



Immigration: Legal and Illegal
Local Perspective – Charlotte, North Carolina



CHARLOTTE.

Final Report

Presented by the Mayor's Immigration Study Commission

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Executive Summary

The United States has an estimated 11 million illegal immigrants in the country. In 2004, 202,842 were deported and one million left voluntarily. In 2005, 1.1 million people became legal permanent residents or green card holders; 16,715 were issued to people in North Carolina. Charlotte, North Carolina is the first known City in the nation to take an in-depth study of the impacts of legal and illegal immigration in the four areas of public safety, economic development, education, and healthcare.

Immigration was once thought of as just a border state issue, but North Carolina has the ninth most illegal immigrants in the United States with 350,000. Mecklenburg County (Charlotte) is estimated to have 58,000 illegal immigrants, the largest population in North Carolina.

Highlights of the report's findings and data gathered include:

Public Safety

- Immigration enforcement is a federal responsibility, yet a 1996 amendment to the Immigration and Naturalization Act, known as 287 (g), allows state and local law enforcement to train with Immigration and Customs Enforcement (ICE) and subsequently be authorized to identify, process, and detain immigration offenders during regular, daily law enforcement activity.
- The Mecklenburg County, NC Sheriff's Office is one of the first Sheriff Department's to participate in the 287 (g) program and is the only Sheriff's Office in the nation to check the immigration status of every arrestee brought to the jail. During the first seven months (May 2006 – November 2006) of immigration enforcement, the Mecklenburg County Sheriff has processed 1,986 arrestees not born in the United States, began deportation (removal) proceedings for 935; 68 of which had previously been deported and returned unlawfully, while 55 had outstanding warrants for failing to leave the country after being ordered to do so by the federal Immigration Court. All deportation policies and processes are dictated by federal law and coordinated by ICE.
- Charlotte is home to 1,800 known gang members. Five of the City's more than 100 known gangs specifically recruit foreign nationals or illegal immigrants of Latino heritage. These gangs recruit people from the countries of El Salvador, Guatemala and Honduras, and one gang consists of Mexican nationals exclusively. *The Charlotte-Mecklenburg Police Department works with federal agencies and participates in GangNET to track gang members through a searchable database. Since 2003, GangNET and cooperation with regional and federal law enforcement has led to the deportation of more than 150 gang members from Charlotte.*

Economic Development/Workforce

- Charlotte's population has grown by 20% during the past 10 years and has added more than 155,000 new jobs. In November 2006, the city's unemployment rate was 4.1% spurring a demand for workers in all job sectors.
- In 2005 the U.S. provided work visas and temporary visa status (known as non-immigrant visas, including tourist travelers) to 4.6 million temporary visitors for business, 883,000 temporary workers/trainees and families, and 455,350 Intracompany transferees and families. North Carolina had the 20th highest number of non-immigrant admissions in 2005.
- In Fiscal Year 2006, ICE arrested 718 individuals on criminal charges in worksite investigations and apprehended another 3,667 illegal workers on immigration violations, more than a three-fold increase over 2005.
- In 2006, ICE announced the Mutual Agreement between Government and Employers (IMAGE) program to assist employers in targeted sectors to develop a more secure and stable workforce and to enhance fraudulent document awareness through education and training.
- The Kenan Study at UNC-Chapel Hill highlighted that Hispanics annually contribute about \$756 million in taxes (direct and indirect) while costing the state of North Carolina about \$817 million annually for K-12 education (\$467 million), health care (\$299 million), and corrections (\$51 million) for net cost to the state of about \$61 million.
- The construction industry and other manual labor businesses are thriving in high growth cities such as Charlotte. The Kenan Study on the Economic Impact of Hispanics in North Carolina determined that 29% of all North Carolina construction workers are Hispanic and that if those workers were withdrawn, there would be an economic loss of \$10 billion value in construction, \$2.7 billion in construction material and labor, \$145 million in equipment and building rental, 27,000 housing units not built, \$980 million in labor-cost savings.
- The U. S. Chamber of Commerce has identified Immigration legislation as a priority in the 2006-07 Congress focusing on (1) border security and visa policies and procedures are reasonable and carried out efficiently, (2) comprehensive immigration reform takes into account the current and future need for essential workers, and (3) the United States continues to attract the best and the brightest from around the world.

Education

- The current policy of not determining citizenship status for Charlotte-Mecklenburg Schools and all school districts across the country stems from the 1982 Supreme Court Ruling in the case Plyler v. Doe.
- Every year across the United States, roughly 65,000 illegal immigrant students under the age of 21, who have lived in this country for at least five years or longer, will graduate from high school. Of the 65,000, only 5 to 10 percent will go onto college, compared with 75% of their legal classmates.
- Nine states allow illegal immigrant students to obtain in-state tuition
- During the 2005 – 06 Academic Year, 564,766 foreign students studied in the United States, comprising 3.9% of total enrollment in U.S. colleges and universities. The State of North Carolina ranked 18th with 9,507 foreign students in 05 – 06.
- Charlotte Mecklenburg Schools consists of students from 130 countries, speaking 94 native languages. In 2006, CMS enrolled 13,307 in the Limited English Proficiency program (9,000 are Spanish speaking), addressing those who have limited to no English speaking skills. The school system has identified that 19,307 students are from families where English is not the native language. CMS estimates that the cost per pupil to educate a student in CMS is \$8,198.

Healthcare

- The Federal Emergency Medical Treatment and Active Labor Act of 1986 mandates that hospitals must treat and stabilize anyone who seeks emergency care, regardless of income, insurance, or immigration status. In 1993, the utilization rate of hospitals and clinics by illegal immigrants (29%) was more than twice the rate of the overall US population (11%).
- 41 million Americans lack basic health insurance. One out of every four uninsured people in the U.S, approximately 10 million, is a legal immigrant. North Carolina has 1.3 million residents with no health insurance.
- In 2001, public funds covered 85% of the \$34 - \$38 billion shortfall in unreimbursed expenses incurred by the uninsured. In 2005, the cost for the uninsured in North Carolina was \$1.4 billion.
- In 2005, the State's Medicaid Manager reported that North Carolina illegal immigrants cost the state \$52.8 million in Medicaid payments, up from \$25.8 million in 2000.

- In 2004, it is estimated that 300,000 babies of illegal immigrants were born in the United States.
- NC state law requires that each child present adequate immunization records by the 30th day of attendance or the student will be excluded from school.
- Carolinas Healthcare System has determined that it takes 17.6% longer to care for a Spanish speaking patient than it does to care for an English speaking patient.

Recommendations

The Study Commission worked by consensus to identify 26 recommendations for elected officials to enact. Consensus was not reached on four of the recommendations and the alternative opinions are noted in the full report. The four recommendations without consensus are noted with an asterisk (*).

Public Safety

Housing – Develop and clarify fire and safety codes of the local governments regarding the number of people allowed to reside in one dwelling, to address personal and fire safety concerns within the community.

* ***Crime Suspects Status Policy*** – 1) Develop a policy that local law enforcement will determine the immigration status of all arrestees, with help from an ICE pilot program that shares their immigration fingerprint database with state and local agencies. 2) Support a dedicated state funding stream, and additional federal and local funding, for local law enforcement to participate in the 287 (g) program with ICE. Consensus was not reached by the Commission for this recommendation.

Immigration Court -- Support the request for an Immigration Court in Charlotte presently being considered by the U.S. Department of Justice.

Increase Jail Space – A) Increase jail space and immigration detention space in Mecklenburg County. 2) Provide additional transportation resources associated with the detention process for illegal immigrant prosecution and deportations.

Prosecution -- Support the full prosecution of illegal immigrants who commit local and state crimes, without the possibility of deportation, so the criminals will serve time for their crime prior to any removal (deportation) proceedings.

* ***Driving While Intoxicated*** – Support federal legislation to make first-time Driving While Intoxicated (DWI) offense a deportable offense for illegal immigrants. Consensus was not reached by the Commission for this recommendation.

Gang Tracking – Require police departments to track gang members, particularly those that are foreign born, and the number of members that are deported for criminal activity. Support federal legislation to make gang membership a deportable offense.

Police Training on Immigration Issues – 1) Implement programs for police departments to train all police officers on the facets of immigration policies and enforcement, including working with DHS – ICE (Immigration and Customs Enforcement) to understand the deportation, process and which crimes are deportable. 2) Incorporate a training and community awareness DVD on the Federal 287 (g) program to outline how immigration status can be determined for illegal immigrants that are arrested. 3) Utilize Training Academy/programs to ensure department personnel understand department policies related to immigration issues.

Language Pay Incentive for Emergency Responders – Fund pay incentives for law enforcement, other emergency responders, and Department of Social Services Social Workers who are bilingual or complete classes in a pertinent foreign language.

Economic Development/Workforce

Secure Borders and Secure Labor Force – Revise current immigration laws and policies to address the country's need for secure borders and a secure labor force to continue economic growth. Adopt comprehensive legislation that 1) addresses and improves border security, 2) increase the number of professional temporary and permanent employment-based visas to assure that this country remains on the forefront of global competitiveness.

A. Increase funding for DHS agencies and identify and implement new technologies to assure proper identification of individuals entering the US at the Port of Entry. Through the use of biometrics, individuals who arrive in the U.S. are now being processed through US – Visit. This technology must be implemented at all air, sea and land ports of entry.

B. Increase the annual number of Legal (permanent and temporary) visas authorized and issued to better serve the needs of the changing American workforce and economy. All temporary and permanent work-related visa caps, including H1B (temporary professional workers), H2A (temporary seasonal workers for Agriculture), H2B (temporary non-agricultural workers), and permanent employment-based immigrant visas must be increased.

C. Hire more retired DHS (formerly INS) employees temporarily to help process the paperwork for the current backlog. This will help expedite the approval or denial of visa requests and will eliminate the potential risk of many immigrants to become illegal.

** D. Create a program to enable immigrant workers who have contributed to the American economy through employment to earn a pathway to lawful status; Create a new Guest Worker Temporary Visa program. America's demographics and the retirement of the baby boom predict job shortages in many workforce classifications. Our current unemployment rate is around 4.2 percent and the Agriculture and Health-Care professions are already seeing labor shortages. Consensus was not reached by the Commission for this recommendation.*

Employee Verification – Support development of an accurate employment eligibility verification program that encourages businesses to participate.

Language – Recognize that English is the primary language of business and the workplace and promote the need for workplace safety manuals to be available in multiple languages.

Education

H-1 Visa Category Quota: Increase the quota or allocation for H-1 (professional workers) categories.

Employment of Spouses of Visa Holders: Allow the spouses of H1 visa holders (known as H-4s) to work in the United States to meet the shortages in the workforce. This work visa should expire along with the spouse's H1 visa.

In-State College Tuition: Illegal immigrant children enrolled in North Carolina public schools, prior to age 16 and who qualify academically, should be allowed to establish residency in the state (through visa status or other) for tuition purposes. Consensus was not reached by the Commission for this recommendation.

Healthcare

Bilingual Professionals: Promote the importance of, and accept, diversity in order to attract bilingual professionals who can add to the workforce, particularly in healthcare.

Health Education and Disease Prevention: Strengthen the primary care initiatives of the local healthcare community, especially the Mecklenburg County Health Department, for both legal and illegal immigrants by adding more human resources and services.

Uninsured: Address, in a substantive manner, the issues of the lack of health insurance and lack of government support for the uninsured working poor, of which the immigrant population is a significant part.

Communicable Diseases: A) All immigration actions or policies should include provisions to guard against communicable diseases and provide access to preventive care services for the immigrant population.

General Recommendations

Communication –Increase communication between local levels of government and federal representatives to highlight needs at the local level related to immigration policy changes. Encourage public at-large to communicate with their elected officials, particularly at the federal level, regarding immigration issues and concerns.

Public Contracts – Ensure all contracts and projects of the City, County and State that utilize taxpayer funds do not support the employment of illegal immigrants. All contracts and construction projects should include a provision that employers will take specific steps to ensure the legal status of the workforce. Such projects could include, but not be limited to, County contracted landscaping work, the City’s NASCAR Hall of Fame, and the State’s efforts to build new prisons. Through this effort, local governments should also encourage local businesses to require verification of legal status in contracts.

Department of Motor Vehicles Voter Registration –Study the impact of “Motor Voter” registration to determine if illegal immigrants are registering to vote, which is a violation of U.S. immigration law.

Introduction

America is known as a Nation of Immigrants and the great melting pot of the world. Yet, the geopolitical and world realities of the 21st century-- from protests in the streets of America for illegal immigrant rights to the concepts of assimilation and multiculturalism -- have raised concerns for how America will look, prosper, and unite for the benefit of future generations.

While the world seems to get smaller and smaller through technological advances, a migrating world population and a global economy, the differences between cultures, religions, and nationalities in the United States seem to be getting bigger and bigger. Nowhere is that more evident than over the issues of illegal immigration. Periodically, immigration has been a contentious issue in the U.S. and 2007 is one of those times.

The U.S. is not unique in facing the pressures of illegal immigration or the challenges of assimilation of legal immigrants. As we look around the world, there is ample evidence that failure to address immigration in a thoughtful or responsible way can lead to social disruption and increased risk for national security. These are not issues that are easily addressed by local government, but a failure to act at the national level has forced communities facing rapid increases in immigration to wrestle with the issues on their own. Recognizing that informal policies are being implemented, Mayor Patrick McCrory and the City of Charlotte have chosen to openly discuss, through the Study Commission, the many facets of immigration (legal and illegal) believing that formal action is needed by elected officials at all levels.

Charlotte, North Carolina

Charlotte, North Carolina has been impacted by the issue of illegal, as well as legal, immigration. Charlotte is the 20th largest city in America with 650,000 residents, and is the county seat for Mecklenburg County with a population of 850,000.¹ It is the center of

a thriving 16-county region, which includes four counties in the neighboring state of South Carolina. A Sunbelt city, Charlotte's population has grown by 20% during the past 10 years and has added more than 155,000 new jobs.² The City and region are home to nine Fortune 500 corporate headquarters; is the second largest financial center in America and has 310 Fortune 500 companies represented in the area. Additionally 447 foreign-owned firms representing 39 countries operate in Charlotte.³

Charlotte-Douglas International Airport welcomes more than 1.8 million international passengers a year and has daily, non-stop flights to 27 international destinations.⁴ The federal government established a Charlotte Foreign Trade Zone in 1980 and there are more than 300 international cultural organizations, eight international chamber of commerce organizations, and eight Honorary Consuls in the city.⁵

Approximately 12% of the legal citizens of Mecklenburg County were born outside the United States; the largest ethnic population is Hispanic (66,043) followed by Asian (26,640).⁶ Every one in five births in Mecklenburg County is Hispanic. More than 9,000 Charlotte-Mecklenburg Schools students speak a foreign language, representing 94 different languages and 130 countries of origin.⁷ Nearly 350,000 illegal immigrants are estimated to live in North Carolina, with 58,000 living in Mecklenburg County.⁸ Almost 15% of the Mecklenburg County jail population is comprised of illegal immigrants.⁹ These numbers belie the fact that Charlotte is increasingly becoming an international city.

Charlotte Mayor Patrick McCrory

In December 2005, Charlotte Mayor Pat McCrory created the Mayor's Immigration Study Commission. It included 28 community leaders who were knowledgeable in immigration issues or had access to immigration information and data. The Mayor's impetus in creating the Study Commission was two-fold: the Mayor's appointment to the Homeland Security Advisory Council and his interest in helping the Charlotte community and region have a better understanding of the growing immigration issues facing the community and nation.

As a member of the Homeland Security Advisory Council (HSAC) appointed by President George W. Bush to advise the Secretary of Homeland Security, Mayor McCrory attended an HSAC meeting in San Diego, California in December 2004 to learn more about border issues with Mexico. It was during that visit that the Mayor saw firsthand the flow of illegal immigrants into the U.S., and more importantly, he came to understand that many of the immigration issues San Diego was addressing were also on Charlotte's doorstep.

Pat McCrory believes a key duty of his role as Mayor is to help prepare the community for the future. By creating the Study Commission, the Mayor's goal is for Charlotte to work through this tough debate and begin looking towards the future while preparing the community for what the economy, workforce, laws, and nation will become in this rapidly changing world.

Mayor McCrory understood the deep emotions that surround the immigration debate and wanted to lead a dialogue in the Charlotte community that promoted civil discourse for an issue where many people had already taken entrenched positions. He wanted to work from facts and data, and share that information with local, state and federal policy makers to ensure that everyone understood which immigration policies were being implemented and enforced and which ones were not. In short, he wanted to raise the issue, present the information to policy makers for action, and lead the community to work through this complex issue. Thus, he created the Mayor's Immigration Study Commission.

Mayor's Immigration Study Commission Charge

Alan Gordon, a local immigration attorney, Board Certified Immigration Specialist, and Vice-Chair of the Mayor's International Cabinet, was tapped by Mayor McCrory to lead the 28-member Mayor's Immigration Study Commission.

The Mayor charged the Commission to:

“Analyze the impact of immigration on Charlotte’s (and region’s) quality of life, public safety, and economic opportunities.”

In order to meet their Charge, the Commission was tasked to take no more than one year to:

- Gather data and review existing policies
- Identify impacts of legal and illegal immigration
- Make recommendations/options to policy makers

In addition to the Charge as outlined, a key task set out by the Mayor was to present a final report that would serve as an educational tool to help dispel myths and present the immigration situation as it exists in the Charlotte community and throughout the nation. This document is intended to serve as a resource, if not a “myth buster,” regarding the many and varied complexities of immigration policies and procedures.

Mayor’s Immigration Study Commission Members

The Mayor’s Immigration Study Commission included the following members:

- *Alan Gordon, Study Commission Chair, Alan Gordon Immigration & Naturalization Law*
- Francisco Alvarado -- Alvacor Construction
- Dr. John Baker -- Carolinas Healthcare System
- Wayne Cooper -- Honorary Consul, Mexico
- Steve Gennett -- Carolinas Associate General Contractors
- Peter Gilchrist -- Mecklenburg District Attorney
- Dr. Maha Gingrich -- Central Piedmont Community College
- Richard Gottlieb -- DHS – Citizenship and Immigration Services
- Jake Jacobsen -- Mecklenburg County Department of Social Services
- Jeff Jordan -- DHS – Immigration and Customs Enforcement
- Ray Kaptejna -- DHS – Customs and Border Protection
- Dr. Joan Lorden -- University of North Carolina at Charlotte
- Dr. Wynn Mabry -- Mecklenburg County Health Department
- Wilson McCrory -- Davidson College Student
- Dr. Kathy Meads -- Charlotte-Mecklenburg Schools

- Maudia Melendez -- Jesus Ministries
- Scott Moroney -- Carolinas Healthcare System
- Mayor Kim Phillips -- Town of Huntersville, NC
- Jim Pendergraph -- Mecklenburg County Sheriff
- Phyllis Primm -- Rodgers Builders
- Willie Ratchford -- Charlotte-Mecklenburg Community Relations Committee
- Stephen Rosenburgh -- US Land Investments, Inc.
- Carlos E. Sanchez -- AT&T North Carolina and Charlotte Chamber of Commerce
- Darrel Stephens -- Chief, Charlotte Mecklenburg Police Department
- Elizabeth Thurbee -- Catholic Social Services
- Alice Torres -- U.S. Rep. Sue Myrick's Office
- Amy Vance -- Novant Healthcare
- Hal Weatherman -- U.S. Rep. Sue Myrick's Office

Study Areas and Methodology

In order to grapple with such a large and complex issue on a local scale, the Study Commission established four areas to direct their efforts – Public Safety, Economic Development/Workforce, Education, and Healthcare. Each of these four areas are significantly affected by the influx of illegal immigrants. More importantly they are areas where local and state elected officials can have a role in the immigration issue through the implementation of public policy. While there are many other areas that could have been studied in depth, such as housing, social services, and assimilation, those areas and others are partially addressed in the four study areas.

A key component of studying illegal immigration is to understand the legal immigration system from the existing federal laws to the complex and lengthy process of obtaining “legal permanent status.” To date, much of the immigration information and data is provided by federal government agencies: U.S. Department of Homeland Security and its many divisions, Department of Labor, Department of State, U.S. Census Bureau and others. State and local data on immigration issues, particularly illegal immigrant-related data has been minimal. However, work by the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill and the Urban Institute at the University of North Carolina at Charlotte have significantly contributed to the information available. Interest groups such as the Pew Hispanic Trust, the American Immigration Law

Foundation, Federation for Immigration Reform (FAIR), the Center for Immigration Studies, and The National Council for La Raza, among others, have also produced detailed information. Their efforts are part of an increase in the amount of information, studies, surveys, and opinions that have been presented on the illegal immigration issues over the past two years.

While the amount of information and data regarding illegal immigration is growing, to date, there has not been such a comprehensive, local study of the immigration issue as what has been presented in Charlotte, North Carolina. Such a study is believed to be unparalleled in the United States by a local government.

Legal Immigration

The United States enacted its first immigration policy on March 26, 1790 when Congress adopted the Naturalization Act, which limited citizenship to free whites “of good moral character,” who had been in the United States for two years. Since then, Congress has altered the federal immigration policy more than 150 times. Such milestones in federal immigration policy include:

- | | |
|------|---|
| 1882 | The Chinese Exclusion Act was enacted and the first federal ban of an immigrant group was established. During the Gold Rush, Chinese laborers came to mine and help build the transnational railroad, yet when the economy soured, Chinese labor was no longer needed or welcomed |
| 1906 | Knowledge of the English language was made a requirement for naturalization |
| 1942 | The Bracero Program recruited farm workers from Mexico to help the U.S. labor shortages caused by World War II |
| 1950 | Immigrants who were, or had been, members of a Communist Party were barred from citizenship |
| 1951 | Immediate relatives of U.S. citizens, including spouses, children, and parents were allowed to immigrate |
| 1986 | The Immigration Reform and Control Act granted amnesty to 2.7 million people and established fines for employers who knowingly hired undocumented workers |

1996 The Illegal Immigration Reform and Immigrant Responsibility Act created new grounds of visa ineligibility, including bars (3 years, 10 years, and permanent) to persons who were unlawfully present in the United States for more than 180 days. New grounds for deportation were established for false claims to US citizenship, aliens convicted of a crime of domestic violence, and aliens convicted of high speed flight from an immigration check point

In addition to these milestones of federal immigration law, other federal immigration measures enacted over time by the U.S. Congress include the War Brides Act of 1945, G.I. Fiancées Act of 1946, Refugee-Escapee Act of 1957, the Panama Canal Act of 1979, Immigration Marriage Fraud Act of 1986, and the Chinese Student Protection Act of 1992.

The United States immigration policy and process today does not resemble the policies and process used to welcome Annie Moore and her two brothers, the first immigrants to be processed at Ellis Island, on January 1, 1892. Over the course of 62 years (1892 – 1954), 12 million immigrants entered the United States through Ellis Island. In 1907, more people immigrated to the U.S. than any other year with 1.25 million people being processed at Ellis Island.¹⁰

The current U.S. immigration policy has many nuances, as noted by previous immigration amendments for war brides, refugees, and Chinese students. However, immigration policy is generally broken down into two main categories, family immigration and employment immigration. Each category has its own complexities, but federal law still dictates the number of visas for “permanent” or “temporary” legal status and the process by which that status is granted.

Family reunification has been the organizing principle in U.S. immigration law. Family-based immigration begins with the filing of an immigrant visa petition by a U.S. citizen or legal permanent resident for his/her spouse, child, parent or sibling. Spouses and minor children of U.S. citizens are considered “immediate relatives” and are not subject to an annual quota on visas. Also, parents of a U.S. citizen child that is age 21 are also

“immediate relatives.” However, for the other categories, each year the United States limits the number of immigrant visas issued. The total number of visas is less than 290,000.¹¹

As more families have obtained legal permanent resident status in this country, there is a longer visa wait for spouses, children and siblings of U.S. citizens and legal permanent residents. In some circumstances, a foreign citizen may wait more than 20 years from the date her relative files a visa petition with the Department of Homeland Security to obtain an immigrant (permanent) visa.

Within the past year, employment-based immigration has similarly experienced substantial backlogs in processing immigrant (permanent) visas. Employment-based immigration usually requires a finding by the U.S. Department of Labor that an employer has conducted recruitment to fill a position, but no minimally qualified U.S. workers are available. After obtaining this determination, employers must file a visa petition with the Department of Homeland Security to place their potential work in a visa category. The most common category is the “professional and skilled worker” category. Currently, the employers must wait six or seven years to obtain permanent permission for a qualified foreign national to accept the position. Each year, the total number of employment-based immigrant visas issued is limited to 140,000, including spouses and minor children of the principal workers.¹²

Obtaining Legal Status

In 1980, the U.S. government began estimating the number of unauthorized immigrants, or “illegals,” living in the U.S. In 2005, the Department of Homeland Security – Office of Immigration Statistics estimated that there would be 11 million illegal immigrants in the United States by January 2006. This number increased from an estimated 8.5 million in January 2000.¹³

It is estimated that 3.1 million of the 11 million illegal immigrants came to the United States in 2000 or later. Six million of the illegal immigrants are from Mexico, and another 1.4 million are from El Salvador, Guatemala, India, and China combined.¹⁴

The State of California has the most number of illegal immigrants with 2.8 million followed by Texas with 1.4 million, then Florida with 850,000. North Carolina was ranked 9th with 360,000.¹⁵ Mecklenburg County, NC is estimated to have an illegal immigrant population of 58,000.

Despite this situation of increasing number of illegal immigrants, only 208,521 were deported and nearly one million voluntarily left in 2005.¹⁶ Further, only 1.1 million people became legal permanent residents or green card holders in 2005.¹⁷ The top three countries of citizens obtaining legal permanent status in the United States were from Mexico (14%), India (8%), and China (6%). North Carolina had 16,715 legal permanent residents granted in 2005 and the state followed the national trend where the top three originating countries for legal permanent status were Mexico, India, and China.¹⁸

Given these numbers, many Americans have asked the question, “Why don’t these people just get legal?” Under existing federal immigration law, many people simply cannot “get legal.” People who have overstayed a visa, entered the U.S. without a valid visa, or have previously been deported are barred from obtaining a legal visa. For individuals who entered this country illegally (without permission), the U.S. immigration process must be completed at the country of origin, by appearing for a final interview at the U.S. Embassy or Consulate. When the illegal immigrant leaves the United States to attend the final interview in their home country, they are barred by current immigration law from returning for either three years, ten years, or permanently.

Under current law, the choice available to the illegal immigrant population, many of whom have a U.S. citizen or lawful permanent resident spouse and children, is either to uproot their family and return to the home country where economic conditions, personal safety, and health services are vastly inferior to this country, or to remain here and

continue to work and live with their family. Faced with this prospect, many illegal immigrants never leave the United States. Those making the choice to stay are far outstripping the number of illegal immigrants who are deported from the United States each year.

Thus, the study and debate begins.

Cities Conflicted Over Immigration

As the business community continues to embrace the increasing diversity of the American workforce, by changing business practices, cities and towns are at odds over the immigration issue. The foreign born population in the U.S. has increased 57% from 1980 (19.8 million) to 2000 (31.1 million). However, it actually sank 26% in Buffalo, NY; 23% in Pittsburgh; and 11% in Cleveland.¹⁹ Neal Peirce, a national journalist, wrote a column detailing how Cleveland, once known as a city of immigrants, has a group of civic and ethnic organizations that are looking to attract immigrants to the City through communitywide immigration forums sponsored by the region's largest newspaper, the *Plain Dealer*. Mr. Peirce highlights one of the civic leaders behind the effort in Cleveland, Richard Herman highlighting his motivation to "focus heavily on economics" by comparing the business success of Toronto and its 43% foreign-born population. Herman suggests Toronto is successful because burgeoning immigrant clusters spark technology start-ups, small neighborhood proprietorships, real estate investments and international trade. The premise is based on skilled immigrants introducing intellectual and financial capital. In 2000, Indian and Chinese entrepreneurs alone headed 29% of Silicon Valley's technology businesses, collectively accounting for \$19.5 billion in sales and more than 77,000 jobs.²⁰

In 1979, former Los Angeles Police Chief Daryl Gates enacted Special Order 40 that prohibits police officers from "initiating police action where the objective is to discover the alien status of a person." However, the LAPD police are allowed to inquire about immigration status once a crime suspect has been arrested and processed for a felony or multiple misdemeanors.²¹ Many people call this and similar policies a "Sanctuary"

policy as they could generally limit city employees, including police, from reporting immigration violations to federal authorities and thereby give illegal immigrants “sanctuary” from the law. Cities with similar policies are New York City, Chicago, San Diego, Austin, and Houston.

In contrast, other cities are looking to enforce immigration laws, and support the removal of illegal immigrants, by taking action against employers. The most notable is the Town of Hazelton, Pennsylvania where the Town Council passed an ordinance on July 13, 2006 to deny business permits to employers who hire illegal immigrants and fine landlords a \$1,000 a day for renting to illegal immigrants. Hazelton also included in their ordinance that all City business must be conducted only in English.²² Four other Pennsylvania towns have adopted similar ordinances, along with numerous other cities across the country who have taken tough approaches in varying degrees such as Riverside, New Jersey and Valley Park, Missouri. Even the town of Mint Hill, in Mecklenburg County, NC, has proposed an English-only provision. The English language-only provision can work for City purposes, but employers have highlighted the need to have safety manuals in multiple languages to ensure work site safety by those employees who are not fluent in English.

The variety of actions now being taken by local governments is a direct result of inaction at the federal level to address both legal and illegal immigration issues. The focus of this study and its four study components -- public safety, economic development/workforce, education, and healthcare -- highlight areas where local government can have an impact on immigration, yet they also reveal that action is very much needed, and soon, by the federal government.



Public Safety

The federal government's admission that nearly 11 million people are in the country illegally makes immigration a public safety issue for federal, as well as state and local officials. However, only federal officials, through Department of Homeland Security's division of Immigration and Customs Enforcement (ICE), can enforce immigration policy, effectively leaving no role for state or local police agencies. ICE's stated function is to keep the United States safe from terrorists attack and bring integrity to the immigration system.²³ All of North Carolina's deportation and immigration enforcement action is directed out of the ICE office located in Charlotte. Charlotte is also home to the other two immigration divisions of the Department of Homeland Security, Citizenship and Immigration Services and Customs and Border Protection.

The current policy in Charlotte, and stipulated by federal law, is that Charlotte Mecklenburg Police Department (CMPD) officers in their routine course of policing cannot detain people for potential removal for immigration violations. If a person is committing a crime, and is also an illegal immigrant, CMPD can apprehend the individual for committing the crime, not for the simple fact they are in the country illegally. Any immigration enforcement activity must be undertaken with ICE and with ICE as the lead. However, there is a provision in federal law where local law enforcement can request to be trained by federal ICE officials to enforce immigration law.

Section 287 (g)

The 1996 amendments to the Immigration and Naturalization Act added a provision whereby state and local law enforcement could train with ICE and subsequently be authorized to identify, process, and when appropriate, detain immigration offenders they encounter during their regular, daily law enforcement activity.²⁴ This voluntary program is known as Section 287 (g), named after the section number in the amended legislation

outlining the cooperative program. Local or state law enforcement agencies that want to have authority for immigration enforcement must sign a Memorandum of Agreement with ICE and take a specialized training course (typically five weeks). Once the course is successfully completed and all related examinations are passed, the officers receive an official certification from ICE, known as 287 (g) authority, which confers special authorities regarding immigration violators. After certification, ICE continues to provide supervision and support, helping officers to identify the appropriate response once they determine a suspect to be an immigration violator. Generally, when a trained and certified 287 (g) officer encounters, during his regular activities, an individual who is an immigration violator, he or she may question and detain the individual for potential removal from the United States by ICE. Detention is particularly appropriate in cases where the individual is deemed to be a flight risk, a repeat immigration offender, or a particular threat to local or national security.

In 2002, the Florida Department of Law Enforcement was the first agency to participate in the 287 (g) program training 35 officers to assist in special task forces and street investigations. Since then, the State of Alabama trained 21 State Police officers in 2003 and another 25 State Police officers in 2006.²⁵ ICE has worked with the Arizona and California Departments of Correction to ensure that criminal aliens incarcerated within federal, state, and local facilities are not released into the community upon completion of their criminal sentences. The Los Angeles County and San Bernadino County, CA jail custody specialists also undertook 287 (g) training at the end of 2006.²⁶

In February 2006, Mecklenburg County Sheriff Jim Pendergraph signed a Memorandum of Agreement with ICE to train 10 of his deputies to carry out certain immigration duties as arrestees are processed at the Mecklenburg County jail. The Mecklenburg County Sheriff's Deputies operate within the Mecklenburg County jail to interview foreign national inmates to determine whether there is probable cause of an immigration violation; complete the processing for accused criminal aliens, including fingerprinting; prepare documentation to place aliens in deportation proceedings concurrent with their prison term; and prepare documentation to deport aliens following their terms. In

addition, they will refer criminal aliens to the ICE Office of Investigations for potential criminal prosecutions. The Mecklenburg County Sheriff's Office is the only local or state agency in North Carolina to participate in the 287 (g) program and is the only Sheriff's Office in the country to check every arrestee.

County Jail and Federal Immigration Detention Centers

Through their participation in the 287 (g) program, the Mecklenburg County Sheriff's Office has processed 1,205 arrestees that were not born in the U.S. and began removal proceedings for 523 between May 1 – September 1, 2006. Approximately 15% of the Mecklenburg County jail population is illegal immigrants who are accused of committing a crime other than an immigration violation. It costs the Sheriff's Office \$110 a day to house an inmate at the Mecklenburg County jail.²⁷ With approximately 120 inmates in the jail who are in the country illegally, local and federal taxpayers are spending approximately \$4.8 million a year to house illegal immigrants in the Mecklenburg County jail. It should be noted, that once ICE takes custody of a prisoner, who still may be housed in the county jail, cost for those inmates are covered by ICE and the federal government. There is no financial data that details how much money it is costing local taxpayers to investigate and prosecute crimes involving illegal immigrants in the City and County.

A key issue facing Charlotte and Mecklenburg elected officials is that the Mecklenburg County jail is presently filled over capacity, even when illegal immigrants being held in the jail are not factored in. ICE could help with the overcrowding by promptly removing illegal immigrants while they wait for deportation or prosecution in a federal immigration detention facility, yet the federal government is short on detention spaces as well. The current ICE detention system consists of over 400 state and local facilities, such as the Mecklenburg County jail, plus seven contract detention facilities, eight ICE-owned facilities, and five Bureau of Prison facilities. In total, the ICE detention program has a funded capacity of approximately 20,375 beds for a diverse population from all over the world and individuals and families of every age group.²⁸

Given the lack of detention space, the Mecklenburg County jail will continue to be needed by ICE to hold prisoners scheduled for deportation or prosecution. North Carolina presently does not have a federal Immigration detention facility, but there are two in the Southeast, both in Georgia, that can hold up to 2,300 detainees. There are 15 immigration dedicated detention facilities in the United States and one in Puerto Rico. Only eight states have federal immigration detention facilities including four in Texas, three in California, and two in New York.²⁹

Immigration Court

In addition to the jail crowding and detention space issues, Charlotte does not have a federal Immigration Court. The closest one that serves the entire Southeast is located in Atlanta, GA. The caseload for the Atlanta Immigration Court grew 18% between 2003 – 2004 due in large part to North Carolina’s growing illegal immigrant population.³⁰ North Carolina had a 273.7% increase in its foreign born population between 1990 – 2000.³¹ Despite this situation, 16 states have significantly less illegal immigrants in their state than North Carolina, yet they have an Immigration Court. One such example is the state of Louisiana, which has an estimated 35,000 illegal immigrants compared to North Carolina’s 300,000.³² Louisiana has an Immigration Court and North Carolina does not. The critical rationale is that the four hour distance between Charlotte and Atlanta makes transportation a barrier for some people to make their court date in Atlanta, not to mention the lack of motivation for an illegal immigrant to show up for a court hearing in Atlanta. The placement of Immigration Courts is determined by the Department of Justice, and U.S. Representative Sue Myrick of North Carolina and other members of the North Carolina Congressional delegation have requested an Immigration Court for Charlotte.

Deportations and Prosecutions

All deportation policies and processes are dictated by federal law and are coordinated by the Department of Homeland Security’s division of Immigration and Customs Enforcement (ICE). The federal government’s policy has not been to deport people just because they are in the country illegally, but rather to focus on those illegal immigrants

who commit crime and to prosecute them for the crime and then deport them after they have served time for the crime.

In the past, Prosecutors and local law enforcement were more interested in seeing criminal illegal immigrants deported out of the country and not necessarily fully adjudicated for the crimes committed. The thought that the U.S. judicial system could save time and money for other cases by deporting the criminal illegal immigrants, rather than loading up the courts and jail/prison system with illegal immigrants has begun to change with more interest in victims' rights. Oftentimes, victims of crimes committed by illegal immigrants are interested in seeking justice, including time served in jail or prison for the crime, rather than deportation with no jail time, regardless of cost.

Law enforcement has seen many instances of people being deported only to return to the United States again within three days. Under the new 287 (g) program the Mecklenburg County Sheriff's Office has identified 68 illegal immigrants who had been deported at least once, but came back to the United States. They have also identified another 55 illegal immigrants who had outstanding warrants for failing to leave the country after previously being ordered to do so by the federal Immigration Court. Further, local police are seeing the same scenario with gang members. Once they are deported, they often make their way back to meet up with their friends.

The U.S. does not have reciprocating agreements, whereby the home country of an individual deported from the U.S. has no obligation to prosecute their citizen for a crime in the U.S. nor implement an incarceration action imposed in the U.S. However, the Country of Mexico and the U.S. did sign a "Prison Transfer Treaty between the USA and Mexico" on November 25, 1976. This Treaty allows each state to become a signatory and upon request, the Country of Mexico will transfer Mexican citizens who are prisoners in North Carolina, or any other state, to complete their full sentence in a Mexican prison after they have served half of their sentencing term in the U.S./State. The sentencing for some crimes is required to be served for 2/3 of the time in the U.S. before the petition can be made to transfer to Mexico. The states surrounding North Carolina have all signed the

Treaty Agreement and the North Carolina Legislature adopted it in 2002. The Treaty went into effect in North Carolina in January 2003. This Treaty also allow for a U.S. citizen sentenced in Mexico to complete their sentence in North Carolina, after a determined amount of time is served in Mexico.³³

Charlotte and North Carolina have been galvanized in recent years over deaths caused by illegal immigrants who were driving while intoxicated (DWI) by alcohol. One such incident was when a man named Scott Gardner, from the Charlotte region, was killed while driving near the Atlantic coast in North Carolina by an illegal immigrant. The illegal immigrant had five previous DWI charges, and was convicted on four of them, and still allowed to remain in the U.S. and out of prison.³⁴

There are many tragedies involved in the Scott Gardner situation, from the lack of full prosecution, to the fact that an illegal immigrant remained in the United States after repeat violations. Many individuals have wondered why the illegal immigrant was not deported for the multiple DWI offenses under our immigration laws. Under North Carolina law, driving while impaired is a misdemeanor offense; no matter the citizenship status. DWI is not considered a crime involving “moral turpitude.” Therefore, a conviction for this offense does not make an immigrant subject to deportation, unless other aggravating factors exist. Legislation was proposed in the 2005 – 2006 session of the U.S. Congress to make drunk driving a deportable offense, but it was not enacted by the full Congress.

Local Police Efforts

While Prosecutors address criminals who are immigration violators, local police are trying to balance their role in addressing not only the rise in illegal immigrants, but Charlotte’s growing international population. In 2000, the Charlotte-Mecklenburg Police Department (CMPD) created the International Relations Unit to help enhance relations and address the unique needs of the City’s growing international community. The unit is comprised of six officers and one Sergeant. A requirement for the unit is that each officer must be fluent in a second language or understanding of a second culture.

Through this structure the police department is able to address the challenges of communication and also assist in understanding cultural differences.

Along with a rise in Charlotte's population growth, there has also been a rise in the number of gangs and gang members in Charlotte, including international or ethnic gangs. In 2003, CMPD created the Gang Intelligence Unit to track the 100 known gangs and more than 1,800 known gang members in the community³⁵. Of the 100 known gangs in Charlotte, five specifically recruit foreign nationals or illegal immigrants of Hispanic heritage. The five gangs include Mara Salvatrucha 13 (MS 13), Surenos 13 (Sur 13), 18th Street, 42 Street Little Criminals (42LC), and the Malditos. Of these five gangs, MS 13 and 18th Street both have a strong presence and operation in the country of El Salvador. The membership of all these gangs consists of people from the countries of El Salvador, Guatemala, and Honduras, with the exception of Malditos, which recruits and consists of Mexican nationals.

CMPD has a strong working relationship with numerous federal agencies and participates in the GangNET tracking and searchable computer database to address gang members and issues. The use of GangNET and cooperation with regional and federal law enforcement agencies has resulted in the deportation of more than 150 Charlotte gang members between 2003 and 2005.³⁶

National Security

The concern for national security, particularly along our nation's borders, has received sharp attention since September 11, 2001 and has been a key issue in the debate over illegal immigration. The fact that so many have been able to enter this country illegally across our borders with Mexico and Canada continues to be of grave concern. One policy that has generated much support, throughout the country and in the Congress, is enhanced immigration enforcement at our borders to increase national security. From adopting legislation that will erect a fence along the Mexican border to hiring more border agents, the federal government has taken a strong approach to border protection in the past two years.

The border with Mexico extends nearly 2,000 miles, touches four states, and has 43 ports of entry, with 18 in Texas connecting with major U.S. highways. The border with Canada extends more than 5,000 miles and touches thirteen states. The U.S. Customs and Border Protection (CBP) agency within the Department of Homeland Security is responsible for securing the borders, by preventing and detecting illegal entry of goods and people into the U.S. In 2006, CBP had 11,000 agents patrolling 6,000 miles of the international border with Mexico and Canada³⁷. In addition to federal agents, state and local law enforcement also patrol the border areas. In 2006, President Bush also assigned up to 6,000 National Guard members to help CBP in border patrol functions.

In 2005, the Border Patrol apprehended approximately 1.2 million illegal immigrants; of those 165,000 were from countries other than Mexico. Of the non-Mexicans detained, 650 were from special interest countries – those “designated by the federal intelligence community as countries that could export individuals that could bring harm to our country in the way of terrorism.” The drug trade is also a key border issue with 1.1 million pounds of cocaine and 6.8 million pounds of marijuana being seized in 2005.³⁸

Federal law enforcement estimates that only 10 to 30 percent of the illegal immigrants are actually apprehended and only 10 to 20 percent of the drugs are seized. This reflects that 4 to 10 million people crossed the border illegally in 2005 and as much as 5.6 to 11.2 million pounds of cocaine slipped through the border undetected.³⁹

Lax border security poses a triple threat of drug smuggling, illegal and unknown crossers, and rising violence which are putting pressures on the Border States and communities, as well as the entire country. While border security is clearly a federal issue and a main concern for those jurisdictions along the border, it also has significant ramifications for the interior parts of the country as well. As was documented, Charlotte has deported criminals only to have them slip back through the border and back into the community.

Public Safety Recommendations

- ❖ **Housing** – Develop and clarify fire and safety codes of the local governments regarding the number of people allowed to reside in one dwelling, to address personal and fire safety concerns within the community.

Rationale: Many illegal immigrants live together in one apartment or house to help save money. Cities and Towns in the Charlotte, NC region continue to balance the need to protect their citizens through fire and safety issues, while supporting neighborhoods and property values to maintain an adequate tax base. By supporting and enforcing fire and housing safety codes that limit the number of people in a dwelling or housing unit, cities and towns can assure citizens' safety; help stabilize and enhance neighborhoods; and encourage property owners to increase their property values.

- **Crime Suspects Status Policy** – 1) Develop a policy that local law enforcement will determine the immigration status of all arrestees, with help from an ICE pilot program that shares their immigration fingerprint database with state and local agencies. 2) Support a dedicated state funding stream, and additional federal and local funding, for local law enforcement to participate in the 287 (g) program with ICE.

Rationale: The ability of local law enforcement agencies to determine immigration status and track arrestees through database systems will help local District Attorneys to prosecute criminals to the full extent of the law, on all relevant charges. It also helps law enforcement to know the true identity of whom they are dealing with.

The utilization of a database tracking system will not only track arrest and criminal history, but it will assist the entire criminal justice system in tracking

costs associated with criminals that is being borne by police departments, Sheriff's Offices, and the state court system.

The current federal 287 (g) program being utilized by the Mecklenburg County Sheriff has shown results in addressing the felons within the illegal immigrant community, and is a program the state should help fund to expand partnerships statewide for all counties to consider implementing.

Recommendation Alternative – There was not consensus by the Commission for this recommendation. One alternative view is that this policy recommendation could result in capturing undocumented immigrants that, for the most part, are workers contributing to the local economy and are not felonious criminals. This recommendation could lead to profiling and distrust of local police. Given that the current criminal justice system is overloaded, law enforcement should focus on addressing serious crime and not immigration violations that only lead to increased taxpayer expenses. There is also concern that the criminal justice system is slow to adjudicate and that oftentimes the illegal immigrants that are in jail are not able to support their families, including their spouse and children who are often U.S. citizens or lawful permanent residents. This policy recommendation should be linked to comprehensive immigration reform that leads to illegal immigrants being able to obtain legal status and the two should be considered in tandem, but one should not proceed without the other.

❖ **Immigration Court -- Support the request for an Immigration Court in Charlotte presently being considered by the U.S. Department of Justice.**

Rationale: The majority of immigration cases processed at the federal Immigration Court office in Atlanta, GA are from the State of North Carolina, comprising approximately 60% of the caseload at the Atlanta Court. The benefits of having a federal Immigration Court in Charlotte would include a decrease in the number of "Failure to Appear" notices due to the

transportation time and cost barriers to travel to Atlanta from Charlotte and other places in North Carolina. Immigration cases could be processed quicker through the deduction in the amount of cases being heard by one court for all the cases in the Southeast.

- ❖ ***Increase Jail Space – A) Increase Jail space and Immigration Detention space in Mecklenburg County. 2) Provide additional transportation resources associated with the detention process for illegal immigrant prosecution and deportations.***

Rationale: The Mecklenburg County Jail Central is presently overcrowded. The facility was expanded in 2001, and doubled its capacity, to where it presently houses 1,904 inmates. Presently 15% of the Mecklenburg County jail inmates are illegal immigrants held for criminal offenses.⁴⁰

In 2006, the number of arrests made by the Charlotte Mecklenburg Police Department increased 9% over 2005. With a rise in crime, increased incarcerations due to the Sheriff's participation in the Federal 287 (g) program to determine immigration status, and increasing arrest trends by Charlotte-Mecklenburg Police, adding jail space will be a critical issue for the community in the months and years to come.

In addition to the local County Jail overcrowding situation, the request to have a federal Immigration Court in Charlotte would necessitate a detention facility to process or adjudicate the ruling of the Immigration Court. The current Mecklenburg County Jail system cannot presently provide the necessary detention space for an Immigration Court. However, a detention facility could be a joint federal/local partnership and could be a regional facility.

- ❖ ***Prosecution -- Support the full prosecution of Illegal Immigrants who commit local and state crimes, without the possibility of deportation, so the criminals will serve time for their crime prior to any removal (deportation) proceedings.***

Rationale: Oftentimes, illegal aliens who commit local and state crimes are deported (removed) without being prosecuted or as a mechanism to get out of incarceration once they have been adjudicated. District Attorneys should be encouraged to prosecute all illegal immigrants who commit crimes and then request deportation (removal) proceedings after the criminal has served their time.

- ***Driving While Intoxicated*** – Support federal legislation to make first-time Driving While Intoxicated (DWI) offense a deportable offense for illegal immigrants.

Rationale: Presently, a first time Driving While Intoxicated offense is a misdemeanor offense and not subject to deportation (removal) proceedings, if committed by an illegal immigrant.

Recommendation Alternative – The Study Commission did not achieve consensus on this recommendation. While the Commission does support tough drunk driving laws, a proposed bill known as the “Scott Gardner Act” is viewed as being too broad, as it proposes new grounds for deportability for any immigrant (legal or illegal) who is either convicted of driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of Homeland Security), or refuses in violation of State law to submit to a breathalyzer test. Under existing federal law, and under the 287 (g) program discussed previously, individuals who are illegally present in the US and who are arrested for DWI are being identified by ICE for deportation, but this proposed legislation could greatly impact those legally on the path to citizenship, with legal status who refuse to take a breathalyzer test.

- ❖ ***Gang Tracking*** – Require Police Departments to track gang members, particularly those that are foreign born, and the number of members that are deported for criminal activity. Support federal legislation to make gang membership a deportable offense.

Rationale: Gang affiliation in Charlotte and North Carolina is increasing, particularly among gangs that recruit foreign-born members or certain nationalities. Presently there are 1,800 known gang members in Charlotte affiliated with 100 known gangs. Of those 100 gangs, five specifically recruit Latino/Hispanic nationalities. Two of the gangs operating in Charlotte also have operations in the country of El Salvador. To better track gang issues and membership, law enforcement is recommended to use the GangNET, or similar program, to track gang activities.

- ❖ ***Police Training on Immigration Issues*** – 1) Implement programs for Police Departments to train all police officers on the facets of immigration policies and enforcement, including working with DHS – ICE (Immigration and Customs Enforcement) to understand the deportation, process and which crimes are deportable. 2) Incorporate a training and community awareness DVD on the Federal 287 (g) program to outline how immigration status can be determined for illegal immigrants that are arrested. 3) Utilize Training Academy/programs to ensure department personnel understand department policies related to immigration-issues.

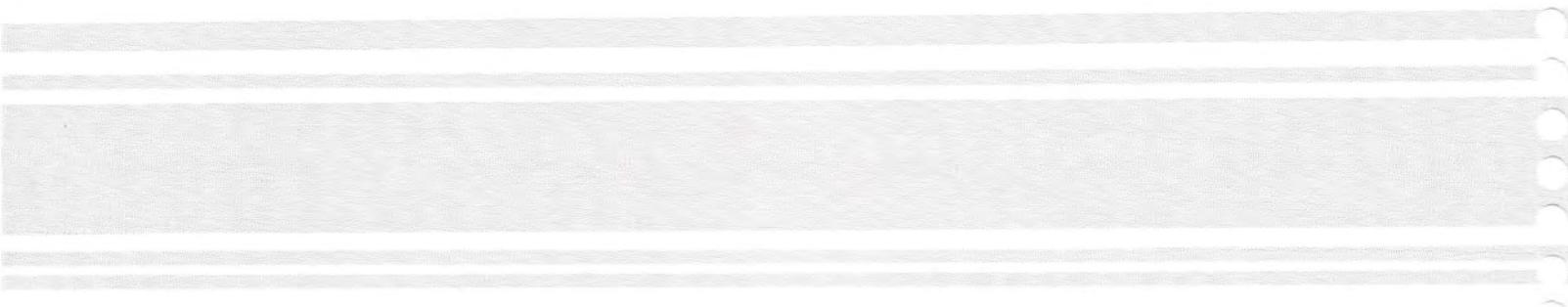
Rationale: Law enforcement agencies throughout the Charlotte-region and North Carolina need to have a better understanding of immigration issues and how the federal immigration enforcement program operates, from interacting with illegal immigrant victims and criminals to partnering with the federal government in immigration enforcement.

- ❖ ***Language Pay Incentive for Emergency Responders*** – Fund pay incentives for law enforcement, other emergency responders, and Department of Social Services social workers who are bilingual or complete classes in a pertinent foreign language.

Rationale: The ability to communicate with all residents during the time of an emergency is critical to addressing or resolving the emergency. Oftentimes first responders who are not fluent in another language besides English

interact with non-English speakers and are unable to address the emergency because of the language barrier.

The Charlotte Mecklenburg Police Department, Charlotte Fire Department, and the Mecklenburg County Sheriff's Office currently offer language classes through a Berlitz language certification program, mainly in Spanish and Asian languages. Once the police officers obtain the language certification, or obtain it through other accredited means, they are eligible for a pay incentive for possessing an enhanced language skill. However, the Mecklenburg County Emergency Medical Service (EMS), other county law enforcement agencies, and the County Department of Social Services do not presently offer such a pay incentive.



Education

Charlotte-Mecklenburg Schools (CMS) is the 23rd largest school district in the nation with nearly 128,000 students enrolled in kindergarten through 12 grade.⁵⁸ CMS enrollment increases approximately 3.4% (roughly 4,400 new students) each year.⁵⁹ Since the 2001 – 2002 school year, CMS has grown 17% percent and added 22,039 students.⁶⁰ The growth in CMS enrollment mirrors Charlotte’s population growth, spurred by a strong economy and a high quality of life. The growth is also due to the high birth rate of Hispanics and illegal immigrants in Mecklenburg County. Between 2001 and 2005, Hispanic students accounted for 57% of the total growth in North Carolina Public Schools.⁶¹ However, the full impact of illegal or legal immigration for the school system cannot be determined, as Charlotte Mecklenburg Schools, like schools across the country, do not ask for citizenship status when students are enrolled for the academic year, based largely on a U.S. Supreme Court ruling.

Supreme Court Ruling – *Plyler vs. Doe*

The current policy of not determining citizenship status for Charlotte-Mecklenburg Schools and all school districts across the country stems from the 1982 Supreme Court Ruling in the case *Plyler v. Doe*. The *Plyler v. Doe* case arose because of 1975 legislation by the Texas Legislature that revised state education laws to withhold state funds from local school districts that allowed the enrollment of illegal immigrants. The 1975 revision also authorized local school districts to deny enrollment in their public schools to children not “legally admitted” to the country.

A class-action lawsuit was filed in September 1977 on behalf of certain school-aged Mexican children in the Tyler Independent School District in Smith County, Texas. The District Court and Court of Appeals for the Fifth Circuit both ruled that the State legislative action violated the Equal Protection Clause of the 14th Amendment. It is the

14th Amendment (Section One) that is the basis of the United States citizenship policy which outlines that *“all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside.”*

The U.S. Supreme Court, in a 5 – 4 decision, upheld that lower courts’ decisions in June 1982 with the following opinion:

The illegal aliens who are plaintiffs in these cases challenging the statute may claim the benefit of the Equal Protection Clause, which provides that no State shall “deny any person within its jurisdiction the equal protection of the laws.” Whatever his status under the immigration laws, an alien is a “person” in any ordinary sense of the term. This Court’s prior cases recognizing that illegal aliens are “persons” protected by the Due Process Clauses of the Fifth and Fourteenth Amendments the undocumented status of these children vel non does not establish a sufficient rational basis for denying them benefits that the State affords other residents. It is true that when faced with an equal protection challenge respecting a State’s differential treatment of aliens, the courts must be attentive to Congressional policy concerning aliens. But in the area of special constitutional sensitivity presented by these cases, and in the absence of any contrary indication fairly discernible in the legislative record, no national policy is perceived that might justify the State in denying these children an elementary education.”⁶²

The U.S. Congress has not expressed interest in passing additional legislation to clarify the Equal Protection Clause to address the Court’s ruling and the decision stands as federal policy.

Charlotte Mecklenburg Schools follows the Court ruling as policy with Michelle Morris, Associate Counsel for CMS stating:

“CMS is bound by the requirements outlined by the US Supreme Court in their opinion in the 1982 Plyler v. Doe case. In this case the Court held that the Equal Protection Clause of the Fourteenth Amendment, providing in pertinent part that the State cannot “deny to any person within its jurisdiction the equal protection of the laws,” (at 202), applies to illegal aliens living within the boundaries of the state. In sum, the Court held that the undocumented status of children does not allow the state to deny them benefits afforded to other residents.

Guidance developed in response to this case generally provides that making inquiries of students, or their parents, as to their immigration status would unreasonably limit access to school. Asking such questions would impose a fear of exposing undocumented status and would thus reduce the number of children presented for enrollment. Therefore, CMS does not track the immigration status of students enrolling in the district.”

Limited English Proficiency Programs

The student body at Charlotte Mecklenburg Schools consists of students from 130 countries, speaking 94 native languages.⁶³ In 2005 - 06, CMS enrolled nearly 13,307 in the Limited English Proficiency program (9,000 are Spanish speaking), addressing those who have limited to no English speaking skills.⁶⁴ During the 1995 – 96 school year, CMS had 1,732 Limited English Proficiency students. The school system has identified that 19,307 students are from families where English is not the native language.⁶⁵

CMS estimates that the cost per pupil to educate a student in CMS is \$8,198.⁶⁶

Multiplying the cost per student (\$8,198) by the number of students in the Limited English Proficiency program (13,000) totals \$106 million and can provide a guesstimate of one facet of the impact of illegal immigration on CMS. The federal No Child Left Behind Act does provide federal funding based on a School District's Limited English Proficiency (LEP) enrollment and the State of North Carolina also provides an allotment

for LEP enrollment. In 2006, CMS received six million dollars in state funding based on LEP enrollment, however not all States provide funding based on LEP enrollment.

In addition to providing LEP classes, CMS has expanded the school curriculum to offer international focused programs to include numerous International Baccalaureate classes, six Centers for Leadership and Global Economics, two international studies schools, and five foreign language immersion schools, including Japanese, French, Spanish, German, and added in 2006, Chinese.⁶⁷

Central Piedmont Community College (CPCC), located in Charlotte, offers a Limited English Proficiency program and during the 2005 school year, they enrolled 11,800 students in the program. CPCC's average cost for literacy students is \$260 based on a program budget of \$3.1 million.

Education Paradox/Dilemma

Every year across the United States, roughly 65,000 illegal immigrant students under the age of 21, who have lived in this country for at least five years or longer, will graduate from high school.⁶⁸ This number represents less than two percent of all graduating seniors in the United States. Of the 65,000, only 5 to 10 percent will go onto college, compared with 75% of their legal classmates who will go on to pursue higher education goals.⁶⁹

This situation highlights the reality that students who may have been brought to this country by their parents as young children face the consequences of the illegal immigrant status. Although these students attend U.S. schools K-12, as provided by the Plyler v. Doe ruling, (and usually share American cultures and values, plus the English language) they are barred from an affordable college education with in-state tuition rates, state and federal education grants or loans, most private scholarships, and the ability to work legally to earn their way through college.

Because of this, many illegal immigrant children drop out of high school, seeing no reason to graduate knowing they will likely not be able to attend college due to affordability concerns. Further, the job opportunities for these youth are limited and their lifetime earning potential is substantially handicapped. The limbo status of these children who essentially know no other cultures and have no opportunities to be highly productive citizens, and are not being deported, presents an economic and social conundrum that the federal government has not addressed.

Children or students are not considered illegal immigrants or undocumented until they turn 18 years of age, presenting the paradox that the U.S. taxpayers are spending money to educate these students, yet these students have limited opportunities and limited futures to become highly productive, tax-paying residents. Despite this situation, some States, and even the federal government are considering ideas on how to address this paradox, yet no consensus has been reached to address this dilemma.

In-State Tuition for Illegal Immigrants

To date, the State of North Carolina has not provided any enrollment guidance to Community Colleges for undocumented students and has left the policy discretion to each College's governing body. Central Piedmont Community College (CPCC) will enroll students without documentation or residency verification, but will charge out of state tuition for those in that category. Every student who can produce proof of North Carolina residency is charged in-state tuition rates. Similarly, the University of North Carolina system also allows students to enroll without documentation or residency verification, but will charge out-of-state tuition for those in this category.

In Fall 2005, CPCC enrolled 17 students with "no visa status" and "no state of residency" status. The University of North Carolina at Charlotte reported no one being enrolled with no visa status and no state of residency. A local area, private college, Davidson College, enrolled two undocumented students in Fall 2006, making them the first two undocumented students to ever enroll at Davidson College. Because Davidson is a

private institution, there is no distinguishing line between students who pay in-state or out-of-state tuition, as tuition is one fee for all students.

In 2006, the North Carolina General Assembly, like 18 other states, considered and debated the concept of offering in-state tuition rates for illegal immigrant students who cannot provide proof of state residency, but the North Carolina proposed legislation failed. North Carolina also considered similar measures in 2003 and 2005, but those measures were never enacted.

To date, nine states allow illegal immigrant students to obtain in-state tuition. Those states (with enactment years) include:

California (2001)	Oklahoma (2003)
Texas (2001)	Illinois (2004)
New York (2002)	Kansas (2004)
Utah (2002)	New Mexico (2005)
Washington (2003)	

In 2004, a lawsuit was filed in Kansas challenging the legality of the law providing in-state tuition for illegal immigrants, but the federal district court upheld the Kansas law.⁷⁰ Further, in 2006, a proposal was made in the Kansas legislature to repeal the in-state tuition provision for illegal immigrants, but that motion failed.

The nine current states that provide in-state tuition for illegal immigrants do so despite a provision in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Section 505) that requires any state that provides in-state tuition to undocumented immigrants to provide the same tuition rate to out-of-state residents. Thus, effectively eliminating the distinction of in-state and out-of-state tuition for those states.

The DREAM ACT Proposal

The DREAM Act (Development, Relief, and Education for Alien Minors) has been proposed in each house of Congress since 2002, but never passed. The DREAM Act is intended to help illegal immigrants pursue higher education goals and adjust their immigration status to that of being legal. The Act would allow certain illegal immigrant students to adjust their status to that of a legal permanent resident on a conditional basis for six years based on the following requirements:

- 1) Illegal immigrant student must have entered the U.S. before age 16
- 2) Students must have been accepted for admission into a two- or four-year institution of higher education or have earned a high school diploma or a general education development (GED) certificate at the time of application
- 3) Students must reside in the U.S. when the law is enacted. In addition, those eligible must have lived in the U.S. for at least five years preceding the date of enactment of the Act.
- 4) Illegal immigrant students must demonstrate good moral character, a defined term in immigration law. In general, students must have no criminal record.

The conditional basis component, upon which legal permanent status would be granted, would be removed to allow the student to obtain legal status if they fulfill at least one of the following within six years:

- 1) Earned a degree from an institution of higher education (two or four year degree) or maintained good standing, for at least two years at an institution of higher education while working towards a bachelor's degree or higher or
- 2) Served in the U.S. Armed Forces for at least two years and, if discharged, received an honorable discharge.

The DREAM Act would also repeal the Section 505 of the 1996 Immigration Law requiring states that adopt in-state tuition for illegal immigrants to also provide the same tuition rate for out-of-state residents. The Act would also make students with adjusted

legal immigration status to be eligible for federal education loans and work-study programs.⁷¹

Legal Student Visas

The United States continues to be a higher education destination for students around the globe. Since September 11, 2001, the United States has tightened the number of student visas permitted in the United States and has better tracked foreign student visa holders through the SEVIS system. During the 2005 – 06 Academic Year, 564,766 foreign students studied in the United States, comprising 3.9 percent of total enrollment in U.S. colleges and universities. This was the third consecutive year of decline for foreign student enrollment, which peaked at a high of 586,323 students in the 2002 – 03 school year. The top 10 countries of origin of foreign students in the U.S. (in order) for 2005 – 06 were India, China, Korea, Japan, Canada, Taiwan, Mexico, Turkey, Germany, and Thailand. California and New York led the nation in the number of foreign students with 75,385 and 64,283 respectively.⁷² The State of North Carolina ranked 18th with 9,507 in 05 – 06. The University of North Carolina at Charlotte had the fourth highest number of foreign students in the state of any state or private school with 737. Business and Management, and engineering were the top two fields of study for foreign students in the U.S.⁷³

International Students by Academic Level⁷⁴

Academic Level	2005-06	% of Total
Associate's Degree	63,598	11.3%
Bachelor's Degree	172,744	30.6%
Graduate Degree	259,717	46%
Master's	115,434	
Doctoral	107,993	
Other	68,707	12.2

Comparatively, the United States had 205,983 students studying abroad in 2004-05, a 7.7% increase from the previous year. The top five countries of destination were the

United Kingdom, Italy, Spain, France, and Australia. The top three fields of study were Social Sciences, Business and Management, and Humanities. In 2004-05, the State of North Carolina had 7,501 students studying abroad.⁷⁵

In the 2005 – 06 school year, UNCC enrolled 596 F-1 students and 38 J-1 students and had 27 J-1 faculty/researchers and 53 H-1 faculty/researchers.⁷⁶ Last year, 113 of CMS teachers were on J1 (teaching visas) and 10 were employed under H1B visas.

The economic impact of foreign students and their families on the U.S. economy in 2005 – 06 is a net contribution of \$13.49 billion (tuition and fees, plus living expenses and dependents, minus U.S. loan and grant support). North Carolina ranked 34th, with a total net contribution of \$198.4 million to the state economy.⁷⁷ Foreign students at UNCC contributed \$21.8 million to the state's economy in 2003-04.⁷⁸

Family Visa Impact

All visa categories, including foreign students and faculty visas, allow the spouse and children of the visa holder to come to the US where they are also issued temporary visa status. In 2005, there were 33,756 spouses and children of foreign students in the U.S. and 130,000 spouses and children of the faculty and other work-related visa category.⁷⁹ Under current Immigration law, these family members are not allowed to work. Many families that come over to the U.S. on a teaching or faculty visa are accustomed to a two-income family structure and oftentimes the spouse is highly educated or possesses a professional degree, such as a medical doctor. As the U.S. struggles to fill many vacancies in the healthcare profession and even is undertaking an effort to recruit nurses in the Philippines, there may be a missed opportunity by not allowing the spouses and family members to work. If qualified people are in the country and can help fill a need in the labor market, the U.S has an opportunity to better utilize the legal visa holders that are in the country.

- ❖ ***H-1 Visa Category Quota: Increase the quota or allocation for H-1 (professional workers) categories.***

Rationale: The U.S. education system has been unable to graduate or meet the demands for workers in several areas. Currently, the U.S. depends on engineers, scientists, nurses, and physicians from abroad to staff the faculties of educational institutions. Presently, the Healthcare profession is projecting a shortage of workers, in particular for nurses. The school system is also challenged with finding interpreters for their diverse students and families. By increasing the quota cap for the H-1 visa category, the workforce demands of the U.S. can better be addressed.

- ❖ ***Employment of Spouses of Visa Holders: Allow the spouses of H1 visa holders (known as H-4) to work in the United States to meet the shortages in the workforce. This work visa should expire along with the spouse's H1 visa.***

Rationale: Presently, spouses of H1 visa holders are allowed to be in the country, but not hold jobs. Many spouses are highly educated and have a desire to work, but the restrictions of the H-4 visa do not allow a work component. The spouses of J1, E and L visa holders are allowed to work, but H1 visa spouses are not. These spouses should be used to meet the shortages in the workforce, particularly teacher shortages, if they qualify.

- ***In-State College Tuition: Illegal immigrant children enrolled in North Carolina public schools, prior to age 16 and who qualify academically, should be allowed to establish residency in the state (through visa status or other) for tuition purposes.***

Rationale: Presently all students (K-12) have a right to a public education, regardless of immigration status based on the court ruling Plyer v. Doe. Illegal immigrant children who are brought to the country by their parents and

graduate from an American public school without legal status are faced with limited opportunity to advance their education or professional skills beyond the 12th grade. The principal barriers are economic: they do not qualify for state or federal financial aid, they are not allowed to establish residency for tuition purposes, and they are unable to work to pay for tuition without legal status.

Currently nine states offer their high school graduates who are illegal immigrants the opportunity to attend college at the in-state tuition rate. America faces the problem of having residents who have received a K-12 education, but generally can't advance their skills without a higher education degree. Without a path to a legal status or an opportunity to advance their education, these children are susceptible to becoming a burden for public safety. A provision to allow in-state tuition would benefit the state with additional tuition funds and eventually tax revenue. The economic goal would be to have these residents as productive members of society.

The state's investment in their education could be leveraged by allowing these students to establish a domicile and pursue educational programs that would benefit the state. They are, for example, a potential source of needed bilingual employees for state agencies and industries. At a minimum, to reduce the burden on the states, the federal government should create a visas status for these individuals to allow them to work to pursue their education.

Recommendation Alternative – *The Study Commission did not achieve consensus on this recommendation. The reasoning against the recommendation is that it would encourage people to come to the U.S./state to acquire the state's tuition benefit. It is also considered unfair to international students who come to the U.S./state legally, but who are required to pay out-of-state tuition rates. Further illegal immigrants should not be rewarded with in-state tuition rates.*

EMERGENCY SERVICE

EMERGENCY SERVICE

HEALTHCARE

Federal immigration legislation in 1996 outlined that all immigrants to the United States are required to pass a “public charge” test and have a U.S. sponsor or sponsors willing to pledge their income to support them (refugees, asylees, and amnestied illegal immigrants are exempted). The public charge test is to be administered at the American consular offices and an evaluation is to be done to determine whether or not the immigrant applicant is likely to become a public charge, and if so, deny the visa. Such criteria used in making the public charge determination includes 1) the sponsor having an annual income of at least 125% of the federally designated poverty level 2) the resources and skills of the applicant, and 3) any special conditions (such as age or infirmity) that might affect the applicant’s need for support.⁸⁰

Despite the public charge test and the stated goal to have the immigrant’s sponsor, and not the U.S. government, support the needs of the immigrants brought to this country legally, the US government has served as a significant source of support for immigrants in this country. Once the immigrants pass the public charge test, they are eligible to receive numerous forms of welfare, which are not considered under the public charge test, such as food stamps, pre-natal care, nutrition programs, housing assistance, energy assistance, job training programs, child care services, free or reduced school lunch, public shelters, health clinics, Medicaid, and some cash assistance welfare programs.

The 1996 Welfare Reform Bill outlined the following eligibility provisions:

- 1) Legal immigrants are barred from all federal means-tested public benefits for five years after entering the country and barred from Social Supplemental Income

(SSI) and food stamps until citizenship. However, benefits available to immigrants include school lunch and breakfast programs, immunizations, emergency medical services, disaster relief, and others programs that are necessary to protect life and safety as identified by the attorney general, regardless of immigration status.

- 2) Illegal immigrants are barred from federal public benefits including: grants, contracts, loans, professional licenses, retirement, welfare, health, disability, public or assisted housing, post secondary education, food assistance, and unemployment benefits. States are barred from providing state or locally funded benefits to illegal immigrants unless a state law is enacted granting such authority.

Although the many provisions in both the 1996 Immigration Reform legislation and the 1996 Welfare Reform legislation seek to help immigrants, studies find that the immigrants that are admitted legally are much poorer than the general population of the United States. Presently, 18% of immigrant households are below the poverty line, compared to 11% of non-immigrant households in the U.S. Legal Immigrants are 11% of the U.S. population, yet are 20% of the poor population. Further, immigrant households make up 21% of the welfare rolls, compared to 14% of non-immigrant households on welfare. The highest use rates for immigrants are in New York (30%), California (28%), Massachusetts (25%) and Texas (25%). In 2002, state governments spent an estimated \$11 billion to \$22 billion to provide welfare to immigrants, as 3.5 million immigrants were enrolled in Medicaid and an additional 3.7 million were enrolled in Medicare.⁸¹

The number of legal immigrants on public assistance is only half the story. The Federal Emergency Medical Treatment and Active Labor Act of 1986 mandates that hospitals must treat and stabilize anyone who seeks emergency care, regardless of income, insurance, or immigration status. Given this law, many use emergency room care as their only point of access for health services or primary care provider, despite the much higher costs associated with emergency room visits, as compared to health clinic or general

doctors' office visits. In 1993, the utilization rate of hospitals and clinics by illegal immigrants (29%) was more than twice the rate of the overall US population (11%). Between 1992 and 2001 visits to U.S. hospital emergency departments increased by 20%, while emergency departments shrank by 15%.⁸²

Hospitals are taking the brunt of the unfunded mandate to serve everyone. More importantly, they are incurring the costs associated with healthcare for illegal immigrants and the uninsured, as are full paying citizens or those with insurance. In some hospitals, as much as two-thirds of the total operating costs are for uncompensated care for illegal immigrants. This situation has led to a crisis in the healthcare industry. In 2000, 289 emergency rooms in California reported operating at loss. Those losses totaled \$325 million in 2000 and \$390 million in 2001. In 2002, Pennsylvania and New Jersey hospitals gave almost \$2 billion in free emergency and short-term care to uninsured patients, a large share of whom officials believe are illegal immigrants. Chicago's Alivio Medical Center provides one million dollars a year in uncompensated care and estimate that more than half of its 20,000 annual patients are illegal.⁸³

Given this situation, several states, including Minnesota, have called on the federal government to shift the financial burden away from local hospitals. In 2002, a National Association of Counties survey revealed that 67% of counties cited an increase in legal and illegal immigration as a cause of the rise in uncompensated health care expenses and that the newly arrived immigrants are the predominant users of uncompensated health care. Some states even sued the federal government in the 1990's seeking reimbursement for the cost associated with handling the influx of illegal immigrants, but the cases were dismissed.⁸⁴

Uninsured Healthcare

America's Immigration policies have been targeted as playing a significant role in the country's health care crisis, where more than 41 million Americans lack basic health insurance. One out of every four uninsured people in the U.S, approximately 10 million people, is an immigrant.⁸⁵ North Carolina has 1.3 million residents with no health

insurance.⁸⁶ This is reflected in that the median household income for legal immigrant households is 13% lower than that of U.S. born households, and median household income of illegal immigrants is 23% lower.⁸⁷

In addition to poverty, this situation shows that the immigrant population is largely unable to secure employer provided healthcare and that uninsured workers also have many family members who are subsequently uninsured. Among full-time wage earners, 51% of illegal and visa status workers had employer provided health insurance, while 76% of naturalized citizens did and 81% of the U.S. born residents had insurance.⁸⁸

The situation of uninsured immigrants (legal and illegal) continues to grow. Immigrants who arrived between 1994 and 1998 and their children accounted for 59% (2.7 million) of the growth in the size of the uninsured population since 1993. The problem also extends farther back. More than a third (37%) of immigrants who entered in the 1980's have still not acquired health insurance, and more than a quarter (27%) of immigrants who entered in the 1970's remain uninsured. When the 3.5 million immigrants receiving insurance through publicly funded Medicaid programs are factored in, almost half of immigrants (legal and illegal) have either no insurance or have it provided to them at taxpayers' expense.⁸⁹

The cost for the uninsured is staggering. In 2001, public funds made up for up to 85% of the \$34 - \$38 billion shortfall in unreimbursed expenses incurred by the uninsured.⁹⁰ In 2005, the cost for the uninsured in North Carolina was \$1.4 billion. In 2005, the North Carolina Division of Medical Assistance, the State's Medicaid Manager, reported that North Carolina illegal immigrants cost the state \$52.8 million in Medicaid payments, up from \$25.8 million in 2000.⁹¹ The Kenan Institute at UNC-Chapel Hill estimated the state's 2004 cost for health services provided to all Hispanics, legal and illegal, at \$299 million.⁹² Most of the North Carolina Medicaid payments for illegal immigrants were mostly for the delivery costs for pregnant women, but also paid for ambulances, diagnostic imaging, and other emergency care. Charlotte and Mecklenburg County hospitals, as well as most all North Carolina hospitals, do measure the cost of treating the

uninsured, but not for illegal immigrants as a separate group, as health care providers and hospitals do not ask immigration status of patients.

Anchor Babies

As noted above, a significant amount of medical expenses for illegal immigrants are for the delivery cost for pregnant women. Current U.S. fertility indicators show that foreign-born Hispanics have 112.3 live births per 1,000 women, while the US born non Hispanic is at 59.9 births per 1,000 women.⁹³ In 2005, the Mecklenburg County Health Department reported that one in every five births was to a Hispanic.

In 1994, there were 74,987 births to illegal immigrants in California at a cost of \$215 million. Those births consisted of 35% of all the Medi-Cal (California's Medicare System) births. Illegal immigrants comprised 760,000 of the Medi-Cal beneficiaries in 2003, up from 470,000 in 2002. In 2003, 70% of the 2,300 babies born at San Joaquin General Hospital maternity ward were to illegal immigrants. In 2004, it is estimated that 300,000 babies of illegal immigrants were born in the United States.⁹⁴

The high birth rate of illegal immigrants not only has cost implications, but demographic and social implications for America. The term "Anchor Baby" is used by some to refer to babies born in the United States that immediately become U.S. citizens under the 14th Amendment, yet whose parents are illegal. The baby is viewed to be the anchor the families can use to get Welfare and Medicaid benefits and later, when the babies are adults, they can use U.S. family immigration laws to help the parents gain citizenship.

The growing concern over the number of "Anchor Babies" has caused many to reflect on the 14th amendment and how it relates to immigration policy. Many argue it is being misinterpreted as it was ratified in 1868 to protect the civil rights of native-born black Americans, who had recently been freed from slavery and whose rights were being denied. However, in the last two years, the US Supreme Court reinforced that citizenship status is determined by being born on American soil, when they ruled that a Taliban fighter born in Louisiana and raised by his Saudi parents in Saudi Arabia was due full

rights of citizenship and could not be held as a non-combatant and denied due process by the Bush Administration.⁹⁵

The U.S. is not unique in this issue of “Anchor Babies” and citizenship by birthright. The Irish Supreme Court ruled that immigrant parents could be deported even if they have an Irish child. On June 11, 2004, Irish voters supported a national referendum to end birthright citizenship for any child regardless of the parents’ residence status, due in large part to women from outside the European Union, such as Nigeria, who were having babies and claiming political asylum.⁹⁶ In the 1980’s, Great Britain and Australia both changed their citizenship laws for similar reasons. The country of Switzerland does not automatically grant citizenship for those children born in the country.

At least two members of Congress have tried in the past year to address the “Anchor Baby” situation and re-evaluate citizenship by birth through changes to the 14th Amendment, but their proposals died in Committee.

Public Health Issues

The concerns for poverty and medical costs generated by illegal and legal immigrants are only part of the concern by healthcare professionals when it comes to illegal immigration. The fact that millions of visitors and thousands of illegal immigrants come from countries with endemic health problems and less developed health care systems raises special concerns for the healthcare professionals in Charlotte and across the country.

The increase in the illegal immigrant population has also brought rise to many contagious diseases that had been totally or nearly eradicated by the U.S. public health system. Because illegal immigrants do not undergo medical screenings, like those legally admitted, the incidents for infectious diseases are on the rise in the U.S. The issue is acute along the border states, where the incidence of tuberculosis in El Paso County, Texas is twice that of the U.S. rate, leprosy is readily evident along the border, and the pork tapeworm, which thrives in Latin America and Mexico, is showing up along the border. However, the increase in diseases is not limited to border states, as typhoid

appeared in Silver Spring, Maryland in 1992. In Queens, New York, 81% of tuberculosis cases in 2001 were attributed to immigrants.⁹⁷ Such diseases as river blindness, malaria, and guinea worm have all been brought to Northern Virginia by immigration patterns.

Schools and Immunizations

The concern for public health starts in the school system. Given that all schools must educate all children, regardless of immigration status, the focus of public health professionals is to ensure the school aged population has the necessary immunizations for school enrollment. Immunization requirements vary from State to State and country to country, but the State of North Carolina requires that all students have immunizations for diphtheria, tetanus, whooping cough, and vaccinations for oral polio, measles, rubella, mumps, haemophilus influenzae, and hepatitis B. The state law further requires that each child present adequate immunization records by the 30th day of attendance or the student will be excluded from school.⁹⁸ Charlotte Mecklenburg Schools follow state law and require the NC Certification of Immunization before a student can be enrolled, however they do not track down the authenticity of the records if they are from other countries. They do however, evaluate the immunization documents to make sure the immunization timeframes match up with the date of birth timeframe of the child and use health insurance records, physician offices and parent records for verification. If they do have a concern for the immunization record or certificate, they follow the state law and provide a “notice of deficiency” and give 30 days for the parent to provide records to show compliance with the student immunization requirement.

Serving the Immigrant Population

The Charlotte-area hospitals and healthcare providers operate under the premise and policy that no one is turned away. The overall goals of the local healthcare community are to:

- promote a healthier community
- improve the quality of healthcare provided in the community
- stabilize the cost of healthcare borne by the state and local governments

The 585% rise in the Hispanic population in North Carolina between 1990 and 2004 and the statistic that 54% of Hispanic adults in North Carolina are uninsured, compared to 11% for non-Hispanic whites and 22% for African-Americans, has had a ripple effect in the healthcare community and strained the premise to turn no one away.⁹⁹ In 2005 the Mecklenburg County Health Department provided care to 17,500 Hispanic patients, or 26% of their total patients. This is up from 17% of the Health Department patients in 2000.¹⁰⁰

In addition to the Health Department, Carolinas Healthcare System reported that 30% of all the patients seen in 2005 at the Carolinas Medical Center (CMC) clinics are Hispanic. The four Ambulatory Care Clinics realized a 20% growth in the number of Hispanic patients at CMC between 2002 and 2005. In 2005, Carolinas Healthcare System provided service during 61,000 visits by Spanish speaking patients in its Ambulatory care division, with 34,000 of those visits at the CMC NorthPark clinic. The NorthPark clinic alone realized a 41% increase in the number of Hispanic patients between 2002 and 2005.¹⁰¹

Carolinas Healthcare System has determined that it takes 17.6% longer to care for a Spanish speaking patient than it does to care for an English speaking patient. This statistic has shown that compensating a bilingual staff member at CMC is nine times more cost effective than paying an internal interpreter and 30 times more cost effective than paying an outside agency interpreter. Given this situation, Carolinas Healthcare System actively recruits bilingual employees with culturally appropriate advertisements in the major local newspaper and area Hispanic newspapers. CMC has instituted a bilingual pay program that includes a per hour compensation incentive for time staff spend using their language skills. The hospital also offers a bilingual referral bonus to employees who refer a new bilingual hire that is placed in a high need area. This bilingual recruitment effort has paid off. Now, 33% of the employees at the CMC NorthPark clinic and 25% of the employees at CMC Myers Park clinic are bilingual.¹⁰²

The hospital system has responded to a service need by its patients to have services provided in Spanish. The hospital system now provides bilingual staff and interpreters on site in locations where greater than 5% of the population speaks Spanish. Carolinas Healthcare System also has interpreters or bilingual staff on call in the other areas with a smaller Spanish-speaking population. The hospital utilizes English and Spanish signage and offers telephone prompts in Spanish. They also provide information brochures and educational materials in Spanish. Spanish and bilingual books are given to children at their well child checks and prescription bottles are printed in Spanish. In 2005, CMC Outpatient Pharmacies filled 75,000 prescriptions in Spanish.

The hospital has been able to make the business or financial case to hire bilingual staff. The CMC clinics presently employ 11 interpreters at an annual cost of \$440,000. The bilingual staff provides an additional 15,500 hours of interpretation at a cost of \$23,000 above base pay. The Mecklenburg County Health Department employs six full time interpreters at an annual cost of \$300,000 and utilized their bilingual staff at a cost of \$25,000 above base pay for their bilingual skills.¹⁰³



Healthcare Recommendations

- ❖ ***Bilingual Professionals:*** Promote the importance of, and accept, diversity in order to attract bilingual professionals who can add to the workforce, particularly in healthcare.

Rationale: Hospitals will provide healthcare to patients presented at facilities regardless of immigration status. Without a diverse workforce to serve the medically-needy population, it is more costly to communicate; is less time efficient to address a patient's care; and less productive healthcare services are provided to both legal and illegal patients.

- ❖ ***Health Education and Disease Prevention:*** Strengthen the primary care initiatives of the local healthcare community, especially the Mecklenburg County Health Department, for both legal and illegal immigrants by adding more human resources and services.

Rationale: Charlotte and many cities across the country have a young immigrant population. Chronic disease (and acute healthcare conditions) will expand/proliferate into the local population as immigrants age and acculturate into the local community/society. Promoting primary health care and education and disease prevention at a young age will help contain healthcare costs. Generally, the Mexican population in America comes to the country healthy, but their health declines as they acculturate, raising the need for more primary care to avoid eventual chronic or acute care for this population. The increased levels of acute healthcare conditions will lead to increased (and unreimbursed) hospital costs. Outpatient services are typically \$4 - \$7 to \$1 less costly than Inpatient hospital services.

- ❖ ***Uninsured:*** Address, in a substantive manner, the issues of the lack of health insurance and lack of government support for the uninsured working poor, of which the immigrant population is a significant part.

Rationale: Families in the working poor category will continue to grow through both immigration and job loss. Medical Home Care and Outpatient Care are less costly than the acute care (emergency room) environments that many of the uninsured are presently using. Emergency room utilization rates are rising and subsequently so are the wait times at emergency rooms.

- ❖ ***Communicable Diseases:*** All immigration actions or policies should include provisions to guard against communicable diseases and provide access to preventive care services for the immigrant population.

Rationale: The Charlotte-Mecklenburg and U.S. population at-large is at risk of a public health crisis, due to lack of knowledge of health status and vaccination history of immigrant population. By providing preventive

services, such as inoculations, and verifying immunization documents at schools, the risk is less costly than having to treat a communicable disease and would help reduce a community health outbreak scenario.

General Recommendations

Beyond the four areas of concentration, the Study Commission identified issues and recommendations that cut across all four study areas, or were important, but weren't specifically identified with the any of the four study areas. The following three general recommendations include:

- ❖ ***Communication*** –Increase communication between local levels of government and federal representatives to highlight needs at the local level related to immigration policy changes. Encourage public at-large to communicate with their elected officials, particularly at the federal level, regarding immigration issues and concerns.

Rationale: The significant impacts of the nation's immigration policies on all facets of American culture demands input and feedback from all citizens. The differing versions of Immigration proposals made during the 2005-2006 sessions of the U.S. Congress, coupled with the limited legislation actually passed related to border security and enforcement, have not helped clarify or assist local and state governments to address the many public policy issues related to illegal immigration. Without a clear understanding and policy direction from Congress, state and local governments are in the difficult position to carry out laws without enforcement clarity or support.

❖ **Public Contracts** – Ensure all contracts and projects of the City, County and State that utilize taxpayer funds do not support the employment of illegal immigrants. All contracts and construction projects should include a provision that employers will take specific steps to ensure the legal status of the workforce. (See sample contract language in Appendices) Such projects could include, but not be limited to County contracted landscaping work, to the City’s NASCAR Hall of Fame, and the State’s efforts to build new prisons. Through this effort, local governments should also encourage local businesses to require verification of employment eligibility in contracts.

Rationale: Government should be a lead role model to demonstrate to businesses and the general public that public monies are being used appropriately and that the spirit and letter of applicable local, state, and federal laws are being met, including immigration laws.

❖ **Department of Motor Vehicles Voter Registration** – Study the impact of “Motor Voter” registration to determine if illegal immigrants are registering to vote, which is a violation of U.S. immigration law.

Rationale: Part of the process to obtaining a drivers license at a North Carolina Department of Motor Vehicle station also includes a step to register citizens to vote. It is recommended that NC DMV conduct a review of this process and issue a report identifying the safeguards the process has to ensure that only qualified U.S. citizens are able to register. If a non-U.S. citizen unknowingly registers to vote, the State of North Carolina may actually be encouraging fraudulent voter registration and voting. Furthermore, the immigrant is committing a deportable immigration violation and a future bar to U.S. citizenship. The State should conduct a study or implement an education program to assure that non-citizens understand that registering to vote is not a requirement for obtaining a drivers license.



Economic Development/ Workforce

Over the past 15 years, Charlotte has emerged as an economic generator for not only the Charlotte-region, but the entire State of North Carolina and the nation. Through the rise of the financial services industry, the growth of Bank of America and Wachovia Bank (both headquartered in Charlotte), the favorable climate, low housing prices, right-to-work laws, and a business-friendly local government, Charlotte continues to build on a decade of economic success. In November 2006, the City of Charlotte enjoyed a 4.1% unemployment rate.⁴¹ The City skyline has virtually changed every year with the influx of new businesses and residents. The City is enjoying a construction boom with 15 high rise residential units, with one topping 53 floors, five new cultural arts facilities/museums, the NASCAR Hall of Fame project, a 40-story Wachovia bank tower, a 10-mile light rail line, and many single family home developments and mixed-use projects throughout the city.

From the rebounding hospitality industry, to the banking and financial services industry, the NASCAR industry and certainly the construction industry, Charlotte industries are enjoying rapid growth. Like the rest of the country, the need for a labor force, let alone a skilled labor force, is great throughout the Charlotte region. Much of North Carolina's growth in the number of illegal immigrants could be traced to farm labor where immigrants were attracted by the tobacco industry. But with the decline of tobacco and many other agricultural operations, illegal immigrants have found their way to the metropolitan areas of North Carolina, and specifically Charlotte. While illegal immigrants have provided a necessary labor pool, employers and businesses are

increasingly finding themselves in a perpetual balancing act to maintain a workforce, yet adhere to all applicable laws, including immigration laws.

U.S. Labor Force

The year 2006 marked the first time the U.S. population passed the 300 million mark and the civilian labor force reached 152 million workers, with 6.7 million unemployed.⁴² In addition to this workforce, in 2005 the U.S. provided work visas and temporary visa status (known as non-immigrant visas, including tourist travelers) to 4.6 million temporary visitors for business, 883,000 temporary workers/trainees and families, and 455,350 intracompany transferees and families. North Carolina had the 20th highest number of non-immigrant admissions in 2005.⁴³ The number of legal foreign workers in the United States is established by Congress and enforced by the Department of Homeland Security – Citizenship and Immigration Services.

Authorized Work Visas

Many businesses and organizations in Charlotte have utilized work-force visas to bring legal immigrant workers to the City. Charlotte and the surrounding metropolitan area is headquarters to several large, multinational companies, and the City also houses significant US operations of foreign companies. It is vital to the economic well-being of these companies, and to the continuing economic growth of the City and the regional economy, that companies have the legal ability to transfer goods, technology, and key personnel from abroad.

The most commonly used temporary visa category for multinational companies is the L-1 “intracompany transferee.” Companies can transfer managers, executives, and specialized knowledge employees from overseas operations for a period of five to seven years. Studies have determined that a relatively small number of intercompany work visas (less than 60,000 per year) have created millions of jobs in the U.S.⁴⁴

Certain foreign nationals who desire to invest money in the US to create new businesses or acquire existing businesses can apply for a Treaty Trader or Treaty Investor (E-1 or E-

2) nonimmigrant visa. This visa is limited to nationals of those countries that have *entered into treaties of commerce and navigation, or bilateral investment treaties, with the U.S.* The principal investor or trader can obtain this visa so they may develop and direct the newly acquired or newly established business.

The H-1B visa is one of the most widely used work-authorized visas. The Immigration Act of 1990 outlined the H-1B nonimmigrant visa category that allows U.S. employers to augment the existing labor force with highly skilled, temporary workers. H1-B workers are admitted to the U.S. for an initial period of three years, which may be extended for an additional three years. This category was established to help U.S. firms employ foreign workers in specialty occupations that require theoretical or technical expertise in a specialized field. The offered position must require a specific four-year degree. Typical H-1B occupations include architects, engineers, computer programmers, accountants, doctors and college professors. In addition, the H1-B Visa Reform Act of 2004 made available an additional 20,000 new H1-B visas for foreign workers with a Master or higher level degree from a U.S. academic institution.⁴⁵

The 2006 annual cap for H1-B is 65,000. In the past, the H1-B visa cap was as high as 200,000 and a 2006 U.S. Senate proposal called for the H1-B cap to be increased to 125,000. For the Fiscal Year beginning October 1, 2006, the H-1B cap was reached on May 26, 2006, more than four months before the first day of the fiscal year. No new H-1B visas can be issued until October 1, 2007. Beginning April 1, 2007, DHS will accept H-1B petitions for H-1B workers with a starting date of October 1, 2007.⁴⁶ This scenario of the Cap immediately being met puts employers in the situation of waiting up to 16 months to get a visa status employee that they need today raising concerns for competitiveness and productivity achievements. The current visa system, with its severely limited annual quotas or caps on both temporary (nonimmigrant) and permanent (immigrant) visas, is not meeting U.S. companies' or the U.S. economy's needs. To continue our leadership in the technology and research sectors, companies must have access to the best and brightest minds, regardless of nationality. The delays in visa unavailability for the H-1B professional worker category have been previously

described. But professional workers who are seeking immigrant (permanent) visas currently suffer a much longer wait of five to seven years for a visa. With this level of uncertainty hanging over foreign candidates, many may choose to remain in their home country, continuing their professional career development and providing for family stability.

The federal government has also provided the H-2B visa to allow U.S. employers in industries with peak load, seasonal or intermittent need to augment their existing labor force with temporary workers. Typical occupations that utilize the H-2B visa include construction, health care, landscaping, lumber, manufacturing, food service/processing, and resort/hospitality services. The 2007 limit for H-2B is 66,000 and the cap has already been reached. A third business visa category, referred to as the H-3 visa, was created to give temporary status to those coming to receive training that is not available in the individual's home country, but will prepare the individual to accept a position in their home country. This category also has a limited number of visas available (50 per year) for immigrants coming to participate in structured training for the special education of children with physical, mental, or emotionally disabilities.⁴⁷

This current federal policy to limit the number of temporary professional worker visas with such low caps, which are filled even before the visa dates take effect, creates a backlog for visas or simply delays the hiring process until the next visa cycle begins a year or more out. This also demonstrates that U.S. companies are not finding a sufficient number of domestic professionals, particularly in the science and engineering disciplines; therefore they are seeking to fill the gap with legal foreign employees. Given the unavailability of visas and demonstrated demand, some companies have investigated outsourcing research and development operations.

The aforementioned are the most commonly used temporary employment-authorized visa categories. Others that are used by US companies include the O-1 (for aliens who can document their "extraordinary ability" in business, sciences or the arts.), the P-1 (athletes of international renown), and the TN (Trade NAFTA, which is available to Mexican and

Canadian professionals who enter to work in specified occupations). Regardless of visa status or nationality, all U.S. employers must maintain evidence of their compliance with U.S. immigration law.

Employment Verification

The Immigration Reform and Control Act (IRCA) made all U.S. employers responsible for verifying the employment eligibility and identity of all employees hired to work in the United States after November 6, 1986. To implement the law, employers are required to complete Employment Eligibility Verification forms (Form I-9) for all employees, including U.S. citizens. This law has raised concern in the business community that they are being held accountable for determining the valid immigration status of the work force, based on documents presented by prospective employees. The most commonly offered documents include Social Security cards and driver's licenses. But, employers cannot mandate what documents are provided. The law requires them to accept any facially valid document or documents from a long menu of documents. Employers who comply with the record-keeping provisions of the IRCA argue they should not be held accountable if an employee's documents are subsequently determined by a government agency to be improper. The issue is more complicated when the concept of contracting is introduced, and determining what, if any, responsibility a business has to ensure the workers are properly documented by a firm being contracted. The City of Charlotte states in its contract documents that the company providing the contracted service must "make itself aware and comply with all local, state and federal ordinances, statutes, laws, rules, and regulations applicable to the Services," without distinguishing immigration laws from occupational safety laws, etc.⁴⁸ No follow-up is presently done by the City to verify that applicable laws are being met.

This concern has been heightened by local employers since ICE Assistant Secretary Julie Myers announced on July 18, 2006 that they had "arrested a record number of employers who hire illegal aliens as well as thousands of illegal alien workers."⁴⁹ In Fiscal Year 2006, ICE arrested 718 individuals on criminal charges in worksite

investigations and apprehended another 3,667 illegal workers on immigration violations, more than a three-fold increase over 2005.⁵⁰ ICE's record year of enforcement was achieved through such work as arresting 58 illegal immigrants who were trying to enter Ft. Bragg Army Installation in July 2006 with false or fraudulently obtained identification.

In August 2006, Wal-Mart paid a landmark \$11 million civil settlement based on ICE enforcement action in 2003 at 60 Wal-Mart stores located in 21 states that led to the arrest of 240 illegal immigrants employed by cleaning contractors. Twelve Missouri-based cleaning contractors also consented to the forfeiture of \$4 million in assets as a result of the investigation.⁵¹ As recent as November 2006, ICE arrested six illegal immigrants who were doing drywall contract work and possessed security badges for restricted area access at the Hartsfield – Jackson Atlanta International Airport.⁵²

IMAGE Program

The enhanced focus on worksite enforcement has caused the Department of Homeland Security and businesses to work together to help employers ensure they are addressing the law, and avoiding pervasive use of fraudulent employment documents. In 2006, ICE announced the Mutual Agreement between Government and Employers (IMAGE) program to assist employers in targeted sectors to develop a more secure and stable workforce and to enhance fraudulent document awareness through education and training.

The voluntary program provides employers with education and training on proper hiring procedures, fraudulent document detection, and use of the Basic Pilot Employment Verification Program, an internet-based system linked to Social Security Administration and DHS immigration databases that is operated by DHS – Citizenship and Immigration Services. In order to participate, employers must:

- 1) submit to an I-9 audit by ICE
- 2) ensure the accuracy of their wage reporting
- 3) verify the Social Security numbers of their existing labor force, using a Social Security Number Verification System.

The participation criteria has discouraged many employers from taking part in the IMAGE program, as there is concerns that ICE will levy penalties if discrepancies are found in any of the businesses wage or workforce status information/audit.

Market Factors – Immigration Survey

The stepped up enforcement against employers has raised the issue of the impact and role of the illegal immigrant worker in the United States economy. While there is no data that identifies how many illegal immigrants are employed in the U.S. economy, the estimate that 11 million people are in the country illegally suggests a number are being employed. Data by the Kenan Institute at UNC-Chapel Hill suggests that many illegal immigrants work in the construction or contracting industries, but other common areas of employment for illegal immigrants include working in lawn care, serving as Nannies or private house cleaning maids, working in hotels cleaning rooms, and at restaurants as wait staff, among others. A common myth is that the hiring of an illegal work force drives down wages. There is no statistical data on the impact of wages for an illegal workforce, but an unscientific and anonymous survey of 27 members of the Carolinas Associated General Contractor of America located in the Charlotte, NC region found that the General Contractor businesses are providing market rate wages and offering benefits, even paying a workers compensation claim to an illegal immigrant who has since returned to Mexico. The survey of highway, building, utility, and other trade contractors revealed the following facts about the 27 companies (and their 3,505 field employees) that completed the survey:

- 31% of the workforce was Hispanic
- 53 of the Hispanic workers were Project Managers or above
- There is a critical shortage of concrete and waterproofing workers
- An overall lack of applicants for most manual labor positions
- A language barrier between employees on the worksite
- And a strong concern that the employment documents the employers are getting are not valid and may be fraudulent.

This survey, while not statistically valid, still highlights the concern that if the illegal immigrant workforce were to leave all at once, the economy of the country would be gravely impacted.⁵³ Particularly, the construction industry, and other manual labor businesses, that are thriving in high growth cities such as Charlotte. The Kenan Study on the Economic Impact of Hispanics in North Carolina determined that 29% of all North Carolina construction workers are Hispanic and that if those workers were withdrawn, there would be an economic loss of:

- \$10 billion value in construction
- \$2.7 billion in construction material and labor
- \$145 million in equipment and building rental
- 27,000 housing units not built
- \$980 million in labor-cost savings.

This concern has caused Tom Donahue of the U.S. Chamber of Commerce to highlight in the Chamber's report, *Global Engagement* that "immigrants now supply from 12% to 22% of our workforce in highly skilled occupations like medicine, engineering, the physical sciences, and computers and mathematics. Foreign-born workers also hold a quarter of the jobs in construction, a third in building cleaning and maintenance, and 44% in agriculture. With unemployment at just 4.8% and 77 million baby boomers

preparing to retire, it is clear that the economy will need to continue to generate a sufficient and skilled workforce —now and in the future.”⁵⁴

The US Chamber of Commerce has worked extensively to lobby members of Congress to include provisions in the many immigration bills that were introduced over the past year. The Chamber’s 2006 – 07 Immigration legislation priorities include:

“Ensure that (1) border security and visa policies and procedures are reasonable and carried out efficiently, (2) comprehensive immigration reform takes into account the current and future need for essential workers, and (3) the United States continues to attract the best and the brightest from around the world.”

Focusing on the need for ... “essential workers, continue to advance long-term immigration objectives to secure additional workers to counteract demographic trends and provide for targeted earned legalization of those essential undocumented workers already here. For highly skilled workers, continue to push for the continuation and expansion of both temporary and permanent visa programs, including the L-1, H-1B, and programs that give employers the ability to access and keep the talent necessary to compete in the global market.”⁵⁵

The local Charlotte Chamber of Commerce also adopted a resolution supporting the U.S. Chamber’s position for immigration reform legislation and sent letters to the U.S. Senators from North Carolina and South Carolina seeking comprehensive immigration legislation.⁵⁶

Economic Impact

The Kenan Institute of Private Enterprise within the Kenan-Flagler Business School at the University of North Carolina at Chapel Hill released a study in January 2006, entitled “The Economic Impact of the Hispanic Population on the State of North Carolina.”⁵⁷ The study was funded by the North Carolina Bankers Association, in cooperation with the Consulate of Mexico in Raleigh, NC. It doesn’t distinguish between illegal and legal Hispanics in North Carolina, although it did estimate that illegal immigrants make up 45% of North Carolina’s 600,913 Hispanic Population. Although the study doesn’t separate out data specifically to illegal immigrant issues, this is a very useful study for North Carolina to begin to understand the future economic impact this demographic will have on the State.

The Kenan findings include:

- The average Hispanic household contains 3.7 persons (compared to 2.4 persons in the average non-Hispanic household) and earns about \$32,000 annually (compared to \$45,700 for non-Hispanics).
- In 2002, there were 9,047 Hispanic-owned businesses in North Carolina that generated \$1.8 billion in sales and receipts.
- North Carolina exports to Latin America have grown markedly to where exports are responsible for nearly 70,000 jobs and \$231 million in state and local taxes in 2004.
- Hispanics annually contribute about \$756 million in taxes (direct and indirect) while costing the state budget about \$817 million annually for K-12 education (\$467 million), health care (\$299 million), and corrections (\$51 million) for net cost to the state of about \$61 million.
- Hispanics contribute more than \$9 billion to the state’s economy through its purchases and taxes, while the net cost to the state budget is an estimated \$102 per Hispanic resident for health care, education, and corrections.

- Nine percent of the wages in North Carolina are sent to other countries. In 2004, North Carolina sent \$800 million in funds transfers out of the country, a 17% increase over the last two years. The top Latino Countries to receive funds transfers from the U.S. include:

Mexico	\$20 billion
Brazil	\$6.4 billion
Colombia	\$4.1 billion
Guatemala	\$3.0 billion
Dominican Republic	\$2.7 billion

While the impact of the Hispanic population is becoming clearer through studies such as the Kenan Study, what is clearer still is that traditional business practices are changing to address the rise of legal and illegal immigrants in North Carolina and the country. Most businesses presently offer products, advertisements, website content, and call center operations in multiple languages to catch the increasing international, if not illegal immigrant, market share. The Federal Reserve Bank has considered a policy to extend loans without Social Security numbers or I-10 forms and no-documentation or low-documentation mortgages, particularly as it related to income verification, are increasingly available in the United States.

Economic Development/Workforce Recommendations

- ***Secure Borders and Secure Labor Force* – Revise current immigration laws and policies to address the country’s need for secure borders and a secure labor force to continue economic growth. Adopt comprehensive legislation that 1) addresses and improves border security, 2) increase the number of professional temporary and permanent employment-based visas to assure that this country remains on the forefront of global competitiveness.**

- A. Increase funding for DHS agencies and identify and implement new technologies to assure proper identification of individuals entering the US at the Port of Entry.** Through the use of biometrics, individuals who arrive in the U.S. are now being processed through US – Visit. This technology must be implemented at all air, sea and land ports of entry.
- B. Increase the annual number of legal (permanent and temporary) visas authorized and issued to better serve the needs of the changing American workforce and economy.** All temporary and permanent work-related visa caps, including H1B (temporary professional workers), H2A (temporary seasonal workers for Agriculture), H2B (temporary non-agricultural workers), and permanent employment-based immigrant visas should be increased.
- C. Hire more retired DHS (formerly INS) employees temporarily to help process the paperwork for the current backlog.** This will help expedite the approval or denial of visa requests and will eliminate the potential risk of many immigrants to becoming illegal.
- D. Create a program to enable illegal immigrant workers who have contributed to the American economy through employment to earn a pathway to lawful status; Create a new Guest Worker Temporary Visa Program.** America’s demographics and the retirement of the baby boom predict job shortages in many workforce classifications. The Charlotte unemployment rate is around 4.2 percent and the Agriculture and Health-Care professions are already seeing labor shortages.

Rationale: The United States admits only 140,000 employment-based immigrants per year. This number includes the spouse and children of principal immigrant workers. Therefore, the number of immigrants added to the workforce through an employer-initiated process is closer to 100,000 per year. Based on this extremely small number of immigrants, there is a lengthy work-related “visa backlog.” An employer can start an immigration process now for a professional or skilled worker, establish that there are no qualified U.S. workers who are available to fill the position, and in approximately 6 years, the foreign national can obtain an immigrant visa to accept the position. This processing lag time hampers America’s competitiveness.

An expansion of the number of annual visas is needed to respond to America’s market needs. An expansion of the number of visas available for

issuance each year, combined with effective border enforcement via technology advances, should result in more orderly immigration, and reduce employment opportunities for illegal immigrants.

The American demographic that the Baby Boom generation, and its 77 million members, will begin to retire over the next four year raises concern that the U.S. will not have a sufficient work force. U.S. immigration laws should acknowledge that there are 11 million people in this country who could be productive members of the workforce, if presented with an opportunity for legal status. The U.S. should create a multi-step process that will encourage workers to earn lawful status. The requirements to obtain legal status must include literacy, English proficiency, payment of all appropriate taxes (including payment of back-taxes, if applicable), evidence of good moral character, payment of a fine for the civil violation of immigration law, no criminal offenses for “deportable” crimes. A process of this nature would help ensure there is an available workforce in the U.S. to provide continued economic vitality for the nation.

Recommendation Alternative (Section D only) – The Study Commission did not achieve consensus on this recommendation as it relates to “comprehensive” legislation that creates lawful status for illegal immigrants or establishes a guest worker program (section D). The alternative rationale is based on the simple fact that people who broke U.S. laws and are in the country illegally should not have any rights or access to citizenship. People who came to the U.S. illegally should follow the existing process for legal entry, which begins at the country of nationality or through a U.S. Embassy.

❖ ***Employee Verification – Support development of an accurate employment eligibility verification program that encourages businesses to participate.***

Rationale: The federal government has increased enforcement actions against employers who employ illegal immigrants. Businesses want to support and comply with immigration law, but need more help from the federal government with a voluntary employee verification process. Usually employers gather the necessary documentation to hire employees, but oftentimes they are given fraudulent documents and have limited ways to establish the validity of social security numbers or other employment documents. There is much support for the Citizenship and Immigration Service's (CIS) PILOT program and the Immigration and Customs Enforcement (ICE) IMAGE program which both seek to verify the citizenship and employment records of employees. However, there is concern for the reliability and accuracy of the database on which the programs rely.

Note: In North Carolina, state law mandates that all state agencies, including public colleges and universities, utilize the PILOT program to verify employment eligibility starting in January 2007. State universities have serious concerns about the impact of database errors and the ability of local social security offices to resolve those discrepancies in a timely manner, since much university hiring takes place over short periods of time immediately prior to the start of a semester. Many of those whose names must be submitted to the PILOT program are international students who are already covered and tracked by the SEVIS system. The Study Commission considered a recommendation asking the state legislature to rescind the policy for state agencies to use the PILOT program effective January 2007, without more testing or until some issues could be resolved, but the issue did not rise to a full policy recommendation of the Commission.

- ❖ ***Language*** – Recognize that English is the primary language of business and the workplace and promote the need for workplace safety manuals to be available in multiple languages.

Rationale: Mecklenburg County is home to individuals who speak 94 languages. Diversity in the workforce and the community should be promoted, yet there should be a community expectation that all immigrants in the community are able to communicate in the English language. The use of common language helps to facilitate safety and the ability to interact throughout the community. However, a transitioning period to English proficiency requires use of communication tools in an immigrant's own language.

Conclusion

The work of the Mayor's Immigration Study Commission and the information detailed in this report highlights that immigration, both legal and illegal, is vast and complex. The Study Commission sought to identify issues of concern to the citizens of Charlotte, investigate what is known about the issues, evaluate the data, and debate ways to address concerns. This report demonstrated that individuals with the welfare of the entire community in mind can come together in civil discourse to seek answers that will meet the nation's needs in a way that protects the well-being of the community and respects the lives and contributions of all those who seek to live and work here.

A significant outcome of the Commission's work and report is that it will serve as a valuable information resource. Immigration laws are established by the federal government, but their impact is felt at the national, state and local levels. By discussing and highlighting current immigration laws, policies and procedures, and the diverse areas they cover, i.e. ensuring national security, promoting economic security and development, protecting our populace from communicable diseases, providing family reunification, and providing safe haven for persecuted individuals, we have recognized areas where our community and country can be improved and strengthened. This document outlines why immigration must be a high priority discussion and debate in this country.

The immigration system the U.S. is operating under today is vastly different than when our country's first immigration laws were established in 1790. While it is understandable that our immigration system is different today than 200 years ago, there is strong concern that our current immigration system is not equipped to address our modern times or future challenges. This is true for maintaining a healthy economy and a capable workforce, as well as meeting the country's future homeland security needs.

The Commission represents a microcosm of the national debate. The fact that the Study Commission could not come to consensus on four of its 26 recommendations highlights that Charlotte mirrors the nation – we are a City that agrees on many, but not all facets of Immigration, just like the U.S. Congress and America. The Commission wants to see action – by local leaders, as well as state and federal leaders. The Study Commission has met its charge to “analyze the impact of immigration on Charlotte’s (and the region’s) quality of life, public safety, and economic opportunities.” The recommendations are intended to help the Charlotte community and our country move forward and take the necessary steps to strengthen our nation’s immigration system.

Now it is up to the elected leaders from all jurisdictions to implement new Immigration policies that will address our many needs in the coming decades.

Appendices

(Sample contract language for use by governments and businesses to help ensure a legal workforce)

Owner/Contractor Form

Submitted by: Carolinas AGC, Inc., Charlotte, N.C.

Prepared by: Ogletree, Deakins, Nash, Smoak and Stewart P.C.

PROPOSED CONTRACT WORDING BETWEEN OWNER/CONTRACTOR & SUBCONTRACTOR COMPLIANCE WITH IMMIGRATION LAWS

CONTRACTOR AGREEMENT

INSERT THESE PARAGRAPHS AT THE END OF SECTION 1 OF ALL CONTRACTOR AGREEMENTS

Owner is committed to complying with all applicable immigration laws of the United States including the Immigration Reform and Control Act of 1986, as amended. This law requires that all employees hired since 1986 provide proof of identity and employment eligibility before they can work in the United States. It is the policy of Owner to comply fully with this requirement, and to require compliance by all Contractors and Subcontractors performing services at Owner's worksites. Contractor shall not place any employee of Contractor at an Owner's worksite, nor shall Contractor permit any employee, nor any Subcontractor, to perform any work on behalf of or for the benefit of Owner, without first ensuring said employee's authorization to lawfully work in the United States.

To that end, Contractor acknowledges, agrees and warrants (a) that Contractor maintains and follows an established policy to verify the employment authorization of its employees, and to ensure continued compliance for the duration of employment, (b) that Contractor has verified the identity and employment eligibility of all employees, in compliance with applicable law, (c) that Contractor has established internal safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to Contractor's senior management, and (d) that Contractor is without knowledge of any fact that would render any employee or subcontractor of Contractor ineligible to legally work in the United States.

Contractor further acknowledges, agrees, and warrants that Contractor (e) has complied, and shall at all times during the term of this Contract comply, in all respects with the Immigration Reform and Control Act of 1986, as amended, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all of the laws, rules and regulations relating thereto, (f) has properly maintained, and shall at all times during the term of this Contract properly maintain all records required by

Immigration and Customs Enforcement (DHS - ICE), including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor's employees, and (g) has responded, and shall at all times during the term of this Contract respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the term of this Contract, Contractor shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Contractor or any of its employees.

Contractor acknowledges, agrees and warrants that all Subcontractors permitted by it to perform work at Owner's worksites will be required to agree to these same terms [see Attachment, Subcontractor Agreement] as a condition to being awarded any subcontract for such work.

Contractor/Subcontractor Form

Submitted by: Carolinas AGC, Inc., Charlotte, NC 28230

Prepared by: Ogletree, Deakins, Nash, Smoak and Stewart P.C.

PROPOSED CONTRACT WORDING BETWEEN OWNER / CONTRACTOR & SUBCONTRACTOR COMPLIANCE WITH IMMIGRATION LAWS

***[General Contractor]* SUBCONTRACTOR AGREEMENT**

INSERT THESE PARAGRAPHS AT THE END OF SECTION 1 OF ALL SUBCONTRACTOR AGREEMENTS

GENERAL is committed to complying with all applicable immigration laws of the United States including the Immigration Reform and Control Act of 1986, as amended. This law requires that all employees hired since 1986 provide proof of identity and employment eligibility before they can work in the United States. It is the policy of GENERAL to comply fully with this requirement, and to require compliance by all subcontractors performing services at GENERAL's worksites. SUBCONTRACTOR shall not place any employee of SUBCONTRACTOR at a GENERAL worksite, nor shall SUBCONTRACTOR permit any employee, nor any contractor or subcontractor, to perform any work on behalf of or for the benefit of GENERAL, without first ensuring said employee's authorization to lawfully work in the United States.

To that end, SUBCONTRACTOR acknowledges, agrees and warrants (a) that SUBCONTRACTOR maintains and follows an established policy to verify the employment authorization of its employees, and to ensure continued compliance for the duration of employment, (b) that SUBCONTRACTOR has verified the identity and *employment eligibility of all employees, in compliance with applicable law*, (c) that

SUBCONTRACTOR has established internal safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to SUBCONTRACTOR's senior management, and (d) that SUBCONTRACTOR is without knowledge of any fact that would render any employee, contractor or subcontractor of SUBCONTRACTOR ineligible to legally work in the United States.

SUBCONTRACTOR further acknowledges, agrees, and warrants that SUBCONTRACTOR (e) has complied, and shall at all times during the term of this Contract comply, in all respects with the Immigration Reform and Control Act of 1986, as amended, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all of the laws, rules and regulations relating thereto, (f) has properly maintained, and shall at all times during the term of this Contract properly maintain all records required by the Immigration and Customs Enforcement (DHS – ICE), including, without limitation, the completion and maintenance of the Form I-9 for each of SUBCONTRACTOR's employees, and (g) has responded, and shall at all times during the term of this Contract respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the term of this Contract, SUBCONTRACTOR shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by DHS-ICE of SUBCONTRACTOR or any of its employees.

SUBCONTRACTOR acknowledges, agrees and warrants that all subcontractors permitted by it to perform work at worksites covered by this agreement will be required to agree to the same terms as set forth herein as a condition to being awarded any subcontract for such work.

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