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Committee on Homeland Security
“The Financial Costs of Mayorkas’ Open Border”

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Chairman Green, Ranking Member Thompson, and distinguished members of the Committee:

My name is Aaron Reichlin-Melnick, and I currently serve as the Policy Director for the American Immigration Council, a non-profit organization dedicated to the belief that immigrants are part of our national fabric and to ensuring that the United States provides a fair process for all immigrants, including those seeking protection at the border. The Council works to strengthen America by working toward a more fair and just immigration system that opens its doors to those in need of protection and unleashes the energy and skills that immigrants bring.

The Council has long studied the economic impact of immigration to the United States, including the economic impact of individuals who are *not* preselected for their economic benefit to the United States, including undocumented immigrants and those granted certain humanitarian protections such as refugee status or Temporary Protected Status. Our data reveals that refugees collectively contribute \$25 billion in federal, state, and local taxes every year,¹ help rebuild and fuel local economies, and over time end up earning slightly above median household income. We will soon be publishing an analysis showing that immigrants granted Temporary Protected Status collectively pay over \$2.2 billion in taxes each year, are more likely to be entrepreneurs than U.S.-born residents, and have contributed substantially to the economies of states like Florida and Texas. On our website, we maintain an interactive map called “Map the Impact” showing the demographic characteristics of immigrants in each state, county, major metro area, and congressional district, as well as estimated taxes paid, spending power, entrepreneurship, and other socioeconomic statistics.²

The Council has also long studied the ways in which the Department of Homeland Security (“DHS”) has responded to migrants at the border and in the interior of the United States. We advocate for a response to migration which supports a flexible, orderly, and safe asylum system, one which protects due process in the adjudication of asylum claims while ensuring robust federal support for receiving communities around the country while migrants go through the asylum process. Our recent report “Beyond a Border

¹ American Immigration Council, “Starting Anew, The Economic Impact of Refugees in America,” June 20, 2023, at 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/05.23_refugee_report_v3_0.pdf.

² American Immigration Council, “Map the Impact,” <https://data.americanimmigrationcouncil.org/map-the-impact/>.

Solution” lays out 13 categories of recommendations for the Executive Branch and Congress to restore our humanitarian protection systems and break the cycle of crises and crackdowns at the border.³

I am grateful for the opportunity to be here today to help provide some perspective on the financial impact of immigration and our humanitarian protection system, and to offer ways to unlock the talents of newly arrived migrants and reduce the fiscal impact of humanitarian migration. My testimony aims to emphasize two key perspectives.

First, economic research carried out at the Council and by academics around the world has shown that immigrants of all types—low skilled, high skilled, undocumented, humanitarian, family-based, and employment-based—contribute substantially to the United States economy, help power our growth, and provide an overall net benefit to this country’s finances. As our research shows, even most immigrants who arrive here through purely humanitarian channels will, over time, pay more into the system than they draw from it. The importance of immigrants to the United States economy will only continue to increase as Baby Boomers age out of the workforce, demand increases for labor in the care and health sectors, and labor shortages persist across economic sectors.

Second, our outdated humanitarian protection systems act as a barrier to migrant self-sufficiency while they go through the asylum process, leading to unnecessary and counterproductive fiscal strains on local governments. The most significant example of this is Congress’s decision in 1996 to bar asylum applicants from receiving work authorization until 180 days after filing an application. At the time Congress passed this law, most asylum cases could be decided within six months. Today, the average asylum case takes between 4-6 years or longer. Whether or not Congress made the right call 27 years ago when they decided that a 180-day restriction on employment authorization would have a marginal deterrent effect on asylum seekers, today this restriction is causing nothing but harm. It has forced state and local governments into providing emergency assistance for people who would prefer to support themselves but are barred by law from doing so.

The federal government undoubtedly can do more to shield local budgets from incidental costs of responding to migration through broadscale reform, but it will require Congress to act. As we have long argued at the Council, it’s time for Congress to come together and build a 21st century humanitarian protection system that is fair, flexible, and robust.

Immigrants Across the Skill Spectrum Economically Benefit the United States

The American Immigration Council has long studied the economic impact of immigrants. In 2021 we merged with New American Economy, an organization that specialized in economic analysis of immigration issues, strengthening our experience in the field. Our research has documented the ongoing positive economic impact of immigrants—including humanitarian immigrants, undocumented immigrants, and others who do not arrive through employment-based visa programs—to the U. S. economy and to local communities around the nation.

³ American Immigration Council, “Beyond a Border Solution: How to Build a Humanitarian Protection System That Won’t Break,” May 3, 2023, <https://www.americanimmigrationcouncil.org/research/beyond-border-solutions>.

Our analysis of data from the American Community Survey (“ACS”) reveals that immigrant households in 2019 collectively earned \$1.7 trillion in income, paid \$467.5 billion in federal, state, and local taxes, and had a total spending power of \$1.3 trillion—which is often reinvested in local economies in the form of consumer spending.⁴ Despite the fact that only 13.6% of the population are immigrants, they make up 17.1% of the U.S. labor force and 21.7% of all entrepreneurs.⁵ Immigrants also make disproportionate contributions in many of the key fields powering American economic growth, as 26.1% of agricultural workers, 19.0% of manufacturing workers, 25.9% of all home health aides, 23.1% of STEM workers, and 15.2% of nurses are immigrants.⁶

Our data also shows that undocumented immigrants contribute significantly to the U.S. economy. In 2019, undocumented immigrants made up 3.1% of the U.S. population, collectively earned \$245.4 billion in income, paid \$28.9 billion in federal, state, and local taxes, and had a total spending power of \$216.5 billion.⁷ Undocumented immigrants are also more likely to be entrepreneurs than U.S.-born residents. Nearly 14% of undocumented immigrants, or 820,000 people, were entrepreneurs, compared with 9.3% of U.S.-residents.⁸

Immigrants have also long fueled this country’s economic growth. We recently found that two out of every five Fortune 500 companies had at least one founder who was an immigrant or the child of an immigrant.⁹ In total, 44.8% of Fortune 500 companies were founded by immigrants or their children. These companies brought in \$8.1 trillion in revenue, more than the GDP of Germany and the United Kingdom combined, and they employ 14.8 million people worldwide.¹⁰

Immigrants also play outsized roles in key sectors throughout our economy, including farm, dairy, and meat industries. Our analysis shows that immigrants are *essential* to the American food supply.¹¹ America’s food production industries rely on immigrant labor to ensure that all Americans can continue to eat. These industries are already suffering significant labor shortages as Baby Boomers reach retirement age and leave the workforce. Without immigrants to cover those shortfalls, America’s food producers would see even greater labor shortages and American consumers would pay even higher prices for everyday food items.

Without robust immigration, it is likely that food inflation would be significantly higher than it is today, putting far greater pressure on pocketbook expenses. The meatpacking industry is a perfect example of

⁴ American Immigration Council, “Immigrants in United States of America,” <https://map.americanimmigrationcouncil.org/locations/national/>. For more information on the economic impact of immigrants across the United States, by state, county, congressional district, and major metro area, visit our Map the Impact site at <https://data.americanimmigrationcouncil.org/map-the-impact/>.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

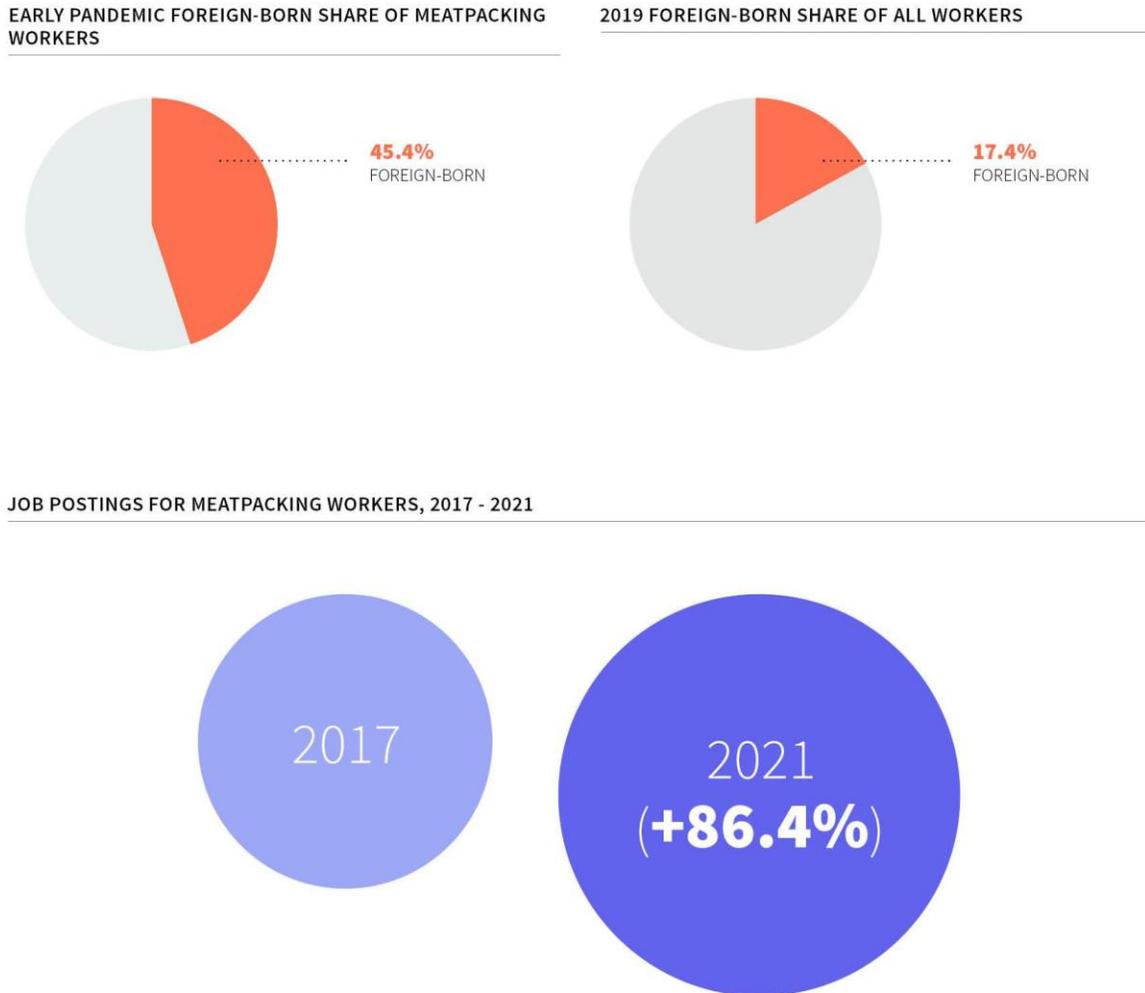
⁹ American Immigration Council, “New American Fortune 500 in 2023: The Largest American Companies and Their Immigrant Roots,” August 29, 2023, <https://www.americanimmigrationcouncil.org/research/new-american-fortune-500-2023>.

¹⁰ Ibid.

¹¹ American Immigration Council, “Tending to America’s Food Supply: The Essential Role of Immigrants in America’s Meat and Dairy Industries,” July 5, 2022, <https://www.americanimmigrationcouncil.org/research/tending-americas-food-supply-meat-dairy-industries>.

this reality. Nearly half of all people employed in the meatpacking industry are immigrants (45%), which is more than twice as high as the proportion of all workers who are immigrants (17.4%) (Figure 1). As an organization, we frequently consult with business groups around the country, and the number one concern we hear is that they have dozens of job postings open and not enough workers to fill them, even when increasing wages and benefits. Without immigrants, our nation’s food supply would look very different than it does today.

Figure 1: Immigrant Participation in the Meatpacking Industry



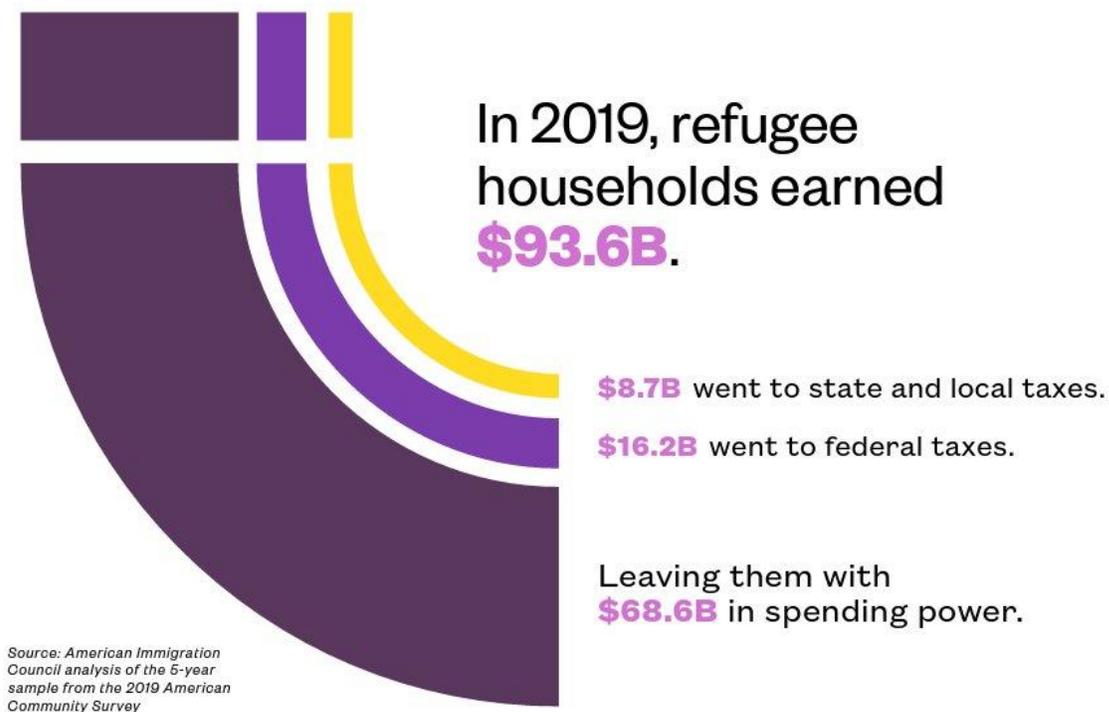
Crucially, the benefits that immigrants bring to the United States are not concentrated only among those who arrive through employment-based or even family-based visa programs. Our data has also shown that those who obtain immigration status through humanitarian programs, including asylum, contribute significantly to the United States. This analysis is particularly important when considering the fiscal and economic impacts of humanitarian migrants at the U.S. border today.

Refugees Have a Positive Economic Impact

Since the Refugee Act of 1980, nearly 4 million people have been granted permanent status either through the U.S. Refugee Admissions Program (“USRAP”) or through our asylum system.¹² Like asylum seekers, refugees often need significant help in their first months in the country to adjust to the conditions here and to find housing and employment. However, unlike asylum seekers, who are eligible for few benefits, refugees who enter through USRAP are provided significant assistance to get on their feet in their first years, and are eligible for specific federal benefits such as Medicare and TANF that most noncitizens do not become eligible for until at least five years of lawful permanent resident status. As a result, measuring the economic impact of refugees, who have similar humanitarian needs to asylum seekers yet receive significantly more governmental assistance on arriving, can provide key insights into the question of the fiscal impacts of asylum seekers and migrants arriving at the border.

In June, we published research examining the financial impact of refugee households in the United States.¹³ This report found that refugee households earned a collective \$93.6 billion in 2019 (see Figure 2). Of this sum, \$24.9 billion went to local, state, and federal taxes, leaving the refugee population with a total of \$68.6 billion in spending power.

Figure 2: Refugee Earnings and Tax Contributions, 2019



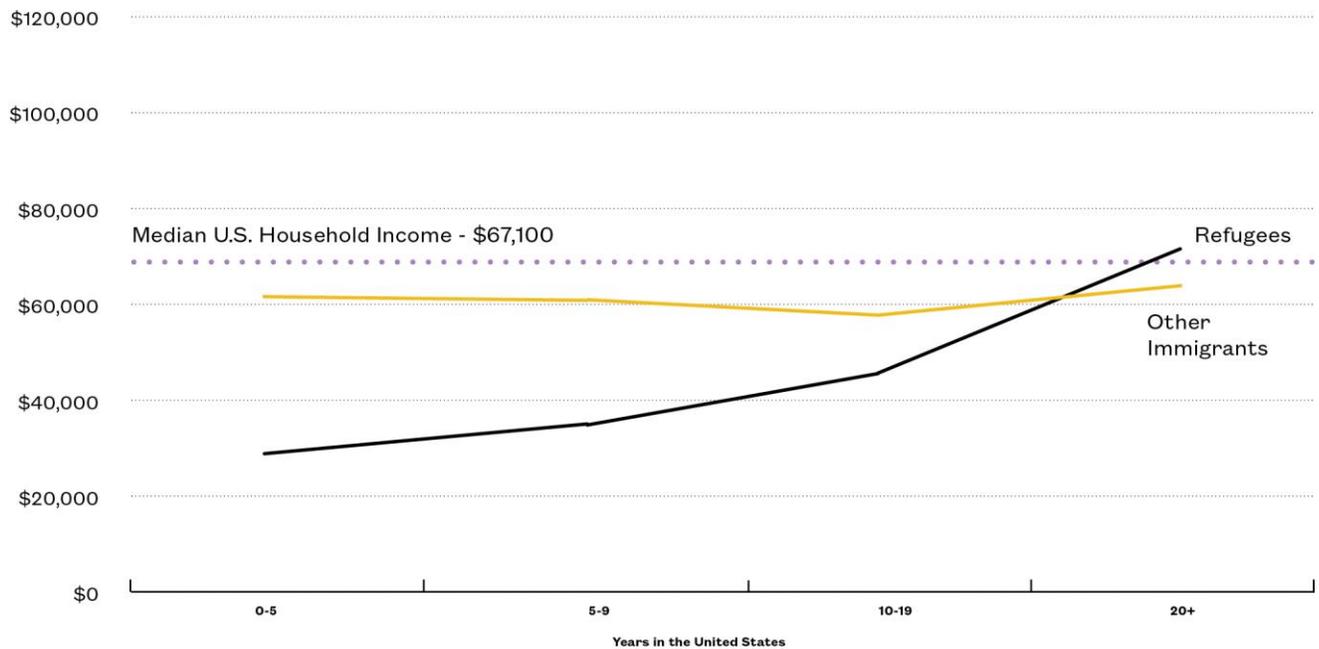
¹² American Immigration Council analysis of USCIS data.

¹³ American Immigration Council, “Starting Anew: The Economic Impact of Refugees in America,” June 20, 2023, <https://www.americanimmigrationcouncil.org/research/economic-impact-refugees-america>.

In 17 states, refugees hold more than \$1 billion in spending power. Refugees also have one of the highest rates of entrepreneurship in the country, with an estimated 13% of all refugees starting their own business, amounting to 188,000 refugee entrepreneurs in 2019.¹⁴ Refugees are also more likely to become U.S. citizens than any other group, with 89.9% of refugees becoming citizens after 20 years, compared to 67.5% of other immigrants.¹⁵

While many refugees struggle in their first years in the United States and often have low household incomes, the longer they stay in the country, the more likely they are to earn higher wages—eventually outearning other immigrants (see Figure 3). Refugees who have been in the United States for more than 20 years earn on average \$71,400 per year, which is 6.4% higher than the overall median household income in the U.S.

Figure 3: Median Household Income by Length of Stay in the United States, 2019



	0-5 Years	5-9 Years	10-19 Years	More than 20 Years
Refugees	\$30,500	\$35,300	\$45,000	\$71,400
Other Immigrants	\$61,100	\$60,700	\$57,200	\$63,300

This remarkably robust economic growth of refugees over time is one of the main reasons that studies have shown refugees have an overall positive fiscal impact. The Trump administration itself infamously refused to publish an analysis carried out by the Department of Health and Human Services which found that between 2005 and 2014 refugees “contributed an estimated \$269.1 billion in revenues to all levels of

¹⁴ Ibid.

¹⁵ Ibid.

government” and provided a net fiscal benefit of \$63 billion.¹⁶ Another study found that refugees who arrive in the U.S. between the ages of 18 and 45 “pay \$21,000 more in taxes than they receive in benefits over their first 20 years in the U.S.,” in part because refugees have a higher rate of labor force participation than the U.S.-born.¹⁷ Similarly, a 2022 study found that the Trump administration’s decision to slash refugee admissions led to a net loss of \$9.1 billion to the U.S. economy each year and “cost public coffers at all levels of government over \$2.0 billion each year (\$6,844 per missing refugee per year, on average.”¹⁸ These studies reinforce the fact that humanitarian migrants such as refugees contribute significant economic benefits to the United States, even those that require federal assistance at the beginning to get on a path to greater self-sufficiency.

Individuals Granted Temporary Protected Status Have a Positive Economic Impact

The American Immigration Council has also studied the economic impact of individuals granted Temporary Protected Status (TPS), the results of which will be published in a forthcoming report at the end of this month. This analysis is particularly important given the Biden administration’s increased use of TPS, and because individuals with TPS, like asylum-seekers, may have come to the US without authorization. As of March 31, 2023, there were over 610,000 people with TPS living in the United States,¹⁹ and an estimated 169,590 people may be eligible for TPS under three redesignations announced by the Biden administration since that date.²⁰

Our forthcoming report uses the American Community Survey to study the economic impact of the estimated over 350,000 TPS-holders as of 2021. During that time, TPS-holders collectively paid over \$1.3 billion in federal taxes and \$966 million in state and local taxes, and held over \$8 billion in spending power, money which supports countless U.S. businesses when spent on items like groceries, haircuts, or rent.

Our data shows that many TPS holders have laid down roots in the United States, and those roots have proven valuable to the U.S. economy. They have founded businesses at high rates, often creating jobs for U.S. workers and revitalizing communities in the process. We find that TPS holders had higher rates of entrepreneurship than similarly aged U.S.-born workers, with 14.5% of employed TPS-holders reported being self-employed in 2021 compared with 9.3% of the U.S.-born population (see Figure 4). These business-owners generate significant business income across the country. For example, our analysis

¹⁶ Julie Hirschfeld Davis and Somini Sengupta, “Trump Administration Rejects Study Showing Positive Impact of Refugees,” *New York Times*, September 18, 2017, <https://www.nytimes.com/2017/09/18/us/politics/refugees-revenue-cost-report-trump.html>; U.S. Department of Health and Human Services, “The Fiscal Costs of the U.S. Refugee Admissions Program at the Federal, State, and Local Levels, from 2005-2014,” July 29, 2017, <https://www.nytimes.com/interactive/2017/09/19/us/politics/document-Refugee-Report.html>.

¹⁷ William N. Evans and Daniel Fitzgerald, “The Economic and Social Outcomes of Refugees in the United States: Evidence from the ACS,” NBER Working Paper 23498, National Bureau of Economic Research, June 2017, <http://www.nber.org/papers/w23498>.

¹⁸ Michael Clemens, “The Economic and Fiscal Effects on the United States from Reduced Numbers of Refugees and Asylum Seekers,” Center for Global Development, March 24, 2022, <https://www.cgdev.org/publication/economic-and-fiscal-effects-united-states-reduced-numbers-refugees-and-asylum-seekers>.

¹⁹ Jill H. Wilson, “Temporary Protected Status and Deferred Enforced Departure,” Congressional Research Service, updated July 28, 2023, p. 6, <https://sgp.fas.org/crs/homesecc/RS20844.pdf>.

²⁰ American Immigration Council, “Temporary Protected Status: An Overview,” June 29, 2022, <https://www.americanimmigrationcouncil.org/research/temporary-protected-status-overview>.

found that 8,200 self-employed TPS holders in Florida and 7,800 self-employed TPS holders in California generated \$608.5 million and \$224.8 million in business income, respectively, in 2021 alone.

Figure 4: Entrepreneurship Rates of Employed TPS-Workers vs. U.S.-Born, 2021



The positive economic impact of TPS beneficiaries is concentrated in states with the highest populations of TPS beneficiaries. As Table 1 shows, as of 2021, TPS beneficiaries in Florida, California, and Texas alone collectively earned \$5 billion in income, paid over \$1 billion in taxes, and had a spending power of \$3.9 billion. As more individuals receive TPS under President Biden, these gains will increase. Florida in particular, with its high Venezuelan and Haitian populations, is likely to experience a significant increase in TPS beneficiaries residing within the state due to the Biden administration’s 2021 redesignation of TPS for Haiti and designation of TPS for Venezuela.

Table 1: Estimated Economic Impact of TPS Beneficiaries Across Key States, 2021

State	Number of TPS Holders	Total Income	Federal Income Taxes	State and Local Taxes	Spending Power
FL	65,200	\$1.6B	\$198.0M	\$113.7M	\$1.2B
CA	60,100	\$1.9B	\$235.1M	\$170.5M	\$1.5B
TX	55,400	\$1.5B	\$147.5M	\$140.9M	\$1.2B
NY	29,600	\$1.0B	\$142.3M	\$126.0M	\$743.9M
VA	21,300	\$660.9M	\$83.9M	\$60.9M	\$516.1M
MD	18,500	\$697.0M	\$100.5M	\$73.4M	\$523.2M
NJ	14,100	\$346.7M	\$39.3M	\$33.1M	\$274.3M
NC	13,200	\$317.7M	\$29.2M	\$28.8M	\$259.8M
GA	13,200	\$394.7M	\$47.6M	\$37.0M	\$310.1M
MA	7,700	\$286.5M	\$48.0M	\$25.4M	\$213.1M

TN	6,100	\$172.8M	\$19.2M	\$13.2M	\$140.4M
IL	3,200	\$127.8M	\$20.3M	\$13.8M	\$93.7M

Our analysis reinforces other studies examining the economic benefit of TPS. In 2019, we analyzed data on the jobs most likely held by TPS beneficiaries and found that they tend to work in high-demand jobs with low unemployment rates.²¹ And while our most recent analysis was confined to individuals granted TPS as of 2021, another recent study calculated the potential benefit of the Biden administration’s expansion of TPS and concluded that “TPS-eligible individuals, including current TPS holders, contribute some \$22 billion in wages to the U.S. economy each year and work in more than 600,000 jobs, filling important gaps in an economy plagued by persistent labor shortages.”²²

A 2017 study found that if the Trump administration’s terminations of TPS for El Salvador, Honduras, and Haiti had gone into effect, “the United States would lose \$164 billion in gross domestic product (GDP) over the next decade.”²³ A separate 2017 study calculated that terminating TPS for those three countries would result in a loss of \$6.9 billion paid into Social Security and Medicare over a decade, and the loss of hundreds of thousands of jobs when TPS was terminated would result in nearly \$1 billion in turnover costs to U.S. employers.²⁴

As with refugees, individuals who receive TPS often arrive in the country with few resources and are forced to start from scratch. Evidence shows strongly that the granting of TPS allows those individuals to participate more fully in the U.S. economy, unlocking greater contributions for the country.²⁵

Scholarship Shows Immigrants Are a Net Fiscal Benefit to the United States

Given the prominence that immigration has long played in the national debate, it is no surprise that scholars have studied the fiscal impact of immigrants to the United States. These studies have generally sought to answer the question of whether immigration a net positive for the United States, both economically and fiscally, and the degree to which various immigrant populations impact federal, state, and local economies and public finances. While this testimony is not intended to provide a comprehensive overview of the literature, it is worth emphasizing that recent studies to examine these questions have concluded that immigrants are a net fiscal benefit to the United States. First generation

²¹ American Immigration Council, “Workers with Temporary Protected Status in Key Industries and States,” January 9, 2019, <https://www.americanimmigrationcouncil.org/research/workers-temporary-protected-status-key-industries-and-states>.

²² FWD.us, “Temporary Protected Status protects families while also boosting the U.S. economy,” February 16, 2023, <https://www.fwd.us/news/temporary-protected-status-report/>.

²³ Nicole Prchal Svajlenka, Angie Bautista-Chavez, Laura Muñoz Lopez, “TPS Holders Are Integral Members of the U.S. Economy and Society,” Center for American Progress, October 20, 2017, <https://www.americanprogress.org/article/tps-holders-are-integral-members-of-the-u-s-economy-and-society/>.

²⁴ Amanda Baran, Jose Magaña-Salgado, Tom Wong, “Economic Contributions by Salvadoran, Honduran, and Haitian TPS Holders,” April 2017, https://www.ilrc.org/sites/default/files/resources/2017-04-18_economic_contributions_by_salvadoran_honduran_and_haitian_tps_holders.pdf.

²⁵ Pia M. Orrenius, Madeline Zavodny, “The Impact of Temporary Protected Status on Immigrants’ Labor Market Outcomes,” Federal Reserve Bank of Dallas, December 2014, <https://www.dallasfed.org/-/media/documents/research/papers/2014/wp1415.pdf> (finding that “TPS eligibility leads to higher employment rates among women and higher earnings among men”).

immigrants as a whole are likely to pay more in taxes than they will receive in benefits, and the United States continues to benefit significantly from the arrival of immigrants across all skill levels.

In 2017, a panel of the National Academies of Sciences, Engineering, and Medicine published one of the most robust modern studies of the fiscal impact of immigration ever done (“NAS Study”). This comprehensive report, entitled “The Economic and Fiscal Consequences of Immigration,” examined eight different scenarios relating to immigrant usage of benefits and calculated the fiscal impact across immigrant generations.²⁶ The NAS Study conclusively found that first generation immigrants and their children contribute more into the U.S. system than they receive in benefits. The study also found that first generation immigrants and their children, regardless of education level or age, impose a lower fiscal cost than those whose families have been in the United States for at least three generations. The data made clear that even over a 75-year time horizon, immigrants were a positive for the United States.

In 2023, the Cato Institute published “The Fiscal Impact of Immigration on the United States” (“Cato Study”), which replicated the NAS Study and updated it to include an additional five years of data.²⁷ The Cato Study concluded unequivocally that “immigrants pay more in taxes than they consume in benefits, on average.”²⁸ While cautioning that estimates of fiscal impact vary significantly, the Cato Study determined that the net fiscal impact of the average immigrant to the United States was +\$4,846 per immigrant²⁹—that is, that the average immigrant will contribute nearly \$5,000 more in taxes than they will consume in benefits over the course of their lifetime. The Cato Study also confirmed the NAS Study’s finding on the importance of age at arrival on net fiscal impact, concluding that the average immigrant who arrives in their prime working years or earlier will have a positive net fiscal impact on the United States. The Council’s own research shows that immigrants are more likely to be working-age than their U.S.-born counterparts, with 78.7% of immigrants being working age, compared to 61.5% of U.S.-born Americans.³⁰

International studies demonstrate similar effects exist outside the United States, although a meta-analysis carried out by the Organisation for Economic Co-operation and Development (OECD) in 2013 (“OECD Study”) found that immigrants’ net fiscal impact to OECD countries varies too much across countries to produce any meaningful global consensus. Despite this uncertainty, the OECD Study observed that the fiscal impact of immigration is “relatively small” across the OECD on average and “generally fluctuates around $\pm 1\%$ of GDP in most studies that look at the fiscal impact of the resident population in any given year.”³¹ The OECD Study also concluded that age on arrival was one of the most important factors: “generally, the more potential working, and thus contributing, years are still to come,

²⁶ National Academy of Sciences, Engineering, and Medicine, “The Economic and Fiscal Consequences of Immigration,” 2017, access at <https://nap.nationalacademies.org/catalog/23550/the-economic-and-fiscal-consequences-of-immigration>.

²⁷ Alex Nowrasteh, “The Fiscal Impact of Immigration in the United States,” Cato Institute, March 21, 2023, <https://www.cato.org/blog/fiscal-impact-immigration-united-states>.

²⁸ Ibid.

²⁹ Alex Nowrasteh, Sarah Eckhardt, and Michael Howard, “The Fiscal Impact of Immigration in the United States,” Cato Institute, March 21, 2023, at 138, <https://www.cato.org/sites/cato.org/files/2023-04/Fiscal-Impact-of-Immigration-WP.pdf>.

³⁰ American Immigration Council, “Immigrants in United States of America,” <https://map.americanimmigrationcouncil.org/locations/national/>.

³¹ “The fiscal impact of immigration in OECD countries,” *International Migration Outlook*, 2013, at 145, <https://www.oecd.org/els/mig/IMO-2013-chap3-fiscal-impact-of-immigration.pdf>.

the higher is the net fiscal impact.”³² This latter finding, replicated across multiple other studies, is particularly important as migrants crossing the border today are far more likely to be below the age of 45 than above it. Out of more than 948,317 people placed into removal proceedings in Fiscal Year 2023 whose ages were known,³³ 26.6% were between the ages of 0-17, 65.9% were between the ages of 18-44, and just 7.5% were 45 or above.³⁴ This suggests that the average migrant coming across the border today is in the prime of their working life and is more likely to have a net positive fiscal impact.

Studies have also consistently shown that legalization programs can significantly increase an immigrants earning power, and concordantly their contributions to public coffers. For example, in 2009 we determined that the legalization programs included in the 1986 Immigration Reform and Control Act (IRCA) meant that formerly undocumented immigrants were more likely to complete high school, participate in the labor force, earn a better wage, and own a home, without any evidence of an increase in use of public benefits.³⁵

While these studies cannot conclusively determine whether immigrants arriving today will be a net fiscal benefit or burden in the future, they are a strong indication that we should be viewing the arrival of new immigrants to the United States with an eye towards lifting barriers to participation in our economy and unlocking their potential, rather than restricting their ability to contribute.

Our Current Humanitarian Protection System Imposes Unnecessary Fiscal Costs and Prevents Immigrants from Achieving Self-Sufficiency

The 180-Day Asylum Employment Authorization Document (EAD) Limitation Prevents Protection Applicants from Contributing, Impedes Self-Sufficiency, and Imposes Fiscal Consequences on Local Communities

In 1996, Congress for the first time imposed a strict restriction on the ability of asylum seekers to work while they go through the asylum process. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) provided that applicants for asylum could be granted work authorization only after at least 180 days had passed since the application was filed.³⁶ Congress paired this with a provision requiring that all asylum applications be decided within 180 days “in the absence of exceptional circumstances.” Congress reasoned that imposing a 180-day limitation on work authorization for asylum applicants would limit any “pull factor” from the asylum process while ensuring that no person would have to support themselves without work authorization for more than 180 days absent “exceptional circumstances.”

³² Ibid.

³³ Data is through July 2023. An additional 103,186 people had an age listed as “unknown” in EOIR data. Transactional Records Access Clearinghouse, “New Proceedings Filed in Immigration Court,” August 2023, <https://trac.syr.edu/phptools/immigration/ntanew/>.

³⁴ Ibid.

³⁵ Rob Paral & Associates, “Economic Progress via Legalization: Lessons from the Last Legalization Program,” American Immigration Council, November 2009, https://www.americanimmigrationcouncil.org/sites/default/files/research/economic_progress_via_legalization_-_paral.pdf.

³⁶ 8 U.S.C. § 1158(d)(2).

Whatever the merits of Congress’s viewpoints at the time, legislators in 1996 could not have anticipated that 25 years later, the asylum process would take over four years on average from start to finish, or that many migrants would be unable to even file an asylum application until months after arriving due to systematic delays. There are likely thousands of asylum applicants who entered under President Obama whose cases remain pending, and hundreds of thousands of applicants who entered under President Trump. As a result, the primary effect that the 180-day limit has on asylum applicants today is not to deter them from coming to the United States—since they are certainly not going to receive a decision on their asylum case before becoming eligible to work—but instead to actively prevent them from becoming self-sufficient for their first year in the U.S., significantly increasing the burden on receiving communities. It is long past time that Congress erased this ill-guided restriction from the books.

Studies show that lengthy delays in providing work authorization have a significantly negative impact on an asylum seeker’s ability to participate in the labor force and support themselves, to the detriment of receiving communities and asylum seekers themselves.³⁷ Delays in granting work authorization also cause long-lasting harm to asylum seekers, employers, and communities, as studies show that migrants who are required to wait longer for work authorization have a measurably lower workforce participation rate than migrants granted work authorization quickly. One study found that similar temporary restrictions on asylum work authorization in Germany in 2015 led to a “€37.6 billion output loss” as migrants who were barred from employment had a 15% worse probability of finding employment after the ban expired.³⁸

Today, cities like New York are struggling because migrants are told that they cannot legally work. And without a source of income, migrants are forced to rely on others to support them. This significantly and unnecessarily increases the fiscal impact to state and local governments while offering no benefit to the country as a whole. There is no evidence that the lack of formal work authorization for 180 days after filing an asylum application has had any impact on the number of migrants coming to the United States. Instead, it has become a self-defeating relic.

In order to address this issue, Congress and the administration can do two things. First, Congress should eliminate the 180-day limit and replace it with a 30-day restriction, allowing U.S. Citizenship and Immigration Services sufficient time to carry out any necessary eligibility verification and background checks prior to the grant of work authorization. Second, the Biden administration should continue to explore versions of its 2022 asylum procedures pilot program, under which a positive credible fear application is treated as an “asylum application.”³⁹ This would not only streamline the asylum process, it

³⁷ Jens Hainmueller, Dominik Hangartner, and Duncan Lawrence, “When lives are put on hold: Lengthy asylum processes decrease employment among refugees,” *Science Advances*, August 3, 2016, 2 (8) (finding that “one additional year of waiting [for employment authorization] reduces the subsequent employment rate by 4 to 5 points, a 16 to 23% drop compared to the average rate”), <https://www.science.org/doi/10.1126/sciadv.1600432>; Moritz Marbach, Jens Hainmueller, and Dominik Hangartner, “The long-term impact of employment bans on the economic integration of refugees,” *Science Advances*, 2018, 4 (9) (finding that “employment rates were about 20 percentage points lower for refugees who, upon arrival, had to wait for an additional 7 months before they were allowed to enter the labor market”), <https://www.science.org/doi/10.1126/sciadv.aap9519>.

³⁸ Francesco Fasani, Tommaso Frattini, and Luigi Minale, “Lift the Ban? Initial Employment Restrictions and Refugee Labour Market Outcomes,” *Journal of the European Economic Association*, April 2020, 05 2021, 19 (5), 2803–2854 (finding that “exposure to a ban [on work authorization] at arrival reduces refugee employment probability in post-ban years by 15%” and that European bans on work authorization led to an estimated “EUR 37.6 billion output loss from the bans imposed on asylum seekers who arrived in Europe” in 2015), <https://docs.iza.org/dp13149.pdf>.

³⁹ See *Beyond a Border Solution*, Recommendation 4.

would ensure that migrants do not have to wait months to even begin the waiting period to receive work authorization.

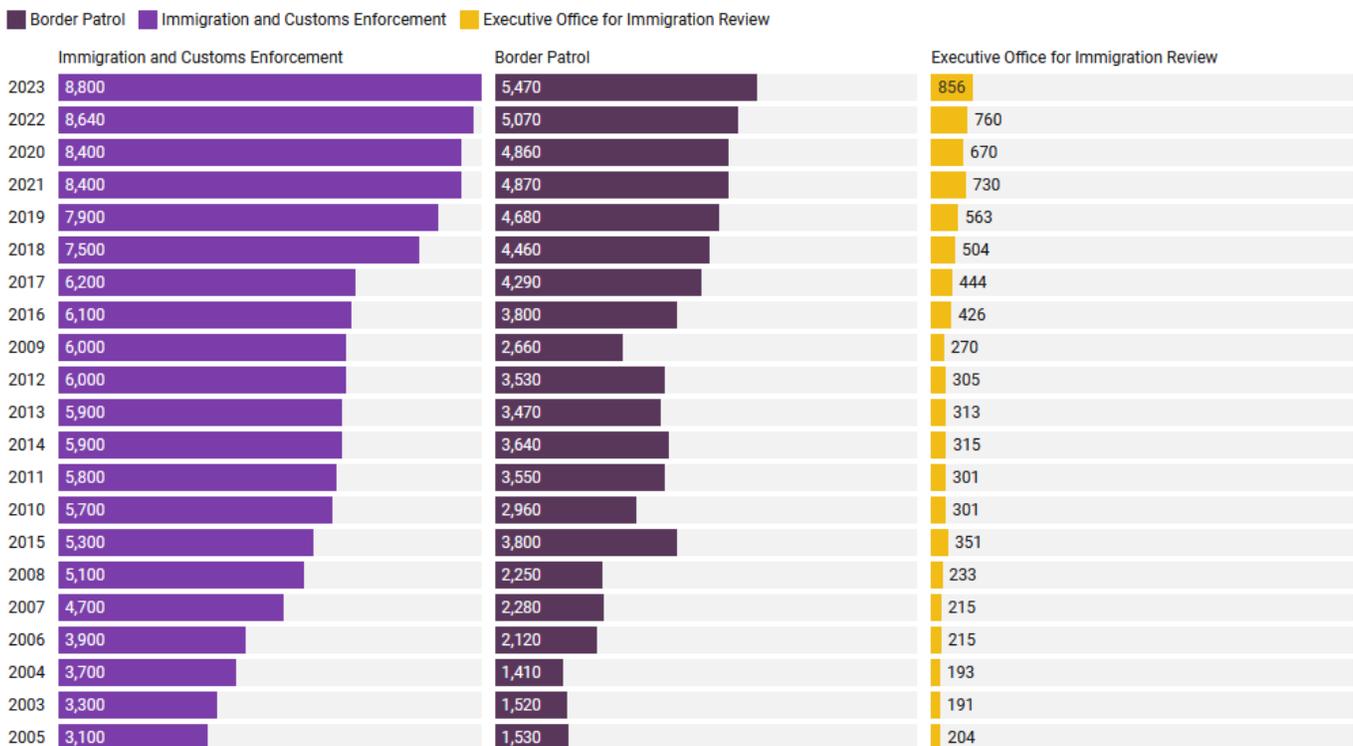
By unlocking asylum applicants’ ability to work we can limit fiscal impacts to state and local governments, stimulate economies around the country, and promote self-sufficiency among new arrivals.

Mismatched Spending Priorities Have Neglected Immigration Adjudication in Favor of Immigration Enforcement, Which Has Created Extensive Backlogs

Over the last 30 years, the United States has poured billions of dollars into immigration enforcement while systematically neglecting our immigration adjudication systems. As we explain in our recent report *Beyond a Border Solution*, in response to rising migration at the southern border, “past presidential administrations have attempted over and over again to use aggressive enforcement- and deterrence-based policies in hopes of reducing the number of people who are permitted to apply, rather than making a sustained investment into building a better system.”⁴⁰ This failed approach has diverted significant resources away from positive reform without achieving the primary goal of reduction. For example, the previous administration spent roughly \$15 billion on building 450 miles of border wall,⁴¹ all of which had little to no impact on overall migration—despite this new wall, migration today is higher than it was when President Trump took office.

These funding mismatches have existed for decades and are the direct cause of many of the longstanding backlogs throughout our humanitarian protection systems. Over the last 20 years, the immigration court budget has risen from \$191 million in FY 2003 to \$856 million in FY 2023, an increase of \$665 million (see Figure 5). Over the same time, the Border Patrol’s budget rose from \$1.52 billion to \$5.47 billion, an increase of \$3.95 billion.

Figure 5: Annual budgets of ICE, Border Patrol, and EOIR, in millions of dollars



In 2003, for every \$1 spent on the immigration courts, Congress spent \$7.95 on the Border Patrol. A significant gap persists today, although increased funding to the immigration courts has narrowed it slightly. In the FY 2023 budget, for every \$1 spent on the immigration courts, Congress spent \$6.4 dollars on the Border Patrol.

Congressional budget fights have also negatively impacted the ability of the immigration courts to adjudicate requests for humanitarian protection in a timely manner. In 2014, when the first modern “border crisis” occurred under President Obama, the immigration court’s budget was just \$300 million. Making matters worse, not a single new immigration court judge was hired in FY 2014 thanks to the “budget sequester” which led to hiring freezes across the federal government.⁴² The end result was a growing backlog that has only gotten worse since that point.

Restoring our humanitarian protection systems and breaking the cycle of crises and crackdowns is not only possible, but within reach. To do so, we need a major shift in thinking and policymaking. Politicians must abandon a fantasy of short-term solutionism and acknowledge that only sustained investment over a period of time can realistically address these 21st century challenges. Therefore, short-term action must focus on establishing a viable path towards a better system. In the long term, with significant investment, we can create a flexible, orderly, and safe asylum process which offers significant financial savings over the current system.

To resolve many of the current issues faced by state and local governments, we believe that the federal government should establish a Center for Migrant Coordination.⁴³ As we envision it, the Center for Migrant Coordination would serve both as a centralized information and coordination hub between the federal government and state and local stakeholders, and as an active participant in coordinating migrant arrivals between different locations. This would allow communities around the country to work together to share both the challenges *and* the opportunities created by migration. And with Congressional support, the United States could adopt programs similar to those which have proven successful in other countries, such as post-arrival integration assistance in the form of language classes, job assistance, and self-help resources for the asylum process.

A greater federal role in the migration process will also significantly reduce the fiscal impact of migration on state and local governments. A recent study found that refugees who enter the United States through the federally-funded USRAP program “have no statistically significant impact on local or state finances in the short- or long-term.”⁴⁴ One key reason for this is that “refugees receive support primarily from the federal government, resettlement agencies, and religious and secular community organizations rather

⁴² Executive Office for Immigration Review, “Immigration Judge (IJ) Hiring,” July 2023, <https://www.justice.gov/eoir/page/file/1242156/download>.

⁴³ See *Beyond a Border Solution*, Recommendation 3; Aaron Reichlin-Melnick, “Federal coordination can help migrants and communities that support them,” *Dallas Morning News*, July 12, 2023, <https://www.dallasnews.com/opinion/commentary/2023/07/12/federal-coordination-can-help-migrants-and-communities-that-support-them/>.

⁴⁴ Reva Dhingra, Mitchell Kilborn, and Olivia Woldemikael, “Does Refugee Resettlement Impact State and Local Finances? The Fiscal Effects of the Refugee Resettlement Program,” U.S. Immigration Policy Center, September 2021, <https://usipc.ucsd.edu/publications/usipc-fiscal-impact-refugee-resettlement.pdf>.

than local funds.”⁴⁵ Federal support would also be more fiscally efficient than a patchwork of local programs, because agencies could sign competitively-bid long-term contracts with established service providers, rather than relying on emergency contracting at significantly increased costs. For similar reasons, we suggest the creation of an emergency migration fund to limit unexpected impacts on appropriations.⁴⁶

Congress can also limit any fiscal costs associated with migration of migration through the creation of semi-custodial regional processing centers, where migrants would go through initial screenings at the border in purpose-built facilities designed for humanitarian migration.⁴⁷ Congress should also provide emergency backlog reduction funding to U.S. Citizenship and Immigration Services for adjudication of asylum applications, parole applications, TPS applications and employment authorization applications.⁴⁸

A key point that state and local governments have made in recent years is that the federal government should be doing more. We agree. A broader federal role in migration management, combined with a revitalized humanitarian protection system, would reduce fiscal impacts on local governments, promote due process, uphold American values, and unlock the energy and talents of new arrivals.

Conclusion

The United States is a nation of immigrants, one which has achieved its status as the richest and most powerful nation in the world in large part through the contributions of people who chose to make this country their home. Throughout our history, immigrants have fueled economic growth, built thriving businesses, and contributed to the health and wellbeing of our communities. It is not hyperbole to say that immigration is this country’s “secret sauce.” Many of our ancestors came here with nothing more than a few dollars and a dream. This spirit must be maintained in order to keep this country great, as the need for immigrants today is as strong as it was 100 years ago. Without robust immigration, the United States risks going the way of Japan or China, facing a steep demographic cliff which threatens to erase generations of economic gains and weaken our status internationally.

The need for us to get immigration right has become far more important over the last decade as growing numbers of people around the world resort to irregular pathways to seek safety and a better life. Over the past 10 years, the number of people displaced from their homes has grown to record levels throughout the entire world, with 31.7 million refugees and asylum seekers and 53.2 million internally displaced people globally by the end of 2021. The United States is far from the only, or even the most common, country in which displaced people are seeking refuge in the 21st century.

Despite the tremendous power and wealth of the federal government, the long-term economic benefit to the United States, and the importance of the country’s self-image as a haven for the dispossessed and a “beacon of freedom” to people around the world, the United States has so far abdicated leadership in facing this challenge. We have not updated our legal immigration system since November 1990, one month before the World Wide Web went online and when the Cold War was still in its waning days. Our

⁴⁵ Ibid.

⁴⁶ See *Beyond a Border Solution*, Recommendation 10.

⁴⁷ See *Beyond a Border Solution*, Recommendation 7.

⁴⁸ See *Beyond a Border Solution*, Recommendation 4.

humanitarian protection system, which hasn’t been updated in any significant way since 1996, is chronically underfunded, overstretched, and sorely in need of a massive overhaul.

Unfortunately, in the face of flashing red warning signs, we have spent the last decade doubling down on ineffective and increasingly cruel deterrence-based policies rather than responding to the changing realities at the border with innovative ideas. Billions of dollars that could have been spent on building adjudicatory capacity and limiting impacts to state and local coffers has instead been spent on border walls and other measures which have completely failed to address the underlying problems.

If we change our approach—funding adjudication, building dedicated processing centers, revamping outdated laws, and ensuring a national response for a national issue—we can regain that leadership. Not only will the United States better manage its own borders, but it can demonstrate to other countries what a functional system looks like and further international commitments to shared responsibility in migration. Key to all these solutions is a need to be flexible and to respond from a processing-first viewpoint, designed to reduce the arbitrariness, gridlock, and confusion that currently exist at the border and beyond.

Rather than focus only on temporary reductions of the number of people crossing the border or stop-gap solutions for work authorization, we need to address the longstanding shortfalls of the system and build fiscally sustainable solutions which unlock the powerful benefits brought by immigrants of all stripes.