

Immigration in New Mexico

A KIDS COUNT Special Report
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Written by Lisa Adams-Shafer, KIDS COUNT Research Associate. The author would like to thank Eric Griego, Gerry Bradley, Sharon Kayne, Robert Lucero, Lynda Chandler and Stephanie Gabriel for their invaluable comments and assistance in producing this report.

Introduction

The United States is often romanticized as a “melting pot” because of its diverse racial and ethnic composition. However, the history of migration into the United States has not always been idyllic. In the 16th and 17th centuries, English colonists established communities on the eastern coast of the United States and took control over other settlements colonized by the Dutch, French and Spanish.¹ The importation of African slaves and the westward expansion of the U.S., which took over the Native American, Spanish and French populations, were also factors in the U.S.’s growing ethnic and racial diversity.² If there is a silver lining to be found in the U.S.’s history of expansion and conquest, it is that the culture, language and customs of those who came, those who are arriving today, and those living here before the first Europeans arrived, have shaped the American identity and character.

There have been four major waves of immigration to the United States. The first wave of immigrants arrived before entries were first recorded in 1820 and consisted mainly of English immigrants, although Scottish, Irish and Germans migrated as well.³ The second wave saw more than five million immigrants, who were escaping conditions in their native countries – such as the Irish potato famine – that left them unemployed and poverty-stricken, arriving mainly from England, Ireland and Germany between 1820 and 1860.⁴

There were no formal restrictions on immigration until the third wave between 1880 and 1914. The Chinese Exclusion Act of 1882 marked the “first significant restriction on free immigration in U.S. history.”⁵ It sought to exclude Chinese laborers from employment and made them permanent aliens, with no chance of becoming U.S. citizens.⁶ Despite this restriction, several hundred thousand Asians arrived in the U.S. along with more than 20 million immigrants from Southern and Eastern Europe.⁷

Meanwhile, Mexican guest workers were admitted legally during two periods: between 1917 and 1921, and between 1942 and 1964.⁸ The latter period, known for the “Bracero program,” brought 4.5 million Mexicans to work as farm laborers.⁹

What began as a “solution” to address the labor shortage during World War II became a program on which farmers depended because they planted more and more crops, assuming that these workers would always be available to pick them.¹⁰

American Community Survey

This report highlights the demographic characteristics of New Mexico’s foreign-born population, primarily with data from the 2005 American Community Survey (ACS). The ACS is conducted by the U.S. Census Bureau and provides annual data on demographic, social, housing and economic indicators.¹ A broad nationwide data collection test began in 2000 and concluded in 2004; full implementation began in 2005 (with the exception of group quarters, which were included in the 2006 ACS).² Each year, the ACS will release data for geographic areas with populations of 65,000 residents or more and will collect a sample over three- and five-year periods to produce estimates for smaller geographic areas.³

¹ Kerri L. Rivers, Mark Mather and Linda A. Jacobsen, *American Community Survey: A Guide for Data Users*, (Washington, DC: Population Reference Bureau, 2006), 1.

² Ibid., 2.

³ *Using Data from the 2005 American Community Survey*, (Washington, DC: U.S. Census Bureau), http://www.census.gov/acs/www/UseData/advance_copy_user_guide.pdf.

After the Bracero program was discontinued in 1964, a fourth immigration wave began during which those who either had relatives in the U.S. or had skills that American employers desired were given preference.¹¹ This marked a shift away from European immigrants to Latin American and Asian immigrants.¹² Given the current debate over the numbers and kinds of immigrants arriving in the U.S., it is interesting to note that the shift to Latin American immigrants in the mid-sixties came just after the Bracero program’s legal authority ended. Moreover, the Bracero program is believed to be a major contributor to today’s undocumented immigration population because American farmers were still dependent on cheap migrant labor after the program was officially discontinued.¹³ In other words, migration patterns continued as they were when the program was in effect.¹⁴

The North American Free Trade Agreement (NAFTA) and the 1996 Farm Bill further intensified the migration of undocumented immigrants. Production and price controls led to the overproduction of subsidized American grain

and crops, corn being one example.¹⁵ This resulted in American produce, priced well-below the cost of production, flooding the Mexican market in a practice otherwise known as “dumping.”¹⁶ When Mexican farmers were unable to compete with much cheaper American agricultural products, they were forced to migrate to other parts of Mexico or the U.S. in search of employment.¹⁷

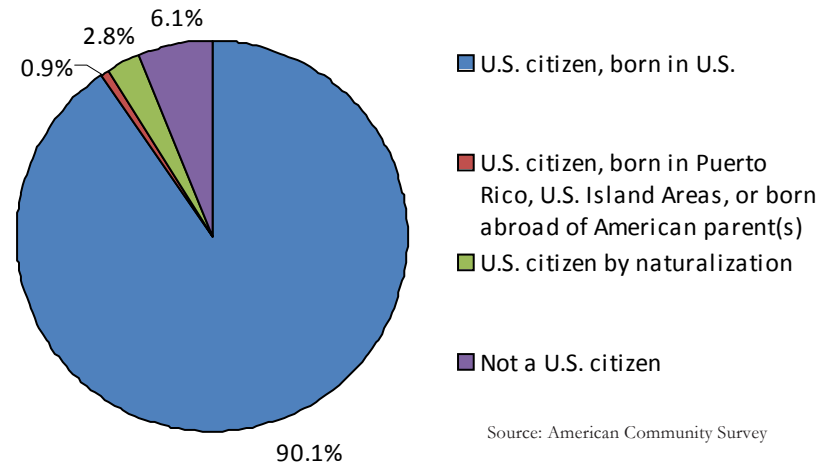
Meanwhile, the Mexican government failed to invest in critical infrastructure to attract American manufacturers beyond the U.S./Mexico border.¹⁸ At the same time, Mexican manufacturers were also unable to compete with cheaper imports from China; these factors conspired to entice manufacturers and jobs away from Mexico.¹⁹ This resulted in falling wages and employment for Mexican workers and ultimately, to their migration to the U.S. in search of jobs.²⁰

New Mexico has largely been spared much of the divisive rhetoric surrounding immigration debates²¹; however, we have not always been able to avoid some of the effects, nor the policies, resulting from that rhetoric. Article 2, Section 22 of the New Mexico constitution was amended in 1921 to prohibit “aliens[s] ineligible to citizenship” from owning property.²² “Aliens” referred to Asians and was a reflection of the time when they could not become naturalized citizens.²³ This provision, however, was repealed by New Mexico voters in the November 2006 election.²⁴

Although New Mexicans rejected a lingering legacy of discrimination against Asian immigrants, a large border fence is currently being constructed near Columbus, south of Deming, on the U.S./Mexico border and is expected to be completed in late 2007.²⁵ Many residents in Columbus and its neighboring Mexican city, Palomas, believe that the fence will not deter undocumented immigrants from coming into the U.S. Many believe the solution should involve advocating for policies in Mexico that will increase employment and reduce income inequality.²⁶

This fence along the U.S./Mexico border is symptomatic of the fears that some have about immigrants particularly in the wake of the terror attacks of 9/11. However, most immigrants still come to the U.S. in search of opportunities to provide a more prosperous life for themselves and their families. The concept of “the hope for a better life” is often described as one of America’s biggest cultural exports.

New Mexico Population (2005)



Source: American Community Survey

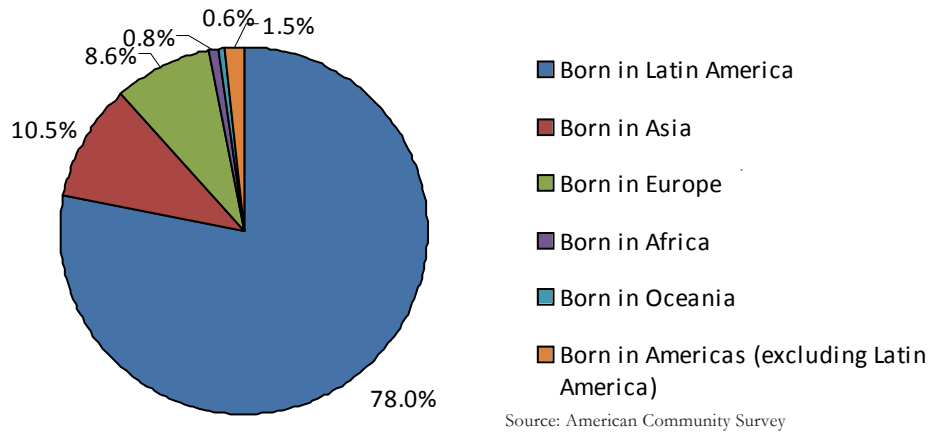
Although the terms “foreign-born” and “immigrant” are used interchangeably when discussing data in this report, the Census Bureau defines “foreign-born” as people who are residing in the United States the day a census or survey is taken but who are not U.S. citizens by birth. Although respondents are asked their *citizenship* status, their *immigration* status is not asked. Hence, a foreign-born resident can either be a non-citizen or a naturalized U.S. citizen; however, a non-citizen is not asked if he or she has residency documentation.

The Census Bureau defines “native” as people residing in the U.S. who fall into one of three categories:

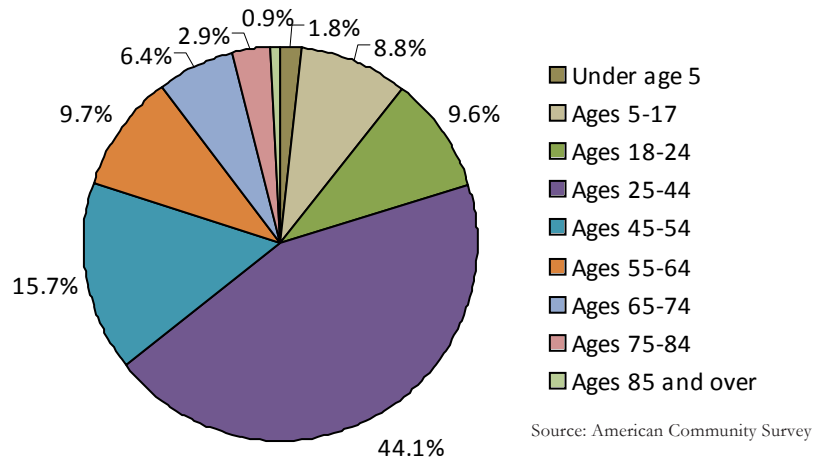
- 1) Was born in one of the 50 states or the District of Columbia;
- 2) Was born in one of the U.S. Island Areas, such as Puerto Rico or Guam; or
- 3) Was born abroad to at least one parent who was a U.S. citizen.

Source: Dianne Schmidley, *Profile of the Foreign-Born Population in the United States: 2000*, (Washington, DC: U.S. Census Bureau, 2001), 56.

Foreign-Born Population in New Mexico (2005)



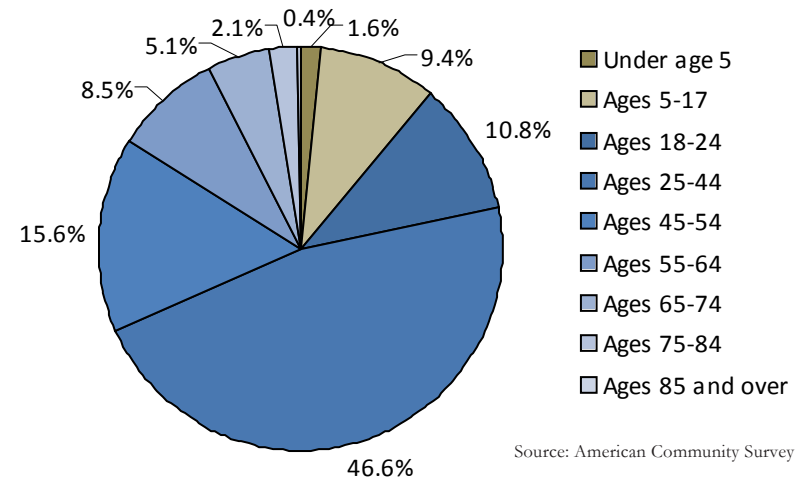
Age Distribution of New Mexico's Foreign-Born Population (2005)



Because of immigration's influence on American and New Mexican society, this report highlights the well-being of New Mexico's foreign-born population and their children. Children of immigrants are at a higher risk for poor developmental outcomes if they suffer from one or more of the following risk factors: living in a linguistically isolated household, living in a single-parent family, having a mother with less than a high school education, and

being economically deprived.²⁷ With these factors in mind, the first section of this report highlights general characteristics of New Mexico's foreign-born population as well as English language usage. The second section looks at educational attainment while the third section discusses the economic security of New Mexico's foreign-born families. National health care figures of the immigrant population and common misconceptions about undocumented immigration comprise the fourth and fifth sections.

New Mexico's Latin American Immigrants (2005)



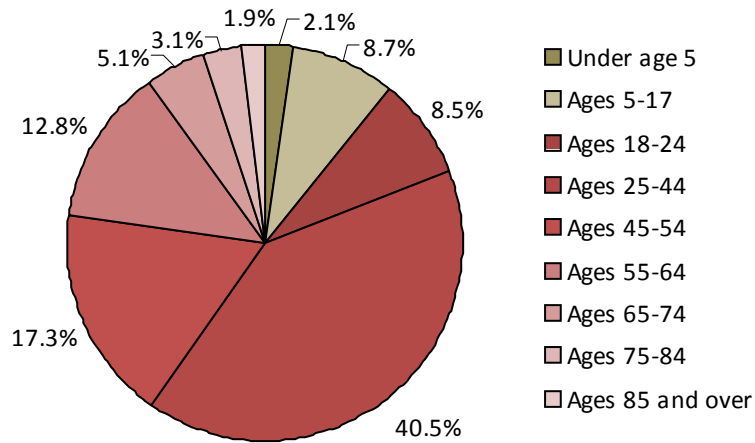
New Mexico's Foreign-Born Population

In 2005, New Mexico's total population was 1,887,200; of that, 168,640, or 8.9 percent, were foreign-born. Naturalized citizens comprise 2.8 percent of the states' population.

Most of New Mexico's foreign-born residents emigrated from Latin America and most are between the ages of 25 and 44. Children comprise more than 10 percent of this population.²⁸

The majority of those who are foreign-born are of working age (ages 18-64)²⁹ and they work in industries as varied as construction (16 percent); scientific

New Mexico's Asian Immigrants (2005)



Source: American Community Survey

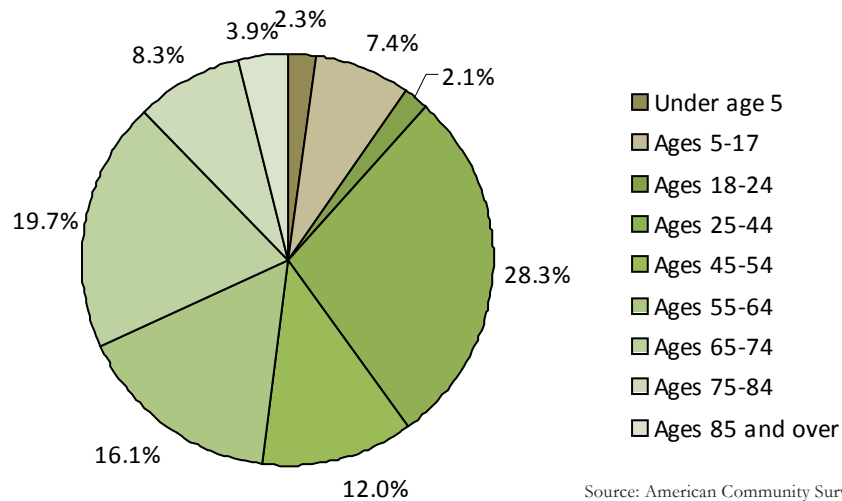
or management occupations (11.8 percent)³⁰; arts, recreation or accommodation/food services (15.7 percent)³¹; and educational services or health care/social assistance (15.8 percent).³²

After Latin Americans, the largest population groups are Asians and Europeans, and like the general foreign-born population, most of these individuals are between 25 and 44 years old, with the majority falling into the prime working ages between 18 and 64 years. Similarly, children make up approximately 10 percent of each group.

Latin-American immigrants work primarily in construction (19.7 percent); scientific or management occupations (10.1 percent); educational services or health care/social assistance (13 percent); and arts, recreation or accommodation/food services (16.7 percent) industries.³³

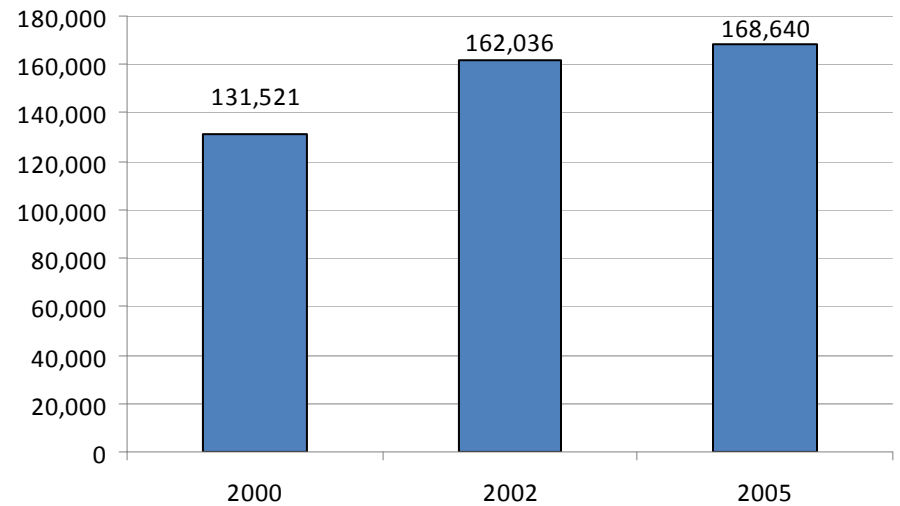
Asian immigrants work primarily in manufacturing (14.7 percent); retail trade (10.5 percent); scientific or management occupations (23.8 percent); educational services or health care/social assistance (23.8 percent); and arts, recreation or accommodation/food services (10.9 percent) industries.³⁴

New Mexico's European Immigrants (2005)



Source: American Community Survey

The Growth of New Mexico's Foreign-Born Population (2000-05)



Sources: 2002 American Community Survey (2000-2002 Summary Tables); 2005 American Community Survey

Many European immigrants work in retail trade (14.9 percent); scientific or management occupations (14.3 percent); and educational services or health care/social assistance (19 percent) industries.³⁵

New Mexico's foreign-born population has grown, as the graph on page 4 indicates. Overall, the number of foreign-born residents has increased 28.2 percent during the period from 2000 through 2005. The largest growth occurred between 2000 through 2002, with a 23.2 percent increase in the number of foreign-born residents in the state. From 2002 through 2005, the population grew 4.1 percent.

By contrast, the foreign-born population in the United States as a whole grew more steadily. From 2000 through 2002, the population grew 9.2 percent and from 2002 through 2005, the population grew 8 percent; overall the foreign-born population in the U.S. from 2000 through 2005 grew 17.9 percent.³⁶

**Linguistic Isolation*:
A Risk Factor for Poor Developmental Outcomes**

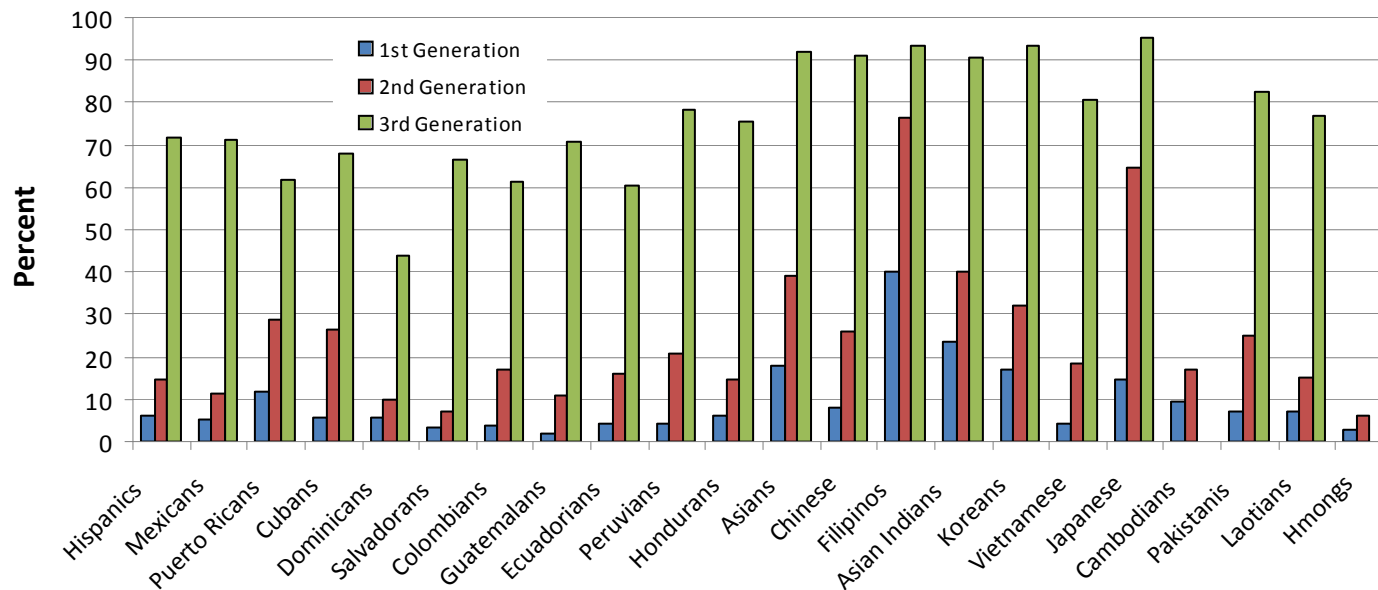
Children of immigrants in New Mexico face more language barriers:

- 34 percent of children in immigrant families live in linguistically isolated households, compared with 2 percent of U.S.-born children.
- 25 percent of immigrant children have difficulty speaking English; by contrast, 2 percent of U.S.-born children experience the same difficulty.
- 57 percent of immigrant parents in New Mexico have difficulty speaking English.

* A linguistically isolated household is one in which those over the age of 14 have difficulty speaking English. (Paul Siegel, Elizabeth Martin, and Rosalind Bruno, Language Use and Linguistic Isolation: Historical Data and Methodological Issues, (Washington, DC: U.S. Census Bureau, 2001), 3, <http://www.census.gov/population/socdemo/language/li-final.pdf>).

Source: The Annie E. Casey Foundation (<http://www.aecf.org>).

Percentage of Children Who Speak Only English by Generation and Group



Source: Migration Policy Institute (2005)

English Language Usage and Linguistic Assimilation

The fact that some immigrants in the U.S. do not speak English very well is not a new phenomenon. Public angst about immigrants who do not speak English well is also nothing new. In the 1750s, Benjamin Franklin said, “Few of their children in the country learn English . . . The signs in our streets have inscriptions in both languages . . . Unless the stream of their importation could be turned, they will soon so outnumber us that all the advantages we have will not be able to preserve our language, and even our government will become precarious.”³⁷ Franklin was referring to German immigrants, but

| | Total | Born in Latin America | Born in Asia | Born in Europe |
|-------------------------------------|---------|-----------------------|--------------|----------------|
| Population 5 yrs. and older | 165,676 | 129,428 | 17,269 | 14,111 |
| Language other than English | 88.7% | 95.9% | 86.6% | 44% |
| Speak English "very well" | 26.3% | 23.5% | 40.1% | 32.4% |
| Speak English less than "very well" | 62.4% | 72.4% | 46.5% | 11.6% |

Source: American Community Survey

unfortunately, this rhetoric is all too familiar in the current debate over immigration. But just as the German immigrants in 18th century America learned English, so too will current immigrants. In fact, children and grandchildren of immigrants have very high levels of linguistic assimilation. As the chart on page 5 indicates, English is the dominant language spoken by the children and grandchildren of immigrants. Unlike their parents, however, these grandchildren will not likely be bilingual.³⁸

In New Mexico, the majority of foreign-born residents from Latin America, Asia and Europe speak a language other than English. The degree to which each group speaks English well varies. A higher percentage of Asian immigrants speak English “very well,” while that percentage is lower among Latin-American immigrants.

A small but still significant percentage of New Mexico’s residents are linguistically isolated – 6.9 percent.³⁹ Linguistic isolation is a contributing factor to child poverty. A child’s involvement in school can be hampered when he or she is linguistically isolated and it is harder for the family to adapt to the mainstream culture and find employment.⁴⁰

However, the percentage of foreign-born residents who speak English “very well” increases the longer those residents have been in the U.S. While only 19.3 percent of those who arrived between 2000 and 2005 speak English “very well,” 26.1 percent of those who arrived during the 1990s, and 30.2 percent of those who arrived before 1990 speak English “very well.”⁴¹ The higher percentage among earlier immigrants may be attributable to their longer residency in the U.S. and, as trends show, their children are likely to have higher levels of English language usage as well.

Educational Attainment

In New Mexico, the percentage of those without a high school diploma is higher among the foreign-born population; of that population, 60.9 percent of Latin-American immigrants are without a high school diploma, while 17 percent of Asian and 14.3 percent of European immigrants did not finish high school.⁴² Conversely, the percentage of those who have earned a high school diploma was roughly the same among Latin-American and European immigrants: 21.4 percent and 21.1 percent respectively, while 14.9 percent of Asian immigrants finished high school.⁴³

Although there is a higher percentage of foreign-born residents without a high school diploma, many children and grandchildren of immigrants have lower high school dropout rates. Nationwide, the first generation has a dropout rate of 27 percent but it falls to 8.6 percent by the third generation.⁴⁴ First-

An Uneducated Parent: A Risk Factor for Poor Developmental Outcomes

In New Mexico, 17 percent of immigrant children live in families in which their parents have less than a 9th grade education.

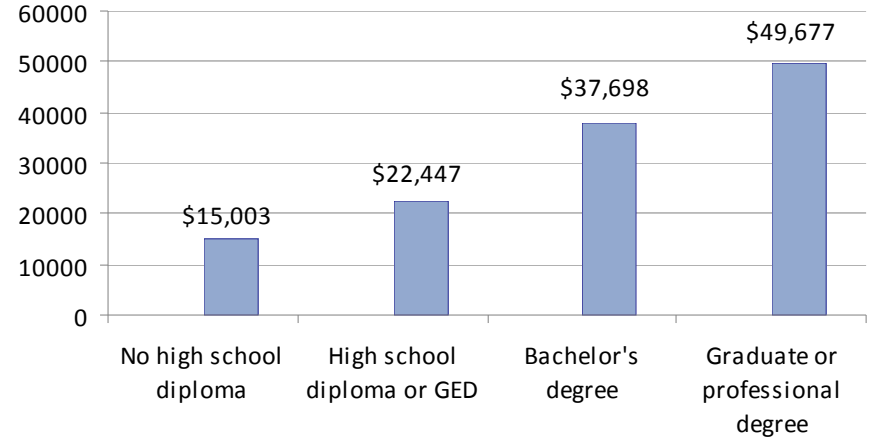
Source: The Annie E. Casey Foundation (<http://www.aecf.org>).

generation Hispanic immigrants do not fare as well as other immigrants overall, but their high school dropout rates also greatly improve one generation to the next – falling from 44 percent in the first generation down to 16 percent in the third generation.⁴⁵ This demonstrates that immigrants and their children and grandchildren not only become linguistically assimilated, but educationally assimilated as well.

That dropout rates decline across the generations is an important trend because higher paying jobs depend on an educated workforce. As the graph on median earnings on the right indicates, the more education one has, the higher the earning potential.

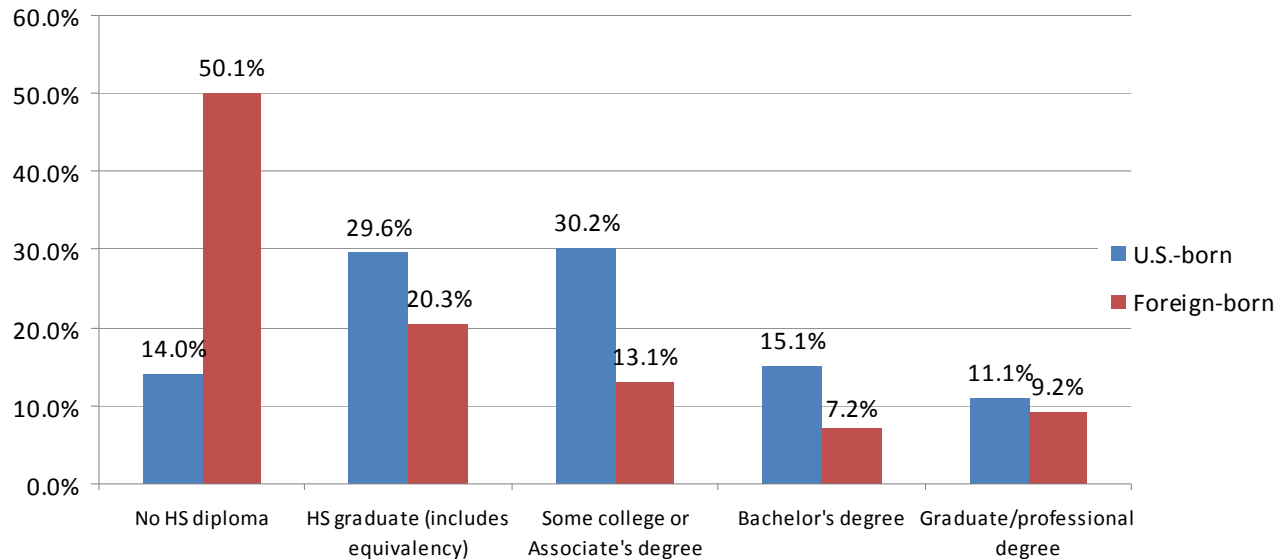
In New Mexico, a person with a bachelor's degree earns two-and-a-half times more than a high school dropout; obtaining a graduate or professional degree yields even higher earnings.⁴⁶ The personal benefits of staying in high school and going to college are obvious as there are more opportunities for these children to prosper as adults, and provide their own children with the necessities to do well in life.

2005 Median Earnings in New Mexico



Source: American Community Survey

Educational Attainment of U.S.- and Foreign-Born New Mexicans (2005)



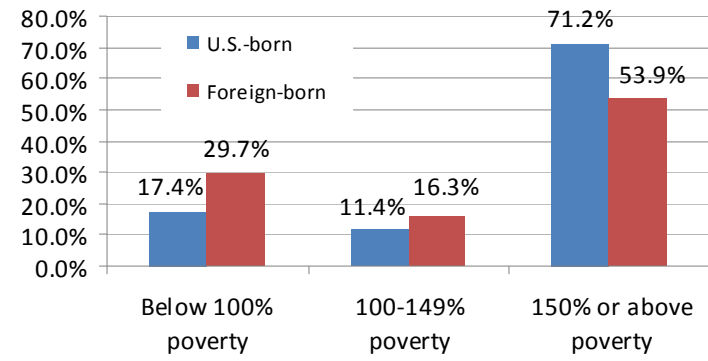
Source: American Community Survey

Economic Security

Foreign-born residents and their children in New Mexico experience greater economic insecurity than U.S.-born residents. While some argue that immigrants take jobs away from Americans and decrease wages for everyone, most studies find that the effects on wages are minimal.⁴⁷ At any rate, the debate is not as straightforward as it might appear to be. U.S.- and foreign-born residents do not simply compete over a fixed number of jobs; job competition may not always exist in every occupation and some – such as farm labor – are concentrated in different geographic locations.⁴⁸ Moreover, there were not enough unemployed native-born Americans during the 1990s to fill every available job⁴⁹ and many immigrants also started their own businesses.⁵⁰

In any event, many children of immigrants do experience higher rates of poverty because their parents tend to hold low-wage jobs. Immigrants in 2002 made up just 14 percent of all workers in the U.S. but they were 20 percent of all low-wage workers.⁵¹ Because foreign-born residents earn less, they experience higher rates of economic insecurity and New Mexico's foreign-born population is no exception. The 2005 poverty threshold for a family of four was \$19,350.⁵² As these graphs illustrate, a higher percentage of foreign-born residents earn lower wages and hence, many of them live below the poverty threshold and a higher percentage (16.3 percent) live just above the poverty level.

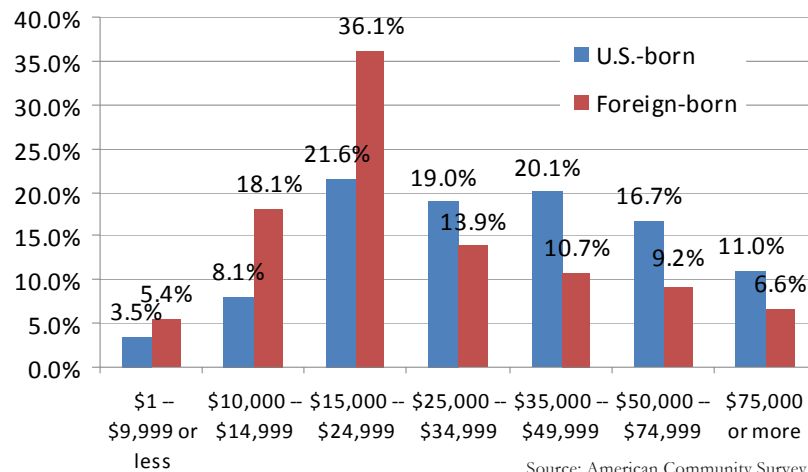
Economic Security of U.S.- and Foreign-Born New Mexicans (2005)



Source: American Community Survey

Another indicator of child poverty is whether children live in a home headed by a single mother. Children living in single-mother families generally have higher poverty rates due to childcare expenses and uncollected child support, among other factors.⁵³ These are exacerbated by other obstacles that immigrants may face – such as the language barrier, lower educational

2005 Earnings



Source: American Community Survey

Single-Parent Families: A Risk Factor for Poor Developmental Outcomes

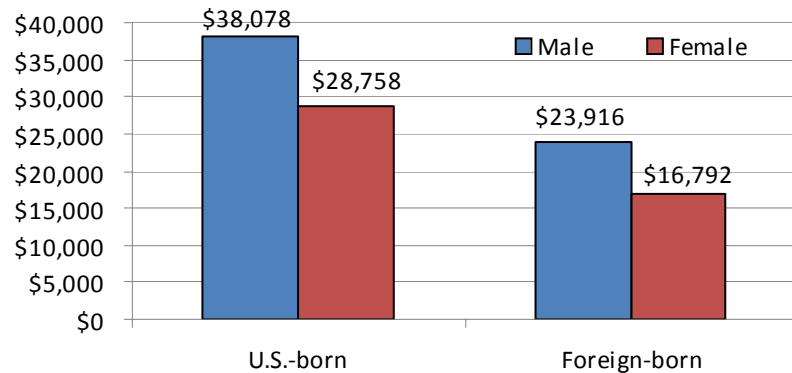
While a higher percentage of families headed by a single mother live in poverty than dual-parent families and all families combined, there are fewer immigrant children living in single-parent families. In New Mexico, 27 percent of immigrant children live in single-parent families, compared with 40 percent of children in U.S.-born families

Source: The Annie E. Casey Foundation (<http://www.aecf.org>)

attainment levels, and ineligibility for public services. The wage gender gap also plays a role in contributing to child poverty for both U.S.- and foreign-born families as the graph below illustrates.

Generally speaking, immigrants' low wages are due to lower educational attainment and English proficiency levels,⁵⁴ although many jobs that do not require a high level of skills or education will not pay well, regardless of whether one is U.S.- or foreign-born. Even though wages are lowest for those who arrived most recently,⁵⁵ the longer immigrants stay in the U.S., the more likely they are to become economically stable.

2005 Median Earnings



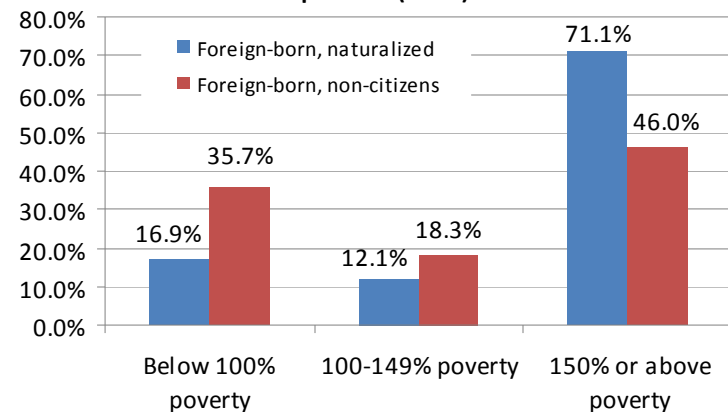
Source: American Community Survey

Over several generations, many immigrants achieve economic assimilation and while many live in high-poverty neighborhoods when they arrive in the U.S., far fewer do after a significant period of time.⁵⁶ A very small percentage of immigrants who arrived before 1960 – less than 3 percent – lived in high-poverty neighborhoods by 1990.⁵⁷ Of those immigrants who arrived during the 1970s, 5.4 percent lived in high-poverty neighborhoods in 1990, and 3.5 percent did in 2000.⁵⁸ Immigrants who arrived during the 1980s also experienced a downward trend away from high-poverty neighborhoods: 6.8 percent lived in such neighborhoods in 1990, and just 4.6 percent in 2000.⁵⁹

All immigrant groups follow the pattern of moving out of high-poverty neighborhoods except for immigrants from Mexico.⁶⁰ The concentration of poverty appears to affect the children of Mexican nationals, and they are less likely to enter the labor force and more likely to earn lower wages when they do.⁶¹ However, given that both high school graduation rates and English language usage increase across generations, Mexican and other Hispanic immigrant children are still more likely to fare better economically than their parents.

In New Mexico, poverty rates for foreign-born families who arrived before 1990 was 20.3 percent.⁶² Of families who arrived during the 1990s, 41.1 percent live in poverty, but interestingly, a smaller percentage – 36.9 percent – of families who arrived between 2000 and 2005 live in poverty.⁶³ Although these are high percentages, the children in these families are likely to prosper beyond their parents' economic achievements as they enter adulthood. In fact, immigrants who became naturalized U.S. citizens experienced less economic insecurity than non-citizens.

Economic Security of New Mexico's Foreign-Born Population (2005)



Source: American Community Survey

Health Care

Contrary to popular belief, immigrants are neither consuming vast quantities of public services nor bankrupting the federal and state treasuries. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, also known as the “welfare reform law,” imposed a ban on legal immigrants’ access to Medicaid and the State Children’s Health Insurance Program (SCHIP) during the first five years they reside in the United States.⁶⁴ Those with student or temporary work visas are not eligible for these services.⁶⁵ Undocumented immigrants are also ineligible, but emergency medical services, via Medicaid, are available for all immigrants regardless of length of stay.⁶⁶

The consequences of this policy are that a higher proportion of foreign-born children live without health insurance coverage, despite the fact that immigrants and their children use fewer health care services. Of the 800,000 low-income immigrant children in 2005 residing in the U.S. for fewer than five years, 55 percent were uninsured; of the 1.1 million low-income immigrant children living in the U.S. five years or longer, 45 percent were uninsured.⁶⁷ By contrast, less than 17 percent of the 31.2 million low-income U.S.-born children lacked health insurance.⁶⁸ Furthermore, per capita spending on medical services for immigrant children was 74 percent lower than for U.S.-born children; and immigrants, by and large, do not flood emergency rooms.⁶⁹ For example, of the Mexican immigrants (documented and undocumented) living in the U.S. fewer than ten years, less than 10 percent used emergency room services compared with 20 percent of U.S.-born whites and Mexican Americans.⁷⁰

For immigrant children, the lack of coverage means they have less access to care. Among low-income immigrant children *without* health insurance, 51 percent did not have a primary care physician and 48 percent went more than one year without seeing a health care professional.⁷¹

By comparison, only 11 percent of low-income immigrant children *with* health insurance did not have a primary care physician and 28 percent went more than one year without seeing a health care professional.⁷² High percentages of uninsured children have long-term consequences for the nation’s health care system. When people are without health insurance, they do not receive preventive care, and when they do become ill they often delay getting necessary care and end up going to emergency rooms. At this point, expenditures will

be three times higher than if they were able to receive regular preventive care in the first place.⁷³

Although several states are using state funds to combat access problems, New Mexico, in addition to emergency Medicaid services, only provides Medicaid coverage for low-income refugees for a maximum of eight months from the date he or she entered the United States.⁷⁴ (A refugee is someone who has fled political persecution in their homeland.) Other states do not provide state-funded coverage for immigrants.⁷⁵ Solving access and coverage problems posed by the five-year ban through a patchwork approach only serves to hurt children and their families. Ideally, if SCHIP is going to be reauthorized and expanded it should include the Immigrant Children’s Health Improvement Act (ICHIA) as part of that expansion. The ICHIA would allow states to use their federal SCHIP funds to provide legal immigrant children and pregnant women with Medicaid and SCHIP services without a waiting period.⁷⁶

Economic Deprivation: A Risk Factor for Poor Developmental Outcomes

In New Mexico, the median income for immigrant families in 2005 was \$31,300; for U.S.-born families, the median was \$40,500.

- 37 percent of immigrant children live below the poverty threshold*, compared with 24 percent of children in U.S.-born families.
- 71 percent of immigrant children in New Mexico live in low-income** families versus 50 percent of children in U.S.-born families.
- 43 percent of immigrant children live in low-income working families, while 27 percent of U.S.-born children do.
- 38 percent of immigrant children live in families without secure parental employment, compared with 41 percent of U.S.-born children.
- 51 percent of immigrant children have all available parents in the workforce, while 66 percent of U.S.-born children do.

*In 2005, the poverty threshold for a family of four was \$19,350, according to the U.S. Department of Health and Human Services.

**Low-income is generally considered to be twice the poverty threshold.

Source: The Annie E. Casey Foundation (<http://www.aecf.org>).

Undocumented Immigrants

Of all the issues surrounding immigration, nothing has been used as a political tool more than the subject of undocumented immigration. But as with other topics within the immigration debate, things are not as straightforward as they appear. This report has hopefully dispelled some of the common misconceptions about immigrants – undocumented and otherwise – but there are many other arguments put forth in an attempt to influence public opinion against people coming into the U.S. This section will tackle some of the more familiar assertions.

“Undocumented Immigrants Deplete Public Benefits at U.S. Citizens’ Expense”

Undocumented immigrants actually contribute billions of dollars in taxes without collecting many benefits. In addition to being ineligible for medical coverage, undocumented immigrants are also ineligible for Social Security benefits.⁷⁷ In fact, undocumented immigrants help keep the Social Security system solvent for today’s children by as much as \$7 billion each year.⁷⁸ This is due to the 1986 Immigration Reform and Control Act (IRCA) provision that penalizes employers for knowingly hiring undocumented immigrants.⁷⁹ As a result, many undocumented immigrants give employers a false Social Security number.⁸⁰ When the Social Security Administration began receiving W-2 earnings reports for incorrect or false Social Security numbers, the earnings were placed in an “earnings suspense file,” with the intention that the earnings would one day be distributed to the correct persons.⁸¹ During the 1990s, \$189 billion worth of wages were placed in the suspense file and undocumented immigrants were the primary source of the file’s funding.⁸² Yet many undocumented immigrants are aware that they will most likely not collect their Social Security contributions when they are older, thereby ensuring the long-term funding for Americans.

“Undocumented Immigrants are a Drain on Public Education”

In New Mexico, there is an estimated 40,000 to 55,000 undocumented immigrants and of that, there are some 17,500 to 24,017 undocumented families.⁸³ Based on 2004 estimates, the state is generating between \$50 million and \$69 million dollars annually in sales and property taxes that these families

pay whenever they purchase taxable goods and services and pay rent.⁸⁴ Public school expenditures on children of undocumented immigrants is estimated to be between \$49 million and \$67 million annually; meaning undocumented immigrants are paying for the schooling of their children.⁸⁵

The realm of public K-12 education may be the most straightforward topic in the immigration debate. Simply put, all children residing in the United States must receive an education. The U.S. Supreme Court in 1982 ruled in *Plyler v. Doe*⁸⁶ that the state of Texas could not deny public education to undocumented children because it violated the Equal Protection Clause of the 14th Amendment.⁸⁷ It is helpful to quote the Court at length in understanding the basic rationale of its decision:

The Equal Protection Clause was intended to work nothing less than the abolition of all caste-based and invidious class-based legislation. . . . [T]he protection of the Fourteenth Amendment extends to anyone, citizen or stranger, who is subject to the laws of a State, and reaches into every corner of a State’s territory. . . . In addition, education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests. . . . By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.⁸⁸

In other words, it is short-sighted to deny an education to children of undocumented immigrants. Eventually, they become adults and the consequences of being uneducated are that they will not likely have a chance to move out of poverty because they will not have learned the skills needed for higher paying jobs. It is neither rational nor humane to create a class of illiterates, especially since the children of undocumented immigrants will most likely stay in the United States.

“Undocumented Immigrants Should Enter the U.S. Through Proper Legal Channels”

Actually, U.S. immigration policies and sponsoring employers are partly to blame for undocumented migration into the U.S. If American immigration policy actually made more employment visas available for low-skilled workers, there would not be as many people entering without documentation. Of the five preference visa categories for permanent immigration status, only one is set aside for low-skilled jobs (those that require less than two years of college, training, or experience), with only 5,000 visas are allotted annually.⁸⁹ For those seeking temporary immigrant status, there are only two visa categories, out of 16 available, for persons with little or no formal job training.⁹⁰ The H-2A visa is restricted to agricultural workers, while the H-2B visa is for seasonal employment⁹¹; this does not leave very many “legal channels” for people who are looking for work in the U.S.

Furthermore, the H-2 program is rife with abuse and workers who come here are routinely exploited. But before they even set foot in the U.S. they are already in debt from paying recruiters’ fees, the costs of travel and visa processing.⁹² Many times, they are coerced into signing over deeds to their homes or cars as collateral in order to get the paperwork and other necessities to come to the U.S.⁹³ If the employer later deems that the worker did not fulfill the contract, then the property could be seized by the recruiter.⁹⁴

Once in the U.S., H-2A workers are legally entitled to these protections:

- to work at least three-fourths of the hours promised in their contracts;
- live in free housing that is in good condition for the duration of the contract;
- receive workers’ compensation for lost time and medical costs resulting from work-related injuries;
- received reimbursement for travel costs from the workers’ home once half of the contract period has been fulfilled;
- have the same health and safety protections as other workers and;
- have access to federally funded legal services for employment matters.⁹⁵

Workers who come to the U.S. under the H-2B visa do not have the same legal protections as H-2A workers because the U.S. Department of Labor issued labor protection guidelines through internal memoranda, which are not subject to the public comment and review process.⁹⁶

Employers of H-2 workers frequently do not comply with either the contractual agreements or the law, but because the workers are sponsored by these employers, they are at the employers’ mercy. Workers have been threatened with deportation, for instance, when they refused to continue working until they were paid, after having worked several unpaid weeks.⁹⁷ They have also been blacklisted, meaning they are deemed ineligible or undesirable for future employment, for speaking out against unsafe work conditions, becoming active in unions, or seeking legal services.⁹⁸ Many guestworkers are paid much less than the federal minimum wage and work more than eight hours a day without overtime pay.⁹⁹ Many are also misclassified in that they should be coming to the U.S. as H-2A workers, but are classified as H-2B, which affects the wages and legal protections to which they are entitled.¹⁰⁰ Other times, workers end up working only part-time and barely earn enough to make ends meet, but H-2B visas do not allow them to seek other employment because the visa is tied to the specific employer.¹⁰¹

Some workers simply leave their jobs because of these work conditions. Others overstay their visas while some have visas for an eight- or ten-month period when the employer turns out to have only two or three months’ worth of work.¹⁰² When there is still time left to work on the visa, employers have told workers to find other work, which is illegal.¹⁰³ Workers are trapped in an environment in which the employer has almost complete control over their lives.

If immigrants are encouraged to come to the U.S. legally, then there should be more H-2 visas available each year and a process for them to gain permanent residency should they decide to stay in the U.S. Once workers arrive, their employer-sponsors must ensure that their working and living conditions are safe and wages are adequate. Ideally, these visas should not be tied to any specific employer. Workers should have flexibility to find employment if working conditions or wages are less than adequate, just as citizens and other legal residents are able to do.

Ultimately, we cannot address the issue of undocumented workers without further examining the reasons they come here. Many of our foreign trade policies, as well as policies of the immigrants' home countries, undermine many Latin-American economies. As a result, those desperate enough to enter the U.S. without documentation – which is often a life-risking proposition – do so because they have no employment prospects at home and have difficulty providing for their families.

Conclusion

The majority of people in the United States can trace their ancestry to an immigrant who sailed across an ocean, flew thousands of miles, or walked across a desert to seek opportunities or freedoms that his or her home country did not have. Just as immigrants have integrated into American culture, American culture has also embraced the multitude of customs and traditions that immigrants bring with them. From St. Patrick's Day and Oktoberfest to Cinco de Mayo and the Chinese New Year, the U.S. is unique in celebrating a diverse array of holidays and cultures. It behooves Americans to abandon any tendency toward nativism and xenophobia, since our country's founding was based on the concepts of freedom and opportunity, and instead embrace newcomers and help them establish new lives and futures.

Endnotes

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²³ Ibid.

²⁴ *Canvass of Returns of General Election Held on November 7, 2006 - State of New Mexico*, (Santa Fe, NM: New Mexico Secretary of State), <http://www.sos.state.nm.us/Main/Elections/2006/PDFs/06%20Results/Statewide.pdf>.

²⁵ Personal communication, Office of Senator Jeff Bingaman, September 27, 2007.

²⁶ Rene Romo, "Division," *Albuquerque Journal*, July 8, 2007, sec B. See David Roybal, "Other Side of Border Should Help Its Citizens First," *Albuquerque Journal*, July 24, 2007, sec. A (in which Mexico suffers from underemployment and income inequality despite having the strongest economy in Latin America).

²⁷ Ron Haskins, Mark Greenberg, and Shawn Fremstad, *Federal Policy for Immigrant Children: Room for Common Ground?* (Washington, DC: The Brookings Institution, 2004), http://www.brookings.edu/printme.wbs?page=/es/research/projects/wrb/publications/pb/foc_14_2.htm.

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³¹ The full American Community Survey industry classification is “Arts, entertainment, and recreation, and accommodation and food services.”

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³⁸ Richard Alba, *Bilingualism Persists, But English Still Dominates*, (Washington, DC: Migration Policy Institute, 2005), 3, <http://www.migrationinformation.org/Feature/print.cfm?ID=282>.

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⁴⁶ 2005 American Community Survey

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⁵⁵ Paral, *Essential Workers*.

⁵⁶ Paul A. Jargowsky, *Immigrants and Neighborhoods of Concentrated Poverty: Assimilation or Stagnation?*, (Ann Arbor, MI: National Poverty Center, University of Michigan, 2006), 8, 14, <http://www.npc.umich.edu/publications/u/>

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⁸⁷ The Equal Protection Clause of the 14th Amendment is contained in Section 1 and states: “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

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⁹² Bauer, *Close to Slavery*, 9-14.

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*, 7.

⁹⁶ *Ibid.*, 8.

⁹⁷ *Ibid.*, 16.

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⁹⁹ *Ibid.*, 18-24.

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New Mexico Voices for Children
2340 Alamo S.E., Suite 120
Albuquerque, New Mexico 87106
(505) 244-9505
www.nmvoices.org