



**Memo to President Obama
Regarding Immigration Policy**

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The Migration Policy Institute is an independent, nonpartisan, nonprofit think tank dedicated to the study of the movement of people worldwide.

About the Transatlantic Council on Migration

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I. Introduction¹

Mr. President, you have inherited a daunting set of challenges at home and abroad. You face a once-in-a-generation economic crisis. Our nation's basic systems and policies — from banking and health care to education and energy — are in need of significant and urgent reforms. America's standing in the world is in need of serious repair. You have responded with energy and ambition, and so far two-thirds of the American people give you high marks for your leadership.

With such a full plate and such high hopes, is there room for immigration reform?

On the one hand, many point to the pledge you made in an address to thousands of Hispanic leaders in July 2008: "I think it's time for a president who won't walk away from something as important as comprehensive [immigration] reform just because it becomes politically unpopular ... I will make it a top priority in my first year as the president of the United States of America."² Not surprisingly, many took this campaign promise to heart. They argue that your first year in office is the best time to move because your approval ratings will never be higher and your chances of success will never be greater. They make the point that George W. Bush, whose early migration negotiations with Mexican President Vicente Fox were derailed by the 9/11 attacks, waited until the seventh year of his presidency to make comprehensive immigration reform legislation a priority. By then his political capital was so depleted, the effort failed.

On the other hand, many argue that the global economic crisis makes your campaign promise moot. They believe you should delay immigration legislation and focus on the economy and the other reform initiatives you have already announced. They remind us all that comprehensive immigration reform fell short in 2006 and suffered a stinging defeat in 2007, and argue that you have until the end of your first four-year term to fulfill your pledge. The better strategy, they assert, is to wait until early 2011 — just after the 2010 congressional mid-term elections — and move forward when the global economic crisis presumably will have begun to ease and Congress will have had an opportunity to more fully address the "middle-class" reform initiatives that are a higher priority with the public.

This is not an easy call. But after weighing the pros and cons, I recommend you keep your promise and move forward with comprehensive immigration reform legislation in late 2009 *provided conditions make a reform push viable*.

¹ The opinions expressed in this paper, written for the Transatlantic Council on Migration meeting in May 2009, are solely those of the author.

² Remarks by presidential candidate Barack Obama to the annual conference of the National Council of La Raza in San Diego on July 13, 2008. <http://www.nclr.org/content/viewpoints/detail/52978/>.

II. What Conditions Would Make a Reform Push Viable in 2009?

The following criteria need to be met to make a reform initiative viable later this year:

- 1) The economy shows some signs of stabilization, with the unemployment rate at least leveling off, and preferably beginning to go down;
- 2) Your administration has made significant progress on the “bread-and-butter” reform initiatives related to banking, health care, education, and energy;
- 3) Your commitment to addressing tough problems continues to enjoy broad public support;
- 4) You secure a commitment from key Republicans in Congress that they are willing to work with you on comprehensive immigration reform;
- 5) The pro-immigration reform campaign being organized by outside groups is ready to compete with the highly organized opposition; and
- 6) You are willing to expend the political capital to overcome a determined conservative opposition, centrist doubters, and far-left critics to create the political space for workable policy.

This last point is critical. For it will take nothing less if you are to usher into existence a modernized immigration system capable of doing what reform must do: significantly reduce illegal immigration by combining targeted enforcement and flexible legalizing mechanisms so that over time the chaos of illegal immigration is replaced by a more orderly and better managed legal immigration regime.

What if the conditions are not favorable in late 2009, and you and other stakeholders agree that the risks of going forward are too great and the implications of yet another defeat too daunting? First and foremost, you and your administration will have to make the case that delay is not defeat. You will have to work very hard to defuse the inevitable disappointment, even anger, among congressional proponents, immigrant advocates, and immigrant communities; and counter the inevitable triumphalism of reform opponents.

You would have a few options. Should you urge Congress to act on smaller but significant “piecemeal” measures? For example, the DREAM Act, which would grant legal status to high school graduates brought here as young children by their parents, and AgJOBS, which would legalize farm workers here illegally while streamlining the agricultural temporary worker program, enjoy bipartisan support and bring energized constituencies. (For these reasons both will undoubtedly be elements included in any base comprehensive immigration reform bill.) Or, should you listen to those who will push for you to hold out for comprehensive reform so that all the provisions and all the constituencies hang together rather than separately? One way to do this would be to appoint a high-level, bipartisan commission to consider how best to craft and enact comprehensive immigration reform legislation after the 2010 mid-term elections.

I recommend an approach that combines both elements. Proceed with the piecemeal measures since they are important advances and could serve as stepping stones towards a broad overhaul — but only if the measures can move forward in a relatively clean fashion. At the same time, appoint a commission to tee up comprehensive reform in 2011. The danger with the piecemeal approach is that securing congressional approval might require adding tough enforcement components to provide cover to policymakers fearful of being seen as too soft on illegal immigration. At a certain

point, the enforcement tradeoff (such as a new mandatory employment verification system) would shift from being a necessary sweetener to being an unacceptable tradeoff. Such a bill would benefit a minority of unauthorized immigrants at the expense of the many, and the many would face both harsher enforcement policies and diminished chances to win broad legislative relief. Whether or not a piecemeal strategy makes sense, the fact is voters want a practical and holistic solution that significantly reduces illegal immigration, and piecemeal measures fall short in this regard. Moreover, as a candidate you promised comprehensive reform. A commission focused on the major overhaul that is long overdue would enable you to take up the issue prior to your re-election effort in 2012.

III. Will the Public Support Immigration Reform? Particularly in an Economic Downturn?

Beware of conventional wisdom. Public demand for action and public support for a practical approach to reducing illegal immigration are stronger than commonly believed. This fact is partially obscured because the political class in Washington tends to believe that public frustration over illegal immigration is a sign that voters support an immigration crackdown rather than comprehensive immigration reform.

But focus groups and opinion polls reveal that despite deep frustration with the broken immigration system, US voters are eminently practical about the type of reform that is likely to work. Other issues that more directly affect voters — economic recovery, health care, energy, education — rank as higher priorities. But 78 percent believe illegal immigration is a serious problem that needs to be urgently addressed.³ When asked who is to blame for the problem, only 3 percent of voters cite the immigrants here illegally, and only a quarter blame employers who game the system.⁴ By a 2-1 margin the public places blame for the nation's dysfunctional immigration system on the federal government and Congress. This has profound implications for understanding how and whether to engage this debate. It means that for many Americans the failure to address illegal immigration has become a symbol of how Washington does not confront and solve tough problems.

Not only do voters want action, but most agree with you that the most practical solution is comprehensive immigration reform — the key elements of which are strong enforcement at the borders and in the workplace, coupled with an earned legalization component for unauthorized immigrants already in the United States and reform of the legal immigration system for those admitted in the future. Multiple independent polls taken over the past three years make this clear: approximately 60 percent of voters favor comprehensive reform, while approximately 35 percent

³ America's Voice, *National Survey and Swing District Polling on Immigration*, (Washington, DC: Benenson Strategy Group and Lake Research Partners, November 2008), http://amvoice.3cdn.net/2293873697eae3437e_wnm6bqe52.pdf.

⁴ NDN, *Statewide Surveys on Immigration Policy in Florida, Colorado, New Mexico, and Nevada (Expanded)*, (Miami, FL: Bendixen and Associates, September 2008), <http://ndn.civicaactions.net/hispanic/statewide-surveys-on-immigration-policy-combined.pdf>.

favor an enforcement-only or enforcement-first approach.⁵ Contrary to conventional wisdom, support for comprehensive reform is just as strong with swing voters in swing electoral districts. But will a majority of Americans support immigration reform in the midst of an economic crisis during which millions of Americans have lost their jobs? In fact, the forces opposing a comprehensive solution are road-testing a campaign strategy that explicitly links the number of unemployed Americans to the number of unauthorized immigrants currently holding jobs. Will the desire for decisive action trump economic anxiety and populist appeals? Again, the conventional wisdom says no. Yet the limited sampling of public opinion in recent months on immigration indicates that voter interest in government solving this problem remains every bit as high as before.

In polling and focus groups conducted by America's Voice⁶ in November 2008 and March 2009, we found that while the economy is the top priority of voters, the majority are not seduced by the siren call that says deporting millions of immigrants is possible and doing so will free up jobs for Americans. In November 2008 polling — conducted nearly a year after the official start of the current economic recession — 62 percent of voters nationwide said “we would be better off if people who are in the United States illegally became legal taxpayers so they pay their fair share,” versus 21 percent who said “we would be better off if people who are in the United States illegally left the country because they are taking away jobs that Americans need.”⁷ Swing district voters agreed, supporting the former statement over the latter by a 66-23 percent margin. Focus groups conducted in March 2009 in Phoenix, Atlanta, and Kansas City, MO found that voters are more frustrated than ever that Washington has not solved this problem, and see comprehensive reform as the best, most practical solution.

Of course, these findings might not hold. The economic crisis could worsen yet and/or a populist brushfire could be ignited as the immigration debate heats up. But so far it seems that a majority of voters believe solving illegal immigration is consistent with getting America back on its feet. They want Washington to fix this problem, they favor a pragmatic solution, and they elected you and the Democrats to tackle and solve tough problems.

⁵ See National Immigration Forum, *Polling Summary: Public Support for Comprehensive Immigration Reform*, (Washington, DC: National Immigration Forum, 2006), <http://www.immigrationforum.org/images/uploads/PollingSummary706.pdf>; America's Voice, *National Survey and Swing District Polling on Immigration*, (Washington, DC: Benenson Strategy Group and Lake Research Partners for America's Voice, November 2008), http://amvoice.3cdn.net/2293873697eae3437e_wnm6bqe52.pdf; and America's Voice, *Attitudes Towards Immigration Reform in Swing Districts*, (Washington, DC: Benenson Strategy Group and Lake Research Partners for America's Voice, October 2008), http://amvoice.3cdn.net/8d119152a7a5056638_0pm6bhizt.pdf.

⁶ Frank Sharry is Founder and Executive Director of America's Voice, a 501(c)(4) organization. The goal of America's Voice is to enact comprehensive immigration reform that restores the rule of law and includes earned citizenship for the estimated 12 million immigrants working and living in the United States without proper legal status.

⁷ America's Voice, *National Survey and Swing District Polling on Immigration*, (Washington, DC: Benenson Strategy Group and Lake Research Partners for America's Voice, November 2008), http://amvoice.3cdn.net/2293873697eae3437e_wnm6bqe52.pdf.

IV. What Are the Components of a Workable Bill that Can Pass Congress?

Those committed to crafting a modernized and workable immigration policy face a conundrum. On the one hand, the status quo is unsustainable, the public wants action, and major reforms are urgently needed. On the other hand, my view is there is not enough political space, public understanding, or institutional capability to enact and implement the perfect legislation that will yank our immigration system properly out of the 1960s and into the 21st century. What to do?

I recommend you level with the American people. Tell them that the long-term goal of the immigration reform process is to end illegal immigration as we know it and to reshape our legal immigration system so that it functions properly and flexibly. You've also got to counsel patience and make it clear that achieving this goal may require a decade or more of legislative initiatives, administrative implementation, and frequent refinements. Frame the proposed legislation as a long-overdue breakthrough that will set in place an intelligent new architecture and provide for a rigorous and ongoing evaluation process capable of identifying shortcomings and recommending changes.

The policy architecture below is proposed with this in mind. It attempts to go as far on policy as the political space will allow. It includes the following components:

- *Border enforcement:* Secure the nation's borders as effectively as possible with a combination of professional and accountable law enforcement, appropriate infrastructure and technology, and consultation with local communities and neighboring governments.
- *Workplace enforcement:* Crack down on unscrupulous employers with a workable employment verification system that determines efficiently who is legally authorized to work in the United States *and* aggressively enforce labor standards to protect the wages and working conditions of all workers, native-born or immigrant.
- *Legalization:* Require immigrants in the United States illegally to come forward, prove eligibility, register with the government, and submit to criminal background and security checks in return for work and travel permission; then, applicants who study English, pay taxes, and maintain a good record eventually can earn permanent residence and citizenship.
- *Backlog reduction:* As a matter of equity for those already waiting in line, temporarily increase family and employment-based permanent visas (known as "green cards") in order to reduce backlogs and ensure that those already in the visa lines get permanent status ahead of those who earn legalization.
- *Admission of needed workers in the future:* Establish a standing commission to determine the number of work visas to be issued each year, the occupations and geographic regions in which labor shortages exist, the labor market analyses upon which such determinations are made, the impact of such determinations on the wages of similarly situated workers, and the effect such visa decisions have on the ebb and flow of future illegal immigration.⁸

⁸ The Independent Task Force on Immigration and America's Future, convened by the Migration Policy Institute and chaired by former Senator Spencer Abraham (R-MI) and former Congressman Lee Hamilton (D-IN), in its final report in 2006 recommended the creation of a Standing Commission on Immigration and Labor Markets that would make regular recommendations to Congress for adjusting admissions levels in the temporary, provisional, and permanent immigration streams based on labor market needs, unemployment patterns, and changing economic and demographic trends.

- *Evaluation and enhancements:* Establish a separate high-level commission of experts to evaluate how effectively the legislation has been implemented and make recommendations regarding a) additional administrative and legislative changes needed to achieve the objective of reducing illegal immigration; b) how best to work with immigrant-sending countries on migration management and development strategies that could eventually reduce migration pressures over time; and c) immigrant integration strategies that can best promote social and economic mobility for new Americans.

This architecture enables reform advocates to keep the focus on workplace fairness as well as on immigrant workers and families already here. It emphasizes the priority of cracking down on employers who hire illegal workers. It opens up a new front by focusing on the aggressive enforcement of labor standards aimed at reducing the exploitation of immigrant workers and the undermining of American workers. I believe that such a focus makes sense in an era of economic anxiety and growing concern about bad actors in the business sector.

But what about long-term economic growth and the positive role that newly admitted foreign workers play in fostering it? How can we balance the need to fix a US employment-based visa system that for too long has been out of step with labor market demands with the political reality that a big increase in work visas is unlikely during a time of relatively high unemployment? I believe the standing commission is the best way to locate the elusive “sweet spot” — the policy mix that enables a bill to be approved by Congress this year at the same time it creates a system that responds flexibly to legitimate labor market demand when the economy improves.

V. What Is the Relevant History and Context for the Upcoming Debate?

Illegal immigration is the issue that dominates all migration-related policy discussions in the United States. Moreover, the issue of illegal immigration is now affecting, and indeed threatening, virtually every other national social policy debate. Health care reform? Your administration’s drive towards universal coverage is threatened politically by arguments that tax dollars will subsidize those in the country illegally. But if the status of the estimated 12 million unauthorized immigrants is not resolved and they are deemed ineligible for coverage, which would be likely, the goal of universality would be undermined. Education reform? Many complain that tax dollars subsidize the education of those who are here illegally. Meanwhile, hundreds of thousands of high-achieving immigrant children with no papers find it difficult to go to college and even harder to get work once they leave school. Fighting crime? What should police do when they encounter an immigrant without documents? Some say that it’s a threat to the community if police do not turn them over to federal immigration authorities, while others argue that doing so undermines community policing efforts that depend on trust between immigrant communities and police. Simply put, tackling illegal immigration with a comprehensive overhaul will make it easier to make progress and produce results on other pressing priorities.

The nation’s recent history of immigration, with the numbers growing rapidly and immigrants fanning out to new destinations, helps explain why this has become such a major issue. The current population of unauthorized immigrants has grown to approximately 12 million, representing almost

one-third of the entire foreign-born population in the United States, and one of out 20 workers in the labor market. The population's dispersal to "new immigrant states" has transformed this issue from a debate affecting six "gateway" states to one affecting nearly 50 states.

Although some expected these tensions to explode in the aftermath of the September 11th terrorist attacks, most of the immediate backlash focused on people, foreign- and native-born, of Middle Eastern backgrounds. Not until 2005 and 2006 did anger over illegal immigration from Latin America boil over. "Minutemen" volunteers (some called them vigilantes) camped out at the US-Mexico border to "protect our sovereignty against the invasion." Talk radio and cable television shows tapped into populist rage and elevated illegal immigration to a major issue among cultural conservatives. The House of Representatives responded in December 2005 by approving legislation authored by Rep. James Sensenbrenner (R-WI) that was most notable for its intent to make felons out of both unauthorized immigrants and the religious and service workers who assist them.

Immigrants and their allies responded to the House's proposed wide-ranging crackdown with unprecedented mobilizations that brought an estimated 3.5 million protesters into the streets in the spring of 2006.⁹ In May, the Senate countered the House measure with bipartisan approval of a comprehensive reform bill championed by Massachusetts Democrat Edward M. Kennedy and Arizona Republican John McCain. But instead of negotiating with the Senate to come up with a compromise bill, House Republican leaders decided to attack the Senate bill. They held hearings around the country to decry the Senate "amnesty" bill and encouraged their candidates in the 2006 mid-term elections to attack Democrats for being "soft" on illegal immigration.

As a result, the debate became increasingly politicized and polarized. Culturally conservative politicians seized on what many saw as a potent "wedge issue." Going into both the 2006 and 2008 elections, many Republican strategists believed that emphasizing illegal immigration would both turn out base voters and drive white working-class voters frustrated with illegal immigration away from more liberal candidates. Many Democratic operatives feared they were right. As a result, most Republicans, along with many Democrats running in swing districts and states, adopted a hard line and shied away from the position favored by most voters: comprehensive immigration reform that includes strong enforcement and earned legalization for otherwise law-abiding unauthorized immigrants.

Nevertheless, Democrats won back control of Congress in the 2006 elections. And advocates of comprehensive reform were hopeful that a better version of reform might clear the Senate and the House in 2007 as well as find favor with a president who supported comprehensive reform and desperately needed a win for his legacy. It was not to be. The right-left legislative strategy relied on President Bush, Republicans, and business allies to deliver 25 to 30 Senate Republican votes to reach the filibuster-proof margin of 60 votes. The Republican Party's base revolted and demanded the bill's defeat, and in the end, only 12 Republicans voted for the legislation.

Why did the 2007 Senate immigration bill — a measure you voted for — fail so spectacularly? Three main reasons: the right-wing revolt spurred by talk radio and talk television intimidated Republicans;

⁹ Xochitl Bada, Jonathan Fox, and Andrew Selee, eds., *Invisible No More: Mexican Migrant Civic Participation in the United States*, (Washington, DC: Woodrow Wilson International Center for Scholars, 2006), <http://www.wilsoncenter.org/news/docs/Invisible%20No%20More1.pdf>.

the so-called “grand bargain” negotiated in the back room by Bush Cabinet officials and leading senators leaned too far right and was too unworkable to garner enthusiastic support from policy experts and progressive constituencies; and finally, most of the labor movement opposed the bill because of its poorly crafted work-and-return guest worker provisions.

VI. What Are the Factors Working For and Against Reform in 2009?

Past is prologue for the upcoming debate. The factors working in favor of reform this year are as follows: 1) the 2008 election was a game-changer, as the performance of Latino, swing, and hard-line voters stood conventional political wisdom on its head, in turn creating much more political space for workable policy and legislative victory; 2) a policy approach that is relentlessly promoted as pro-worker, pro-taxpayer, and pro-rule of law is right for the times and will find public favor; and 3) progressive constituencies in favor of reform are more united and better organized than before.

The factors weighing against success this year are: 1) the economic crisis and the fears among many Democrats that raising immigration reform during a period of high unemployment will backfire on the party; 2) few Republicans seem willing to work on a bipartisan basis on any issues, much less one as controversial as immigration; and 3) the ability of pro-reform advocates to overcome the highly organized and disciplined communications capacity of reform opponents has yet to be proven.

What these factors mean for the coming debate, and how advantages can be exploited while disadvantages are neutralized, is discussed below.

Reform that Is Good for Taxpayers, Workers, and Employers

The policy architecture articulated earlier in the memo allows you, Mr. President, and the pro-reform advocacy community more generally to credibly make the following claims about the legislation:

- it benefits American taxpayers by requiring legalizing workers and their employers to get on the books and comply with their tax obligations;
- it benefits American workers whose wages and working conditions are depressed in part by unscrupulous employers who exploit unauthorized workers, and does so by aggressively enforcing immigration and labor laws at the workplace; and
- it benefits law-abiding employers currently undercut by bad-actor competitors by significantly reducing the incentive to underpay workers and pay them off the books in order to win business.

Public opinion research consistently reveals that the immigration-related issue that most frustrates American voters is taxes. Unauthorized immigrants are seen — unfairly in many cases — as tax burdens. In fact, one of the main reasons centrist voters support legalization as part of a comprehensive overhaul is because many believe it will bring immigrants and employers into the system and onto the tax rolls.

In fact, there is compelling evidence that legalization would increase government revenue at all levels. For example, the Congressional Budget Office (CBO) and Joint Committee on Taxation estimated that the 2006 Senate bill would have raised \$66 billion in new revenue over a ten-year period, primarily from income and payroll taxes.¹⁰ A similar CBO analysis of the 2007 Senate bill estimated that it would generate \$48 billion in revenue between 2008 and 2017.¹¹ Moreover, this analysis calculated the costs of services to the newly legalized at \$23 billion, resulting in a net plus of \$25 billion over ten years.

At a time of budget deficits and budget cuts, comprehensive immigration reform is one piece of legislation that would generate more tax revenues than expenses. The more these facts are publicized, the more the public is likely to support legislation.

Though policy is key, Mr. President, the debate obviously will take place in the crucible of politics, and an intensely heated campaign that will be waged by advocates on both sides. The points below discuss how you and your administration could play up the political advantages leading to a successful policy outcome, and neutralize some of the disadvantages.

The 2008 Election as a Game-Changer

Before the election many smart political operatives believed the following:

- Latino voters do not turn out in big numbers, don't vote on the immigration issue, and tend to split their vote 60-40 Democrat to Republican, so they are not a decisive factor in most elections;
- with swing voters vulnerable to populist anti-immigrant appeals from Republican candidates, the immigration issue favors Republicans in competitive races against Democrats; and
- hard-line voters are mobilized by this issue and numerous enough to shift close elections, especially in Republican primary contests.

After the election, most smart political operatives acknowledge the new reality:

- Latino voters generally, and Latino immigrant voters in particular, turned out in record numbers, see immigration reform as a defining issue, swung heavily in favor of Democratic candidates, and in the presidential race played a key role in turning states that voted for George Bush in 2004 into states that voted for you, Barack Obama, in 2008;
- Voters — including swing voters in competitive districts — support comprehensive immigration reform over an enforcement-only approach by a 2-1 margin (60-33 percent

¹⁰ Congressional Budget Office, *Cost Estimate: S. 2611, Comprehensive Immigration Reform Act of 2006* (Washington, DC: Congressional Budget Office, 2006), <http://www.cbo.gov/ftpdocs/72xx/doc7208/s2611.pdf>.

¹¹ Congressional Budget Office, *Cost Estimate: Senate Amendment 1150 to S. 1348, the Comprehensive Immigration Reform Act of 2007* (Washington, DC: Congressional Budget Office, 2007), http://www.cbo.gov/ftpdocs/81xx/doc8179/SA1150_June4.pdf.

nationwide; 64-30 percent swing district voters)¹² and want this Congress and you, Mr. President, to take action; and

- The illegal immigration “wedge” strategy employed by Republican hardliners was tried and failed in 20 of the 22 competitive congressional races in which the Democratic candidate in favor of a more comprehensive approach defeated the Republican hard-liner.¹³ Moreover, anti-reform activists were unsuccessful at defeating their nemesis, John McCain, in the Republican presidential primary.

The new conventional political wisdom beginning to take hold, then, is that Latinos want respect, swing voters want solutions, and hard-line voters are more bark than bite. This creates the possibility for new understandings within both parties: Democrats would be wise to press their newfound advantage with both groups — Latino and swing voters — and deliver on their promise of solving problems, while Republicans would do well to sue for peace and get immigration off the table so that they can compete with Democrats on other issues.

Pro-Reform Constituencies Are Better Organized and More United

In the past, those opposing reform have been more visible, vocal, and united than pro-reform advocates. There is growing confidence among pro-reform advocates, however, that the balance of power is beginning to shift. For example, the labor movement was badly divided in 2007, but is now closing ranks in favor of comprehensive immigration reform — as long as policies governing how foreign workers are admitted in the future truly protect Americans. This is an historic development that would make it much easier to convince congressional Democrats supportive of the labor movement to back immigration reform. Similarly, faith leaders are coming together and organizing in new ways. Earlier this year, faith groups organized 170 prayer vigils in 31 states to call for immigration reform in 2009. Concurrently, Latino evangelical churches sponsored a 20-city nationwide tour for Rep. Luis Gutierrez (D-IL) to mobilize the Hispanic community to demand action on comprehensive immigration reform.

In addition, immigrant advocates are investing significant time and money in building a network capable of flooding Congress with calls, emails, and faxes in support of reform. Progressives who kept their distance from the debate in the past are now beginning to decry the racially charged hostility from the right. As the debate proceeds, it is likely they will be joined by some unusual allies among right-leaning libertarians. Some local business leaders are determined to speak up about the need to stabilize their workforces and have a system in place that ensures all hires are legal and all competitors are following the same rules. And prominent Americans from across the political spectrum — from former Secretary of State Colin Powell and former Florida Governor Jeb Bush in the Republican Party to New York Mayor Michael Bloomberg and Los Angeles Mayor Antonio

¹² America’s Voice, *National Survey and Swing District Polling on Immigration*, (Washington, DC: Benenson Strategy Group and Lake Research Partners, November 2008), http://amvoice.3cdn.net/2293873697eae3437e_wnm6bqe52.pdf.

¹³ America’s Voice, *Republicans: Fenced in by Immigration*, (Washington, DC: America’s Voice, 2008), http://amvoice.3cdn.net/77076902eaa41d8a76_vqm6id0x0.pdf.

Villaraigosa in the Democratic Party — are imploring the nation to address this problem humanely and pragmatically.

Let there be no doubt: the anti-reform movement is strong. But it does not speak for a majority of voters. As Senator Joseph Lieberman (ID-CT) remarked to me once, they are “loud but not large.” Going forward, the pro-reform movement is getting organized to be both loud *and* large.

Holding Most Democrats, Winning Enough Republicans

As you well know, Mr. President, this legislation will have to be done on a bipartisan basis. I estimate that to get the 218 votes needed for victory in the House of Representatives, the bill will need to attract 10-25 Republicans. In the Senate, I estimate that getting to the filibuster-proof margin of 60 votes will require 10-12 Republicans. What is the legislative strategy that can attract a majority of Democrats and at least a minority of Republicans? Who are the champions? How does one deal with a House that leans left and a Senate that leans center-right?

I believe that trying to move the same bill through both chambers is a recipe for failure. That is why I recommend a strategy that starts with high-profile White House outreach to prominent Republicans such as Senator McCain and Rep. Lincoln Diaz-Balart (R-FL) as well as Democratic champions, culminates in the announcement of a bipartisan, bicameral statement of general principles, and then encourages the House of Representatives to move legislation first. Given its composition, the House is likely to approve a more pro-worker, pro-family, and pro-immigrant version of reform. Only after the House has acted should the debate move to the Senate, where it is likely that the only bill that can pass will be harder on enforcement, friendlier to employers, and less welcoming to families.

I believe that presidential outreach followed by a public statement of intent to move on a bipartisan basis, underscored by a statement of simple and shared principles, could create enormous space for a House-first strategy. Without it, a House bill that passes might backfire and lead Republicans to stand united in opposition to moving immigration reform this year. Of course, the House-Senate negotiating process to reconcile two distinct versions of the bill would be difficult, but the bet is that as the endgame approaches, the legislative momentum and the public demand for action would make it difficult to bring the entire project down.

As for the House of Representatives, in the House I can imagine a bipartisan bill could be crafted that would attract the support of leaders such as the chairman of the House Judiciary Committee, Rep. John Conyers (D-MI); the chairwoman of the House Immigration Subcommittee, Rep. Zoe Lofgren (D-CA); and members of the Congressional Hispanic Caucus, including Xavier Becerra (D-CA) and Luis Gutierrez (D-IL); along with Florida Republican Reps. Lincoln Diaz-Balart, Ileana Ros-Lehtinen, and Mario Diaz-Balart. The 10-25 Republican votes that are needed would come from the handful of true believers in reform plus another 20 or so Republican House members who represent agricultural districts desperate to enact the employer-supported AgJOBS. Your chief of staff, Rahm Emanuel, is perfectly positioned to work with House Democratic leaders to craft a strategy giving some fearful Democrats a pass and yet at the same time ensuring enough Democratic votes to guarantee a House majority.

The Senate will be more difficult. In part this is because Senator Kennedy may be preoccupied with health care reform or even sidelined due to his health. Fortunately, a group of Senate Democrats — Majority Leader Harry Reid of Nevada, Richard Durbin of Illinois, Charles Schumer of New York, Dianne Feinstein of California, and Robert Menendez of New Jersey – are prepared to step up and lead. The real challenge will be to secure enough Republican support to reach the magic number of 60 votes. If you bring in Senator McCain as well as his past allies on immigration, Senators Lindsey Graham (R-SC), Mel Martinez (R-FL), and Arlen Specter (R-PA), it should be possible to ultimately negotiate a deal that finds the center-left balance that holds progressive Democrats and wins over moderate Republicans. Assuming your outreach is successful and they agree to play, their price may well be high. They are likely to ask for more temporary visas, more enforcement measures, and fewer family visas, all of which threaten to peel off Democratic votes and anger progressive constituencies. But they are the heart of the pro-reform Republican caucus and may be key to bringing enough votes from their side of the aisle.

A Winning Communications Narrative

To fashion a campaign narrative that speaks to the public and political majority supportive of reform and isolates the minority in opposition, I recommend the three main themes be:

- *Urgency*: The pro-reform side should make the case that “illegal immigration is a tough problem that won’t go away unless we take action. Now is the time to step up, lead, and get it done. And the public is ahead of the politicians on this one”;
- *Solution*: You and your allies should stress the problem-fixing nature of the reform and that “this will significantly reduce illegal immigration. It will benefit American workers, taxpayers, and law-abiding employers. And it will replace an illegal system that people now go around with a legal system that everyone has to go through”;
- *Values*: Appeal to what we cherish as a nation and the values we admire in immigrants. Use themes such as “America is at its best when it stretches to include rather than exclude. These are workers and families whose dreams and lives are mostly made in America. And our policies need to be reformed so that we live up to our tradition as both a nation of immigrants *and* a nation of laws.”

Relying on this narrative, the campaign needs to achieve three objectives with respect to three audiences: mobilize backers of reform so there is an enthusiastic base of support; persuade skeptical moderates in both parties that this is the best policy solution possible; and marginalize reform opponents as impractical, obstructionist, and, yes, out of the mainstream.

It is important to keep in mind that reform opponents are disciplined and visible. They also have an easier set of message themes: immigrants take our resources, broke our laws, and rewarding them for doing so undermines fairness and the rule of law. But if pro-reform advocates are to win this upcoming battle, they must be mature enough to achieve all three objectives simultaneously, and strong enough to generate enough volume and velocity to ensure this three-pronged narrative drives and dominates the debate.

One more note on communications. Reform opponents will label the legislation an “amnesty for lawbreakers.” It worked for them in the last round. How should you and other advocates respond? Not with high fines and unworkable “touchback” provisions that would require travel to a home

country to apply for legal status. Gimmicks such as these have been tried in the past and they mostly serve to drive away progressive support without any corresponding increase in conservative support. I believe the best way to respond is to say no and state the case for reform: “No, it’s not amnesty. Most Americans recognize that it is impractical and undesirable to deport or drive out 12 million workers and families currently settled in our communities. Our solution will significantly reduce illegal immigration by cracking down on bad-actor employers and require that those here illegally come forward and get legal. Not only do they have to come forward, they have to be screened, register with the government, pay taxes, work hard, and study English. It’s time we moved from slogans that block action to solutions that are long overdue. In fact, those who say ‘no amnesty’ should admit that it’s code for ‘no solution’ and for maintaining the dysfunctional status quo.”

VII. Making the Choice Clear

Below is an example of what it might look and sound like when you announce the beginning of the effort to enact comprehensive immigration reform. It is Citizenship Day, September 17th, 2009. You take to a stage in Florida. You are surrounded by a large crowd of flag-waving newly minted citizens. You take the microphone.

The American people elected us to bring change, to solve big problems. You wanted your elected leaders to be as good as the nation’s people, to use common sense for the common good, to ensure that our best days are not behind us but ahead of us. The good news is that, with your support, we are making progress on economic recovery, health care reform, education, and energy independence. But this is no time to take the foot off the accelerator. Washington has left too many problems for later. Well, later is now.

That is why our next major reform initiative is to restore the rule of law to our immigration system. We intend to restore accountability so that immigrants here are legal, those hired in the workplace are legal, all employees and employers pay their fair share of taxes, and the American people regain confidence in their government’s ability to mind the store. Moreover, by getting the right balance in our approach, we will renew our most decent and dignifying ideals as a people, keep families united, and reward hard work and big dreams.

The problems of our dysfunctional immigration system are complicated and longstanding. They won’t be fixed overnight. But the time for action is now. For too long, unscrupulous employers have engaged in the illegal hiring and exploitation of immigrant workers. For too long, this practice has undermined American workers and law-abiding competitors. For too long, bad-actor employers have failed to pay their fair share of taxes. And for too long, we have tolerated the existence of some 12 million second-class noncitizens living off the books and in the shadows of our society.

It’s time to take a giant step towards ending illegal immigration. It’s time for a breakthrough. It’s time for a new paradigm. Our approach has three key elements: strengthen border security; crack down hard on employers who engage in illegal hiring and unfair labor practices; and require that immigrants here illegally come forward, get screened, get legal, pay taxes, study English, and get into the citizenship line. To make sure the legislation will work as intended, I will appoint a blue-ribbon commission to monitor its effectiveness and recommend changes to ensure we achieve our goal of significantly reducing illegal immigration. We will stay with it and stay on it until we get it right.

The economy is stabilizing. When the economy gets stronger, there may well be a need for new workers to help grow the economy in the near future, and our legislation will establish a standing commission to ensure that we are ready for that day. But now is not the time for a big increase in additional foreign workers. Now is the time to clean up our own house, to create fairness and order in our workplaces, and to get control of a situation that has been out of control for decades.

Let's be clear about the main objective of this legislation. Its goal is to reduce illegal immigration dramatically and it will do so by holding all parties accountable. By doing so, it will lift the wages of all workers in the lower end of the labor market. It will generate billions of dollars in increased tax revenues. It will make sure that good people — immigrant workers and families living in our communities and working side-by-side with us in our workplaces — will be able to get right with the law and be part of the system.

Just as importantly, this legislation will take another step forward in our national journey to form a more perfect union. It will help make real our vision of One America, where diversity is a source of strength, bigotry is a cancer, and shared ideals and aspirations bind us as a nation. When we enact this reform and restore humanity and order to our immigration system, it will signal that we are once again a country that solves tough problems with common sense. It also will signal the triumph of the warm welcome of inclusion over the cold hostility of exclusion.

I ask Democrats and Republicans to join together in taking this significant step towards ending illegal immigration and doing the people's will. I ask that we work together to enact this legislation before the end of this year. And I ask that we craft policies that once again live up to our tradition as both a nation of immigrants and a nation of laws.

This will not be easy, Mr. President. This will require a nearly flawless campaign-style effort and a major commitment of your political capital. This could end in a major defeat for you and an enormous setback for immigrant families. And yet, this is the kind of big issue that led you to proclaim the fierce urgency of now and run for president.

This is your kind of fight, Mr. President. History is calling.

VIII. About the Author

Frank Sharry is the Founder and Executive Director of America's Voice, the newly founded immigration reform advocacy organization that opened its doors in March 2008. Prior to starting America's Voice, Mr. Sharry served as Executive Director of the National Immigration Forum for 17 years. The Forum, based in Washington, D.C., is one of the nation's premier immigration policy organizations. Following the defeat of immigration reform in the US Senate in 2007, and with the support of the immigrant advocacy community, America's Voice was created to strengthen the communications component of the renewed and reorganized campaign to enact workable comprehensive immigration reform. Before joining the Forum, Mr. Sharry was Executive Director of Centro Presente, a local organization working with Central American refugees in the greater Boston area. While there he co-founded the Massachusetts Immigrant and Refugee Advocacy Coalition. Before that he helped resettle refugees for an organization now known as the US Committee for Refugees and Immigrants. He first became interested in immigrants and refugees while teaching in Singapore in the late 1970s and later was hired to assist with the rescue and relocation of boat refugees fleeing war-torn Vietnam and landing in Indonesia.

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