



October 5, 2023

Immigration Reform: A Path Forward

By Stephen Yale-Loehr, Randel Keith Johnson, Theresa Cardinal Brown, and Charles Kamasaki¹

Introduction

On February 24, 2023, Cornell Law School's Immigration Law and Policy Program sponsored a conference entitled "Immigration Reform: Lessons Learned and a Path Forward."²

Representatives of business, labor, think tanks, and advocacy groups spoke on three panels.³ Over 220 people attended, either in-person or via webinar. The conference presentation and discussions, augmented by post-conference consultations, produced a rough consensus that while large, comprehensive immigration reform is unlikely to move forward in Congress, certain targeted reforms are both urgently needed and potentially achievable.

In this context, the proposals below focus on three areas: (1) border management and asylum reform; (2) worker programs; and (3) DREAMers. We recognize that other reforms—such as the Farm Workforce Modernization Act or measures to attract and retain more STEM talent—are also needed and potentially viable. However, we have chosen to highlight proposals where we can best add value to the field.

1. Border Management and Asylum Reform

Migration at the U.S.-Mexico border has fundamentally changed. During the 20th century, most people crossing illegally were adult Mexican men who rarely sought asylum. However, for the last decade, and for a variety of reasons, large numbers of arrivals at the shared border are not Mexican, not adult, not men, and are, at least nominally, seeking asylum.⁴ This has unraveled a decades-long border strategy meant to deter future illegal migration through immigration penalties of debarment from future entry and/or detention and prosecution for illegal reentry.⁵

Another significant change is the emergence of sophisticated immigration smuggling networks that are more integrated into transnational criminal organizations that already control the drug trade throughout the Western Hemisphere. These networks have a monetary incentive to continue to encourage irregular migration and prey upon the desperation of migrants.⁶

Additionally, the magnitude of irregular migration has diverted enforcement resources away from addressing criminal, drug, and other threats at the border,⁷ at

the same time that fentanyl and other deadly drugs being smuggled to the United States are resulting in record numbers of deaths of Americans.⁸ The vast majority of migrants do not smuggle drugs,⁹ and most drugs are smuggled through ports of entry, not across the border between ports.¹⁰ However, these two phenomena—increased asylum-seeking migration and increasing integration and sophistication of criminal smugglers—have overwhelmed existing border enforcement resources and processes.

While both the drug crisis and the migration crisis at the border are urgent and need strengthened policies to address them, the solutions to these crises differ. To address drug smuggling, additional resources, including new sophisticated detection technology, are needed at ports of entry. Congress should also authorize and fund additional personnel at ports of entry to increase the capacity to inspect vehicles for concealed drug caches, which is where most fentanyl is seized, so as to not inhibit the billions of dollars of legitimate trade and the thousands of passengers and vehicles legally crossing every day. Meanwhile, creating new solutions to receive, process, and adjudicate asylum claims has greater potential to free Border Patrol agents to focus on arresting those trying to sneak across and the drug smugglers who are taking advantage to bring their loads through the border. The faster we can address the asylum seekers at the border, the more quickly will law enforcement agents go back to interdicting drugs at the border.

The current legal, regulatory, and operational framework for managing migration and other law enforcement matters at the southwest border is inadequate to the “new” normal at the border and must be changed. Simply increasing the existing system’s capacity—both for asylum processing and criminal enforcement/deterrence, is unlikely to result in significant changes to current migration patterns for several reasons:

1. Adjudication and infrastructure capacity will always be resource-limited and unable to expand at a pace to match increasing migration levels that would ensure timely decisions on asylum and timely removal of those that do not qualify.
2. The increasing involvement of criminal cartels in people-smuggling will continue to challenge new immigration policies at the border as well as encourage continued illegal migration.
3. Continuing backlogs in the asylum and immigration court system and unmanaged arrivals will reduce public support for the existing asylum system and increase political pressure to limit or eliminate asylum at the border.¹¹
4. Deterrence alone is unlikely to reduce arrivals. Migrants are aware of the dangers of the migration journey¹² but also are not sophisticated to understand the immigration processes they will encounter. They are also desperate enough that traditional punitive measures will not prevent them from attempting entry. Smugglers will also continue to provide false or misleading information about border enforcement to encourage more migration.¹³
5. Migrants do not understand the legal standards for asylum and believe they have no choice but to try.¹⁴ Similarly, high rates of asylum denials overall are

irrelevant to the validity of any individual claim that might qualify for protection. In short, we cannot cut off all avenues to asylum, but we also cannot continue to accept applications from all who arrive, especially from those with highly unlikely claims.

6. Under current law, other avenues for regular migration are severely limited or unavailable to many migrants, who may be less skilled, without significant levels of education, may not have family members to sponsor them, and/or have limited means.¹⁵

Reforms to the current system must address these realities. Any new system should provide incentives to use regular migration channels rather than irregular migration, and a menu of potential options for those seeking protection so that we can be sure that those most in need receive protection. Our recommendations for the main elements of such a system are below.

However, because these recommendations implicate many different cabinet departments and agencies, they are likely to fail unless we improve the coordination efforts for migration management across the federal government. Therefore, our primary recommendation is to **create a new statutory "Office of Migration Policy" in the Executive Office of the President to oversee policy and operational coordination and budget requests for the government's efforts to implement all parts of our immigration laws relating to visas, immigration processing, immigration enforcement, and asylum and refugee processing and resettlement.**

Currently, responsibilities for immigration adjudications, enforcement, migrant housing and care, and support for refugees and asylum-seekers are divided among five cabinet departments: Labor, State, Homeland Security, Health and Human Services, and Justice. Furthermore, appropriations and oversight for these agencies all fall under separate committees in Congress. As our current system has been stressed, responses from these agencies have varied, been inconsistent, and at times at odds. There has been no comprehensive assessment of funding or adjudicative needs across the entire system, nor coordinated efforts at aligning policy and operations among these agencies. Within the White House, both the Domestic Policy Council (DPC) and the National Security Council (NSC) have roles in overseeing some of these processes, which can result in paralysis and delays when those organizations disagree. This has exacerbated the operational challenges and processing backlogs across the system.

We can no longer act as if our asylum, immigration, border, and refugee systems are separate. A new statutory office, with equal standing to the NSC and DPC, but with sole charge of coordinating all aspects of these processes, including funding and policy alignment, would allow the system to better respond to crises and meet the needs of the nation. This new agency would require sufficient funding, including for legal representation, and be at a level in the Executive Branch to ensure the cooperation of the relevant specific agencies. Absent this, our response to the new realities at the border will continue to be disjointed and ineffective.

Next, we propose the following pillars of a new system to manage migrant processing at the border:

- 1) **Make it a priority to go after smugglers and criminal cartels who are making billions of dollars from desperate migrants and encouraging illegal migration.** Specifically, law enforcement resources across the hemisphere must prioritize criminalizing, investigating, and prosecuting smugglers who lie and misrepresent to migrants the legal immigration process, who endanger the lives of migrants, and spread corruption to foster irregular migration. In particular, the transnational criminal organizations that have now taken over the smuggling operations must be dismantled, and cut-off from their money. This is also necessary to ensure that the cartels and gangs do not infiltrate the alternative processing mechanisms, such as the new Safe Mobility Offices in Latin America, and to ensure that migrants waiting for appointments or other formal processing aren't subject to extortion, kidnapping, assault, or other criminal activities. U.S. law enforcement assistance to these countries should be conditioned on cooperation in these priorities.
- 2) **Create alternatives to engaging smugglers and illegally entering the United States for those seeking protection and allow for decisions long before anyone comes to the border.** Specifically:
 - a. **Improve access to refugee resettlement to the United States and other countries in the Western Hemisphere for those who qualify.**³ Historically, refugee resettlement targets by the United States have focused on the Middle East, Africa, and Asia. Until this year the Western Hemisphere was allocated the fewest refugees of any region. A lack of traditional refugee supports in the hemisphere (limited or no UNHCR processing, refugee protection locations, NGO engagement, etc.) has made this means of obtaining protection unknown to most migrants in the Western Hemisphere. This must change so that those that are most in need do not feel that their only choice is to risk thousand-mile journeys through many countries to get to the U.S. border. However, to be a true alternative, the refugee process must be expedited significantly, and we must ensure that migrants have safe places to wait as their cases are decided.
 - b. **Expand other legal avenues of migration to the United States for work or family unification.** Many migrants are not traditional refugees, who must have a well-founded fear of persecution on account of being in a protected class. Our asylum system is not equipped and will not be resourced in the near term to make these determinations quickly. Creating other alternatives, including more opportunities for work visas that can allow migrants to earn money to support their families and futures in their own countries, is a better migration option for many migrants. See the worker program proposals section below. For those with family members already in the United States, Congress should expand avenues for humanitarian parole and/or create more ways that

persons already in the United States can be reunited with family members. Notably, for those with plausible asylum claims, using one of these alternatives might be faster and safer than claiming asylum at the border, and can still permit an asylum claim to be filed in the United States within 1 year after arrival. It can also allow time to receive legal advice and support to determine if they have a strong claim.

c. **Create asylum and other immigration information, screening, and processing centers outside the United States.**

Currently, most migrants do not understand U.S. immigration law, the various visa or other immigration options available to them, or whether they might qualify, and believe the only option is to go to the border to seek entry. U.S. embassies and consulates are not set up to provide these services. Investment in such outreach and ways that migrants could be pre-screened to understand their eligibility would make our immigration system more transparent, as well as allow the U.S. government to identify those in most need of protection. Recently, the State Department announced the creation of [Regional Processing Centers](#) under the brand of “[Movilidad Segura](#)” in Guatemala, Colombia, and Costa Rica to provide these services, although to limited populations. A developing relationship between USAID and the governments of [El Salvador](#), [Guatemala](#), and [Honduras](#) in advertising temporary work visas and developing trusted recruitment in those countries is another example of outreach. These represent a new effort to try to divert migrants from irregular migration before they start out on their journey north. This effort should be expanded and provided with sufficient capacity.

3) **Reform the asylum system for border arrivals to return it to its rightful place as the last resort for those that need protection, not the first option for those seeking to immigrate. To ensure these changes are durable and less subject to litigation, Congress should enact the following statutory changes:**

- a. **Create a separate and expedited adjudication system for those entering illegally.** While the United States must always abide by our commitment to not return people to countries where they would be persecuted or tortured, we can and should create a separate system for those that enter illegally between ports of entry that can be expedited and reduces the chances of being released into the United States indefinitely. These changes could include an expedited process and higher threshold to determine initial eligibility for asylum, and more limited appeal rights. It could include a longer wait for work authorization or a requirement to remain in place during the adjudication. While additional bars to eligibility could also be enacted, recent court cases make the prospect of doing so by regulation highly precarious.

- b. **Expand and enable preferential processing for asylum at ports of entry.** Just as arriving illegally between ports of entry should come with disincentives, arriving regularly at a port of entry, even without documentation, could come with privileges, such as expedited access to work authorization and the prospect of release into the United States for those with sponsors. However, capacity at the ports of entry must be expanded to not interfere with regular commercial and passenger/pedestrian processing at these ports. Recent experience with parole programs for certain nationalities and even the use of scheduling apps for appointments at ports of entry have shown that many migrants will use these alternatives if they are available, if they work, and if they know about them.

Combined with alternative paths such as expanded refugee processing and parole at centers in Latin America, these new incentives/disincentives could reduce the demand for smugglers and irregular migration to more manageable levels. However, since criminal cartels will fight for their “market share” of illegal migration, crackdowns on those organizations must also take place. Also, for these rules to meet our international obligations, access to these other avenues must be widely available, including increasing access to requesting asylum at ports of entry, as well as making sure that we are conducting thorough screenings against refoulement.

Taken together, if enacted these proposals would increase processing capacity and reduce backlogs, reduce irregular entries to the United States, and assure better coordination among agencies with some role in the system, all while maintaining U.S. obligations under domestic and international law and enabling us to secure the border from criminals and smugglers.

2. Worker Program Proposals

Many jobs are left unfilled across sectors and geographies in our country, to the detriment of economic growth, both short-term and long-term.¹⁶ Moreover, as discussed above, a significant stream of workers fleeing the breakdown of civil society in many countries, along with war and geopolitical upheaval, has led to new demands for both asylum and border reforms that would partially be ameliorated by new immigrant worker programs.¹⁷ This section sets out three proposals to help address this problem. However, we recognize that additional steps such as better education and training programs for American workers must also be part of any path forward.

This section list three proposals for immigrant worker programs. The first is broad but limited to essential workers where there are unfilled job openings. The second is industry-specific and covers high skilled and essential workers in the healthcare services industry. The third would authorize state governors to develop state-based worker visa programs. These three proposals are not listed in preference, and none are to the exclusion of the others. Indeed, they could be combined or stand alone,

depending on political realities. We leave for a separate day how to develop transition legalization provisions for the undocumented already in the workforce.

Build on Current Proposals for Essential Workers

One approach, already modeled in legislative proposals, would focus on essential workers in any industry and location where there are unfilled jobs and other criteria are satisfied. This was the approach of [S.744](#) in 2013 (W visa provisions in Title IV, Subsection G) and a current bipartisan bill, [H.R. 3734](#), the Essential Workers for Economic Advancement Act (Rep. Smucker (R-PA), Rep. Cuellar (D-TX)), which is supported by industry. This proposal is also similar in some respects to the Migration Policy Institute's forthcoming "bridge visa" concept.

Coverage would include nonseasonal, nonfarm occupations that do not require a college degree. Employers would have to meet certain qualifying criteria, partially measured by a labor compliance record, to initially qualify to use the program. Nonimmigrants would have to meet certain criteria to be in the pool from which employers would recruit. Employers that met specified recruitment standards, including the usual prevailing wage requirements, and are located in areas with employment rates below 5%, could recruit nonimmigrants in the pool.

Congress would set the proposed initial cap, along with an escalator/de-escalator depending on economic conditions. Employees would have a pathway to a green card under normal order, but with no additional avenues or increases in green cards. Family members would not be included in the cap. The usual study on effectiveness would be required. The workers could move after one year to other approved employers who have met the compliance and other requirements. Participating employers would be required to use E-Verify. No private cause of action would be permitted, and enforcement would be through the DOL. Eligible employers would have to show a track record of no "finally adjudicated" violations under the FLSA and OSHA. Damages would be limited to lost backpay and benefits. A complainant who filed a frivolous complaint could be liable for attorney fees and costs.

H.R. 3734 mandates an electronic tracking system like the SEVIS system used to track student visa holders. The bill would require at least 25% of the visas issued during the initial six months of a year's allocation to be allocated to small businesses, defined as an employer that employs fewer than 36 full-time employees or fewer than 51 full-time equivalent employees. Unclaimed visas would roll over to be used by any eligible employer, so that visas would not be lost.

H.R. 3734 creates a sound structure from which to negotiate a viable program. However, major issues would have to be negotiated, including enforcement, portability (which is related to enforcement because the ease of moving from one job to another self-polices an abusive employer), circularity, prevailing wage determinations, and the criteria to be a qualified employer.

Proposal for an Immigrant Worker Program for the Healthcare Services Industry

This program, conceptually modeled after the Farm Workforce Modernization Act, would target one sector, to help the healthcare services¹⁸ industry recruit foreign national workers.

Why this industry? Frankly, a combination of substance and politics. Substance because numerous studies document the shortages of U.S. workers in this industry.¹⁹ Political because we believe that the problems these shortages create, in terms of direct delivery of care, are understood generally by the millions of Americans who have been, or will be, in need of medical or elder care—for themselves or relatives, whether in institutional care or in-home settings. The proposed program should thus be easily justifiable and explained in both the court of public opinion and Congress.

This is not to contend that other economic sectors are less important—only that this is an area where arguably people can agree on the need and the solutions. The position is premised on the importance of the identified sector as a whole and the workers providing the health care services therein.

The proposal would contain a pathway to a green card after certain conditions are met, and would be intended as a supplement to the H-1B program and the Conrad visa program to allow other avenues of recruitment for the healthcare services industry. Whether the program would need to have all the structural type of requirements discussed under the essential worker proposal above (such as a prevailing wage requirement—however contentiously defined—and prior recruitment obligations) would need to be determined.

We acknowledge that this framework is unique in that it would allocate visas to a certain sector based on the special needs of that sector and its self-evident critical importance to Americans. But it would also follow a somewhat traditional analysis by identifying occupations within that sector that should be eligible for the visas based on an analysis of job demand and shortages.²⁰

State-based Immigration Programs

This proposal would authorize state governors to ask DOL and/or DHS to approve additional worker petitions to authorize the hiring of immigrants by employers in their respective states, or to go broader and authorize States to enact their own worker programs, through an express exemption from Congress to federal government supremacy on immigration. This is a not a new idea.²¹ However, because it has not been actually enacted, many questions would need to be answered about how such a program would work.

These include the size of the program (caps), any transition to green cards or pure circularity, pre-recruitment and prevailing wage requirements, portability and related requirements to remain in the state for a number of years, and enforcement (e.g., private cause of action or only agency or employer self-certification). In sum, all the issues that have bedeviled this area at the federal level (see S. 744, W visa provisions in Title IV, Subsection G) could also hinder this seemingly simple option. That having been said, there is increasing appetite among states for more direct

input and access to the immigration system. Federal legislation could set guardrails within which states would have discretion to shape their own programs. Each state will have its own political dynamics in determining how migration may aid its economic development and how best to structure programs to address migration. But gridlock in Congress, and many recent developments in the states, suggest that states should be given leeway to structure their own solutions to meet their own needs.

In frank recognition that the three programs discussed above are, in their own different ways, novel, it would make sense that each should sunset after a period of time--perhaps 15 years following enactment. Such a period would allow for implementation and testing and, importantly, force evaluation of the program and opportunity to correct unforeseen problems. We hope that a sunset provision would help answer the concerns of those who oppose moving forward.

Caps on the number of visas allowable under each program have not been specified in recognition that they are inherently a determination based on both substance and politics as vehicles move forward in the legislative process. However, given that the labor market and economy are fluid dynamic forces, it would be appropriate to include escalator/deescalator provisions that allow fluctuations based on these dynamics.

3. DREAMer Protections

“DREAMers” are immigrants who entered the United States without authorization as children, or whose visa status expired while they were minors. They are named after the original legislation (Development, Relief and Education for Alien Minors or “DREAM” Act) that would permit many of them to adjust to legal status. According to the Migration Policy Institute, as many as 3.9 million people fall into this category, although about 2.7 million meet the educational and other requirements required to acquire protection under the version of the legislation, the American DREAM and Promise Act sponsored by Rep. Lucille Roybal-Allard (D-CA) that passed the House in 2021.²² In 2012, via executive action, President Obama established the Deferred Action for Childhood Arrivals (DACA) program, which currently provides temporary protection from deportation and work authorization, renewable in 2-year increments, to over 570,000 DREAMers.

Although legislative proposals to provide protection to DREAMers are popular,²³ the DACA program is being challenged in court²⁴ and its long-term fate is uncertain. Meanwhile, existing DACA recipients’ lives are in limbo,²⁵ and the program is enjoined from accepting new applicants.

To protect DREAMers, we propose a new, indefinite “conditional residence status” to DREAMers with protection from deportation, work authorization, and the right to travel abroad. Our proposal is based in part on the 2017 SUCCEED Act ([S.1852](#)) sponsored by Senators Thom Tillis (R-NC) and James Lankford (R-OK).²⁶ This conditional status would:

- Be open to immigrants brought to this country, or who fell out of status, as minors (18 or younger) who meet certain educational or work requirements and have not been convicted of serious crimes;
- Not create a “special path” to citizenship, but recipients would not be barred from acquiring lawful permanent residence through existing channels; and
- Not permit recipients to petition for relatives or access certain public benefits limited to U.S. citizens or lawful permanent residents.

Since they were minors when they entered the United States, DREAMers should not be held responsible for certain immigration violations, according to traditional legal²⁷ or ethical²⁸ standards. Even among those accepting this basic principle, the ability of DREAM Act recipients to pursue a special pathway to citizenship, petition for family members abroad, or access public benefits reserved for U.S. citizens and lawful permanent residents have drawn objections, particularly from Republicans. At the same time, some Democrats and moderates have indicated they would not support any immigration bill without permanent protections from deportation for DREAMers. This proposal offers such protection, while also addressing concerns of DREAM Act opponents.

Conclusion

These policy recommendations will need to be backed up by funding. In particular, increased border security and asylum system reforms require funding for expansion of physical and human infrastructure at the border—including relief for impacted local communities—and more asylum officers and immigration judges. It should also be emphasized that timely processing of worker visas depends in part on greater capacity to reduce existing backlogs and that expanded legal services are needed for effective implementation of the asylum reforms and conditional status for DREAMers provisions in this package. Some might argue that the requests for increased appropriations could impede timely action on these proposals, but in fact budget and/or appropriations legislation could well be the most likely vehicle for these and other immigration-related reforms.

While falling far short of what we believe are the full panoply of necessary and appropriate immigration reforms, these proposals would tackle three large and important areas: strengthening border security, implementing targeted measures to better align our immigration system with economic imperatives, and offering deportation protection to DREAMers. As such, they offer, individually and collectively, a path forward that addresses our most urgent needs, structured in ways to maximize the bipartisan support required for enactment. We urge their swift consideration by Congress and the administration.

References

¹ Yale-Loehr is Professor of Immigration Law Practice and Faculty Director of the Immigration Law and Policy Program at Cornell Law School. Johnson, Cardinal Brown, and Kamasaki are Distinguished Visiting Immigration Scholars at Cornell Law School. The views expressed in this paper are solely those of the authors and do not necessarily reflect the position of Cornell Law School, Cornell University, or any of the participants and speakers at our February 24 conference at the National Press Club. © Copyright 2023 by Stephen Yale-Loehr, Randel Johnson, Theresa Cardinal Brown, and Charles Kamasaki. All rights reserved.

² A recording of the event is at <https://community.lawschool.cornell.edu/immigration-reform-lessons-learned-and-a-path-forward/>.

³ A wide variety of organizations across the political spectrum participated, including speakers from the American Business Immigration Coalition, AmericanHort, the Bipartisan Policy Center, Compete America, the Migration Policy Institute, the National Association of Evangelicals, the National Immigration Forum, the Niskanen Center, the Service Employees International Union, TheDream.US, the Texas Association of Business, United Farm Workers, and the U.S. Chamber of Commerce.

⁴ See John Gramlich and Alissa Scheller, Pew Research Center, [What's Happening at the U.S.-Mexico Border in 7 Charts](#) (November 9, 2021).

⁵ U.S. Border Patrol, [Border Patrol Strategic Plan: 1994 and Beyond](#) (July 1994).

⁶ Miriam Jordan, New York Times, [Smuggling Migrants at the Border Now a Billion-Dollar Business](#) (July 25, 2022).

⁷ See, e.g., Daniel Borunda and Rafael Carranza, El Paso Times, [Shifting CBP Officers Could Leave Ports Vulnerable](#) (April 1, 2019); Stef Kight, Axios, [Homeland Security Short Billions Due to Border Efforts](#) (July 27, 2023).

⁸ Brian Mann, NPR *All Things Considered*, [U.S. Drug Overdose Deaths Hit a Record in 2022 as Some States See a big Surge](#) (May 18, 2023).

⁹ David Bier, Cato Institute, [Fentanyl is Smuggled for U.S. Citizens by U.S. Citizens, Not Asylum Seekers](#) (September 14, 2022).

¹⁰ Jackie Botts, Reuters, [Measuring Drug Seizures at the Southern Border: How Reuters Analyzed the Data](#) (August 9, 2023).

¹¹ See Alex Nowrasteh, Cato Institute, [Border Chaos and the Catch-22 of Immigration Reform](#) (August 10, 2022).

¹² United Nations University, [Refugees and Migrants Know the Risks of Stowing Away on a Lorry, But Feel They Must Take Them](#) (October 30, 2019).

¹³ Priscilla Alvarez, CNN, [Human Smugglers Peddle Misinformation to US-bound Migrants on Facebook, Watchdog Says](#) (July 27, 2022).

¹⁴ Huruble Meko and Raul Vilchis, New York Times, [New Migrants Have a Year to Apply for Asylum. Many Won't Make It](#) (July 3, 2023).

¹⁵ David Bier, Cato Institute, [Why Legal Immigration Is Impossible for Nearly Everyone](#) (June 13, 2023).

¹⁶ See Committee for Economic Development of The Conference Board, [Report: As US Economy Grapples with Nearly 11 Million Unfilled Jobs, Immigration Reform is Critical](#) (March 2023); Federal Reserve Board Chair Jerome Powell, [Inflation and the Labor Market](#) (November 2022); Lauren Weber and Alana Pipe, Wall Street Journal, [Why America Has a Long-term Labor Crisis, in Six Charts](#) (September 25, 2023).

¹⁷ See, e.g., Cecelia Esterline, Niskanen Center, [How Immigrants Can Alleviate the Domestic Labor Shortage](#) (November 21, 2022); Kate Hooper, Migration Policy Institute, [What Role Can Immigration Play in Addressing Current and Future Labor Shortages?](#) (April 2023).

¹⁸ We use the word “services” to include only those aspects of the health care industry directly involved in patient and elder care.

¹⁹ See Tanner Bateman, Sean Hobaugh, Eric Pridgen and Arika Reddy, Mercer, [US Healthcare Labor Market](#) (September 2021); Duquesne University, [The Shortage of Healthcare Workers in the U.S.](#) (August 2023); Kathleen Steele Gavin, McKnight’s Senior Living, [Immigration a Possible Answer to ‘Demographic Drought’ Draining State’s Workforce](#) (September 19, 2023).

²⁰ NAISC Codes 622 (hospitals), 623 (nursing and residential care), 624120 (services for the elderly and persons with disabilities), and 621610 (home health care services) appear to be appropriate sector identifications, and Standard Occupational Classifications Major Groups 29 (Healthcare Practitioners and Technical Occupations and 31 (Healthcare Support Occupations) appropriate occupational classifications, to frame this analysis. See also the occupational shortages identified in the Mercer and Duquesne studies cited above. We recognize that determinations of worker shortages can be difficult, but believe that given the vital nature of these sectors, credible studies and testimonies should be adequate.

²¹ See, e.g., Bipartisan Policy Center, [Immigration at the State Level: An Examination of Proposed State-Based Visa Programs in the U.S.](#) (May 2020); Cato Institute, [State-Based Visas: A Federalist Approach to Reforming U.S. Immigration Policy](#) (April 2014); Buckeye Institute, [Ohio's Global Fight for Talent: the Case for State-Based Visas for High-Skill Immigrants](#) (June 2023); [S. 2705](#), State Executive Authority for Seasonal Occupations Needing Additional Labor Act (introduced July 27, 2023); Op Ed by Governors Eric Holcomb and Spencer Cox, Washington Post, [To Solve Our National Immigration Crisis, Let States Sponsor Immigrants](#) (February 21, 2023); Economic Innovation Group, [Could a Heartland Visa Help Struggling Regions?](#) (April 2019). See also North Dakota Senate Bill 2142, creating an Office of Legal Immigration within the North Dakota Department of Commerce to help employers recruit and retain foreign labor and address the state's workforce challenges, [signed](#) April 21, 2023. California also has had a successful pilot program allowing doctors from Mexico to fill patient needs in the state. This is especially important given linguistic barriers. See Claudia Boyd-Barrett, California Health Care Foundation, [Doctors from Mexico Treat Farmworkers in Rural California](#) (June 27, 2023).

²² Migration Policy Institute, [American Dream and Promise Act of 2021: Who Is Potentially Eligible?](#) (March 2021).

²³ Presidents' Alliance on Higher Education and Immigration, [Voters Agreed On Urgent Need For Legislative Solution for DREAMers: Recent Polling Shows A Strong Majority Of Americans Across The Political Spectrum Support Action](#) (November 10, 2022).

²⁴ American Immigration Lawyers Association, [Featured Issue: Protecting Dreamers](#) (March 27, 2023).

²⁵ Julia Mueller, The Hill, [Latest DACA Decision Offers 'Sigh of Relief' But Keeps Dreamers in Limbo](#) (October 5, 2022).

²⁶ Press release, [Lankford, Tillis & Hatch Introduce The SUCCEED Act: Merit-Based Legislation To Address The Legal Uncertainty of Undocumented Children](#) (September 25, 2017).

²⁷ United Nations Office on Drugs and Crime, [Justice for Children in Conflict With the Law](#) (undated).

²⁸ See, e.g., Bible Gateway, [Ezekiel 18: 19-21](#) (undated).