

Statement in Support of Comprehensive Immigration Reform

By **Charles H. Kuck, Vice President, American Immigration Lawyers Association**

I am here today to provide a different perspective on immigration, both legal and “illegal” from that of my fellow members of the Republican Party, including my own Congressman Dr. Tom Price.

As a lifelong Republican, I have been dismayed at the recent efforts of the House Republican Caucus to use immigration as a political punching bag in an effort to scare members of the GOP into thinking that stopping positive, comprehensive immigration reform is a good thing. It is time for sensible Republicans to step forward and demand that the House Republicans listen to members of their party. By an overwhelming 75%, Likely Republican Voters favor the provisions of Senate Bill 2611, where is found a comprehensive immigration solution that includes increased border security, a guest worker program, and a program to legalize those people already working in the U.S. who do not have a legal status. Tarrance Group/Manhattan Institute (June 12-15, 2006)

The field hearings to be held today are supposed to focus on the scare tactic that the “Davis-Bacon” provisions for wages for temporary workers found in a late added provision in the Senate Bill on comprehensive immigration reform, S 2611, commonly known as the McCain-Kennedy Bill, are somehow detrimental to the American Economy because, “illegal workers” will now have to be paid MORE THAN U.S. workers for the same employment. This is simply not true.

The rationale for expanding guest worker programs is to increase the supply of workers during labor shortages. Most economists would dispute the notion of a labor shortage in the case of low-skilled workers, since employers can always find workers to fill these jobs if they offer high enough wages. However, if we understand "labor shortage" to mean a tight labor market, then, at a minimum, guest worker visas should be granted only when the market is demonstrably tight, i.e., when wages are rising.

This is the purpose of the prevailing wage provision in S. 2611, as well as similar provisions in earlier guest worker laws. They require employers who want to hire guest workers to pay the prevailing wage, defined as the wage paid to the majority of workers in a particular job category and local labor market, or, barring that, the average wage paid to these workers. Prevailing wages are based on periodic surveys of employers and third parties, and so they always lag in time behind current wages.

Requiring employers who want to hire guest workers to pay the prevailing wage serves two purposes. First, it ensures that employers do not hire guest workers when wages are falling because, if they did, they would have to pay them the higher previous year's wage (recall that the prevailing wage is measured with a lag). Second, it ensures that employers do not undercut the market wage by hiring foreigners willing to work for less than U.S. workers.

Is the prevailing wage provision unfair to U.S. workers?

The hearing today will claim that the prevailing wage provision "would guarantee wages to some foreign workers that could be higher than those paid to American workers at the same worksite." This argument implies that some employers would be willing to hire guest workers even if they had to pay them more than their other workers (an expense that would be worth it, perhaps, because guest workers' vulnerability might make them more compliant employees).

Even if this were true, S. 2611 requires that employers first offer the jobs, at the prevailing wage, to U.S. workers. Thus, the scenario envisioned by these House Republicans could only occur if employers were breaking the law or if U.S. workers were somehow unwilling to apply for higher-paying jobs. Because the House Republicans ignore the fact that S. 2611 requires employers to first offer the jobs to U.S. workers, it does not specify whether it believes employers to be lawbreakers or U.S. workers to be oblivious to their own well-being.

Does it matter if prevailing wage measures are too high?

It is important to note that even if prevailing wage measures are slightly inflated, as these House Republicans claim, this would actually improve wage protections for U.S. workers, who must first be offered jobs at the prevailing wage before an employer seeks to recruit guest workers. Because the prevailing wage is measured with a lag, this also ensures that the local labor market is tight and wages are rising before guest workers are brought in, in keeping with the intent of the law.

However, because wages are still nominally rising, prevailing wage measures are somewhat lower than the actual market wage, since they are measured with a lag. This means that, under the prevailing wage provision of S. 2611, employers could recruit guest workers at or below the real market wage, even though the labor market is stagnant.

Is S. 2611 an unwarranted expansion of the Davis-Bacon Act?

The House Republican's focus on the supposed expansion of the Davis-Bacon Act to the private sector appears to be an attempt to galvanize members of the business community who oppose the Davis-Bacon Act, and does not add any substantive points to its argument. Nor is there anything novel or precedent-setting about the prevailing wage provision of S. 2611; it is similar to provisions in earlier guest worker laws, going at least as far back as the Bracero program of 1942-1964.

The RPC has attacked the prevailing wage protections in the Senate's comprehensive immigration bill as "unfair to U.S. workers," but just the opposite is true. In fact, by making it more difficult for employers to qualify for temporary foreign guest workers, the prevailing wage provision protects U.S. workers from employers who would otherwise replace them with foreign workers willing to work at a lower wage. Without the provision, the guest worker program would truly be unfair to U.S. workers.

Experience with foreign guest worker programs over the last half century tells us that many employers prefer to hire foreign workers rather than U.S. residents, even when there are many qualified U.S. workers available. The reason is obvious: foreign workers can almost always be found who are willing to work for lower wages, for longer hours, and in worse conditions than U.S. workers. They are, therefore, less expensive to employ. Given the opportunity, many employers would seek visas for guest workers rather than offer work to U.S. residents, especially since temporary guest workers' reliance on employers for visas makes them highly dependent on employers, even more so than immigrants who are legal permanent residents.

If Congress goes along with President Bush and the U.S. Chamber of Commerce and creates a large guest worker program—potentially bringing hundreds of thousands of temporary foreign workers to the U.S. for employment—then mechanisms must be created to ensure that U.S. workers are not displaced and that employers do not pay wages so low as to undercut the market wage for U.S. workers. That is the purpose of the Senate immigration bill's prevailing wage requirement.

The prevailing wage provision in the McCain-Kennedy bill, like similar provisions in earlier guest worker laws, is designed to prevent employers from recruiting guest workers willing to work for a wage that will adversely affect the living standards and wages of American workers. It also helps to ensure that guest workers are hired only when labor markets are tight, though it does so imperfectly since prevailing wage measures are always out of date. The prevailing wage provision of S. 2611 is thus a minimum, but necessary, standard.

Finally, and most importantly, the House continues to refuse to actually MEET with Senate negotiators in a conference committee. Until the House Republicans meet with the Senate Republicans to accomplish true Comprehensive Immigration Reform, I will remain disappointed with my Republican Party.

Immigrants Are Essential to the U.S. Economy

Immigrants Are Needed to Fill Jobs Unfilled and/or Unwanted by U.S. Workers

- The 2000 Census reveals that one-third of all U.S. job categories would have shrunk significantly in size during the 1990s in the absence of recently arrived, noncitizen immigrant workers, even if all unemployed U.S.-born workers with recent job experience in those categories had been re-employed. Thirteen occupational categories collectively would have been short more than 500,000 workers during the 1990s without such immigrants, making immigration a crucial component of this country's economic survival and wellbeing.
- Undocumented immigrants account for nearly 5% of the entire U.S. labor force, and are responsible for about 1.5% of total wages reported to the Social Security Administration.
- With fertility rates falling and the native born population growing older and either retiring or becoming better educated and seeking higher-skilled jobs, growth of the lower-skilled labor force increasingly depends on immigration. And given that 12.5% of native-born adults age 25 and older lacked a high school diploma in 2003, compared to 32.8% of the foreign-born, it is clear that a large number of lower-skilled jobs will need to be filled by immigrants.
- The Bureau of Labor Statistics predicts about 56 million job openings between 2002 and 2012. Forty-two million of those, or 75%, are projected to be filled by workers who do not have a bachelor's degree and who are entering an occupation for the first time. Moreover, 27 million of these positions are expected to be held by workers who have a high school diploma or less education, amounting to roughly 48% of all job openings in the country.
- Because immigrants in general tend to be younger than natives, their presence in the labor force serves to slow the ongoing decline in the ratio of workers per retirees. Though federal welfare laws restrict noncitizen eligibility for a wide range of public programs, immigrant workers contribute to the financing of pay-as-you-go entitlement

programs, such as Social Security and Medicare. In 2004, undocumented workers hired by U.S. businesses contributed \$7 billion to Social Security and \$1.5 billion to Medicare.

The Purchasing Power of Immigrants Is Crucial to U.S. Economic Prosperity

- Immigrants create jobs through their purchases of consumer goods and housing, their savings and investments, and the businesses they create.
- In 2004, consumer purchasing power totaled \$686 billion among Latinos and \$363 billion among Asians. Given that roughly 44% of Latinos and 69% of Asians were foreign born in that year, the buying power of immigrants reached into the hundreds of billions of dollars.
- Immigration plays a major role in sustaining the U.S. housing market. The 2001 American Housing Survey shows that more than one-fifth of the 5.7 million foreign-born homeowners in the U.S. had become homeowners since 1997. And while foreign-born households accounted for only 8% of all homeowners, they represented 14% of all recent first-time homebuyers.