



Information Technology Industry Council

**Written Testimony of
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**Before the
Subcommittee on Immigration and Border Security Committee
on the Judiciary
U.S. House of Representative**

**Enhancing American Competitiveness through Skilled
Immigration
March 5, 2013**

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Mr. Chairman, Ranking Member Lofgren, members of the Subcommittee – thank you for your invitation to appear before you today on the timely and important topic of skilled immigration. I am Dean Garfield, President and CEO of the Information Technology Industry Council, known as ITI. ITI is a global trade association representing 47 of the world's most innovative, forward-thinking technology companies.

Having a representative of the technology industry certainly makes sense given today's topic, and while what I say here certainly represents the views of my member companies, it also reflects, I believe, the perspective of a wide swath of the U.S. economy, from advanced manufacturing to medicine; from education to energy – sectors that collectively represent the knowledge economy of this country.

We're here for one simple reason: Our skilled immigration system is broken and does not serve our national interest. On this we all fundamentally agree. Our government allocates the same number of employer-sponsored permanent resident visas, or "green cards" as it did in 1990 – when our economy was one-third the size that it is today, and much less dependent on highly skilled workers. And yet, there are an estimated 500,000 individuals who are stuck in a green card backlog. In June 2007, the last time Congress made a serious attempt at immigration reform, a highly skilled Indian national would have to wait up to four years for a green card. Today, an Indian national with a PhD from a U.S. university would have to wait for more than a decade to get a green card. Such delays stagnate professional development and force skilled talent to consider returning home or moving to places like Canada, Australia or Chile to start a business or create jobs.

Other than a modest permanent change in 2004, the private sector has access to roughly the same annual number of H-1B visas as it did in 1990. However, we are likely to run out of the annual allotment of 65,000 visas within weeks of April 1st, the first day they are available for the next fiscal year (FY), leaving no new hiring options for FY 2014 and forcing businesses to move jobs elsewhere even when they may not otherwise want to.

In short, our economy depends on an immigration system that was assembled nearly a quarter of a century ago. Does anyone here drive a car, operate a computer, or talk on a cell phone manufactured in but not repaired or upgraded since 1990? The answer: of course not.

It's time we upgraded our skilled immigration system to serve our national interest, and anticipate and meet the demands of the U.S. economy – now and in the future. We at ITI believe there are four basic components that Congress must embrace for a truly modern, highly skilled immigration system:

First, reform must help fill the tens of thousands of skilled job openings that exist today, while accelerating new jobs for and new knowledge-driven businesses.

Job creation is priority number one for Congress and rightly so. Our unemployment rate remains unacceptably high, and the proportion of Americans in our labor force is at a record low since the end of World War II. Yet, while the overall unemployment rate hovers near 8%, the unemployment rate for those with a Bachelor's degree and higher is just below 4% -- the marker most economists consider full employment.¹

In November 2012, we joined with the US Chamber of Commerce and the Partnership for a New American Economy and discovered that unemployment rates in occupations that require so-called STEM advanced degrees – science, technology, engineering and math - are below 2%, and in some occupations the unemployment rate is nonexistent.² That may seem like good news, but in fact it's not. Unemployment rates that low mean that the demand for skilled talent in the U.S. is in excess of the current supply. In far too many sectors of the knowledge economy, we have a worker shortage, or underemployment.

This is not surprising. We are creating technology jobs faster than we can fill them. For example, Microsoft reports that it has roughly 6,000 job openings in the United States and more than half are highly skilled positions.³ The website dice.com, which is an online aggregator of high tech job openings, currently lists more than 83,000 tech job openings in the U.S.⁴

These job openings represent lost economic growth, lost tax revenue, and lost opportunities to create new businesses and new jobs for Americans.

Longer term, I am even more concerned about how our immigration system is harming our nation's ecosystem for entrepreneurial innovation. As has been reported many times, from 1995 through 2005, immigrants founded 25 percent of the venture-backed start-ups in the U.S., and more than 50 percent in Silicon Valley.⁵ In 2011, immigrant entrepreneurs were responsible for more than one in four new U.S. businesses, and immigrant businesses employ one in every ten people who work in the private sector.⁶

That same year, 76% of patents awarded to the top ten patent-producing U.S. universities had at least one foreign-born inventor.⁷

The extraordinary contribution of foreign-born entrepreneurs to our economic vitality is unquestioned. Yet, due to our outdated 1990 immigration system, hundreds of thousands of foreign-born talent are stuck in a green card backlog that inhibits their professional development and contribution to our economic growth. Some have given up and are leaving the U.S. to pursue their dreams elsewhere. This

¹ Bureau of Labor Statistics (<http://www.bls.gov/news.release/empsit.t04.htm>)

² "Help Wanted: The Role of Foreign Workers in the Innovation Economy," November 2012 (<http://www.renewoureconomy.org/sites/all/themes/pnae/stem-report.pdf>)

³ "Microsoft Says 6,000 Jobs Open, Wants More Visas," by Paul McDougall, *Information Week*, September 28, 2012 (<http://www.informationweek.com/windows/microsoft-news/microsoft-says-6000-jobs-open-wants-more/240008011>)

⁴ 83,768 jobs posted on dice.com as of 11:00 p.m., March 3, 2013

⁵ "America's New Immigrant Entrepreneurs: Then and Now," October 2012 (http://www.kauffman.org/uploadedFiles/Then_and_now_americas_new_immigrant_entrepreneurs.pdf)

⁶ "Open for Business: How Immigrants are Driving Business Creation in the United States," August 2012 (<http://www.renewoureconomy.org/open-for-business>)

⁷ "Patent Pending: How Immigrants are Reinventing the American Economy," June 2012 (<http://www.renewoureconomy.org/patent-pending>)

entrepreneurial lockout effect has become so perverse that a number of venture capitalists are attempting to finance a floating barge to house foreign-born entrepreneurs on international waters off the coast of San Francisco.⁸

Mr. Chairman, our skilled immigration system has fallen down the rabbit hole and is taking our economic future with it.

The central reason why we at ITI strongly believe Congress should pass the Immigration Innovation Act, known as "I-Squared," and Startup Act 3.0 is that both bills will accelerate job creation. One of the provisions of I-Squared would remove the green card cap for those with graduate degrees in STEM fields. It effectively would staple a green card to a job offer letter. A study by the American Enterprise Institute has found that an additional 100 foreign-born advanced-degree STEM graduates from U.S. universities is associated with 262 jobs among U.S. natives.⁹ Multiply that by 50,000 or 100,000 foreign graduate students, and it's not hard to see just how forcefully immigration reform can propel our economy.

A recent Kauffman Foundation study concluded that an entrepreneurial visa program like that proposed in Startup Act 3.0 has the potential to add between 500,000 and 1.6 million new jobs over the next decade.¹⁰

With I-Squared and Startup Act 3.0, we can help solve the overall unemployment problem in our country by solving the underemployment, skilled worker shortage that exists in the knowledge economy. Together, I-Squared and Startup Act 3.0 would provide stimulus to the U.S. economy and revenue to the federal government – all at no cost to the taxpayer.

Second, skilled immigration reform must supplement our extraordinarily talented U.S. workforce now and in the future.

At a time when we face skilled worker shortages throughout the knowledge economy, skilled immigration reform will certainly work not just to complement our talented U.S. workforce, but also to create new opportunities for them through new businesses and new jobs. When we bring smart people from around the world together, history demonstrates that we amplify smart outcomes for America and our economy.

Now, we have heard, and I expect we will hear more about the need to protect American workers, and we at ITI could not agree more. We believe the first and best way to look out for American workers is to revitalize economic growth and opportunity in this country. I-Squared and Startup 3.0 both would do that.

With respect to the H-1B visa, we can protect American workers by ensuring effective enforcement of longstanding H-1B policies and laws to prevent the displacement of U.S. workers and protect their wages.

Yes, we have heard some anecdotes and reports of fraud and abuse. In September 2008, the U.S. Citizenship and Immigration Service (USCIS) released a study of H-1B fraud and found that incidents of

⁸ See blueseed.co

⁹ "Immigration and American Jobs," December 2011 (<http://www.aei.org/article/society-and-culture/immigration/immigration-and-american-jobs/>)

¹⁰ "Give Me Your Entrepreneurs, Your Innovators: Estimating the Employment Impact of a Startup Visa," February 2013 (http://www.kauffman.org/uploadedFiles/DownloadableResources/Startup_Visa_Impact_final.pdf)

fraud were more prevalent among companies with 25 or fewer employees. In addition, the study found that H-1B fraud was more likely to occur in non-tech fields, including accounting, sales and advertising.¹¹ Since the release of its 2008 report, USCIS has taken a number of steps to reduce the incidence of fraud and technical violations, and has made some progress.¹²

With respect to wages, in a 2011 report, the U.S. Government Accountability Office (GAO) found that, after adjusting for age, H-1B professionals in most occupations earn the same or more than similarly qualified U.S. natives. The report also noted that employers pay significant fees and incur other costs to sponsor an H-1B worker, which suggests that holding wages and qualifications equal, a U.S. employer is better off hiring a U.S. national.¹³

All that said, instances of fraud and abuse can and do occur. If additional enforcement measures are needed to ensure American workers are protected, we should work together to devise solutions that do not force work and jobs offshore.

We also believe that the H-1B should not inhibit professional development, particularly for those waiting for green cards. Today, many H-1B visa holders stuck in the green-card backlog are hesitant to take better jobs with a new employer, because it could force them to wait even longer for a green card. That is why we strongly support the "portability" reforms in I-Squared, which will make it easier for H-1B professionals to change jobs and not have their professional development hampered.

We also can protect both the American worker and the American economy by having H-1B visa availability rise and fall with market demand, as proposed in I-Squared. Since the information technology boom in the 1990s, the demand for H-1B visas has risen and fallen with the overall rise and fall of the economy. That suggests the H-1B visa supplements, not supplants, the overall U.S. workforce. This is not surprising since H-1B professionals represent such a modest part of the U.S. workforce.

Third, skilled immigration reform must maximize work in the U.S. that could be performed elsewhere.

The realities of our global economy require that we have a system that provides sufficient green cards and H-1B visas to fill and create jobs, and to maximize work performed in the United States.

Yes, if the green card reforms in I-Squared and Startup 3.0 solve the backlog challenges and enable foreign-born advanced degree graduates from U.S. universities to stay in the U.S., we will likely see a decline in H-1B demand. However, the H-1B visa will continue to be an important part of a talent pipeline. Some employers may not be as quick to sponsor foreign professionals for green cards, which would make the H-1B visa necessary in such cases.

¹¹ "H-1B Benefit Fraud & Compliance Assessment," U.S. Citizenship and Immigration Services, September 2008 (<http://www.laborimmigration.com/wp-content/uploads/2008/10/uscis-h1b-audit-report.pdf>)

¹² Testimony of Donald Neufeld, Associate Director, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, March 31, 2008 (<http://www.dhs.gov/news/2011/03/31/testimony-donald-neufeld-h-1b-visas-designing-program-meet-needs-us-economy-and-us>)

¹³ "H-1B Visa Program: Reforms Are Needed to Minimize the Risks and Costs of Current Program," January 2011 (<http://www.gao.gov/assets/320/314501.pdf>)

The H-1B and other nonimmigrant professional visas are necessary to maximize work in the U.S., particularly work that advances the U.S. as a hub for innovation. The global economy necessitates the need for companies to have talent deployed throughout the world to develop, produce, maintain and sell goods and services. Skilled immigration reform should be geared to ensure that the U.S. is a central hub in the many global supply chains that exist for numerous sectors. The H-1B visa, as a temporary visa, enables companies to deploy skilled professionals to the U.S. on temporary projects that work to advance U.S. competitiveness, such as building advanced manufacturing facilities or a shared services center that manages information systems from a central location. Just like baseball players and fashion models, not every skilled professional who works and contributes to the U.S. economy needs to stay here permanently.

Arbitrary and excessive restrictions on the availability and use of the H-1B visa can disrupt global supply chains and work against the U.S. economy. In 2007, when the annual allotment of H-1B visas was exhausted in a matter of hours, Microsoft was forced to expand its product development capabilities and create jobs in Vancouver, Canada.¹⁴ In 2009, when a U.S. information technology services firm faced arbitrary H-1B restrictions, it moved hundreds of U.S. jobs to Toronto, Canada. Last year, due to limited availability of H-1B visas, Facebook had to expand in Dublin, Ireland, in order to house the engineers they planned to have work in the U.S.¹⁵

Skilled immigration reform is not just about filling and creating jobs – it is a central part of an important and fundamental question: What is the future role of the U.S. economy in an increasingly competitive and innovative global economy? Rather than legislate in response to anecdotes and perceptions of business models, Congress needs to carefully consider how green cards and the H-1B visa together maximize the amount of work and jobs created in the U.S., and how restrictions on both can have the effect of moving work and jobs to other countries.

Last but not least, skilled immigration reform must invest in effective education and training programs for future U.S. innovators and entrepreneurs.

As noted previously, our skilled immigration system is designed to not only supplement our U.S. workforce, but to meet the expected demand in skilled talent in the not too distant future, and as such, we have to invest in our domestic STEM pipeline as well. For example, by 2020, our economy is expected to be generating 120,000 computing jobs each year. However, our higher education system today only awards 40,000 Bachelor's degrees in relevant fields each year.¹⁶

Current and future demand for STEM talent will not be coming just from high tech. In 2011, the Center on Education and the Workforce at Georgetown University found that math and science jobs are increasingly needed in advanced manufacturing, mining, utilities and transportation.¹⁷

¹⁴ "Visa Woes? Microsoft has Vancouver, B.C.," *Puget Sound Business Journal*, April 6, 2008 (<http://www.bizjournals.com/seattle/stories/2008/04/07/story5.html?page=all>)

¹⁵ "Silicon Valley and Immigrant Groups Find Common Cause," by Julia Preston, *New York Times*, February 12, 2013 (<http://www.nytimes.com/2013/02/13/business/tech-companies-and-immigrant-advocates-join-forces.html?pagewanted=all&r=0>)

¹⁶ See inspirestemusa.org

¹⁷ STEM, Center on Education and the Workforce, October 2011 (<http://cew.georgetown.edu/stem/>)

In response, many of my member companies, and many more in other sectors, have stepped up and committed vast amounts of resources to advance STEM education in the U.S. Our members alone fund tens of millions of dollars in scholarship money for students pursuing STEM degrees. These companies also donate hardware and software to classrooms around the country, enabling students and teachers alike to sharpen their STEM skillsets. In many cases, our companies have set up opportunities for their employees to voluntarily mentor students in STEM. Many of our members operate programs that allow employees interested in a second career to become fully accredited math and science teachers, with the company reimbursing tuition and stipends.¹⁸

This commitment to STEM is why we support the provisions in I-Squared that would increase the fees on new H-1B visas by \$1,000 to fund state-based STEM programs, accelerating the public-private partnerships already underway to build a robust pool of future innovative and entrepreneurial talent in the U.S.

Mr. Chairman, as an immigrant who spent six years separated from his mother as she dealt with the immigration bureaucracy, I understand the moral imperative of immigration reform. That said, there should be no doubt that reform is in the best interest of our nation.

Immigration is also innovation. Every day that goes by without immigration reform is another day when new jobs and new industries start in foreign countries instead of on American shores. If we want the next-generation industries to be founded in San Jose instead of Shenzhen, then our policy makers must seize this moment and produce legislation that all sides can support.

Fortunately, we are seeing the kind of bipartisan collaboration on immigration reform principles and legislation that would serve the national interest. This leadership is a once-in-a-generation opportunity, and all of us who have a stake in an effective immigration system should work to build support for it. We cannot afford to miss this opportunity to turn away from old, misguided stereotypes and toward a stronger American future.

Thank you again for the opportunity to be here today.

¹⁸ See changetheequation.org