



## REMARKS

# House Select Committee on the State's Role in Immigration Policy

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Thank you, Chairmen Iler and Warren, for this opportunity to appear before you today.

I'm Tamar Jacoby, president of ImmigrationWorks USA, a national federation of employers working to advance better immigration law. Our national network links major corporations, national trade associations and 25 state-based coalitions of small to medium-sized business owners concerned that the broken immigration system is holding back the growth of the U.S. economy. Our shared aim: legislation that brings America's annual legal intake of foreign workers more realistically into line with the country's labor needs.

I'm here today at the suggestion of the North Carolina Chamber of Commerce. ImmigrationWorks and the North Carolina Chamber are working to form a partnership to develop a set of immigration principles for the state. And the Chamber thought it might be helpful for me to give the committee some perspective on how other states are handling immigration and what the consequences have been for businesses in those states. I worked closely with President George W. Bush in his ill-fated push to overhaul the immigration system in 2006 and 2007. And my organization and its 25 state-based affiliates now work with lawmakers across the country as they attempt to fill the vacuum left by Congress' failure to come to grips with immigration.

My remarks respond to three questions posed by committee staff – plus an additional, in my view essential, question about immigrants' contribution to the state economy. The employers in my organization's national network come from every sector that relies on immigrant workers – agriculture, hospitality, food processing, construction and, at the high end of the skill ladder, information technology and the STEM professions. So I will address these questions broadly – not as they relate to one industry, but rather to employers across sectors and by extension to the state economy.

### **What can the state do to help employers who rely on immigrant workers?**

The overwhelming majority of employers support immigration enforcement. Of course, there are bad apples – shady, unscrupulous employers trying to cut corners, including by exploiting vulnerable workers. But most business owners who hire immigrants want to be on the right side of the law. It's their obligation as citizens, and it makes good business sense – any other course puts their investment and, for a larger company, their brand name at risk.

The problem for most businesses that hire immigrant workers: there aren't enough *legal* foreign workers available to fill jobs for which employers are unable to recruit U.S. workers. Even in the worst days of the recession, farmers, restaurants, hotels and seasonal businesses had trouble recruiting enough Americans to fill many jobs. And even with today's

persistent high unemployment, employers in many of these sectors continue to need immigrants to keep their businesses open and contributing to the economy.

The bottom line, grim news for many businesses: the supply of available *legal* immigrant workers does not begin to match demand. And as a result, many employers in vulnerable industries are caught between a rock and hard place – unable to recruit enough Americans, but also unable to find enough legal immigrant workers to keep their operations open and growing.

In a perfect world, the market would deliver enough legal foreign workers to keep these employers in business. Authorities would expand and streamline existing temporary worker programs. They would create new guest worker programs for industries not served by existing programs. And they would increase the supply of employment-based permanent visas, or green cards. Of course, employers in any sector, high- or low-skilled, should have to try to hire Americans first. But if and when they cannot find enough Americans, they should be able to hire foreign workers – quickly, easily and legally.

The challenge for a state like North Carolina: only the federal government can increase the supply of legal foreign workers. Only the federal government can issue visas. Only the federal government can authorize the creation and expansion of temporary worker programs.

So in a sense, states too are caught between a rock and hard place. Although they are well positioned and understandably eager to do what they can to enforce immigration law, they alone are unable to change that law in a way that would benefit employers who rely on immigrant workers to keep their business open and contributing to the economy.

### **What do immigrants contribute to the North Carolina economy?**

The economics of immigration are simple. Immigrant workers are valuable because they are different from American workers – either more or less educated. And by filling niches for which there are few or no Americans available, immigrants create jobs for mid-skilled U.S. workers.

Consider the low end of the skill ladder. In 1960, half of all the American-born men in the U.S. workforce were high school dropouts eager to do unskilled outdoor work. Today, less than 10 percent of the American-born men in the workforce are high school dropouts. But North Carolina's farms, restaurants, nurseries and food processing plants still need an abundant unskilled labor force.

Without an ample supply of unskilled workers, these businesses cannot grow. But – and this is the critical point – a farm or restaurant or nursery that *is* able to grow because it has hired foreign workers inevitably adds jobs for Americans. When a restaurant that used to serve only lunch expands to serve dinner, that's more work for the U.S.-born waiters, the U.S.-born chef, the manager, the accountant and all the rest of the staff. A growing business also generates work for other businesses up and downstream in the local economy: in the case of a restaurant, for farmers, food processors, an advertiser, the firm that prints the menu, the supplier who replaces the refrigerators when they wear out – the list goes on and on.

Economists call this the multiplier effect. And according to estimates, every high-skilled immigrant hired in the U.S. correlates with five additional jobs in the surrounding economy. Every foreign agricultural worker correlates with 3.5 jobs, and even seasonal workers generate an average 2.5 additional jobs.

A 2006 study by the University of North Carolina captured this economic dividend in stark relief. Between 1990 and 2004, the Latino population of North Carolina grew by more than 600 percent. Most of these new residents were immigrants, most fairly poor, and like all poor people, they used more in state services than they paid in taxes, costing the state \$61 million a year. This was obviously not a good thing for North Carolina. But there was also a bright side – a very bright side. Because these Latino newcomers were also contributing to the growth of the state economy – through their purchasing power and the multiplier effect just described. According to the UNC study, in 2004, new Latino residents were responsible for \$11 billion of state economic growth. And that's 11 billion with a B – compared to a \$61 million fiscal cost.

### **What practices have other states implemented in addressing immigration that would be harmful to employers in NC?**

With Congress deadlocked and unable to act on immigration, state lawmakers across the country are taking matters into their own hands. States are experimenting with every kind of law enforcement they can think of – and understandably so. No one likes endemic disregard for the rule of law.

The problem arises in states that go beyond implementing the law and try to use the enforcement tools at their disposal to drive immigrant workers out of the state. The theory behind this kind of lawmaking is known as “attrition through enforcement” – the goal is to make unauthorized immigrants’ lives so miserable that they voluntarily leave the state. And there’s only one catch – the policy sometimes works. It’s one of those cures that’s worse than the disease – and a situation where lawmakers should tread very carefully.

Tens of thousands of immigrant workers, legal and illegal, have fled from Arizona, Alabama, Georgia and other states pursuing attrition through enforcement. And all of those states’ economies are reeling as a result.

Consider just a few numbers.

- According to a study by the University of Alabama, as many as 80,000 immigrants, legal and illegal, have fled from Alabama since the state passed its omnibus immigration enforcement law – widely regarded as the toughest in the nation – in June 2011. With the multiplier effect, that’s thought to be more than 140,000 total jobs lost in Alabama – or 6 percent of state GDP.
- In Georgia, which enacted a tough immigration enforcement law in April 2011, an estimated \$75 million worth of crops rotted in the fields last year because there were not enough workers to pick them. In July, half of Georgia restaurateurs surveyed by the state restaurant association reported that they too are facing worker shortages.
- In Arizona, the state that pioneered attrition through enforcement and has been working to advance it since 2004, between a quarter and a third of the unauthorized immigrants in the state are thought to have fled in the past eight years, and agriculture in particular is facing dire shortages. Meanwhile, boycotts against the Arizona hotel and lodging industry – boycotts driven by opponents of the attrition policy – have cost the state an estimated \$500 million.

In the face of numbers like these, it’s not surprising that some states are having second thoughts. The architect of Arizona’s attrition policy, former Senate president Russell Pearce, was removed from office in November 2011 in a special recall election – and in 2012, for the first year in many years, immigration is not expected to come up in the Arizona legislative session.

Closer to home, in Alabama, it's the architects themselves who are rethinking the state's attrition policy. Republican Gov. Robert Bentley, who played a leading role in enacting Alabama's 2011 bill, HB 56, is pushing this year to amend it – a push thought to have broad support across party lines in the legislature.

The lesson from other states: immigration enforcement is essential, and states have an important role to play, working in cooperation with the federal government to implement the nation's immigration laws.

But what Alabama and Arizona remind us is that the immigration system is broken. Existing law does not accommodate many American businesses' legitimate needs for a legal immigrant workforce. And in that situation, enforcement that goes too far can be economic suicide for a state.

### **What practices have other states implemented in addressing immigration that would be helpful to employers in NC?**

This is the nub of the question: what can North Carolina do?

How can the state act constructively to help enforce federal immigration law? How, given its limited room to maneuver, can the state help employers who desperately need immigrant workers to keep their businesses open and contributing to the economy – and want to hire those workers legally? Is it possible for the state to strike a balance – upholding the rule of law but not undermining the state economy.

In my view, North Carolina HB 36, mandating E-Verify for employers and local government, does just that – it gets that balance just about right.

How so? The worksite – far more than on the border or in the street – is the most effective place to get control of illegal immigration. Employers trying to comply with the law welcome effective worksite enforcement. E-Verify is the best tool at our disposal to monitor immigration compliance – to catch bad apple employers and reassert the rule of law. And the U.S. Supreme Court's 2011 *Whiting* decision gives the states a green light to require that employers enroll in E-Verify.

But HB 36 is also a balanced bill, written with an eye to the well-being of the state economy. And I believe North Carolina lawmakers were wise to exempt small businesses and seasonal employers for whom E-Verify would pose a significant burden.

Perhaps most important, I would suggest, it's premature to revisit a statute enacted less than a year ago. Surely it makes more sense to give HB 36 time to go into effect – the E-Verify requirement is phased in over two years and won't be fully implemented until July 2013. Meanwhile, monitor the outcome – the consequences for the rule of law and for the North Carolina economy. And then reconsider if needs be – in the 2014 legislative session.

Is there anything the state can do in the meantime? Any way to help North Carolina employers in agriculture and other sectors who cannot find enough American workers and are seeking to hire legal immigrants?

A number of states are experimenting with policies. The Republican legislature in Utah enacted an innovative triple-barrel bill last year that combined immigration enforcement with a guest worker program for immigrants from Mexico applying to come to the U.S. legally and also – the third barrel – a worker authorization program that would grant work permits to the unauthorized workers already living and working in Utah.

Neither of the latter provisions can go into effect without a federal waiver or some other kind of federal approval, and so far the feds have not been forthcoming. To date, then, the Utah law is more a protest or a message bill than effective law – it's not yet delivering any workers for Utah employers. But interestingly enough, lawmakers in several other states are considering similar measures – either stand-alone state guest worker programs or worker authorization bills for the unauthorized immigrants already living and working in the state. Provisions to provide employers with a legal immigrant workforce were introduced this year in Kansas, Oklahoma, New Mexico, California and Vermont. And although none of these proposals are expected to be enacted this year, they send a powerful message to Washington and to the American public.

What exactly is the message? That the immigration system is broken. That important sectors of the state economy depend on immigrant workers. That existing immigration law does not accommodate these employers' legitimate labor needs. And that essential as enforcement is, it must be accompanied by policies that recognize and meet demand for legal immigrant workers to fill jobs for which not enough U.S. workers are available.

Ultimately, only the federal government can square this circle – only the federal government can fix the supply side of the immigration equation. But as Utah has shown, states can play an important role in reminding the federal government of its failure to create a system that works for the states – and for U.S. employers and the U.S. economy.

North Carolina may or may not be interested in sending a message of this kind – I understand that message bills are more appealing to some legislatures than to others. I think it would make sense at some point for North Carolina to consider what can be done to make the state more appealing to high-skilled immigrants – making it easier, for example, for talented foreigners getting degrees from North Carolina universities to remain in the state and work after they graduate, helping to make North Carolina more competitive, rather than the countries these students now go home to. But that's another big subject – we don't have time for that today.

And in the meantime, I submit, North Carolina would be wise to stay the course it set with HB 36 – a balanced, careful, pragmatic approach that combines immigration enforcement with a realistic concern for the health of the North Carolina economy.

Thank you again for this opportunity to appear before you. I hope I can be a resource to the committee going forward – I'm eager to be helpful in any way I can as you consider what you as a state can do to make immigration, skilled and unskilled, work for the state of North Carolina.