



# IMMIGRATION POLICY CENTER

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## **POLICY BRIEF**

### **Out of Sync: New Temporary Worker Proposals Unlikely to Meet U.S. Labor Needs\***

*The temporary worker program now taking shape in Congress is unlikely to provide the U.S. economy with the numbers or kinds of workers that U.S. industries need.*

A key component of the immigration reform bill now being debated in Congress is a new temporary worker program that, ostensibly, would replace the current stream of undocumented migration with a regulated flow of less-skilled immigrant workers. However, growing long-term labor shortages in key industries dependent on less-skilled labor require the recruitment and training of *permanent* entry-level workers, both native-born and foreign-born, to fill a wide range of occupations. Yet the larger immigration reform bill provides for only a small increase in the overall level of permanent immigration, and the vast majority of this increase is not geared to the growing demand for less-skilled labor.

In addition, the temporary worker provisions of the legislation, as they now stand, do not provide a path to permanent residence for any new temporary workers, and set a cap on the admission of temporary workers that falls well below current labor demand. As a result, neither industry nor workers have incentives to invest in each other to maximize the economic benefits of a temporary worker program. An alternative program that allows workers to apply for permanent status would better address industry's need for a larger and more settled less-skilled workforce and would more likely discourage undocumented immigration in the future.

### **The “Grand Bargain”**

On May 17, 2007, a bipartisan group of Senators unveiled a proposed “grand bargain” on immigration reform: the Comprehensive Immigration Reform Act of 2007 (S. 1348). As introduced, the legislation provided for up to 400,000 temporary workers from abroad to enter the United States each year on visas good for 2 years to fill available, mostly less-skilled jobs. If demand for the temporary workers exceeded the supply of visas, the cap could be increased by 10-15 percent each year to a maximum of 600,000 per year.<sup>1</sup> A subsequent amendment introduced by Senator Jeff Bingaman (D-NM), which was approved by the Senate on May 23, reduced the annual visa cap for temporary workers to 200,000 and removed the provisions allowing for an increase in the cap if the demand for workers exceeded this number.

The temporary worker programs now being debated in Congress represent a major retreat from the temporary worker proposals included in the immigration reform bill passed by the Senate last year by a vote of 62 to 36. Under that legislation (the Comprehensive Immigration Reform Act of 2006), temporary workers would not have to leave the country in between periods of employment in the United States. In addition, they would have the option of applying for permanent residency.

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Opponents of the bill attacked the legislation as a disguised permanent-immigration bill and insisted that if any new temporary worker program were enacted, that “‘temporary’ should mean ‘temporary.’”

Denying temporary workers an opportunity to live with their families, establish homes, integrate into local communities, and eventually apply for permanent residency and citizenship raises fundamental issues of fairness and equity. Working side by side with more permanent and privileged foreign-born workers, these temporary workers could be quickly relegated to second-class status. In addition there is the question of whether the new temporary worker program makes sense economically. A temporary worker program capped at 200,000 per year—as provided in the amended version—is unlikely to accommodate the current level of demand for less-skilled workers. Moreover, if none of the workers who enter the country under a new temporary program are permitted to stay, the program cannot contribute to the long-term growth of the U.S. labor force and cannot respond to increasing demand for workers in the future. If history is any guide, the program also runs the risk of fostering renewed flows of undocumented immigration.

### **The Growing Demand for Less-Skilled Labor**

The U.S. economy is generating a growing need for less-skilled labor. The Bureau of Labor Statistics (BLS) projects that nearly 6 million new jobs will be created between 2004 and 2014 that require only short-term on-the-job training.<sup>2</sup> However, the available supply of native-born workers to perform this labor is shrinking. Among the native-born population, fertility rates are falling, workers

are growing older and better educated, and labor force participation rates are flattening. Immigrants, in contrast, are more likely to be younger and to have only a high-school education or less. As a result, immigrants now comprise a steadily rising share of workers available to perform the less-skilled jobs that traditionally have been filled by younger, less-educated workers.<sup>3</sup>

The current supply of less-skilled labor is inadequate to meet the growing demand. According to data from the American Community Survey, between 2000 and 2005, the less-skilled native-born labor force in the United States—defined as those workers who do not have a high-school diploma—shrank by 2.5 million workers. At the same time, only 800,000 less-skilled immigrant workers joined the U.S. workforce, either as working-age immigrant children or as newly arriving legal or undocumented immigrants. As a result, there was a net decline of 1.7 million less-skilled workers over that 5-year period—or approximately 340,000 workers per year.<sup>4</sup>

Because of this shortfall, key industries such as hotels and motels, restaurants, agriculture, construction, light manufacturing, healthcare, and retailing—which are already experiencing a major influx of immigrant workers—are also experiencing structural labor shortages. If left unattended, these shortages will continue to grow in the coming years. In fact, without a significant increase in legal channels of immigration for less-skilled immigrants, some of these industries could stagnate and lose their current competitiveness.<sup>5</sup>

That said, the nature of less-skilled labor demand varies from industry to industry, and not all labor shortages are the

same. A major weakness of the proposed legislation is its failure to distinguish between different types of less-skilled labor demand, and the nature of the attendant shortages. In general, these shortages are of three kinds:

- Seasonal labor shortages of workers who are needed for only part of the year (e.g., farm workers).
- Non-seasonal, year-round labor shortages in jobs with limited opportunities for upward mobility (e.g., janitors).
- Long-term structural labor shortages in industries with significant “job ladders” (e.g., construction).

The proposed legislation assumes that most of the current labor shortages are of the second kind: shortages among a pool of less-skilled workers—such as janitors, maids, bus boys, garbage workers, and parking attendants—who have no opportunities for advancement and whose work is largely repetitive, without on-the-job training or avenues for the acquisition of new skills. Many immigrants do work in these less-skilled occupations, but this is not the largest or fastest growing segment of the immigrant workforce, nor is it where the demand for less-skilled labor is highest. In fact, the demand for labor is greatest in industries with job ladders that allow entry-level workers to acquire training and skills and advance to higher occupational levels based on their job tenure and work performance.

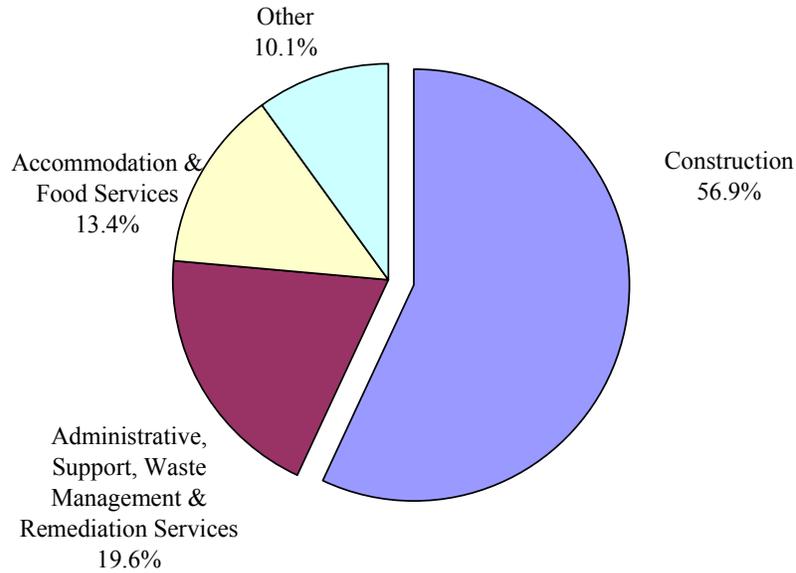
For these workers and industries, a temporary worker program would offer no long-term relief.

### **Immigrant Workers in the Construction Industry**

Construction is perhaps the leading example of a U.S. industry that exhibits a powerful and growing demand for less-skilled labor to fill permanent, as opposed to temporary, positions in the workforce. BLS projects nearly 2.5 million job openings in construction between 2004 and 2014.<sup>6</sup> A key characteristic of construction is the availability of established career ladders for less-skilled workers. Workers typically begin as laborers or helpers but often gain on-the-job training in the use of tools, techniques, and plans. Some less-skilled workers go on to become skilled craftsmen, while others rise up the administrative ranks as crew chiefs, foremen, and site supervisors.

Labor force statistics for the 2000-2005 period demonstrate the need for immigrants to help fill the escalating demand for less-skilled workers in construction—a demand that can not be met by the less-skilled native-born labor force alone. Three major industrial categories in the United States absorbed almost 90 percent of all less-skilled immigrant workers who entered the labor force between 2000 and 2005. Well over half of these new workers (57 percent) were in construction {Figure 1}.

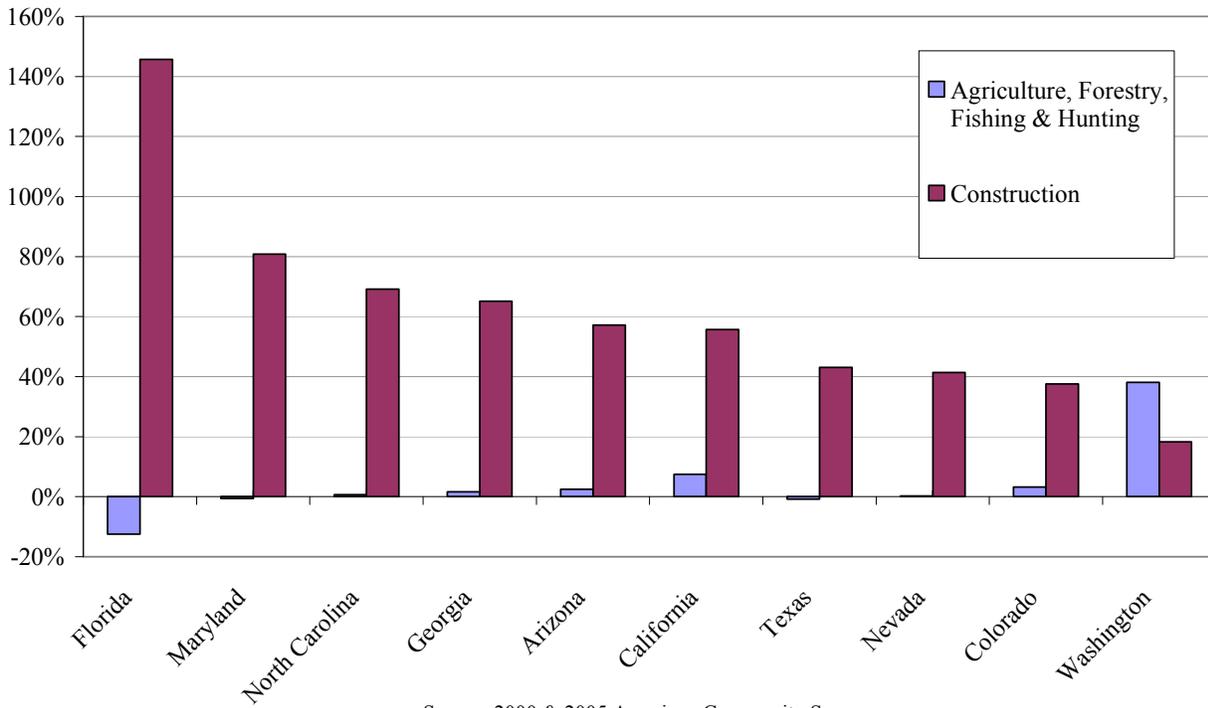
**Figure 1: New Less-Skilled Foreign-Born Workers Entering the U.S. Labor Force, by Industry, 2000-2005**



Contrary to a widely held misconception, very few of the less-skilled immigrant workers entering the country come to fill agricultural jobs. In fact, in 9 of the top 10 receiving states, the increase in

the number of less-skilled immigrant workers in construction dwarfed that of agriculture. In some cases, the number of agricultural workers declined {Figure 2}.

**Figure 2: Change in Number of Less-Skilled Foreign-Born Workers in Agriculture & Construction in Top 10 States, 2000-2005**

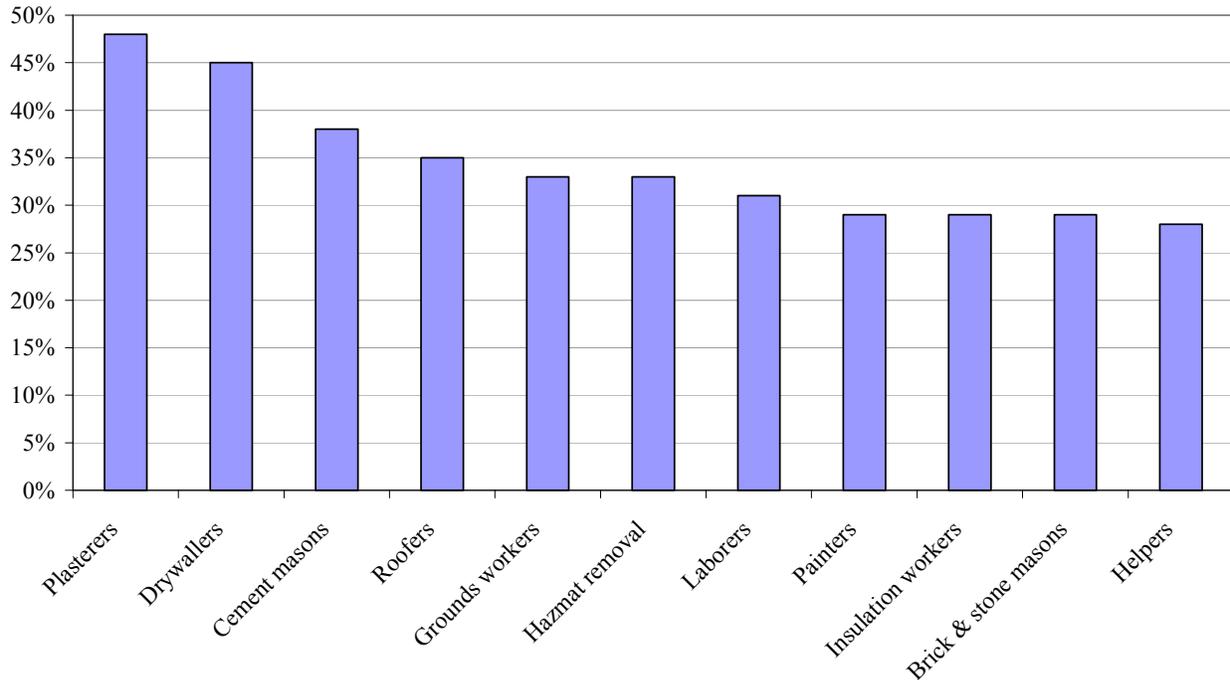


Source: 2000 & 2005 American Community Survey.

Given the declining number of less-skilled native-born workers, immigrants—especially Latinos—comprise a rapidly escalating share of workers in all construction occupations. About 20 percent of the roughly 10 million workers currently in the construction industry are foreign-born

and more than half are believed to be undocumented. Foreign-born Latinos can be found in high percentages in all major occupations in construction, from less-skilled laborers to more highly skilled drywallers and plasterers {Figure 3}.<sup>7</sup>

**Figure 3: Foreign-Born Latino Share of Workforce in Select Construction Occupations, 2004**



Source: Mary Buckner Powers, "Industry Facing a Labor Crisis," *Constructor*, March/April 2006.

In recent years, there has been a growing concern in the construction industry about chronic labor shortages at all rungs of this skill ladder. Several high-level studies, including one commissioned by the Bush administration in 2004, have called for expanded funding for skilled apprenticeship programs that would make it easier for less-skilled workers to establish upwardly mobile careers in construction.<sup>8</sup> A growing number of these programs now are targeted at foreign-born workers, especially Latinos.<sup>9</sup> Since these training programs typically last 3-5 years and require a sustained partnership between company and employee, they are best filled by settled immigrants—not by temporary workers who must leave the country after 2 years and wait a full year before returning.

Apprenticeships are not the only long-term training programs that are

desperately needed in the construction industry. There also is a need for expanded job-safety programs as illness, injury, and fatality rates among foreign-born construction workers, especially the less skilled, continue to rise. For example, between 1995 and 2000, while the fatality rate among all U.S. construction workers remained constant, the fatality rate among Latino workers (over 90 percent of whom are foreign-born) more than doubled. In addition, the rate of injury or death among immigrants on construction sites is nearly twice the rate of their participation in the workforce.<sup>10</sup>

Largely in response to these rising injury and fatality rates, the construction industry, sometimes in conjunction with labor unions and the Occupational Health and Safety Administration (OSHA), has developed national and local programs to

educate Latino workers about safety challenges.<sup>11</sup> Even when immigrant workers have prior construction skills, studies show that there are huge language and communication barriers between native-born supervisors and immigrant workers that can lead to injuries and fatalities.<sup>12</sup> Some major companies have instituted Spanish-language training programs for their site supervisors and foremen and English-language classes for workers committed to career advancement.<sup>13</sup> This acculturation process takes time and, like the more targeted apprenticeship programs, requires a sustained ongoing commitment by company and employee.

The case for permanent rather than temporary workers is especially strong in construction and other industries with established job ladders. However, even in industries where such ladders are less common, over-reliance on a temporary worker program would deprive the most industrious less-skilled workers of the opportunity to acquire new skills and achieve higher earnings. With no hope of achieving permanent status, they would have no incentive to establish the solid track record that allows for long-term mobility. To be sure, not all less-skilled workers, under the best of circumstances, can achieve such mobility. However, the temporary worker program never gives these workers an opportunity to prove themselves. Instead, it deliberately consigns them to the lowest rungs of the less-skilled workforce as “second class” workers.

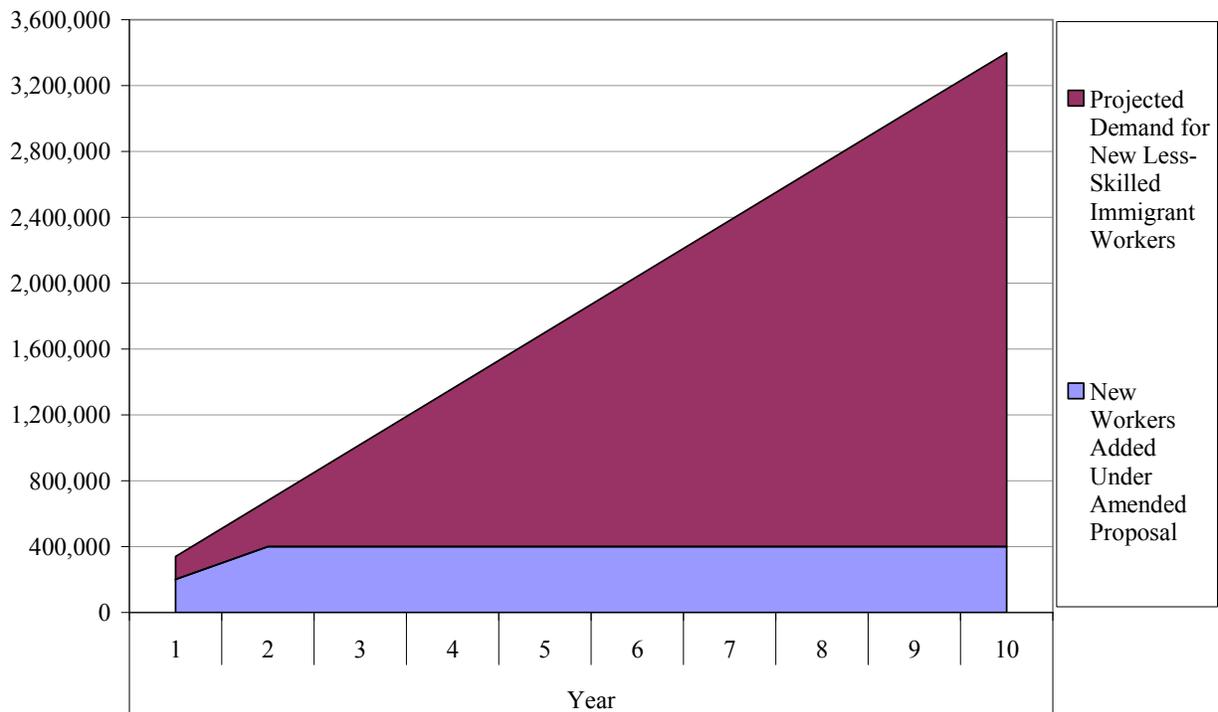
### **Temporary Workers Will Not Meet Labor Demand**

Because so many new less-skilled jobs in the U.S. economy are permanent, not temporary, the modest temporary program

envisioned in the amended proposal would not meet the ongoing demand for less-skilled workers. The original proposal to allow 400,000-600,000 foreign workers to enter the country annually on 3-year visas would have at least provided the economy with a steady flow of temporary workers that roughly matches the current demand for less-skilled immigrant labor—although the failure to provide a path to permanent residence for any of these workers would have prevented the program from meeting the increasing demand for workers in the future. By cutting this number in half, removing the flexible cap, and maintaining the strict limitation of 2-year contracts, the amended proposal ensures that an even smaller number of workers will actually enter the U.S. labor force—none on a permanent basis—and that the numbers will be woefully inadequate to address the long-term need.

Given that the number of less-skilled jobs in the United States continues to increase, the *net* decline of 340,000 per year in the size of the less-skilled native-born labor force between 2000 and 2005 can be taken as a rough approximation of the demand for less-skilled workers that is not being met by either the native-born workforce or current levels of immigration. Under a 2-year temporary program capped at 200,000 workers per year, the gap between the projected demand for 340,000 new less-skilled workers each year and the supply of 200,000 new temporary workers from abroad is not only apparent in the first year of the program, but quickly becomes enormous. To keep pace with labor demand, some 1.3 million temporary workers would have to be admitted by Year 5, and 3 million workers by Year 10—a political impossibility {Figure 4}.

**Figure 4: Ten-Year Projected Shortfall in Number of New Less-Skilled Immigrant Workers Under the Amended Proposal**



It is important to note that, even under the more expansive program of temporary admissions envisioned in the original proposal, the failure to allow workers to apply for permanent residence would quickly create a shortfall of workers, albeit a smaller one than under the amended version. In short, the current proposal contemplates a temporary labor program that, in labor market terms, will simply fail. Not enough immigrants will enter the U.S. economy to meet the escalating demand for workers to fill *permanent* less-skilled jobs.

**Viable Alternatives**

A temporary worker program based on 200,000 annual admissions without a pathway to permanent residence is not only bad for immigrants—it also fails to respond to the labor force needs of U.S. industry. Rather than institute such a program,

lawmakers should consider several other options:

- Revive last year’s Senate proposal that would allow temporary workers the opportunity to apply for permanent status. Workers would *not* be required to return to their country of origin or to wait a year in between the two permitted periods of employment in the United States on 3-year work visas. In addition, temporary workers could apply to have their families accompany them while working on their visas.
- Modify the existing proposal to allow temporary workers to renew their 2-year work contracts one or more times without having to return to their country of origin. After 4 or more years, some workers could

apply for a permanent status based on some combination of their work record, their ability to acquire new skills and increase their earning potential, or a demonstrated need for their labor as reflected in employer sponsorship.

- Create a *floating* cap of 400,000 annual visas to match the current labor-market demand for less-skilled foreign-born workers. A floating cap would allow admissions to expand and contract in response to changing labor-market conditions. Even a program capped at 400,000 would be preferable to a lower, politically determined number that is completely unrelated to labor demand.
- Increase the number of permanent, employment-based visas for less-skilled workers. These currently are capped at only 5,000, although key industries like construction have demonstrated a need for thousands of permanent entry-level workers who

can pursue established avenues for career advancement.

## Conclusion

The future of the U.S. economy depends upon a flexible immigration system that matches immigrant workers with demonstrated labor shortages. The temporary worker proposals now being debated in Congress would not respond to the growing demand for less-skilled workers to fill permanent jobs in high-growth industries like construction. In fact, the temporary program taking shape in the Senate would have the effect of cycling less-skilled immigrant workers in and out of the lowest rungs of the U.S. labor force without creating any longer-term investment in the workers or the industries in which they are employed. A larger temporary worker program, coupled with expanded *permanent* admissions of less-skilled workers, would more flexibly adapt the immigration system to the U.S. economy's growing need for a *settled* less-skilled labor force.

June 2007

\* This report was written by IPC research consultant Stewart Lawrence, IPC Research Fellow Rob Paral, and IPC Research Associate Walter Ewing.

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## Endnotes

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<sup>1</sup> The bill stipulates that, if the cap is reached within the *first* half of a fiscal year, then an additional number of visas equal to 15 percent of the cap will immediately be made available for the remainder of that year. In addition, the cap for the following fiscal year will be increased by 15 percent. If the cap is reached within the *second* half of a fiscal year, then the cap for the following fiscal will be increased by 10 percent.

<sup>2</sup> Bureau of Labor Statistics, Occupational Employment, Training, and Earnings database {<http://www.bls.gov/emp/home.htm>}.

<sup>3</sup> States in which immigrants' share of the labor force increased most from 2000 to 2005 also witnessed some of the sharpest declines in labor force participation by less-educated native-born Americans. In Maryland, for example, the percentage of less-skilled Americans working fell from 73.2 percent to 65.5 percent, while immigrants as a share of

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the workforce rose from 12.7 percent to 22.1 percent. See David J. Lynch and Chris Woodyard, "Immigrants Claim Pivotal Role in Economy," *USA Today*, April 11, 2006.

<sup>4</sup> 2000 and 2005 American Community Survey.

<sup>5</sup> See testimony of Daniel Griswold, Director, Cato Institute Center for Trade Policy Studies, before the Senate Committee on the Judiciary, Subcommittee on Immigration, Border Security and Citizenship, on "The Need for Comprehensive Immigration Reform: Serving Our National Economy," May 26, 2005.

<sup>6</sup> Olivia Crosby & Roger Moncarz, "The 2004-14 job outlook for people who don't have a bachelor's degree," *Occupational Outlook Quarterly* 50(3), Fall 2006: 36.

<sup>7</sup> Mary Buckner Powers, "Industry Facing a Labor Crisis," *Constructor Magazine*, March/April 2006.

<sup>8</sup> U.S. Department of Labor, Employment and Training Administration, *America's Construction Industry: Identifying and Addressing Workforce Challenges: Report of Findings and Recommendations For The President's High Growth Job Training Initiative in the Construction Industry*, December 2004. For a similar report focused on a state construction industry, see Kenneth E. Poole, et al., *A Workforce Needs Assessment of the Arizona Construction Trades Industry*. Arizona Department of Commerce, February 2005.

<sup>9</sup> Construction Labor Research Council, *Craft Labor Supply Outlook: 2005-2015*. Washington, DC: 2005. The report notes that comprehensive national data on construction apprentice programs is sorely lacking. However, the share of Latinos in these programs is growing rapidly. For example, in Texas, private industry sources estimate that well over 50 percent of the students enrolled in their craft classes are now Latino.

<sup>10</sup> Raja Mishra, "Study: Many Job Deaths Are Immigrants," *Boston Globe*, April 28, 2006. For example, immigrants comprised 17 percent of the construction workforce in Massachusetts in 2005, but accounted for nearly 30 percent of workplace fatalities.

<sup>11</sup> Since 2001, the Associated General Contractors of America and OSHA have formed a close strategic partnership in most states with large foreign-born workforces.

<sup>12</sup> The National Institute on Occupational Safety and Health commissioned the National Research Council to conduct the first comprehensive study of the Hispanic safety challenge in construction and other industries. See Committee on Communicating Occupational Safety and Health Information to Spanish-speaking Workers, *Safety is Seguridad: A Workshop Summary*. Washington, DC: National Academies Press, 2003.

<sup>13</sup> See Augusto Canales, *Developing Effective Integration Between American Supervisors and Hispanic Craft Workers in Construction*. Ames, IA: Iowa State University, 2004.