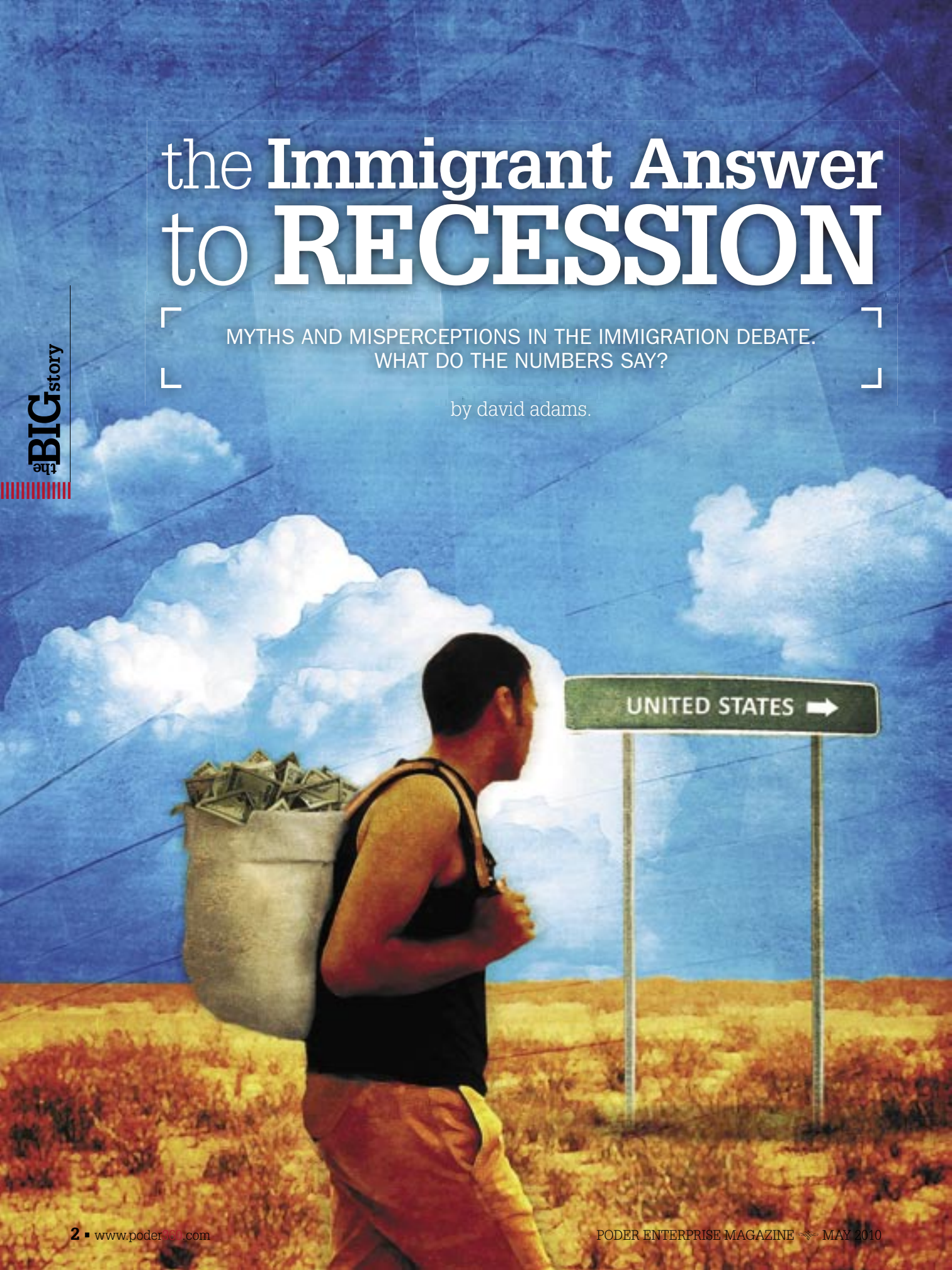


the Immigrant Answer to RECESSION

MYTHS AND MISPERCEPTIONS IN THE IMMIGRATION DEBATE.
WHAT DO THE NUMBERS SAY?

by david adams.

the **BIG** story





s America's next big immigration debate gears up, it seems we have learned little from the past. Many of the old misconceptions persist, with xenophobic fear-mongering reaching new heights in the midst of economic recession.

After being buffeted by the healthcare debate, the Obama administration appears cautious about tackling another thorny issue so soon.

But with millions of undocumented immigrants awaiting resolution of their fate, grass roots activists are clamoring for Obama to fulfill his promise to pass a new immigration law "in my first year as president."

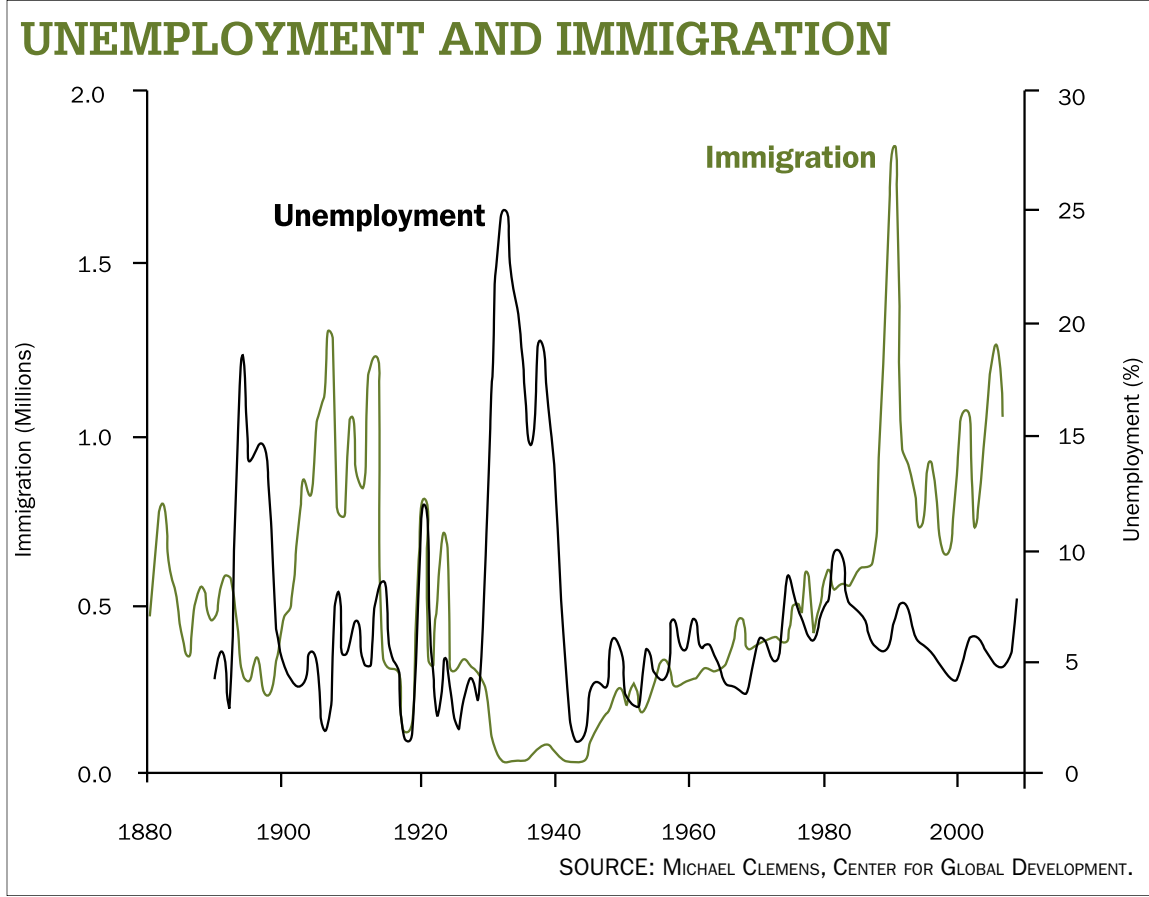
The debate remains as yet ill-defined. On the one hand, the activists are calling for a comprehensive immigration reform that would create a pathway to citizenship for millions of new Americans. Others seek more surgical reforms designed to let in highly skilled

workers and potential entrepreneurs to help America innovate its way out of recession.

Various bills are already on the table. U.S. Rep. Luis Guterrez (D-IL) led the way in December when he introduced a bill that would allow undocumented immigrants who came to the U.S. prior to Dec. 15, 2009, to apply for residency. Meanwhile Senators Charles Schumer (D-NY) and Lindsey Graham (R-S.C.) have proposed a bipartisan bill that also offers a path to citizenship for undocumented aliens. The White House praised the Senate bill, but has not indicated how much political weight it will put behind it.

But while Congress and the White House decide how far and how fast they want to go on immigration, there remains a tremendous disconnect between public perception and economic reality. While many Americans believe passionately that immigrants are a financial burden on the U.S. and take jobs away from those who were born here, an impressive body of statistical research indicates quite the opposite. Far from being a drag on the economy, immigrants are a vital engine of small business growth.

"One of our nation's greatest assets is our diversity," Sen. Mary Landrieu (D-LA) told an April 15 hearing of the Small D





Business and Entrepreneurship Committee. “We are literally the only nation that looks and speaks like every other nation on earth. That is a strength that allows us to be the most competitive nation in the growing global marketplace.”

Landrieu pointed out that the number of minority-owned businesses continues to grow, “adding to our competitive advantage.” She cited data from the U.S. Small Business Administration’s (SBA) Office of

THE IMMIGRATION CHAMPION

Congressman Luis Gutierrez (D-IL) has served eight terms in the U.S. House representing Illinois’ Fourth District. The first Latino to be elected to Congress from the Midwest, he is considered a tireless champion of the causes of the Latino and immigrant communities. He introduced an immigration bill in December titled Comprehensive Immigration Reform for America’s Security and Prosperity Act of 2009.

[PODER ENTERPRISE] How optimistic are you about immigration reform in the near future?

[LUIS GUTIERREZ] If there was a doubt about the energy and enthusiasm that exists in the base across this country, it should have been eliminated back in March when a quarter of a million people came here [to march on Washington, DC]. The genesis of that mass of people was Barack Obama’s State of the Union address. He gave such a flat, uninspiring speech, and many people felt he turned his back on immigration as one of the key fundamental issues for his administration. So everyone came to Washington, DC to tell him that they didn’t believe he had a true commitment to getting it done.

[PE] Did he get the message?

[LG] I think so. At least he knows now that there is an active, vibrant, energized immigrant community. And you know what, if he didn’t get it that day, we’re going to continue to send the message out. We’re going to continue to do the grass roots work necessary to keep this right there in front of the Congressional leadership.

[PE] There appears to be two reform agendas, one that supports comprehensive immigration reform and another that is pushing for a more limited approach to open the door to skilled workers and entrepreneurs. Are they compatible?

[LG] What we’re fighting for is comprehensive immigration reform. We don’t believe in piecemeal. We don’t believe that part of the society should get relief while the rest of society suffers and we think we need to do this in a comprehensive manner. There shouldn’t be a division because in the end fundamentally it affects families and the family unit. How do you make a decision between a son and their sib-

lings, between a mom and a dad and their children. We have 4 million American citizen children who the Barack Obama administration says let’s continue disappearing, kidnapping, vanishing, their parents. They should all be eligible.

We have to deal with the 12 million that are already here. I’m happy to talk about future flows and how we design those future flows. That’s a conversation we can have, but we can’t have a conversation that says we are going to allow people to remain in the United States in an exploited state, in this underground economy in which they continue to be exploited.

If you were with me in the garlic fields of Salinas [California], you’d see women whose knees are gone from kneeling day in day out picking garlic. They are exploited because the growers know of the immigration issue. They are exploited personally, physically. It’s the ugly, darkest secret of our immigration system, the exploited state in which immigrant women find themselves abused, both from a financial and a very physical point of view. I want to end that. I want them to pick up the phone one day and to call the police and to jail that criminal. You do that by reforming immigration in a comprehensive way. We need to end this caste society that we allow millions of workers in America to live in.

[PE] Do you feel the Democratic Party is with you on the immigration issue?

[LG] What I say to people is it’s time for Democrats to show leadership and not to continue to count on the xenophobic attitude of anti-immigrant Republicans to push voters into our column. It’s not enough. People are smart and they are sophisticated and they know. Tell us what you’re for and fight for it. You fought for healthcare; fight for comprehensive immigration reform. There wasn’t one Republican vote for healthcare, but you thought it was a fundamental value issue, and so is this.

There are a group of Republicans, who may not be many, but are sufficient in numbers to get comprehensive immigration reform done. They understand that harsh anti-immigrant rhetoric is not in the interests of the Republican party in the long term, or even the short term.

Advocacy, showing that minority-owned small businesses are among the fastest growing segments of the small business community.

Minority-owned business enterprises accounted for more than 50 percent of the 2 million new businesses over the past 10 years, according to the SBA. “There are now more than 4 million minority-owned companies in the United States, with annual sales totaling nearly \$700 billion,” Landrieu said.

About 25 percent of all high-tech start-ups in the last decade were founded or co-founded by an immigrant, according to the Kansas City-based Kauffman Foundation, which is devoted to entrepreneurship. “That is significant because immigrants make up only about 14 percent of the U.S. population,” points out Robert E. Litan, who directs research at the Kauffman Foundation. Engineers from China and India run roughly one quarter of all technology businesses started in Silicon Valley. Look no further for examples than Sergey Brin, the Russian-born co-

founder of Google, or Vinod Khosla, the India-born co-founder of Sun Microsystems.

Hispanics are well represented across a wide spectrum of businesses, from Mexican-American Linda Alvarado, CEO of a major construction firm in Denver and part owner of the Colorado Rockies baseball team, to Ecuador-born Nina Vaca, founder of Pinnacle Technical Resources Inc., a major Dallas-based information technology solutions company, and Marcelo Claure, who moved to Miami from Bolivia in 1989 and now heads Brightstar, a multi-billion dollar cellphone company.

Through its Kauffman Index of Entrepreneurial Activity, the foundation monitors the start-up rates for new businesses. “We find the research highly supportive of giving green cards to people who graduate from U.S. universities—bachelors, masters or PhDs,” says Litan.

In fact, between 1980 and 2005, virtually all net new jobs created in the U.S. were created by firms that were five years old or less, according to the index. That’s about 40 million jobs. More established firms



We’re going to provide 90-95 percent of the votes, but you got to put up those numbers so the other 5 percent come forward. This is our issue. This is our commitment. Let’s keep it.

I became a little more hopeful after seeing the First Lady visiting Mexico. She was talking about the division of parents and children and how we need comprehensive immigration reform so families stop being divided. I was delighted to hear how eloquent

she was and how passionate she was about this issue. I certainly hope the president of the United States uses that same passion. But you cannot say that Barack Obama does not have an immigration policy. You can’t say that because he has an enforcement-only policy. He has put more people on the border and he has deported more people and has set up a quota for the deportation and destruction of more families. ■

created almost no net new jobs when firings and layoffs are subtracted from hirings.

“I think it is possible to reframe the immigration debate as a jobs-creation initiative,” Litan says. “I think that day will come. It’s not here now but give it a couple more months of high unemployment rates and politicians will begin looking at new policy tools,” he adds.

In order to foster the creation of new jobs, legislation should encourage immigrants to come to the U.S. to start companies and employ U.S. citizens, Litan says. He applauds a bill moving through the Senate that is sponsored by Senators John Kerry (D-MA) and Richard Lugar (R-IN) and would offer “entrepreneurship visas” that require angel funding or venture funding starting at \$250,000. He distinguishes this bill from the existing EV-5 visa, where you have to bring \$1 million of your own money. “It should not be tied to money, it should be tied to employment,” Litan says.

Then there are the more than 1 million skilled foreigners in the U.S. on temporary H-1B visas that allow U.S. employers to temporarily employ foreign workers in specialty occupations. What happens to those people when their visas run out? Litan suggests offering the opportunity to extend those visas if the beneficiaries start a business that creates jobs. Hispanic small business owners would be ideal candidates, from restaurants offering native cuisine to construction and maintenance companies.

Other studies have reached similar conclusions. Bill Kerr of Harvard Business School argues that immigrants play an important role in U.S. innovation in science and technology. In a study he found that in periods when H-1B visa numbers went down, so did patent applications filed by immigrants in the U.S. And when H-1B visa numbers went up, patent applications followed suit.

While small businesses continue to grow, they could be creating jobs at an even faster pace if they weren’t being held back by restrictions such as lack of credit for small businesses and immigration law, analysts say.

“We need to fix these barriers for all groups. We don’t know where the talent is. It could be anywhere,” says Robert Fairlie, an economic professor at the University of California, Santa Cruz, and author of the Kauffman Index. Undocumented status limits entrepreneurship, he adds. When Mexican immigrants apply for amnesty the number of new businesses goes up.

Advocates of comprehensive immigration reform don’t like talk of favoring skilled workers over others. “We don’t believe in piecemeal. We don’t believe that part of the society should get relief while the rest of





society suffers,” Rep. Gutierrez tells PODER in an interview. Gutierrez is upset by what he calls the stepping up of immigration enforcement measures under the Obama administration. “He has put more people on the border and he has deported more people, and has set up a quota for the deportation and destruction of more families,” he adds.

The Gutierrez bill would also allow certain immigrants in deportation proceedings, or facing removal, to apply for legalization on payment of a \$500 fine, a far lower sum than other bills have proposed. Immigrants with criminal records would not be eligible. If approved, applicants would receive a six-year visa, prior to being able to seek permanent residency.

It would also incorporate provisions of the DREAM Act, which provides green cards to children who are in high school or college and who were brought to the U.S. by undocumented parents as minors.

Researchers point to data that suggests legalizing undocumented workers would be a boon to the U.S. economy. Comprehensive immigration reform would yield \$1.5 trillion to the U.S. GDP over a 10-year period, generate billions in additional tax revenue and consumer spending, as well as create hundreds of thousands of jobs, according to a recent study by Dr. Raúl Hinojosa-Ojeda from the University of California. The report, *Raising the Floor for American Workers: The Economic Benefits of Comprehensive Immigration Reform*, co-released by the Immigration Policy Center and the Center for American Progress, found that legalization of undocumented migrants historically tends to raise the wages of all workers and could serve today as a vital tool to help revitalize the nation’s economy.

The report was based on historical data compiled after the last major immigration overhaul by Congress, the 1986 Immigration Reform and Control Act. It found that wages increased 15-20 percent over the next 20 years. Legalizing undocumented workers allows them to increase their productivity by giving them greater confidence to fully use their skills in the workplace, Hinojosa-Ojeda says. By reducing the pool of cheap, easily exploited, undocumented labor, legalization also pushed up wages nationally.

Many advocates of reform are skeptical that significant immigration legislation can pass in the current economic climate with more than one in 10 people out of work. Opponents argue that immigration policy needs to be tightened rather than relaxed, in order to protect jobs. Deporting foreign migrants who entered the country illegally would potentially open up existing jobs to unemployed Americans, they argue. D



But cracking down on immigration is costly and has not worked, adds Daniel Griswold, Director of the Center for Trade Policy Studies at the conservative Cato Institute. “We’ve tried enforcement and it only has failed.”

Immigration activists say that current policy, defined by some as “enforcement only,” is doing tremendous harm to the economy. They point out that President Obama’s economic stimulus act limited the ability of many companies receiving stimulus money to freely employ highly skilled foreign workers on H-1B visas. The law appeared to be saying that by removing highly skilled workers the recession would end.

That kind of thinking is “shameful” as well as being “historically inaccurate,” says Michael Clemens at the Center for Global Development, an independent research firm in Washington, DC. Clemens created a graph from primary statistical sources to show U.S. immigration since 1880, superimposed on a graph of U.S. unemployment from 1890 until today.

“Collapses in immigration utterly failed to keep Americans at work during the major depressions of the 1890s and 1930s,” he says. Enormous surges in immigration accompanied falling unemployment in the early 1900s and after 1981, Clemens found.

“If you still think that the big picture of U.S. history involves any sort of trade-off between immigration and unemployment, it’s time to re-envision our stunningly dynamic, flexible economy,” he says. ■





GAINING ACCESS TO THE UNITED STATES BY INVESTING

by nelson a. castillo.

The United States makes available visas for foreign investors and their immediate families that would allow them to live temporarily or permanently in the United States. These types of visas are not widely used because of their great expense, but are readily available for people who have the economic means or access to lawful capital. There is currently pending legislation that would create additional opportunities for immigrant entrepreneurs who have a business idea and can attract U.S. venture capital. There are currently two visa programs in effect that offer investors and key employees a legal pathway to the United States.

[EB-5 INVESTOR VISA PROGRAM] The Employment Creation Immigrant Visa, commonly known as the EB-5 investor visa program, allows qualified individuals who contribute to the economic growth of the United States by investing in U.S. businesses and creating needed employment opportunities to gain U.S. lawful permanent resident status on a two-year conditional basis. Within the EB-5 visa there are two components:

[BASIC NON-PILOT PROGRAM] Authorizes up to 10,000 immigrant visas each fiscal year to foreign entrepreneurs, along with their spouses and unmarried minor children. It requires investing in a new commercial enterprise or a troubled business, must benefit the U.S. economy, and directly create or maintain at least 10 full-time jobs. It also calls for a \$1 million investment. If a foreign entrepreneur invests in a "targeted-employment area," which includes rural areas with high unemployment, that amount could be reduced to \$500,000. The investor must be personally involved or supervise managers in the day-to-day operations of the commercial enterprise.

[REGIONAL CENTER PILOT PROGRAM] Receives 3,000 of the 10,000 total available EB-5 visas. This program requires the foreign investor to invest at least \$1 million or \$500,000 in a regional center-affiliated new commercial enterprise or a troubled business located within a government-designated Regional Center. The investment must also create at least 10 new full-time jobs either directly or indirectly. There are approximately 90 USCIS-designated Regional Centers throughout the U.S. organized to promote economic growth, including improving regional productivity, job creation, and increasing domestic capital investment. The investment funds can be cash, equipment, or other tangible equivalents, and must derive from a valid and lawful source. The investor and his immediate family may live and work wherever they wish in the United States. After the conditional period of residency, if investors have met all the EB-5 visa requirements during the previous two-years, they and their immediate family will be granted U.S. lawful permanent residence.

[E-2 TREATY INVESTOR VISA] The E-2 Treaty Investor nonimmigrant visa program is available to foreign investors whose countries have a commercial treaty with the U.S. There are approximately 80 such countries including Argentina, Bolivia, Chile, Colombia, Costa Rica, Ecuador, Honduras, Mexico, Panama, Paraguay and Spain. There is an unlimited availability in this category of visa provided all visa requirements are met. The investor must come to the U.S. for the sole purpose of actively directing and developing a real operating commercial enterprise and demonstrate control of the entity by showing ownership of at least 50 percent of the business, by having operational control through a managerial position or other corporate device or means. The individual must invest enough lawfully acquired capital to support the successful operation of an enterprise. The amount is determined on a case-by-case basis, but it must have a significant economic impact in the United States, or it must generate significantly more income than just to provide a living to the investor and family. The E-2 visa program also allows the E-2 commercial enterprise to bring employees from the treaty country to work in the U.S. In this case, the individual must be employed as an executive, supervisor, or hold a position that requires highly specialized skills and which are essential to the efficient operation of the U.S. entity. The spouse and minor children of an E-2 investor or employee, regardless of nationality, may also qualify for E-2 visas. The children may attend school and only the spouse can get work authorization. All E-2 visa holders must establish their intent to leave the United States upon termination of their status. The E-2 visa may be issued for up to five years and extended indefinitely as long as eligibility continues and the commercial treaty remains in force.

[STARTUP VISA ACT OF 2010] United States Senators John Kerry (D-MA.) and Richard Lugar (R-IN) recently proposed the StartUp Visa Act of 2010. It seeks to help small businesses add jobs by creating a two-year EB-6 immigrant visa for foreign entrepreneurs who can secure US\$250,000 in capital from U.S. investors. After two years, the entrepreneur could become a U.S. lawful permanent resident if the person's business has created five full-time jobs in the U.S., earned or raised an additional \$1 million in revenue. The bill is being reviewed for further consideration and action. Investor visa applicants should seek tax, business and legal counseling to successfully navigate these complex visa programs. ■

NELSON A. CASTILLO IS AN IMMIGRATION ATTORNEY AND FORMER NATIONAL PRESIDENT OF THE HISPANIC NATIONAL BAR ASSOCIATION. YOU CAN FIND MORE INFORMATION ABOUT HIS IMMIGRATION PRACTICE AT WWW.NELSONCASTILLO.COM.