firms.”

One of the best things Congress could do to foster startups would be to enact a true entrepreneur visa. A major benefit of the proposal is that it would create jobs without costing taxpayer money or becoming entangled in the broader immigration policy debate.
There is a growing recognition of the impact foreign-born entrepreneurs can bring to an economy. Vivek Wadhwa, Director of Research at the Center for Entrepreneurship and Research Commercialization at Duke University, reports that Chilean Minister of Commerce Juan Andres Fontaine recently came to Silicon Valley and announced the Chilean government will provide $40,000 grants to qualified international entrepreneurs to start businesses in Chile. Fortunately for the United States, there is no need to offer money to foreign-born entrepreneurs – they want to come to America and will spend their own resources for the opportunities this country offers.

The new visa category proposed by the National Foundation for American Policy would establish a straightforward procedure for a potential entrepreneur to immigrate to the United States.32

First, the individual would submit a business plan to be evaluated by the Small Business Administration (SBA). The SBA would judge the ability of the business to employ three or more U.S. workers (not immediate relatives).

Second, upon gaining the approval of the SBA, the U.S. Department of State (if the person is outside the country) or U.S. Citizenship and Immigration Services would conduct the necessary background and security checks to ensure admissibility.

Third, after gaining these approvals, the individual would receive conditional permanent residence for a period of two years. The conditional status would be removed and the green card awarded after two years if the individual satisfied the terms of the new EB-6 (employment-based 6th preference) visa by creating the required jobs.

Fourth, the individual would be admitted under a 10,000 quota for the principal immigrant. Spouses and children would not be subject to quota to maximize the number of job-creating entrepreneurs eligible.

The proposed immigrant entrepreneur visa is separate and fundamentally different from the current EB-5 (the fifth employment-based preference) immigrant investor visa. That visa requires an investment of at least $500,000, a substantial sum out of reach for the vast majority of people around the world. In addition, investments under EB-5 primarily go toward existing projects, with the immigrant investor serving as a limited partner. There is nothing wrong with that, since it does attract new foreign investment to the United States. However, even in a good year, 2009, only about 1,300 new principals received immigration status under the visa category. This is far less than supporters hoped when Congress started the program back in 1990.

Requiring large amounts of capital to become eligible for an immigrant visa is counterproductive if one wants to encourage job creation. Most businesses start with little capital. The average new business starts with only $31,000, according to the Ewing Marion Kauffman Foundation. Moreover, giving the Small Business Administration the role in evaluating business plans will help prevent immigration authorities unschooled in how companies operate from rejecting legitimate entrepreneurs or approving illegitimate ones.
Immigrant Investor Visas (EB-5)
The immigrant investor visa category, also known as EB-5 (the fifth employment-based “green card” preference), became part of the Immigration and Nationality Act in 1990. “The statutory requirements of the EB-5 visa category are onerous,” conclude attorneys Stephen Yale-Loehr, Carolyn S. Lee, Nicolai Hinrichsen and Lindsay Schoonmaker. “Qualifying a person for EB-5 status is one of the most complicated subspecialties in immigration law. A sophisticated knowledge of corporate, tax, investment, and immigration law are all required.”33

In general, an individual must invest $500,000 or more. “Approximately 90 to 95 percent of individual Form I-526 petitions filed each year are filed by Alien Investors who are investing in Regional Center-affiliated commercial enterprises,” according to U.S. Citizenship and Immigration Services.34 Such valuable investments should be facilitated. Under EB-5, a USCIS adjudicator examines an application and the principal comes before U.S. Citizenship and Immigration Services after a two-year period to determine if he or she has met the conditions of the visa. Usually this means the creation of at least 10 jobs. At that time, the individual can be awarded permanent residence.

The first federally designated regional center for the state of Maryland, the Maryland Center for Foreign Investment, just received its designation for a regional center in December 2010. Descriptions of two major investment projects the new entity will be involved in can be found on the center’s website (www.mcfirc.com). The center expects to invest $75 million in the Maryland Live! Casino project, operated by the Cordish Companies. This investment, garnered through individual foreign investors through the EB-5 program, will contribute to the project’s employment of an estimated 3,000 people in Maryland. The Maryland Center for Foreign Investment anticipates investing $30 million in a second project, which is not as far along, by Turner Development. The Westport Waterfront Hotel and Stadium project is expected to produce 700 to 800 jobs.

Conclusion
America is a nation of immigrants. The dream of a better life for themselves and their children have led immigrants for the past 400 years to take a chance on a new land. The journeys have enriched both the immigrants and America. President Ronald Reagan once commented on the uniqueness of the American experience. He told a class of young people, "I got a letter from a man the other day, and I'll share it with you. The man said you can go to live in Japan, but you cannot become Japanese – or Germany, or France – and he named all the others. But he said anyone from any corner of the world can come to America and become an American.”35

If we can adopt the right policies, at both the state and federal level, then America can continue to be that beacon of freedom and opportunity that has summoned so many to its shores.
Biographical Information
Stuart Anderson is Executive Director of the National Foundation for American Policy, a non-partisan public policy research organization focusing on trade, immigration and related issues based in Arlington, Virginia (www.nfap.com). From August 2001 to January 2003, Stuart served as Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service. Before that Stuart spent four and a half years on Capitol Hill on the Senate Immigration Subcommittee, first for Senator Spencer Abraham and then as Staff Director of the subcommittee for Senator Sam Brownback. Stuart has published articles in the Wall Street Journal, New York Times, and other publications. He is the author of the book Immigration (Greenwood, 2010).

Endnotes

2 Interview with Mark J. Perry.
5 Background information in this statement on the workings of the legal immigration system can be also found in Stuart Anderson, “Want to Reform Immigration Policy? It’s Best to Understand the Current Employment-Based Immigration System,” Cato Institute, January 2011 and Stuart Anderson, Immigration (Denver, Colorado: Greenwood, 2010).
7 There were earlier years when inadequate processing prevented the full employment-based green card quota from being utilized, which has an impact on the current backlog. That quota includes not just the professional being sponsored but also dependent family members (spouses and minor children). Another factor influencing the availability of green cards is the per country limit on employment-based immigrants, which affects individuals from India and China the most. Immigration Benefits, GAO-06-20 (Washington, DC: Government Accountability Office, November 2005), p. 43. According to the Government Accountability Office, “There are also annual numerical limitations on the number of visas that can be allocated per country under each of the preference categories. Thus, even if the annual limit for a preference category has not been exceeded, visas may not be available to immigrants from countries with high rates of immigration to the United States, such as China and India, because of the per country limits.”
8 Section 214(i)(1) of the Immigration and Nationality Act.


11 Ibid., p. 29.


16 Ibid., p. 9.

17 FY 2010 National Science Foundation Budget Request to Congress, EHR-20-21.

18 See H-1B Visas by the Numbers: 2010 and Beyond, National Foundation for American Policy, March 2010.


22 Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139.


26 Congressional Research Service, Temporary Worker Programs: Background and Issues. A report prepared at the request of Senator Edward M. Kennedy, Chairman on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, p. 41.


29 Tim Kane, The Importance of Startups in Job Creation and Job Destruction, Ewing Marion Kauffman Foundation, July 2010, p. 2.

30 Ibid., p. 4. Emphasis in original.

31 Ibid., p. 6.


