Basic Framework for Immigration Reform

July 19, 2012

Comprehensive Immigration Reform is a term loosely applied to a variety of legislative proposals and opinions based in large part upon special interests and political views rather than knowledge of immigration issues, operations, and the needs of the United States. We are offering this framework to provide a fuller perspective on the core issues and gaps in current immigration law and policy. These gaps must be addressed to ensure that we do not repeat the mistakes made with the Immigration Reform and Control Act (IRCA) of 1986. While IRCA resulted in the granting of permanent residence to millions of undocumented aliens and placed new administrative burdens on employers seeking to hire workers, it failed to accomplish its primary objective; which was to further reduce illegal immigration. The lessons from IRCA need to be identified and understood to ensure that the unintended consequences from previous efforts at reform are not repeated when addressing our current challenge. National debates on Immigration Reform should also focus on providing the answers to what role immigration plays in present and future America. We recognize the complexity of that task. This paper has a strong enforcement focus because controlling our borders and improving the integrity of immigration processes are the critical first steps in building the foundation for an effective immigration system. These steps can be taken while we determine the nature and scope of the other required reforms, and will serve to minimize future risks.

1. Decrease the Hiring of Unauthorized Workers (*Eliminate the magnet)*

While freedom and liberty are most certainly values that appeal to many foreign nationals, the primary attraction is that the U.S. is a land of opportunity and prosperity. Because employment and entrepreneurism draw many foreign nationals to enter this country illegally or overstay their visas, we must have a system that ensures the maximum possible employment of U.S. citizens and other lawful workers, yet leverages the use of foreign workers to address current and future shortages in critical areas. It appears that the weakened economy has discouraged many aliens from entering illegally and encouraged an unprecedented number to depart[1]. This illustrates how the availability of jobs, coupled with a weak employment eligibility verification system, fuels illegal immigration. This trend, however, is likely to reverse as the economy recovers; yet another reason for achieving reform sooner than later. Towards that end, we offer the following recommendations:

- Require all employers to use E-Verify. The legislation could provide a phased-in approach beginning with large businesses and/or specific industries to enable the Social Security Administration (SSA) and U.S. Citizenship and Immigration Services (USCIS) to increase capacity. An industry-based approach would level the playing field for employers.
- Consider the use of a tax incentive for businesses that register and use E-Verify voluntarily during the phased-in period.

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[1] *According to DHS's Office of Immigration Statistics, apprehensions by the U.S. Border Patrol decreased 61% from 2005-2010; from 1,189,000 in FY2005 to 463,000 in FY2010, the lowest level since 1972. Data from the Current Population Survey (CPS), which is collected monthly by the Census Bureau, reflects the illegal population declined significantly between 2008-2011. Evidence indicates that since hitting a peak in the summer of 2007, the illegal population may have declined by as much as 14%. The decline was also attributed to the weakening economy and enhanced enforcement, which caused fewer immigrants to come illegally and more to return home.*

- Provide progressive monetary penalties for employers that fail to adhere to employment eligibility verification laws. Publicize indictments, prosecutions, fines, convictions, and disbarments.
- Require non-U.S. citizen and lawful permanent resident workers to have their biometrics and biographic information captured by DHS/USCIS. Every worker should have an appropriate form of secure identification that establishes her/his authorization to work.
- Develop a national Employer Education Program template for states to use in educating their employers on statutory requirements. Require DHS to conduct annual audits of state efforts.
- Suspend the eligibility of egregious violators (businesses/employers) to file petitions with USCIS for a specified period of time then require them to pay fines and demonstrate rehabilitation before lifting said suspension. Subject them to periodic administrative compliance reviews during a probationary period.
- Expand the voluntary E-Verify self-check system to facilitate early resolution of non-confirmations. Consider modification of the Form I-9 to allow employers to accept a copy of the self-check confirmation in lieu of presenting other employment eligibility documentation. Consider replacing current employment eligibility documentation requirements with the self-check confirmation. Instances of identity fraud will decrease as biometric and biographic collection and verification mandates are established.

2. Improve the ability of U.S. employers to hire authorized workers

The current process of requiring individual jobs to be posted and unsuccessful efforts to fill them documented to the satisfaction of the Department of Labor (DOL) and DHS is laborious, time-consuming, outdated, expensive, and fraud-prone. Policies and procedures governing the issuance of labor certifications and the adjudication of employment-based visa petitions need to be modernized to better meet current and future business needs. A centralized and technology-driven approach is pivotal in this regard and should be undertaken before any changes are made to current numerical quotas (caps). Towards that end, we offer the following recommendations:

- Require DOL to publish triennial occupation forecasts (a list of national job shortages). Have DOL make ongoing annual updates as data is received from the states. These lists equate to pre-certified shortages, meaning employers need not pursue a labor certification for occupations listed. They should be able to electronically file a petition directly with USCIS for occupations in those categories.
- Require DOL, in partnership with the states and DHS, to develop a jobs database containing the lists of pre-certified national and state occupation shortages. Establish a mechanism for employers to post job vacancies and lawfully authorized workers and foreign nationals pursuing employment-based visas to seek employment[2]. Require employers to post vacancies in this database and attempt to fill jobs with lawfully authorized workers prior to filing petitions on behalf of foreign nationals. This will not only add integrity to the current labor and immigration-based employment process, it will also facilitate job recruitment for employers and job searching for lawful and prospective lawful workers.

[2] *The Federal Government's Office of Personnel Management (OPM) developed and currently administers such a database for lawful workers to seek federal jobs, so there is a successful platform upon which to build. Coincidentally, OPM's database is called "USA Jobs", an even more appropriate title for the recommended national jobs database.*

- In the case of nonimmigrant and immigrant hires, require employers to report the date employment commenced and "no shows". Also require employers to update the national jobs database when these foreign nationals change duties/positions, depart voluntarily, are paid a lesser wage, and/or are terminated. Require reasons for termination as well.
- Replace or supplement the current nonimmigrant and immigrant employment-based petition process with this system after fully piloted and validated.
- Use this system to automate the labor certification and adjudication[3] process to the extent possible, as well as electronically track the issuance of visa numbers – a longstanding challenge for the DOS and DHS (USCIS).[4]
- This system needs to contain advanced analytics capabilities, so that we maintain knowledge of ongoing employment needs, can manage compliance, and combat fraud.
- Build a proactive Administrative Compliance Review Program as an incentive to comply with requirements, maintain an ongoing knowledge of various employment categories, and to instill integrity in our legal immigration system.

3. Address the shortage of agriculture and other seasonal workers[5]

- Develop a seasonal worker program that allows temporary agriculture and other workers to enter and exit the U.S. for employment in areas certified by the DOL as being in short supply.
- Track entry and departure of said workers and remove those who violate the conditions of their visa from the program.
- Enroll agricultural and seasonal workers in DHS' Trusted Traveler Program for facilitation, maintenance, and security purposes.

4. Reduce the ability and incentive to enter and remain without authorization

The U.S. is at risk because all foreign nationals are not required to submit their biographic and biometric information prior to entry and be in possession of a secure government-issued identity document while present in the U.S. This limits the effectiveness of security screening and heightens the risk of identity fraud as there is no way to effectively determine that the individual who requests to extend her/his stay in the U.S., or to change her/his immigration status, is the one who was originally approved for entry or admitted. In addition to national security and public safety concerns, this omission presents problems for employers and government agencies who seek to verify identity, immigration status, or eligibility for employment or other benefits. We will never have an immigration system with integrity until this problem is fixed. Towards that end, we offer the following recommendations:

- Prior to allowing a foreign national entry into the U.S. or receiving a subsequent benefit such as an extension of stay or change of nonimmigrant status, require DHS and the Department of State (DOS) to compare records in their respective databases to verify her/his identity and ensure that her/his prior immigration history and pertinent background information are known and do not render the applicant inadmissible or ineligible. At a minimum, systems that must be checked

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[3] With the proposed database and other mandates, certain parts of the current adjudication process become verification-oriented.

[4] This system will provide timely and detailed data to Congress on jobs forecasts, skills shortages and trends. Such information may obviate the need for non-Immigrant visa caps. At the very least it will better inform Congress of the need for foreign workers on a temporary or permanent basis.

[5] This is recommended as an interim measure, until the above-proposed enhancements have been made.

include DHS' Person Centric Query System (PCQS), Arrival Departure Data Information System (ADIS), TECs, and DOS' Consolidated Consular Affairs Database (CCD). Also check records in the proposed foreign national registration and jobs databases to determine whether foreign nationals making application for temporary admission to the U.S. have previously overstayed their visit, been employed without authorization, or otherwise violated the conditions of a prior admission.

- Require DHS to implement an electronic biometric-based departure verification system for use by all non-U.S. citizens.
- Expand DHS' *Trusted Traveler Program* to enable foreign nationals from low risk countries[6] to travel to/from the U.S. without a visa and in-person inspection once they register, have their biometric and biographic information collected, background and other checks conducted, and a determination of admissibility made.
- Require all undocumented foreign nationals[7] in the U.S to register their presence in a to-be-developed Foreign National Registration Database (FNRD).
    - Require registrants to appear at a USCIS Application Support Centers (ASC) to have their identity checked and biometrics collected. Given the size of the undocumented population, this is very likely going to require USCIS to open more centers and enlarge a number of existing ones.
    - Perform criminal and national security-based background checks on these registrants to identify those who pose a threat to national security and/or public safety.
    - Issue a secure registration document to registrants after completion of a background check. Clearly note this document that it is solely proof of registration and that it is not authorization to enter, stay, travel, or work in the U.S.
    - Stipulate in the legislation that failure to register may render foreign nationals ineligible for future immigration benefits.
- Prohibit DHS from granting any immigration benefits prior to capturing biometric/biographic information and successfully completing background checks that ensure the applicant does not pose a threat to national security and/or public safety. This includes prohibiting the issuance of an Employment Authorization Document (EAD), interim or otherwise, without first ensuring the person is not a terrorist, *wanted* egregious criminal, or impostor. Databases exist to facilitate this process.

5. Improve Border Security

- Complete the long overdue development and design of physical and virtual barriers (fence, etc.) on the southern border.
- Modify the *Posse Comitatus Act* to allow the use of the military to support DHS in securing the border. Limit said use to the immediate border area.
- Require the development of a long-term border strategy. Determine the correct mix of staffing, equipment, and technology to support the strategy.

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[6] *Require the "risk" to be determined annually based on overstay rate data from in DHS' Arrival Departure Information System (ADIS). Automatically require visas and an in-person inspection of nonimmigrant applicants when a country's overstay rate exceeds the established acceptable rate.*

[7] *For this paper, an undocumented alien is one who is not present in the U.S. in a lawful status.*

6. Enhance Removal Proceeding Laws and Process

The current administrative removal system is not structured to deal effectively with the number of individuals unlawfully present in the U.S. It wouldn't be wise to expend the amount of resources it would take to operate it more effectively when the population of deportable aliens grossly exceeds the system's capability. While efforts continue to be undertaken to decrease the number of illegal aliens placed in removal proceedings (e.g., expanded use of prosecutorial discretion and deferred action), these do not resolve the underlying problem. We need to re-examine the longstanding practice of providing costly and time-consuming immigration hearings to those who are in this country illegally. This merely extends unlawful presence, positions unauthorized migrants to engage in employment, and to go underground when a removal order is issued. It also fails to result in the majority being removed. We are our own worst enemy. To fix this problem, we recommend the following:

- Expand expeditious removal to allow the establishment of alienage and unlawful presence to be sufficient grounds to expeditiously remove an alien, absent a fear of persecution, immediate availability of statutory relief, or substantive equities that warrant consideration in a formal hearing before an immigration judge. The expansion of expeditious removal will allow DHS and DOJ to concentrate formal removal proceedings on more complex cases, such as those where protection and/or relief may be available. It will also spare considerable costs associated with in-person administrative court proceedings for mere administrative violators[8] and eliminate the need for additional detention space.
- Consider development of a limited appeal or review mechanism for the foreign national that takes place after he/she has been refused entry, departs, and/or is removed from the U.S.
- Legislate an appellate/review body the authority to direct the return of inappropriately refused/removed nationals, whether it to be for re-inspection or to initiate or resume formal removal proceedings. The appellate/review authority should also determine whether return transportation costs should be borne by the Government.
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7. Mandate Support from State and Local Law Enforcement Agencies (LEAs)

A tremendous amount of confusion and distrust exists regarding state and local governments exercising what is believed to be Federal authority and/or supporting the enforcement of immigration laws. This is primarily because of longstanding efforts to deputize interested state and local law enforcement agencies to enforce immigration laws and/or identify and report illegal aliens to DHS. We believe the enforcement of immigration law is the primary responsibility of the federal government, but state and local governments should be required to determine the immigration status of aliens being questioned or arrested for other than immigration violations. Toward that end, we offer the following recommendations:

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[8] *This includes those who entered the U.S. without inspection, overstayed their authorized stay, and/or engaged in unauthorized employment.*

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- Require state and local law enforcement agencies to determine the immigration status of foreign nationals[10] who are being questioned or arrested for a felony (crimes of violence and drug trafficking) or serious misdemeanor (offenses against persons and/or property), and upon notice by Immigration and Customs Enforcement (ICE), detain those aliens up to 72 hours to allow time for the transfer of custody. [NOTE: This is not synonymous to providing state and local agencies authority to enforce immigration laws. It provides no immigration-based authority.]
- Disqualify non-compliant states, cities, and local municipalities from receiving federal funds.
- Require DHS to conduct compliance audits and provide Congress annual reports.

8. Enhance National Security and Public Safety-Based Screening[11]

DHS has made considerable improvements to its screening (background check) policies and processes over the past several years. The most significant challenges have been associated with privacy, policy, legal issues, and technological capabilities. In addition to the above-proposed screening enhancements, we recommend:

- DHS advance its screening process to include recurrent checks of the Terrorist Screening Data Base (TSDB) on all persons granted an immigration benefit, including naturalized citizens, until the fifth anniversary of naturalization. The fifth anniversary was chosen because existing law subjects naturalized citizens to denaturalization should they engage in a terrorist act within five years of being naturalized.
- Develop a Government-wide standard for "national security check" and the resulting "security risk/no security risk" determination, as agencies are performing their own version of such a check.
- Require DHS, including/especially USCIS, to share all information it has in its possession, without regard to classification and other statutory protections, with U.S. enforcement and intelligence agencies when it is needed to support a counter-terrorist or counter-intelligence investigation and/or vet a terrorist threat. Legislate controls that govern enforcement and intelligence agencies on the use and control of such information. Require formal audits and reports to Congress on these information-sharing activities. This will ensure much needed information is identified and shared much more quickly, so that a more effective and proper determination can be made.
- Require law enforcement and intelligence agencies to share information with DHS, including USCIS, that may have an impact on a foreign national's eligibility for, or retention of, an immigration benefit or status as a result of activity that threatens national security and public safety. Recognize USCIS' Fraud Detection and National Security (FDNS) Directorate as a law enforcement organization for this purpose.
- Modify the Violence Against Women Act to allow the sharing of information, with stringent controls, when in the interest of national security. Ensure the language reflects required protections of information that could prove harmful to the petitioner (victim).

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[10] This presumes that foreign nationals who are in this Country lawfully should be in possession of Government-issued documentation.

[11] "Screening" consists of collecting biographic information as well as biometrics (photograph, fingerprints, and signatures) and performing an FBI IAFIS criminal name and fingerprint check, an NCTC national security check, and a TECS check. Said checks must be completed and a "no security risk" determination made before a person is allowed entry into the U.S. and/or granted an immigration benefit.

9. Modify the Marriage Fraud Amendment Act

While the Marriage Fraud Amendment Act of 1986 reduced the amount of fraud, an unacceptable level remains. Most fraud is committed by those who have entered the U.S. legally, but overstayed their authorized stay. This is primarily because current law allows individuals married to U.S. citizens to adjust (change) their status in the U.S. even if they are not in a legal status. There is significantly less fraud involving foreign nationals who marry lawful permanent residents, because foreign nationals who marry non-citizens cannot adjust their status in the U.S. if they are unlawfully present. These foreign nationals must leave the U.S. and pursue their visas abroad. While we are not suggesting that current law be modified to preclude those unlawfully present from adjusting their status when married to a U.S. citizen, we do recommend legislatively requiring USCIS to conduct an in-person marriage fraud-based interview prior to approving a Petition for Removal of Conditions (Form I-751).

10. Reduce the reliance on paper evidence of blood-based family relationships

- Given the availability of DNA testing and its rather reasonable cost, petitioners and beneficiaries should be required to verify claimed blood relationships with DNA evidence. Allow a five year transition period; beginning with petitions that rely upon secondary evidence such as self-serving affidavits, questionable primary documents, and petitions associated with nationals from high risk countries.
- If petitioners or beneficiaries residing abroad are unable to have DNA testing done, or if the DOS prefers have it performed in the U.S., have DOS note the immigrant visa "prospective immigrant", and have DHS defer the applicant's admission to the U.S until the required DNA tests have been performed and the results reviewed.

11. Require Completion of Benefit Fraud Assessments (BFAs)

Some fraud exists in nearly every immigration application and petition and is most prevalent among employment and marriage-based petitions. In the early years of DHS, USCIS developed a Benefit Fraud Assessment (BFA) Program that was administered by its Fraud Detection and National Security Directorate. These BFAs proved to be extremely valuable in identifying the type and amount of fraud that existed, the root causes (including vulnerable policies and processes), and potential solutions. We need to build upon the success of these BFAs by requiring:

- USCIS to conduct at least two BFAs per year, focusing initially on marriage and employment-based petitions.
- Participation of DHS' Office of the Inspector General.
- An annual report to Congress that includes possible and proposed legislative remedies.

12. Expand USCIS' Administrative Site Visit and Verification Program (ASVVP)

As DHS was being formed, USCIS was faced with the challenge of verifying the validity of benefit decisions without the benefit of an intelligence or enforcement component. In response, USCIS developed and learned the value of an administrative compliance review program. Separate and apart from fraud-based inquiries or investigations and formal Benefit Fraud Assessments, FDNS conducted site visits on a random sampling of employment-based petitions to verify compliance with critical eligibility requirements. After conducting more than 30,000 site visits, FDNS determined that the Administrative Site Visit and Verification Program (ASVVP) contributed to significant reductions in fraud associated with nonimmigrant and immigrant religious worker and H-1B nonimmigrant employment-based petitions. Public knowledge of the ASVVP became an invaluable deterrent and contributed greatly to reducing double digit fraud rates to single digits over a two year period. For these reasons, we make the following recommendations:

- Require USCIS to expand the ASVVP by conducting ongoing employment, investor, religious worker, and marriage-based compliance reviews. This will ensure USCIS maintains an awareness of fraud elements in its various form types, as well as promote public awareness and compliance. It will also better position USCIS to make the changes needed to eliminate vulnerabilities and maintain integrity in this Country's legal immigration benefits system.
- Require USCIS to outsource field site verifications to contractors where the availability and use of government personnel is inefficient. This proved to be effective in the initial years of the the ASVVP, and will better enable FDNS to concentrate its limited resources and expertise on duties that are truly inherently governmental, such as conducting fraud-based inquiries and investigations. An administrative verification program does not require immigration subject matter expertise as it is focused on verifying the accuracy of specific information submitted on the petition under the close direction and management of government personnel.

13. Bar Unscrupulous Individuals and Entities from Filing Visa Petitions

Most current immigration laws and regulations focus on penalizing applicants and beneficiaries who have engaged in fraud, but not the petitioners, attorneys, or other representatives who may have been complicit either through their action or inaction. The end result is that those entities can continue to file immigration benefit-seeking petitions with USCIS, even when previous petitions were denied based on fraud and misrepresentation. This longstanding loophole must be closed if we are serious about the integrity of the legal immigration system. Towards that end, we offer the following recommendations:

- Legislatively bar attorneys, accredited representatives, employers, petitioners, and other entities from filing applications or petitions with USCIS after having been found to have engaged in immigration fraud.
- Bar employers who have willfully violated labor, employment eligibility verification, and anti-discrimination laws and regulations from filing petitions with USCIS for a specific period.
- Require those who engage in immigration fraud to pay a fine and demonstrate rehabilitation before lifting the bar or suspension.

14. Develop an Immigration Attorney Education and Registration Program

The longstanding practice of not requiring attorneys practicing immigration law to receive specialized and continuing education-related immigration training is not in the best interest of anyone; applicants and petitioners seeking immigration benefits, the government, or the legal community itself. Immigration law has become too complex not to require members of the profession to maintain their expertise. Several states have already taken it upon themselves to require such of immigration practitioners, and some also require it of immigration consultants. We are of the opinion that anyone providing immigration benefits-based services should be required to receive initial and continuing education, especially those providing legal representation.

USCIS does not currently require immigration attorney's to register with the agency, only that they submit notices of legal representation on each individual application and petition. This makes it extremely difficult for agency personnel to recognize practitioners in good standing and to administer an Attorney Education and Registration Program should it be legislated. It also prevents USCIS from posting a list of practitioners from whom the public could seek services. It will also help steer applicants aware from notarios and others who are not qualified to serve as legal immigration practitioners and other accredited representatives.

To improve the quality of legal services provided to the public and further enhance the integrity of the legal immigration system, we offer the following recommendations:

- Require immigration attorneys to receive initial specialized and continuing professional immigration-based education similar to what IRS requires of Certified Public Accountants. Consider requiring states to administer the continuing education training program and ensure that practioners maintain their bar license.
- Require immigration attorneys to be registered with DHS and DOJ.
- Require DHS and DOJ to post the names, addresses, telephone numbers, websites, and email addresses of all registered attorneys, including disbarred and suspended attorneys, on their department/agency website. This will not only enhance the integrity of the system by making it much more difficult to practice immigration law without a license, it will also improve the capabilities and knowledge of licensed practitioners, as well as provide a much needed service to the public.

15. Strengthen this Country's Technological Capabilities

- Create a new technology expert (TE) nonimmigrant classification to accommodate the truly advanced information technology experts needed to further the advancement of high-tech innovation and development. This "advancement" can be by engaging the person to teach/train others, perform research, or engage in development work such as system design, data architecture, and cyber security.
- Require petitioning businesses to be U.S.-owned, operating for at least 10 years, have a workforce of at least 100 personnel, 90% of which are U.S. citizens or lawful permanent residents, and enrolled in E-Verify.
- Require a minimum of five years' experience and a master's degree in the appropriate engineering or computer science field to be eligible to apply.
- Require that the foreign national's salary meet or exceed the average U.S. salary for such position.

16. Provide Humanitarian Relief to a Selective Portion of the Undocumented Population

Given the number of years this country has lacked control of its borders, it would be unreasonable and impractical to expect the majority of the unauthorized migrants (est. 11 million or higher) to depart voluntarily or be forcibly removed. While the recommendations contained in this paper will make it increasingly difficult for the unauthorized migrant to obtain unlawful employment and maintain themselves here financially, it is impractical to think the majority would depart upon passage of the legislation alone, especially those with significant equities. It will take years to develop and implement the proposed mandatory employment eligibility system. For these reasons, and due to the size of the unauthorized population, we recommend consideration be given to allowing those with significant equities to remain.

While it is contrary to the *rule of law* and the *principal of fairness* to award willful violators immigration benefits not available to law abiding persons, Reform is unlikely to get bipartisan support without some form of amnesty or legalization. It must also be noted that Forbes, a leading source of reliable business news and financial information, recently opined that the U.S. economy is dependent on aliens who are currently in the U.S. illegally and that their removal would have substantial adverse consequences to American businesses.

After taking all facts into consideration, we recommend a limited amnesty or legalization program that concentrates on a select portion of the unauthorized migrant population. Towards that end, we recommend the following:

- Modify Section 249 of the Immigration and Nationality Act to allow those who have resided in the U.S. for a continuous period of at least 15 years, are of good moral character, and are financially capable of maintaining their permanent stay without public assistance to apply for status as a lawful permanent resident[12].
- Also modify Section 249 to require only 10 years of continuous presence where the departure of the applicant would impose an exceptional hardship upon a U.S. citizen, lawful permanent resident, or employer who can produce a certification from the DOL reflecting there are insufficient lawful workers available to occupy the applicant's position and that his/her continued employment would not displace a lawful worker.
- Waive the unlawful presence bar for those who would be immediately eligible for an immigrant visa.
- Accord *temporary resident status* to those who:
    - Entered as minors and who have resided continuously in the U.S. for at least 10 years, completed high school, obtained a GED after completing at least two years of high school, completed at least two years of higher learning, or graduated from vocational school, and are gainfully employed or otherwise financially capable of continuing to reside in the U.S. without becoming dependent upon public assistance.
    - Are of GMC and own business in the U.S. that has employed at least 10 lawful workers for the past five years.
    - Are of GMC, have been employed in the U.S for at least 10 consecutive years, and possesses advanced education and skills.

[12] Sect. 249 (INA) currently allows foreign nationals who have resided in the U.S. since January 1, 1972, to apply for permanent resident status.

- Require these lawful temporary residents (LTRs) to subsequently qualify for immigrant status in their own right under existing immigration law; the most common avenues likely (eventually) being the amended Section 249 (as proposed above), marriage being the beneficiary of a relative immigrant visa petition, being the beneficiary of an approved employment-based immigrant visa petition, or through another legal provision for permanent residency.
- Legislation should not restrict the use of the information submitted in support of an application for temporary resident status as long as it is consistent with existing laws and other protections. We must ensure that national security/ public safety-related background checks, and anti-fraud efforts are not impeded by confidentiality clauses.
- Legislation should also subject LTRs to administrative removal should they become deportable for an egregious criminal or national security offense during their temporary stay.
- Require all applicants to have their biometrics captured and be recipients of a satisfactorily completed background check before being granted any benefit or document, including interim employment authorization and parole.
- Also require applicants to substantiate blood relationships via DNA testing, at their expense.
- This program should not, however, take place prior to undertaking the proposed enhancements to the legal immigration process and border security.