

Report on Immigration for the Larimer County Board of Commissioners

Submitted by the County Agricultural Advisory Board

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Overview

Commissioner Gaiter on behalf of the Board of County Commissioners (BCC) asked members of the Larimer Agricultural Advisory Board (AAB) to provide information and advise them regarding the issue of immigration. The recent election and subsequent executive orders have added to the importance of discussing issues related to immigration, their effect on agriculture and other industries in the county, region and state and on immigrant families themselves. We will discuss the following topics: **a)** the economic impact, specifically the dependency of agriculture and other businesses on immigrant workers; **b)** the types of visas or documents currently used by these workers and associated problems; **c)** local law enforcement as it relates to immigrant workers; **d)** immigrant workers and their families; **e)** housing and land use regulations pertaining to farm workers; **f)** existing legislation, executive orders and ongoing legislative efforts related to immigration and farm labor; **g)** others working on immigration issues. We close summarizing the need for sensible law enforcement and immigration reform. This will be followed by references and appendices supporting the above. Our sources reflect a considerable amount of bi-partisan support for restraint regarding apprehensions, concerns for the human rights of migrant workers and for immigration reform. We learned a lot doing this report and hope it is educational for BCC as well.

I. Economic Issues

The agriculture sector contributes 40 billion dollars to Colorado's economy and creates 173,000 jobs (CSU Farm Flavor, 2016). It also depends on immigrant workers as an important part of the ag work force. Many of these workers are undocumented though they may have obtained forged documents, generally Permanent Resident and/or Social Security cards. A study by the Partnership for a New American Economy found that 36% of hired farm workers in Colorado are undocumented (New American Economy, 2016). County producers, and processors, particularly dairies, horticultural farms, larger commodity producers and some livestock producers depend almost exclusively on immigrant labor. If immigrant labor is eliminated, the estimated production loss in Colorado could exceed 100 million dollars (Farm Bureau, 2016). Several AAB members can testify to this as it pertains to their own operations. In Larimer and Weld Counties, most dairy workers, for example, are immigrants. A nation-wide study by Texas A&M (2015) reports that this is a nation-wide phenomenon and that losing these dairy workers would cause economic impacts in the billions of dollars (summarized in Executive Summary, Appendix D). Immigrant workers are willing to do

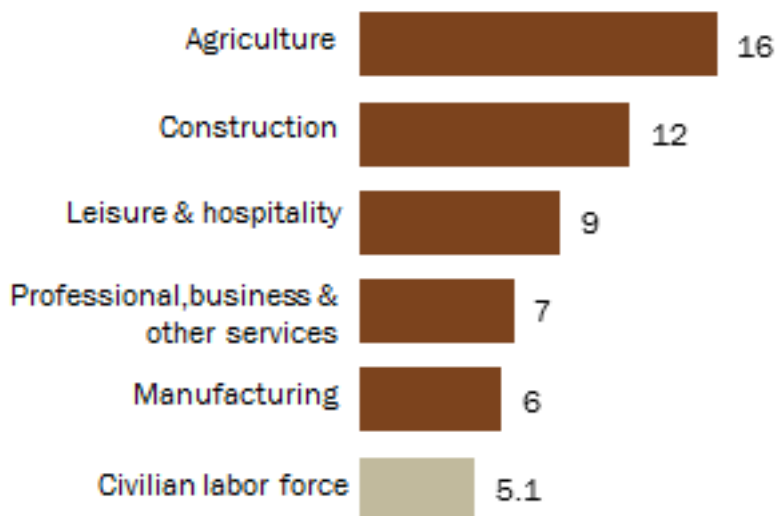
difficult work that US workers often do not want to do or do not do well. They have a strong work ethic and learn the skills needed on farms and ranches that are exceedingly more demanding and complex than before. Locally, state-wide and nation-wide, a substantial need for an immigrant labor force exists. This includes service workers, construction workers, leisure and hospitality workers, and those working in manufacturing and health services. In Colorado, 21.5% of all construction workers were immigrants in 2013 (Colorado Fiscal Institute, 2015).

Nation-wide, the Pew Research Center (2015) estimates that 16% of all agricultural workers are undocumented. They report that 32% of all undocumented workers in Colorado work in agriculture. In almost half of the states (21 of 43), agriculture is the industry with the largest share of total workers who are unauthorized immigrants. In 10 other states, agriculture is the industry with the second largest share of workers who are unauthorized immigrants. These 31 states are spread across all regions of the country. The agriculture industry ranks first in every Western state for which data are available, except Alaska and Nevada; in Nevada, agriculture ranks second, behind construction.

FIGURE 2.1

Industries With High Shares of Unauthorized Immigrants, 2012

% unauthorized immigrants of workers in industry



Source: Pew Research Center tabulations from augmented 2012 American Community Survey data from Integrated Public Use Microdata Series (IPUMS)

PEW RESEARCH CENTER

A more recent study by the National Bureau of Economic Research puts undocumented workers as 18% of all US agricultural workers and 13% of all construction workers. The conservative think tank American Action Forum estimates that 4 million jobs will go unfilled if undocumented workers now in the labor force are deported (Fort Collins Coloradan, March 3rd) and agricultural output would fall by as much as 30 – 60 billion dollars increasing food prices 5-6% (Farm Bureau, 2017). The lack of immigrant workers in agriculture has already caused producers in Colorado and nation-wide to forego the planting of labor intensive crops or to be unable to harvest such crops. A farm labor shortage explains as much as 3.3 billion in missed GDP growth in 2012 (Farm Bureau, 2017).

At a meeting with Senator Michael Bennett of Colorado at La Luna Dairy in 2016, two Weld County producers told how they had to refrain from planting cabbage and other horticultural crops because of a lack of workers to maintain and harvest these labor-intensive crops. In Larimer County some horticultural farms have reduced the acres of vegetables they raise because of the lack of workers to care for them and in years past, vegetables have been left in the fields un-harvested, due to the lack of labor. The New American Economy study (2015) features a case study from the well-known Talbott Orchards in Palisade describing crop losses from labor shortages.

In 2014, undocumented immigrants in Colorado earned 3 billion dollars, of which 114.1 million went to state and local taxes and 199.6 million went to federal taxes (New American Economy, 2016). Undocumented immigrants also contribute to entitlement programs like Medicare and Social Security through taxes on their individual wages – even though they seldom receive benefits from such programs. The Social Security Administration reported in 2013 that undocumented workers paid 13 billion into social security and received only 1 billion in benefits. Also, because they tend to be of working age, immigrants are 25% more likely to be employed than the general population.

II. Types of Visas/Documents Utilized by Immigrant Workers in Agriculture

Most immigrant workers have documents such as social security cards, driver's licenses or green cards but they may or may not be official. Unofficial versions of these and other documents can be purchased and are widely available. The principal legal documents used for immigrants in the US include the H-2A visa or the Green Card (Permanent Resident Card). In general, Colorado crop and livestock producers are frustrated with the time and expense (\$3-4000 for certification and filings) of getting workers using the H-2A visa (New American Economy, 2016; Appendix A). The US immigration system has not been updated in 27 years and is broken in the eyes of most who have studied it. It currently provides less than 4% of the hired workers needed (Farm Bureau, 2017). A very large backlog of applications exists and visas are often not approved in time for producers to avoid peak period losses from un-harvested crops or unattended livestock. A Farm Bureau study (2017) revealed that 72% of growers reported that workers arrived on average 22 days after the date of need. The steps for obtaining an H-2A visa or a Green Card are described below to illustrate our concerns and the need for immigration reform that understands and accommodates the needs of economic sectors like agriculture which require both seasonal and year-round workers.

H-2A Visa:

Who May Qualify for H-2A Classification? To qualify for H-2A nonimmigrant classification, the petitioner must:

- Offer a job that is of a temporary or seasonal nature.
- Demonstrate that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work.
- Show that employing H-2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers.
- Generally, submit *a single* valid temporary labor certification from the U.S. Department of Labor with the H-2A petition. (A limited exception to this requirement exists in certain “emergent circumstances.” See e.g., 8 CFR 214.2(h)(5)(x) for specific details.)
- **step 1:** *Petitioner submits temporary labor certification application to the U.S. Department of Labor (DOL).* Before requesting H-2A classification from USCIS, the petitioner must apply for and receive a temporary labor certification for H-2A workers from DOL. For further information regarding the temporary labor certification requirements and process, see the Foreign Labor Certification, Department of Labor Web page. **Step 2:** *Petitioner submits Form I-129 to the U.S. Customs and Immigration Service USCIS.* After receiving a temporary labor certification for H-2A employment from DOL, the petitioner must file Form I-129 with USCIS. With limited exceptions, the petitioner must submit the original temporary labor certification as initial evidence with Form I-129. **Step 3:** *Prospective workers outside the United States apply for visa and/or admission.* After USCIS approves Form I-129, prospective H-2A workers who are outside the United States must: Apply for an H-2A visa with the U.S. Department of State (DOS) at a U.S. Embassy or Consulate abroad and then seek admission to the United States with U.S. Customs and Border Protection (CBP) at a U.S. port of entry; or directly seek admission to the United States in H-2A classification with CBP at a U.S. port of entry, if a worker does not require a visa in cases where an H-2A visa is not required.

Period of Stay Generally, USCIS may grant H-2A classification for up to the period of time authorized on the temporary labor certification. H-2A classifications may be extended for qualifying employment in increments of up to 1 year each. A new, valid temporary labor certification covering the requested time must accompany each extension request. The maximum period of stay under an H-2A classification is 3 years.

A person who has held H-2A nonimmigrant status for a total of 3 years must depart and remain outside the United States for an uninterrupted period of 3 months before seeking readmission as an H-2A nonimmigrant. Additionally, previous time spent in other H or L classifications counts toward total H-2A time.

Families of H-2A Workers An H-2A worker's spouse and unmarried children under 21 years of age may seek admission under an H-4 nonimmigrant classification. Family members are not eligible for employment in the United States while in H-4 status.

Employment-Related Notifications to USCIS Petitioners of H-2A workers must notify USCIS within 2 work days if any of the following occur: **No show:** The H-2A worker fails to report to work within 5 work days of the latter of either the employment start date on the H-2A petition, or the start date established by the employer; **Abandonment:** The H-2A worker leaves without notice and fails to report for work for 5 consecutive work days without the consent of the employer; **Termination:** The H-2A worker is terminated before completing of the H-2A labor or services for which he or she was hired; or **Early Completion:** The H-2A worker finishes the labor or services for which he or she was hired more than 30 days earlier than the date specified in the H-2A petition.

Again, as it is currently administered, the H-2A process is broken. It is extremely cumbersome, expensive, moves very slowly, favors US workers and therefore has a built-in disincentive to approve immigrant workers. There are far fewer permits available than the workers currently needed in agriculture (Farm Bureau, 2016; Agricultural Workforce Coalition, 2016; Farmers Union, 2013). Though favoring U.S. workers may be seen as politically desirable, in reality it is hard to find US workers who will work in agriculture with its variable schedules that follow the weather and peak work periods requiring more and odd hours. It is also generally hard work that requires great care if production is to be profitable.

Green Card:

A Green Card holder (also known as a Lawful Permanent Resident or an Immigrant) is a foreign national who has been granted the privilege of 'permanently' living and working in the United States of America. To apply for a Green Card based on the fact that you have a 'permanent employment' opportunity in the USA, you must meet a number of requirements and follow certain application and processing procedures. Details about getting a Green Card can be found at <https://www.usa.gov/green-cards>. There are four main ways to obtain a Green Card:

1) GREEN CARD EMPLOYMENT & SPONSORSHIP »

The first step is to find a job with a Green Card employer company >

- ~ One does not need to be in the U.S. for an employer to file your Green Card application.
- ~ A college degree is not required to get a Green Card.
- ~ One does not need to be a current employee of the company that files for that person's Green Card.
- ~ The employer (sponsor) typically Pays ALL the application and relocation costs. For more information about Employment Based Green Cards Click <https://www.uscis.gov/green-card/green-card-through-job>

2) GREEN CARD THROUGH A FAMILY MEMBER »

Recommended if:- you have an immediate family member who is a US Citizen or a Green Card holder. If one wishes to become a Green Card holder based on the fact that they have a close relative who is a citizen of the United States or a relative who is a lawful permanent resident, they must go through a multi-step process. There are also a number of eligibility requirements and preference categories. These are detailed at: <https://www.uscis.gov/green-card/green-card-through-family>

3) GREEN CARD BY MARRIAGE »

Recommended if a person is marrying a US Citizen or Green Card holder.

~ Marriage to a United States Citizen - the K visa category is intended for use by both a spouse of a US citizen and by the spouse's children. The same process that theoretically takes 6-8 months abroad, can take up to 10 years in the US, although the applicant may work and live in the U.S. from the date of filing. Those who apply abroad must wait outside of the US during the entire processing period. ~ Marriage to a current Green Card holder - the introduction of the V1 and V2 nonimmigrant visas allows certain spouses of Green Card holders (lawful permanent residents) and the children of those spouses to travel to and to stay in the US while they wait for the final completion of their immigration process. More information is found at: <https://www.uscis.gov/green-card/green-card-through-family/green-card-immediate-relative-us-citizen>

Other Ways to Get a Green Card in the Past

There have been several programs allowing immigrants to obtain Green Cards in the past. These include: Green Card for Refugee and Political Asylum; Green Card for Amnesty (1982 – 1988); Green Card for Special Agricultural Workers (1985 – 1988). Some Larimer County families may have older members who hold one of these Green Cards.

For more information, visit the website of U.S. Citizenship and Immigration Services (USCIS, formerly called the INS) at www.uscis.gov.

III. Local Law Enforcement and Unauthorized Immigrants

Detention and Deportation Perhaps the most important area for protecting the ability of agricultural producers (and other economic sectors as well) to have the labor they need and to alleviate fear among the families of immigrants is the use of restraint by local law enforcement when dealing with immigrant workers and their families. Local elected officials could direct and or encourage law enforcement to focus on community priorities such as public safety, targeting serious crime, and protecting witnesses and victims. Local officials should limit actions that assist in the roundup or identification of immigrants who have not compromised public safety. This means limiting referrals to or involvement with Federal agencies like Immigration and Customs Enforcement (ICE). This is especially important when federal authorities decide to identify and arrest local immigrants who have no record of being in trouble with local law enforcement agencies. As the federal government expands the definition of “criminal” to include things like vehicle violations or being “undocumented”, while having a document, the person could be arrested. There is considerable fear among undocumented immigrants in the Larimer County community that families might be broken up, with one or both parents being deported (Fuerza Latina, 2016).

In the past in Greeley and Fort Morgan Colorado and Lexington, Nebraska and other locations, roundups of relatively stable (mostly Latino) workers at meat packing plants or dairies have created a vicious cycle of economic and personal hardship. Reliable, law-abiding workers are deported and their families are dramatically disrupted (see section IV). Locals do not step up to fill the jobs and less stable refugee populations with very different cultural norms are brought in to replace them. These replacement workers often bring multiple language and other special needs that can overwhelm school systems and communities with new costs. Meanwhile, children of deported workers born in the US

who are citizens require more public assistance. This makes traditional immigrant workers reluctant to work in such places, making it difficult for employers to find the labor they need.

Cities and counties have no legal obligation to help enforce federal immigration laws (ILRC 2016). A county jail policy regarding assistance to ICE can have an impact on deportations. For example, in cases involving even minor traffic infractions, jails have served as conduits for subsequent detention by ICE. Counties should be reluctant to enter into an intergovernmental agreement with ICE, or routinely allow them to have unfettered access to data bases, individuals or to undertake joint patrols or operations. During routine traffic or roadside assistance stops or other interactions with individuals, immigration status and or place of birth should not be requested by officers. This is not to say we wish to protect those who have committed felonies or serious misdemeanors once convicted under due-process. The standard request for a valid driver's license will normally alert law enforcement to these situations.

This discussion actually began a number of years before this administration's recent executive order with reactions by the Police Foundation (2009) to the U.S. Immigration and Customs Enforcement's 287(g) program of deputizing local and state police to perform immigration enforcement activities. Police executives have felt torn between a desire to be helpful and cooperative with federal immigration authorities and a concern that their participation in immigration enforcement efforts will undo the gains they have achieved through community oriented policing practices, which are directed at gaining the trust and cooperation of all members of the communities they serve. Alarming, there are current attempts in the Colorado statehouse (HB17-1134) to make it illegal to do anything that could be considered to be providing sanctuary, including not checking for immigration status or refusing to cooperate fully with federal immigration programs. This is not likely to get out of committee however.

Statements of Support To indirectly guide law enforcement and other agencies, some cities have adopted statements of support. While they do not specify benefits or protections, such statements have the affect of easing immigrant fears by asking officials to be inclusive and protect the rights of all residents including immigrants (Chicago statement, Colorado Compact) **Appendix C**). Locally, the Fort Collins Police Department has a policy of not stopping a person because they suspect they might be in the country illegally. Some 300+ jurisdictions have declared themselves to be a "refuge or sanctuary" against immigrant deportation efforts. Some school districts and universities have declared themselves to be "safe zones". The AAB realizes that this may not be a preferred course of action for the BCC and that policies of restraint can produce the same results. Others in Larimer County and elsewhere in Colorado, however, are urging that "sanctuary" designations be adopted.

IV. Immigrant Workers and Their Families

The Center for Migration Studies (2016) estimates that Larimer County has over 4,000 undocumented residents of whom over 3,000 are in the workforce and approximately 1000 of those work in agriculture. Hispanics make up 97% of this population, most are from Mexico with some from Central America. Surprisingly, 63% of these residents entered the U.S. before 1999 indicating that many are

long-time established and contributing members of the community with families making them more vulnerable to disruption if apprehended. Virtually all adults are employed with 93% above the poverty threshold which speaks to the industrious nature of immigrant workers.

These immigrant workers who are needed by the region's agricultural operations, are assets to those who employ them (Thilmany,2016). For workers to continue to be productive, less fearful, and stable, they and their families need continued community support. Immigrant families are also often a blend of those who are undocumented, documented and children born in the US who are citizens.

Unauthorized workers are not eligible for the majority of public assistance programs. This means no food stamps (SNAP), no Medicare or Medicaid, almost no health and human services from counties that receive state and federal funding to provide those services. Exceptions are emergency room care and the ability to get a driver's license. Drivers licenses are issued to undocumented workers in Colorado to insure that vehicle operators have insurance and pay registration fees, but applicants must travel to two specific Dept. of Motor Vehicle locations outside Larimer County that issue these licenses. Appointments are so hard to get that a black market exists to sell appointments already scheduled (Fuerza Latina).

Although some Health and Human Services Health Centers may not check for citizenship, there remains a need for expanded health services. For example, the health of children and other immigrant family members is affected by living with the threat or experience of deportation of family members and friends. A [study](#) by Human Impact Partners found that from 1998 to 2012, over 660,000 children suffered such traumatic separation from a parent. As a result, tens of thousands of children suffered declines in their physical health, had poorer behavioral and educational outcomes, and experienced higher rates of poverty and food insecurity. The study also found that a majority of the undocumented parents interviewed reported that their children showed symptoms of post-traumatic stress disorder. The study describes how parents are equally affected when a spouse is deported (The Hill, 2016).

Some support is provided in Larimer County and elsewhere by non-profit and church groups, Salud health services, and the Food Bank of Larimer County. The Food Bank asks that clients have a photo ID, proof of residence and a pay stub that shows they are eligible for services. Most public services are not available and even if workers or family members obtain documents, they are not eligible for public assistance for five years thereafter. Meanwhile, immigrant workers continue to pay taxes for basic safety net and health and human services they do not receive.

V. Farm Labor Housing and Land Use Regulations

In the past several AAB members raised concerns about housing for farm laborers, many of whom are immigrants. Some adjustments were made to the code as a result. In review, the Larimer County Land Use Code specifies permitted uses including farm labor housing, and farmstead accessory dwellings that are somewhat relevant to our task force work on immigration. In general, on farm housing of workers (which used to be the norm), is less prevalent with many immigrant workers now finding housing in nearby communities or rural areas. Some on- farm housing (generally not of the dormitory style) falling into the "accessory use" category is utilized to house immigrant labor. Both are briefly described below with references to the relevant section in the land use code.

Agricultural Labor Housing (Section 4.3.1)

This housing is defined as a facility for the dormitory style housing of ag workers on a seasonal basis. This type of housing is a use permitted by special review in the following zoning districts: FA and FA-1 Farming, FO and FO-1 Forestry, O Open (where most farms are located), and RE Rural Estate. This does not cover year round or longer than seasonal labor.

Accessory Uses and Structures for Farmsteads (Section 4.3.10)

These are intended to allow property owners to make use of their property and provide for labor housing while maintaining the integrity and character of the neighborhood. They must be clearly secondary to the principal use (primary residential structure) and must be located on the same lot with the principal use structure. A farmstead is one place that accessory uses occur in order to provide additional housing for those helping on the farm. The specifics of this use are included for quick reference as Appendix E.

VI. Past, Existing and Proposed Legislation and Executive Orders Related to Immigrants

Though comprehensive immigration reform has not happened, some laws exist and some executive orders are in effect until they are altered by the incoming administration. These apply at the state and local government level. Other laws have been proposed. One executive order is being applied (DACA), while another which could have done much to address serious immigration problems is tied up in court (DAPA). The recent executive order (January 25th, 2017) has the most significant implications for local communities. These are briefly described below.

Bracero Program This controversial program was created by Executive Order in 1942 (FDR) and promulgated by a series of agreements and laws between the United States and Mexico between 1942 and 1964 when the program ended. Over the course of the program 5 million workers were given contracts to work temporarily in the U.S. On average, there were 200,000 workers per year given contracts to work in agriculture and other industries. The Bracero Program ended in 1964 and eventually led to the formation of the H-2 program that we still have today.

Operation Wetback This horribly named program was the result of President Eisenhower's mandate to remove undocumented Mexican workers from the U.S. It was named and managed by Gen. Joseph May Swing. In July 1954 INS began a roundup of Latinos regardless of documentation. Because of the militaristic manner of these "captures" the program ended in the same year it started, in part because of the frequent injuries and many deaths that resulted from harsh treatment. Hundreds of US citizens were included in these detentions and deportations. Estimates of the number of workers deported range from 250,000 to more than 1,000,000. (Texas State Historical Assn. 2017).

Migrant and Seasonal Agricultural Worker Protection Act of 1983 This Act establishes in part, wage and working conditions for seasonal temporary workers and requires the registration of labor contractors. It establishes norms for the transportation and housing of workers. Employers and contractors share the responsibility for compliance.

Immigration Reform and Control Act of 1986 This Act sets minimum wages, overtime wages, restricts child labor, and mandates some record keeping by employers. Agricultural employees, however, are exempt from certain requirements related to minimum wage and overtime, and may be paid by the task or quantity harvested. Exceptions allow children to work below the minimum age applied to other industries.

Deferred Action for Childhood Arrivals (DACA) is a program created by **executive order** during the Obama administration in June of 2012. It allows certain undocumented immigrants to the United States who entered the country as minors to receive a renewable two-year period of deferred action from deportation, and eligibility for a work permit. To be eligible, immigrants must have entered the United States before their 16th birthday and before June 2007, be currently in school, a high school graduate or be honorably discharged from the military, be under age 31 as of June 15, 2015, and have not been convicted of a felony, significant misdemeanor or otherwise pose a threat to national security. The program does not provide lawful status or a path to citizenship. The undocumented student population is rapidly increasing; with approximately 65,000 undocumented students graduating from U.S. high schools on a yearly basis.^[3] CSU has over 100 DACA students enrolled. This program now faces an uncertain future with the incoming administration.

Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA), sometimes called **Deferred Action for Parental Accountability**, is a planned American immigration policy to grant deferred action status to certain illegal immigrants who have lived in the United States since 2010 and have children who are either American citizens or lawful permanent residents. Deferred action is not full legal status but would come with a three-year, renewable work permit and exemption from deportation. The program was announced in November 2014 by President Obama, along with a number of immigration reform steps including increased resources for border enforcement, new procedures for high-skilled immigrants, and an expansion of the existing Deferred Action for Childhood Arrivals (DACA) program.^{[1][2]} Several states have filed lawsuits against the Federal government, arguing that DAPA violates the Federal Constitution and statutes. A temporary injunction was issued in February 2015, blocking the program from going into effect while the lawsuit proceeds.

Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (not passed by failed in the House of Representatives) A bi-partisan group of eight United States Senators wrote the 2013 comprehensive immigration reform (CIR) bill. The group was also instrumental in bringing comprehensive immigration reform back to the legislative branch in early 2013. Collectively, these eight senators wrote the first draft of the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, commonly known as "the immigration bill".¹ The House of Representatives has not acted on this bill after it was passed by the Senate. See **Appendix B** for details.

Trump Administration Executive Order of Jan. 25th, 2017 Key Points. Requires adding 5,000 immigration enforcement positions to a "Deportation Force"; increased public and private detention facilities; continuous detention rather than the former "catch and release" pending due process;

withholding federal money from “Sanctuary Jurisdictions” ; a broadening of what constitutes an illegal/criminal activity that then makes someone a deportation priority; reinstatement of “Secure Communities” program which asks for increased local collaboration to identify unauthorized residents; forcing more international cooperation; and publicizing crimes committed by illegal residents.(CNN Summary, January 26th). It also removes federal privacy protection from information about immigrants making identification and deportation easier (Washington Post, January 27th).

POSTSCRIPT: Recent Effects of the Executive Order. Since the original draft of this paper in February of 2017, ICE has begun to crack down on immigrant detention and deportation. Even those attending routine check-ins and having no criminal record are being detained and deported. They were formerly allowed to return to jobs and families under previous administrations. Private detention centers which are basically jails, have become a lucrative business and are bolstered by government contracts. To protect their profits, these companies have developed things like “guaranteed minimums” ensuring they get paid for a certain number of beds. In turn, agencies like ICE are funneling immigrants into detention centers regardless of their circumstances to “effectively manage detainee placement”. Small towns where facilities are often located now collect thousands of dollars in “bed taxes” monthly (High Country News, May 18, 2017). Moreover, since most immigrant workers have purchased documents so that they could obtain a job, they are now considered felons and eligible for deportation as criminals even if they have never been in trouble with the law.

Sanctuary jurisdictions and private entities like churches are now being told they will face economic consequences if they protect undocumented immigrants. Some anti-immigration state lawmakers are introducing bills that would also penalize any jurisdiction that fails to fully cooperate with ICE or other federal officials charged with finding and deporting undocumented immigrants. These actions have received much publicity and the result has been that immigrants are more fearful, stressed and no longer participating in community life, going to hearings, reporting crimes etc. This in turn reduces the productivity and dependability of workers in agriculture and other sectors of the workforce dependent on immigrant workers.

To counteract the above, Colorado Senator Michael Bennett understands the negative effects of the Trump administration’s policies on agriculture and other sectors, is working with others in the Colorado delegation and in the Senate to develop a “blue card” guest worker program that could be an important part of a muchneeded immigration reform initiative. Under the proposed Agricultural Worker Program Act, farmworkers who have worked in agriculture for at least 100 days in each of the past two years may earn lawful "blue card" status. Farmworkers who maintain blue card status for the next three or five years, depending on the total hours worked in agriculture, would be eligible to adjust to a green card or legal permanent residency.

Additional Local and National Support for Immigration Reform

In addition to Senator Bennett and colleagues, several State and local groups are currently working on immigration reform and some include local elected officials and other community groups.

Coloradoans for Immigration Reform is a group of business leaders and trade groups including the Colorado Business Roundtable, Chambers of Commerce, Colorado Farm Bureau, Colorado Dairy Farmers, Colorado Competitive Council, Associated Builders and Contractors, hotel and restaurant associations and others. <https://www.cpr.org/news/newsbeat/business-leaders-join-together-for-immigration-changes>

The Partnership for a New American Economy brings together more than 500 Republican, Democratic and Independent mayors and business leaders who support sensible immigration reforms that will help create jobs for Americans today. Visit www.renewoureconomy.org

Fuerza Latina and This is Our Home Coalition are citizen groups in Fort Collins and Larimer County who are currently involved in providing support for immigrants and immigration reform, and other immigrant issues in which they are engaged.

CSU CSU works with Latino students in general to improve their lives at the university including students who are undocumented or come from families with undocumented members. DACA students are referred to as “Asset Students” for whom information is kept private. Faculty Council has issued a statement of support for these students.

VII. Summary: Need for Immigration Reform and Sensible Law Enforcement and Limited Services in the Meantime

It is clear to all who have analyzed it that the current immigration system is not working for agriculture - or for the U.S. in general. Legal immigration (often touted by those wanting to deport unauthorized workers) is more of a myth than an accessible reality for most workers and their families, or for U.S. employers. The long wait times, costs, and red tape associated with the current legal paths to documentation, be they work permits, visas, green cards or citizenship papers, are very difficult to get and will thus not meet Larimer County, state or national workforce needs. Applicants tend to abandon the process due to such obstacles. Principal US agricultural organizations representing the spectrum of political views agree. Farm Bureau, Farmer’s Union, and Colorado Livestock Association policies, for example, call for comprehensive immigration reform and temporary documentation for unauthorized immigrant workers in the meantime. Farmers Union (2013) states: “we support immigration reform that addresses the needs of U.S. agricultural producers while considering the safety and security of our nation’s borders, infrastructure costs to our rural communities, the inclusion of guest workers in state and federal tax structure, and the human rights of those workers” (including temporary documentation in order to assure those rights). NFU has recently joined a diverse coalition of agricultural organizations in forming the Agriculture Workforce Coalition (2016) to help support immigration policy priorities”.

Moreover, the human costs previously described aside, the economic costs of deporting undocumented/unauthorized persons are alarming and unrealistic. Mass deportation would immediately reduce the country’s Gross Domestic Product (GDP) with an annual loss of \$434 billion,

and reduce the cumulative GDP by \$4.7 trillion over 10 years, according to “The Economic Impacts of Removing Unauthorized Immigrant Workers” by economists Ryan Edwards and Francesca Ortega (American Immigration Council, 2016). This accounts for neither the massive price tag, estimated at over \$10,000 per person, nor the 20 year time period required for locating and removing all the millions of people from the country. Without calculating business losses due to the deportation of consumers, or the costs of new personnel and infrastructure (detention centers, court rooms, transportation, etc.) deportation would cost the federal government nearly \$900 billion in lost revenue over 10 years, raise the federal debt, and raise the debt-to-GDP ratio by six percent. This is because as GDP falls, tax revenues will drop. It will cost billions more to prevent the illegal entry of more workers. For a well-documented study of the overall costs of deportation and prevention, see the American Action Forum (2016).

The current administration in Washington has just issued statements (January 25th, 2017) and an executive order that seem to ask local law enforcement to help identify undocumented persons as contacts are made. Most deportations already originate as administrative apprehensions by local law enforcement such as traffic stops, and not by criminal apprehensions or raids carried out by federal agencies such as ICE. It is possible that more pressure could be put on local law enforcement from the new administration to participate with ICE in direct apprehensions as well as serving as a conduit for administrative apprehensions to detention by ICE. We strongly urge that our local law enforcement officials, particularly the Larimer County Sherriff’s Office, be encouraged to focus on public safety and to respect the human rights of immigrant workers and to limit contact with those involved in apprehending, detaining and deporting immigrant workers. A section from **The Colorado Compact (Appendix C)** captures the context of appropriate involvement by law enforcement in immigration matters while efforts at immigration reform continue:

- **EFFECTIVE ENFORCEMENT**

We support a law enforcement strategy that focuses on public safety, targets serious crime, and safeguards victims and witnesses. We further urge a reasonable and predictable regulatory environment that considers the interests of, and unintended consequences to, businesses, workers, and consumers. Furthermore, the broader reform effort should eventually include a way to accurately, reliably, and affordably determine who is permitted to work, ensuring an adequate labor force for a growing economy.

Finally, we encourage our Board of County Commissioners to join agriculture in its bi-partisan desire for a reliable workforce, supported by our local communities which will ultimately require comprehensive immigration reform. Commissioner involvement with Colorado Counties Incorporated (CCI) may provide an opportunity to take this message to other elected county commissioners. We also encourage the continuation of the limited County services that are currently available through Salud and the Food Bank to undocumented residents in the meantime.

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Appendices

Appendix A. Letter from Ladder Ranch to High Country News: Writers on the Range from Sharon O’Toole, Ladder Ranch

On April Fool’s Day, we attended a meeting in Rawlins, Wyoming with representatives from the Wyoming Workforce Services, Wyoming OSHA, and several H-2A employers. The purpose of the meeting was to discuss issues with the U.S. Department of Labor (DOL). The employers had asked for the meeting due to difficulties in obtaining visas for their skilled livestock workers. The calving, lambing and shearing seasons were underway, and the employees, whose paperwork had been submitted in a timely manner and according to the regulations, had not been able to travel to their jobs in the American West.

The H-2A program is the visa system for guest workers on a seasonal basis. The visa allows non-immigrant farmworkers to stay up to a year in the U.S. For shepherders, due to the year-round nature of the job, the visas are renewable up to three years. During the application process, agricultural producers have to prove they cannot find American workers to fill the position and hiring a foreign worker would not hurt Americans in similar work.

In spite of the unwieldiness and complexity of the process, applications for H-2A employees have skyrocketed in recent years. I have thought that the delays were deliberate, perhaps in response to the lack of success by the DOL when they proposed sweeping, and fatal changes, to the “Special Procedures” for shepherders. Some of the final rules were fair, and sometimes an improvement over previous rules and regulations. Some were difficult, but probably doable with some effort. The effect of increased wages into infinity cannot be sustained.

In this process, I’ve learned that the dramatic increase in applications, which reflects the lack of available skilled U.S. workers, has resulted in a backlog at the DOL, compounded, they tell us, by computer problems and new hires who have little experience with the program. Whatever the cause, the arrival of our valued employees has slowed to a crawl. This is true across agriculture. We have heard horror stories of a million dollars of strawberries plowed under in Florida and the loss of an entire blueberry crop in Georgia. Wheat harvesters are H-2A employees from South Africa and many sheep shearers are from New Zealand and Australia. These jobs are timely.

Whatever the reason, the DOL has not followed their legally mandated process—the same process which has allowed the environmental litigators to sue over deadlines for, as an example, the Endangered Species Act. This lack of following process by the DOL has resulted in an immediate and ongoing crisis for ranching families in the West, and for agricultural businesses throughout the United States.

What this means to family ranches like ours is that we have lost young animals because we do not have enough employees to attend them. We cannot physically manage to keep everything fed and cared for without our experienced and skilled employees. As we move into the summer season, we also depend on our skilled shepherders to assist with the rotational grazing system to assure rangeland health.

The folks from Wyoming Department of Workforce Services and Wyoming OSHA also expressed frustration. They said they receive rules and regulations from three separate federal agencies (DOL, DOL Wage and Hour, and OSHA), which are unclear and often conflicting. It is up to them to try to interpret and enforce them. They said it is difficult to receive direction when they request it.

In our own recent experience, we had decided to become certified and apply for H-2A employees ourselves. We have worked with the Western Range Association (which does the paperwork and acts as a co-employer) for decades.

We applied for the certification in what we thought was a timely manner. Our application has been returned to us four times for “deficiencies.” When it became clear that we could not be certified in time to apply for our workers and have them arrive before our “date of need,” we applied through our membership in the Western Range Association.

One of the “deficiencies” was the lack of a new housing inspection, in spite of the fact that it had been current in October.

The Wyoming Workforce Services employees told us that the new inspections were a result of the new DOL rules and regulations, which came into force in mid-November 2015. They were only informed of the need for new on-site inspections in mid-March. In our county, there were 19 ranches needing new inspections and one inspector with other responsibilities. The employees for all 19 ranches are delayed in receiving visas while they wait for inspections to be completed. However, there was a directive giving additional time, which is not being followed.

The larger issue is the wide-spread and systemic refusal by DOL personnel to process new visas for H-2A workers. It is clear that the goal is for American workers to fill these job positions. That would be ideal, except that no skilled workers are interested in most agricultural work. One “deficiency” on our application was that we had not submitted a “recruitment report” even though neither we nor Wyoming Workforce Services have received applications from jobseekers.

The Department of Labor is not fulfilling its statutory requirement to process visas within the mandatory time frame, within 15 days of date of need. It is also not complying with an agreement it reached in 1988 with the states of Colorado and Wyoming regarding these issues.

According to information from Colorado Representative Scott Tipton, he “has taken steps to resolve this issue by sending a letter to Secretary of the Department of Labor Thomas Perez requesting that his department undertake efforts to expedite the processing of the backlog of temporary, non-immigrant worker visa certifications. The delays occurred as a result of technical difficulties with the DOL Office of Foreign Labor Certification's iCERT Visa Portal System.”

" 'Employers were notified of these technical issues on Jan. 27 and, though my office has since been informed that the system is currently operating normally, the DOL made it clear that they would not be making any efforts to expedite backlogged applications,' " stated Tipton.

However, we were not notified, nor were any of the employers we know. We have been told that the iCERT Portal is still not working correctly, and the USCIS website where we are supposed to be able to access current I-94's has not been updated and is not kept current.

We feel as if we are trapped in a Kafka novel, with no actual solution in sight.

Meanwhile, our employees, who expected to be working and supporting their families by now, are waiting in Peru. They call us, and all we can say is “The problem is with our government and we are doing all we can.” One young man, the son of a long-time employee and for whom we had a named visa, has given up and taken other employment. Few jobs are available in Peru now. They are mostly in the low-paid and dangerous mining industry, or on crews which are building roads for the Chinese to access ports. These skilled workers want to work in the United States, helping produce food and fiber.

A few visas are now being processed, as we scramble to care for our sheep.

Appendix B. 2013 Immigration Reform proposed legislation, 2013.

In the United States of America, the **Gang of Eight** is a common colloquial term for the [bi-partisan](#) group of eight [United States Senators](#) who wrote the 2013 comprehensive immigration reform (CIR) bill. The group was also instrumental in bringing comprehensive [immigration reform](#) back to the legislative branch in early 2013.^[1]

Collectively, these eight senators wrote the first draft of the [Border Security, Economic Opportunity, and Immigration Modernization Act of 2013](#), commonly known as "the immigration bill".^[2] The House of Representatives has not acted on this bill after it was passed by the Senate.

In the context of proposed immigration reform, the Gang of Eight consisted in 2013 of the following four Democratic senators and four Republican senators:^[3]

- Sen. [Michael Bennet, D-CO](#)
- Sen. [Richard J. Durbin, D-IL](#)
- Sen. [Jeff Flake, R-AZ](#)
- Sen. [Lindsey Graham, R-SC](#)
- Sen. [John McCain, R-AZ](#)
- Sen. [Bob Menendez, D-NJ](#)
- Sen. [Marco Rubio, R-FL](#)
- Sen. [Chuck Schumer, D-NY](#)^[4]

Policies

The policies envisioned by the Senators include the following provisions:^[5]

- A [citizenship](#) path for illegal aliens already in the United States is contingent on certain border security and visa tracking improvements. The plan provides for permanent residence for illegal aliens only after legal immigrants waiting for a current priority date receive their permanent residence status and a different citizenship path for agricultural workers through an agricultural worker program.
- Business immigration system reforms, focusing on reducing current visa backlogs and fast tracking permanent residence for U.S. university immigrant graduates with advanced degrees in science, technology, engineering or math also known as the [STEM fields](#).
- An expanded and improved employment verification system for all employers to confirm employee work authorization.
- Improved work visa options for low-skilled workers including an agricultural worker program.

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Appendix C.

Chicago's Statement of Support for Immigrants

The vitality of the City of Chicago (The City), one of the most ethnically, racially, religiously diverse cities in the world, where one-out-five of the City's residents is an immigrant, has been built on the strength of its immigrant communities. The City Council finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the City's goals of protecting life and property, preventing crime and resolving problems. The City Council further finds that the assistance from a person whether documented or not, who is a victim of, or a witness to a crime is important to promoting safety of all its residents. The cooperation of the City's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire city. One of the City's most important goals is to enhance the City's relationship with immigrant communities.

The Colorado Compact (from the office of Senators Michael Bennett to set the context for the discussion on immigration reform)

The Colorado Compact is an effort to convene and promote a reasonable conversation on immigration in Colorado that could lead to real and lasting federal reform. The Compact brings together leaders and community members of diverse backgrounds and politics who are committed to fostering a more rational and collaborative approach to immigration policy than exists today. We believe that the growing consequences of a broken immigration system must be addressed in a bipartisan effort that considers the principles outlined in this Compact.

- **FEDERAL RESPONSIBILITY**
Immigration policy is a federal issue between the U.S. government and other countries. We urge the Colorado congressional delegation to work to enact immigration policy at the federal level that improves our immigration system, keeps our communities safe, and protects our borders.
- **STRENGTHENING OUR ECONOMY**
Colorado is best served by a free-market philosophy that maximizes individual freedom and opportunity. Our immigration system must be flexible enough to address the needs of businesses while protecting the interests of workers. This includes a visa system that is both responsive and effective at meeting the demands of our economy. It should also acknowledge the beneficial economic contributions immigrants make as workers, taxpayers, and consumers.
- **ENSURING OUR NATIONAL SECURITY**
We believe that maintaining the safety and security of the United States is an utmost priority. Our immigration system must ensure the protection of our communities and national borders.
- **FAMILY**
Strong families are critical to developing successful individuals and cohesive communities. Our immigration policies, where possible, should prioritize keeping close families together in order to ensure the most supportive home environments for all children across our state.
- **EFFECTIVE ENFORCEMENT**
We support a law enforcement strategy that focuses on public safety, targets serious crime, and safeguards witnesses and victims. We further urge a reasonable and predictable regulatory environment that considers the interests of, and unintended consequences to businesses, workers,

and consumers. Furthermore, the broader reform effort should eventually include a way to accurately, reliably, and affordably determine who is permitted to work, ensuring an adequate labor force for a growing economy.

- **A COMMONSENSE APPROACH**

Immigrants are part of our communities across Colorado. We must adopt a commonsense approach to this reality that reflects our values and recognizes the critical role immigration has played in our nation's history and economy. Our immigration policies must provide a sensible path forward for immigrants who are here without legal status, are of good character, pay taxes, and are committed to becoming fully participating members of our society and culture.

Appendix D: Executive Summary of Texas A&M Dairy Farm Labor Study

□ A national survey of dairy farms was conducted during Fall 2014, with responses coming from all regions of the United States and all herd sizes.

- Immigrant labor accounts for 51 percent of all dairy labor, and dairies that employ immigrant labor produce 79 percent of the U.S. milk supply.
- Dairy farm workers are paid an average wage of \$11.54/hour, and with non-wage benefits included, an annual equivalent compensation of \$34,443. Dairy farms that hire immigrant labor pay hire average wages than farms that do not hire immigrants.
- Dairy farms employed an estimated 150,418 workers in 2013. An estimated 76,968 of those are immigrants.
- Eliminating immigrant labor would reduce the U.S. dairy herd by 2.1 million cows, milk production by 48.4 billion pounds and the number of farms by 7,011. Retail milk prices would increase by an estimated 90.4 percent.
- Eliminating immigrant labor on dairy farms would reduce U.S. economic output by \$32.1 billion and reduce employment by 208,208 jobs.
- Approximately 64 percent of the losses noted above would occur in input supply sectors and services provided to U.S. dairy farms.

Appendix E Accessory Uses as described by the Larimer County Land Use Code

- A.

Accessory agricultural uses.

- 1.

Farmstead. That portion or portions of a farm, ranch, dairy, feedyard or poultry farm designated for uses which are necessary to the operation, including equipment storage areas.

- a.

Farmstead accessory dwellings:

- 1.

Number. A farmstead is limited to one dwelling for the owner/operator of the property plus one dwelling for each 40 acres of contiguous ownership. For example, a farmstead on a 40-acre farm could include two dwellings, one for the

owner/operator and one for farm help. A farmstead on an 80-acre farm could include three dwellings, one for the owner/operator and two for farm help.

2.

Occupancy. Farmstead dwellings may be occupied by the owner/operator, their immediate family and residents needed to support the agriculture operation.

3.

Siting. Each farmstead must be designed to allow a logical pattern of lots that all meet minimum lot size and setback requirements of the applicable zoning district and provide for adequate access, drainage and utilities for each lot. Should the agricultural operation cease, the property owner must pursue one of the following options:

a.

The rural land use process; b. Subdivision; c. Conservation development to place each accessory farm dwelling on a separate lot; d. Identify a separate 35-acre or larger tract for each accessory dwelling; or Present a proposal to be approved by the planning director.

4.

Fees and standards. Capital expansion fees must be paid for each dwelling when the building permit is issued. Each dwelling must comply with the standards for all development required by section 8 of this code.

5.

Agreement. Each plan approved for a farmstead must include an agreement which includes the terms described in subsections 3 and 4 above. The agreement must be signed by the property owner, notarized and recorded with the county clerk and recorder. The agreement must state that it runs with the land and is binding on all successors, assigns, heirs and subsequent owners of the property.

6.

A simplified site plan will be required as part of the process.

b.

A farmstead may include agricultural labor housing subject to special review approval by the county commissioners.