

AFL-CIO

STATEMENT FOR THE RECORD

Senate Budget Committee Hearing

Unlocking America's Potential:

How Immigration Fuels Economic Growth and Our Competitive Advantage

Wednesday, September 13, 2023

The AFL-CIO is a democratic federation of 60 affiliated unions representing more than 12.5 million workers across all sectors of our economy. Our members work in every state in the country and they come from every region of the world. We represent working people with all types of immigration status, including undocumented workers, DACA and TPS holders, non-immigrant visa beneficiaries, legal permanent residents, refugees, asylum seekers, and citizens. Together, we strive to ensure that everyone who works in this country receives fair pay, good benefits, safe working conditions, and dignity and respect on the job.

Unions applaud Congress for passing historic legislation to advanced federal industrial investments and are committed to ensuring that these taxpayer resources build 21st century infrastructure, protect our environment, promote domestic resiliency and return family-sustaining union jobs to our communities. To achieve these goals, companies seeking public subsidies must be required to engage in hiring practices and workforce development strategies that empower workers, lift standards, and promote equity.

Unfortunately, many of the non-union employers in the industries expecting a windfall from federal investments have a proven record of abuses of immigrant workers and work visas—across the wage and skill spectrum. Absent interventions to ensure employer accountability, critical public investment could perpetuate low wages, long hours, discrimination, displacement, unsafe working conditions, captive labor, child labor and other egregious violations.

The exploitation of immigrant labor is an undeniable through line in the playbook to drive down standards and bust union organizing. Preventing such abuse is necessary to ensure high road, equitable and inclusive implementation of projects supported by the Infrastructure Investment and Jobs Act, the Inflation Reduction Act and the CHIPS and Science Act. We urge Congress to pursue a balanced approach that advances the following real workforce solutions:

- #1 – Strengthen labor laws and hold employers accountable***
- #2 – Regularize the status of our current immigrant workforce***
- #3 – Expand and enhance permanent humanitarian pathways***
- #4 – Reform and regulate abusive work visa programs***
- #5 – Support a robust role for unions***

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Overview

For our economy to grow, our workforce must grow. In a historically tight labor market, and given current demographic trends, much of the new workforce growth will need to come through immigration. But how people come matters. That is why a more just immigration system must be designed to meet the real needs of people, rather than the purported needs of employers.

Successive waves of immigrants and refugees have always helped to build, serve and feed our nation. Today is no different. Far from posing a threat, newly arriving migrants can make valuable contributions to our society when afforded the proper supports to allow them to effectively integrate into our communities.

The labor movement is committed to welcoming more refugees, asylum seekers and other forced migrants and helping them to integrate into the workforce with good union jobs. That is how we use immigration policy to expand the workforce while also ensuring full rights and protections, not only for migrants, but for the existing workforce. By contrast, guestworker programs as currently structured pose a real threat. Expanding this approach delivers an on-demand, disposable cheap workforce that is separated from their families and denied political rights – in other words, totally disenfranchised. This is not a future of work we can or should accept.

We hear a lot about a labor shortage these days, but far too little about the crisis caused by the shortage of good jobs. Workers are no longer willing to risk their lives to work for meager wages without childcare support, paid leave or basic safety protections. Workers are taking collective action in record numbers to demand a fair share of the wealth we help to create, and for the first time in decades working people are seeing significant gains in pay and standards for work that has been chronically undervalued.

Against this backdrop, if migration pathways are expanded in ways that fuel further wage stagnation, runaway inequality, and racialized gaps in pay and conditions, workers and their unions will rightly object. Now is the time for policy makers to soundly reject the low wage immigration approaches that have fueled discrimination, exploitation and excess corporate profits for long enough. Instead we need approaches that are fair for migrants and the existing workforce alike. Such approaches exist and are outlined below.

Real Solution #1 – Strengthen and Enforce our Labor Laws and Standards

All workers in our labor force today need equal and enforceable rights. It is clear that we are in a historically tight labor market, but it is also clear that many industries are churning through workers and failing to retain them due to low pay and unfair, unsafe and unacceptable working conditions. Simply put, we need better, safer jobs that pay a family-sustaining wage. To support this, Congress should:

Protect the right to organize. Congress must pass the Pro Act (118th: S.567, H.R.20) to strengthen the rights of all workers to form or join a union and engage in collective bargaining and protected concerted activity to improve their working conditions. Every worker deserves a voice on the job, but a collective bargaining agreement disproportionately helps those who need it most. A union job helps all members increase their earning power

and improve their benefits. Importantly, it helps women more than men, black workers more than white, and Latinas most of all. Indeed, a union contract may be the single best tool we have to close racial and gender gaps in pay and conditions. Removing the barriers to organizing is particularly important for those, like immigrants, who have been marginalized and structurally excluded in our economy.

Protect workers who report violations. If we want to combat rampant wage theft, death and injury on the job, and the resurgent abuse of child labor in the 21st century, we need workers to be willing to report violations and speak up when they see problems. To make that possible, we must protect immigrant workers when they find the courage to take action that helps enforce our labor laws. The POWER Act (118th: H.R. 1828) would ensure that employers can no longer use immigration threats to scare workers into silence. When labor abuses go unchecked, they drive down wages and working conditions for all. This bill will help ensure that workers are able to join together, look out for and protect each other, which is the best way to promote justice and safety on the job.

Raise wages. Millions of working people who are vital to our economy and anchor communities throughout the nation still work in poverty. We must raise the federal minimum wage, remove exceptions to the requirement for paying the federal minimum wage, and find innovative ways to revitalize communities that have lost their economic base. Congress should start by passing the Raise the Wage Act (117th: S.53) and use any and all other available policy levers to lift wage levels, including through our federal procurement system and reform of our work visa programs. Raising wages will not only help to lift working families out of poverty, but also create broad bottom-up stimulus that helps spur inclusive economic growth.

Shift enforcement priorities to protect workers, rather than punish migrants. It is striking—and tragic—that decades of enforcement-only immigration approaches have prioritized the detention and deportation of migrant families over the protection of workers. Now is the time to strengthen and utilize mechanisms to protect all working people, regardless of immigration status. We call for a shift of emphasis away from viewing migrants as criminals, and toward holding employers accountable for criminal violations of worker rights. The United States currently spends twelve times as much on immigration enforcement as it does on labor standards enforcement, with similarly disproportionate staffing. Lawmakers should rebalance this investment to ensure adequate oversight of labor migration programs, promote employer accountability, and protect all workers on the job.

Increase employer penalties. To prevent further exploitation, including resurgent child labor violations, we need to fix the fundamental flaws and loopholes that allow employers to operate with a sense of impunity. The Department of Labor must have adequate funding to investigate dangerous workplaces and enforce the Fair Labor Standards Act. And corporations that violate the law must face substantially increased penalties and be held jointly liable for the abuses of any third party subcontractors or temp agencies with which they do business. Congress should raise fines by supporting the Combatting Child Labor Act (118th: H.R. 2956). In addition, we must prevent employers with frequent violations from selling goods to USDA by supporting the Child Labor Exploitation Accountability Act (118th: S. 1288, H.R. 2822).

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Real Solution #2 – Regularize the Status of our Current Immigrant Workforce

There is no way to accurately assess workforce need until we regularize the status of those who are currently being forced to work in the shadow economy. The right way to use immigration policy to lift wages and standards is by expanding rights and protections to as many workers as possible. Here's how we lift the floor:

Enact a broad and inclusive pathway to citizenship for all those who live and work here.

Nearly four decades of Congressional failure to pass meaningful immigration reforms has created a near permanent subclass of millions of exploitable workers in our country. That is unacceptable, and it is how immigration policy becomes cheap labor policy.

From the perspective of the labor movement, the right way to fix this prolonged injustice is to enact a path to citizenship for all those whose labor helps our country to prosper. The fight for a broad pathway to citizenship has proven a long one, but it remains our North Star.

As a down payment on that broader goal, we support an immediate path to permanence for DACA and TPS holders whose status was threatened by the Trump administration, and who play such a vital role in our workforce, our communities, and our unions. In the Senate, we support aligned passage of the DREAM (118th: S. 365) and SECURE (118th: S. 1727) Acts.

Urge the administration to make expansive use of the TPS statute. Although only Congress can deliver the permanent protections workers expect and deserve, we must not allow gridlock to prevent incremental progress through other lawful means. Congress gave the President the power to designate Temporary Protected Status for countries that have been destabilized by conflict and disasters, and the Biden administration has been using TPS in helpful ways—we urge them to do still more. If DHS were to designate or redesignate all the countries that meet the statutory conditions, millions more people could become eligible for work permits, preventing exploitation and providing much-needed relief to receiving communities. Given the current workforce realities, that would have far-reaching benefit, particularly as we prepare to implement important new federal investments.

Close gaps in our social safety net. Many of the policy changes we need to support our current immigrant workforce are not directly about immigration reform. If we want people to be able to live and work safely, that means they need access to quality healthcare and education, including higher education. They need driver's licenses and the safety net of unemployment insurance for rough times. Many of these decisions are made at the state level, where we see both progress and shameful attacks, up to and including recent efforts to rollback basic child labor protections.

Support STEM talent in our higher education system. The bipartisan Keep STEM Talent Act (118th: S. 2384) would provide foreign-born, American-trained STEM professionals a high road, empowered pathway to permanent status after completing their training. Additional steps are needed to protect international graduate students, many of whom are union members who work on their campuses in various teaching and research roles. Too often higher education employers threaten these international students with the revocation of their visa and deportation if they exercise their workplace rights, including the right to organize as a union and engage in concerted activity. Along with denouncing this egregious

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employer behavior, we urge the Committee to support reforms to relevant F-1 and J-1 regulations that have been used by colleges and universities to create doubt or fear on the part of international graduate employees engaging in protected labor activity. These regulations should be clarified to make clear that labor protests, including strikes, are protected and would not be grounds under either regulation for any adverse action either from an employer, sponsor organization, or the government.

Real Solution #3 – Expand Permanent Humanitarian Pathways

In the context of escalating mass human displacement, the imperative to increase resettlement commitment and capacity is real. Indeed, now is the time to scale up humanitarian pathways. By welcoming more refugees, asylum seekers and climate migrants and effectively integrating them into the workforce, we can also promote economic growth. But workers need the right kind of growth—we need worker-centered growth that generates shared prosperity and closes racial and gender gaps in income and opportunity, rather than growth that accelerates the concentration of wealth and power in the hands of few. We urge lawmakers to:

Restore and enhance asylum processing. The United States has obligations under national and international law to ensure that people will not be returned to dangerous situations—obligations the government cannot meet through expedited legal proceedings and removals of asylum seekers. The AFL-CIO rejects any proposed changes that would limit due process for vulnerable populations at the border or run counter to established U.S. and international norms regarding the detainment of children and refugees. Rather than limiting access, policymakers should explore possibilities to expand criteria for asylum to include victims of gender-based violence, gang violence, and climate change.

Set ambitious refugee resettlement numbers, including a target for the region. Amidst unprecedented levels of global displacement, resettlement needs are enormous and ever expanding. After nearly shutting down our refugee program in the previous administration, the U.S. should renew our commitment as a world leader in resettlement. Doing so would have the added benefit of helping to expand the workforce, including in industries within the food chain that have historically relied on refugee workers.

Do not allow immigrant parole programs to replicate the abuses of guestworker programs. The increased government reliance in recent years on parole has clearly been intended to respond to world events and meet pressing human need. Unions support and sympathize with these motivations. However, as with any new migration pathways, we want to ensure that adequate guardrails are in place to prevent exploitation. In particular, we are concerned that the structure of parole programs creates a potential for abuse by those seeking to exploit its sponsorship aspect.¹

¹ <https://www.nbcnews.com/news/latino/scammers-target-hopeful-applicants-bidens-humanitarian-parole-program-rcna68694>

Real Solution #4 – Reform Abusive Work Visa Programs

Any policy that creates tiered rights in our labor market is unjust and bad for workers. This is why we cannot accept a subclass of millions of exploitable undocumented workers and must fight for a path to citizenship for all. It is also why we must not allow expansion of immigration to be driven solely by corporate interest. When workers come to our country with their status under the control of employers, this constrains their rights and agency, and makes them vulnerable to exploitation in much the same way as when they lack status entirely. We urge Congress to:

Fundamentally reform work visa programs. After decades of experience with the abusive model of guestworker programs that degrade labor standards and constrain the rights of migrant and U.S. workers alike, change is long overdue. Unions have outlined concrete recommendations for reforms that will promote good jobs, worker empowerment, employer accountability, fair recruitment, and racial and gender equity. The need for more robust worker protections across our alphabet soup of work visa programs is clear, as is the need to ensure basic labor rights and standards within the exchange programs overseen by the Department of State. The AFL-CIO has endorsed the Seasonal Worker Solidarity Act (117th: H.R. 7549) and the H-1B and L-1 Visa Reform Act (118th: S. 979), as models of the types of reforms that are needed to protect all workers in relevant industries. In addition, unions and business groups have been sitting down together to develop a package of H-2B reforms that would make much needed improvements.

Regulate foreign labor recruiters. The international labor recruitment industry is rife with abuse and should be regulated through mandatory, enforceable mechanisms. The U.S. government should adhere to the ILO's "General Principles and Operational Guidelines on Fair Recruitment". In particular, unions are calling for an employer and recruiter registry system, and an enforceable ban on charging workers recruitment fees that, whether paid upfront or through deductions, can lead to debt bondage and forced labor.

Insist on transparency, labor rights and standards in all visa categories that place workers in the labor market. Currently, when searching for staffing options, corporations have a menu of under-regulated visa programs from which to choose. Even within the comparatively better regulated H visa programs, abuses are widespread because labor enforcement is inadequate and employers control workers' ability to live and work in the United States. Many of the other visa pathways corporate employers are utilizing have even larger regulatory deficiencies. Treaty visas, for example, include no labor standards provisions, labor enforcement mechanisms, or worker protections—and they are completely uncapped. Moreover, there is absolutely no public data available detailing which employers are using these visas and how. Escalating misuse of these pathways is a foreseeable and almost assured outcome unless appropriate constraints are put in place through federal investment roll out mechanisms. As a starting point, Congress should call on the administration to release real time data on employers using various visa programs, and insist on an oversight role for the DOL.

Reduce dependency on temporary labor with severely constrained rights. If we continue on our current path, the challenge of meeting workforce needs will deepen, because instead of expanding permanent immigration and resettlement pathways, we are seeing a major

expansion of temporary work visa programs. This risks turning temporary shortages into structural shortages, and creates downward pressures on wages and standards across industries.

Real Solution #5 – Support a Robust Role for Unions

Like it was for generations before, the labor movement is a natural home for immigrants and refugees struggling to achieve economic security and social justice. We unapologetically affirm that we want more immigrants and refugees to be union members today. Everyone who has a job should have the chance to join a union, particularly those who are at the greatest risk of abuse when seeking to navigate workplace issues on their own. With union membership comes representation at work, the added protection of a collective bargaining agreement, increased training opportunities, and a means to promote social cohesion with the existing workforce. We urge lawmakers to:

Interrogate labor shortages claims. In a tight labor market, employer claims of worker shortages may gain more surface validity, but they often obscure important realities. Unions across all sectors of the economy have deep expertise regarding the workforce needs and realities in their industries², as well as clear recommendations on how to address them. We implore lawmakers to engage with unions before accepting one-sided assessments of the labor market and proposing policy responses that could entrench structural problems.

Promote workforce development and training. Relying on immigration alone to meet routine staffing needs is neither sustainable nor ethical. Permanent immigration pathways may be a part of the staffing formula, but we need a broader, inclusive, grow-your-own approach that aligns with efforts to improve job quality and worker retention.

The federal government should recognize that registered apprenticeship, and other union-management training programs are the largest and most effective vehicle that we have to prepare a skilled workforce for the future. Extending work authorization to more members of our current workforce will remove barriers to onboarding them into good union jobs and skilled training pathways, and enable them to work on federally funded projects.

Promote effective workforce integration of newcomers. We have seen what can happen when policymakers fail to plan effectively for workforce integration. To minimize the potential for increased levels of immigration and refugee resettlement to fuel exploitation and backlash, we must think not just about how many people will come, but where they will live, what they will do, and how to foster authentic social bonds that help to bridge divides in workplaces and communities. For our part, unions are committed to welcoming more immigrants, refugees and asylum-seekers into our communities and helping them safely integrate into the workforce and good union jobs.

² See, for example: <https://www.aft.org/teacher-shortage-task-force-report>, <https://www.aft.org/healthcare/healthcare-staffing-shortage-task-force-report>, and <https://www.nationalnursesunited.org/protecting-our-front-line-report>

Require project labor and community benefits agreements on federally funded projects.

As vitally important new federal investments roll out, it is essential that we harness those resources to create good, safe jobs. For example, new revelations continue to unfold regarding the extent of worker abuses in the auto-manufacturing sector in the South, including exploitation of guest workers, incarcerated workers, undocumented workers, and child migrants. Absent interventions to change these deplorable conditions, critical federal investments in domestic electric vehicle production could perpetuate child labor and other egregious violations. Requiring community benefits agreements that include clear commitments on labor standards and workers' rights on such projects will ensure that companies that seek to access federal incentives sit down with unions and community organizations to promote fair and equitable workplaces, high quality family supporting jobs, and the ability for employers to attract and retain a skilled, stable 21st century workforce.

Conclusion

Workers are ready to help shape a just transition for our economy, and we believe that increased levels of immigration can be part of that vision. However, when immigration policies are structured solely to serve corporate interests, workers of all backgrounds lose, and the task to build support for welcoming policies becomes harder. In order to meet the humanitarian imperatives of our time, we must reject low wage immigration policy and chart a course forward that truly does respect and protect all working families.

The fact that increased immigration grows GDP and creates wealth—as many advocates taut—does not mean that those gains will be shared evenly or fairly. As workers, through collective action, begin to make long overdue gains in pay and conditions, it is critical that we think carefully about how we respond to the employer clamor to use immigration policy to expand the workforce. To spur just and inclusive growth, we must ensure that any new workers joining our labor force do so with full rights and protections. That cannot happen through abusive temporary work visa programs.

Adding more workers alone will not resolve our current workforce staffing issues. Unless and until employers address deplorable working conditions, inadequate compensation, and lack of basic dignity and respect on the job, they will be unable to attract and train new workers quickly enough to replace those who will continue to leave.

Unions have outlined a set of concrete and practical solutions to address these urgent structural issues. Let's work together to reduce the shortage of good jobs in our country and build an immigration system that supports our competitiveness while promoting equitable economic growth that comes from the bottom up and the middle out.