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Statement of the American Immigration Lawyers Association

Submitted to the Senate Judiciary Subcommittee on Immigration and the National Interest

Hearing: “The Impact of High-Skilled Immigration on U.S. Workers”
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The American Immigration Lawyers Association (AILA) provides the following statement for the hearing entitled, “The Impact of High-Skilled Immigration on U.S. Workers.” AILA is the national association of immigration lawyers established to promote justice and advocate for fair and reasonable immigration law and policy. AILA has over 14,000 attorney and law professor members.

The H-1B visa plays an essential role in bringing global talent to the United States and is a key component of our nation’s employment-based immigration system. As a temporary visa, the H-1B provides flexibility for employers and is often the only way an employer can hire a high-skilled worker in a timely manner. In many cases, the H-1B visa is the first step a foreign worker will take on the long road to permanent legal status in the U.S. By offering an efficient method for bringing high-skilled foreign workers to the United States, less burdened by bureaucratic red-tape, the H-1B provides important benefits to U.S. employers, to the American economy, and to U.S. workers.

The overwhelming weight of research shows that the presence of high-skilled immigrants improves the American economy and benefits U.S. workers by creating new jobs and new opportunities for economic growth. Research indicates that each foreign-born graduate from an American university who stays in the U.S. to work in a “STEM” (science, technology, engineering and math) occupation creates approximately 2.62 jobs for American workers.¹ An analysis of 11 million American workers in 320 metropolitan areas shows that each new high-tech job in a metropolitan area creates five additional long-term local jobs outside of the high-tech sector.² Furthermore, the five new jobs created for each new high-tech job benefits a diverse group of workers: two new jobs for professional workers such as attorneys and doctors,

¹ Information Technology Industry Council, the Partnership for a New American Economy, and the U.S. Chamber of Commerce, *Help Wanted: The Role of Foreign Workers in the Innovation Economy* (Washington, DC: December 2012), p. 3, at <http://www.renewoureconomy.org/sites/all/themes/pnae/stem-report.pdf>

² Enrico Moretti, *The New Geography of Jobs* (New York, NY: Houghton Mifflin, 2012).

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and three new positions in nonprofessional occupations such as service industry jobs.³ In many U.S. metropolitan areas, the innovation economy, and the high-skilled jobs related to it, drive prosperity for a broader base of workers living in the region.⁴

Although there has been a lot of attention paid to the role of H-1B visas in the high tech sector of our economy, the benefits of this visa program have a much broader reach. The H-1B visa and the high-skilled immigrants and immigrant innovators it provides access to are making significant contributions far beyond the technology sector:

Manufacturing: As the economy improves, the need to build more factories and expand existing ones increases. This growth creates a demand for skilled workers such as machinists, tool and die makers, and computer programmers. Prattville Machine & Tool Company is a machine shop based in Massachusetts that builds parts for the aerospace and defense industries. With an H-1B visa, the company was able to retain an invaluable machinist. Other manufacturers have filled gaps in their skilled workforce with the H-1B visa.⁵

Healthcare: Recent research finds that the U.S. is experiencing an increasing shortage of primary-care physicians that will worsen in the coming decades. By 2025 the United States will require nearly 52,000 more primary-care physicians.⁶ Immigrants also play a major role in specialized areas of medicine: over 40 percent of cancer researchers in the U.S. are immigrants.⁷

Agriculture: Agricultural employers need high-skilled immigrant labor to serve as engineers, scientists, and technicians, and they depend on foreign graduates in areas of agricultural disciplines such as agronomy and plant sciences. Agricultural employers

³ Ibid.

⁴ Jonathan Rothwell, "Regional Inequality and 'The New Geography of Jobs'" (Washington, DC: The Brookings Institution, August 7, 2012), at <http://www.brookings.edu/blogs/the-avenue/posts/2012/08/07-regional-inequality-rothwell>.

⁵ CNN Money article, "American manufacturing importing workers", July 23, 2012 <http://money.cnn.com/2012/03/05/smallbusiness/manufacturing-workers/>

⁶ Stephen Petterson, et al., "Projecting US Primary Care Physician Workforce Needs: 2010-2025," *Annals of Family Medicine* 10, no. 6 (November/December 2012).

⁷ Stuart Anderson, *The Contributions of Immigrants to Cancer Research in America* (Arlington, VA: National Foundation for American Policy, 2013), at http://www.nfap.com/pdf/NFAP_Policy_Brief.The%20Contributions%20of%20Immigrants%20to%20Cancer%20Research%20in%20America.March%2005%202013.pdf

support high-skilled immigration reforms that would provide them with better access to graduates in these fields.⁸

High-skilled immigrants also contribute to local economies and communities in America's heartland. Cities and towns, such as those in the "Rustbelt," that are experiencing native-born population declines are increasingly seeking ways to maintain a viable workforce by welcoming immigrants. The "Welcoming Michigan" campaign has sought to attract immigrants by building immigrant-friendly communities, and in the past decade immigrants have founded about one-third of high-tech companies in the state.⁹ To demonstrate its openness to immigrants, in 2010 Detroit released the "Global Detroit" report showing a start-up rate for immigrant-founded high-tech firms in Michigan that is six times the rate at which the native-born population founded high-tech start-ups.¹⁰

In Minnesota, local leaders also acknowledge the positive contributions of immigrants:

Immigrants aren't just an asset because they numerically increase the workforce. They are also playing a key role as entrepreneurs in Minnesota and have transformed neighborhoods in both Minneapolis and St. Paul while helping revitalize downtowns in several regional centers around our state.¹¹

Immigrants are also needed to refill the talent pool across the country as workers who are part of the enormous baby boom generation retire. The National Academy of Sciences concluded that immigration will become increasingly important in maintaining the U.S. science and engineering (S&E) labor force as more and more native-born workers retire. The National Science Board reported: "absent changes in degree production, retirement patterns, or immigration, the number of S&E-trained workers in the labor force will continue to grow for some time, but the growth rate may slow considerably as an increasing proportion of the S&E labor force reaches traditional retirement age."¹²

⁸ Stephanie Mercier, *Employing Agriculture: How the Midwest Farm and Food Sector Relies on Immigrant Labor* (Chicago, IL: The Chicago Council on Global Affairs, 2014), at http://www.thechicagocouncil.org/sites/default/files/Midwest_Ag_final.pdf.

⁹ Welcoming Michigan, <http://www.welcomingmichigan.org/content/learn-more>. The Chicago Council, *US Economic Competitiveness at Risk: A Midwest Call to Action on Immigration Reform* (Chicago, IL: The Chicago Council on Global Affairs, February 2013), p. 24 at http://www.thechicagocouncil.org/sites/default/files/2013_ImmigrationTaskForce_Final.pdf

¹⁰ Global Detroit, *Global Detroit: Final Report* (Detroit, MI: 2010), p. 57, at http://www.welcomingamerica.org/wp-content/uploads/2011/06/global_detroit_full_report_with_appendices.pdf.

¹¹ Statement of Bill Blazar, Senior Vice President of Public Affairs and Business Development, Minnesota Chamber of Commerce, quoted in Chicago Council, *US Economic Competitiveness at Risk*, p. 40. at http://www.thechicagocouncil.org/sites/default/files/2013_ImmigrationTaskForce_Final.pdf

¹² Science and Engineering Indicators: 2010, <http://www.nsf.gov/statistics/seind10/c3/c3s3.htm>

Reforming America's High-Skilled Immigration System

The country's immigration system must be reformed to attract high-skilled immigrant workers. America is competing in a global economy where other countries are spending billions of dollars to compete for top level talent and America's ability to attract that talent from abroad is critical to our continued international competitiveness. But, the high-skilled visa process has not been changed since 1990 and is severely outdated. The world has changed dramatically since then when cell phones were the size of a brick, most Senators did not have computers on their desks, and fully-automated cars were unthinkable.

Reforms to high-skilled immigration and immigrant entrepreneur policies should address the needs of both workers and employers. Reforms should also provide ample opportunities for immigrant entrepreneurs to spur innovation, job creation, and economic growth for local communities and for the nation as a whole.

AILA recommends the following reforms:

- Ensure there are enough visas available to attract high-skilled immigrant workers. The opportunity to apply for an H-1B visa arises only once a year, and in the past decade, visa demand has far exceeded supply. In recent years, the entire year's allotment of visas has been claimed within days or weeks.¹³ In 2015, less than four out of ten H-1B applications were selected.¹⁴ These odds make it extremely difficult for U.S. businesses to reliably attract and hire the workers they need. AILA recommends that Congress increase the number of H-1B visas available, provide exemptions from the H-1B cap for graduates with advanced degrees from U.S. universities, and create other legitimate exemptions based on national economic and research needs.
- Maximize the availability of existing green cards. Congress has not changed the annual limit on permanent employment-based green cards in 26 years. There are now backlogs for some temporary high-skilled workers that require them to wait 6 to 10 years or longer before they can obtain a green card. This creates extreme hardships for these high-skilled workers, who cannot change jobs easily, and must wait years to get their permanent residence status. To alleviate this multi-year wait, Congress should clarify that: 1) only the principal beneficiary counts against the green card limit and that accompanying family members do not count, and 2) unused green cards from past years for both employment and family-based green cards may be recaptured for future use. Furthermore, graduates from U.S. universities in STEM fields should be exempted from the cap on permanent employment-based green cards.

¹³ American Immigration Lawyers Association at <http://www.aila.org/infonet/h-1b-cap-count-history>

¹⁴ "USCIS Reaches FY 2016 H-1B Cap," USCIS press statement of April 07, 2015, at <https://www.uscis.gov/news/alerts/uscis-completes-h-1b-cap-random-selection-process-fy-2016>

- Create a new immigrant entrepreneur visa category that provides entrepreneurs, researchers and inventors with permanent legal status once the applicant demonstrates that there is investor interest and that business operations have begun that employ U.S. workers. Currently there is no visa category for immigrants to receive a green card as an entrepreneur.
- Ensure that the visa system operates more nimbly and efficiently and can respond in real-time to the needs of the market by giving employers the ability to fill positions quickly while also protecting workers from exploitation. Congress should provide protections for workers by expanding job portability, labor protections, and economic opportunities for workers and their families.
- Ensure that the government has the necessary tools to enforce the laws against the improper use of the H-1B visa, such as when an employer brings an H-1B worker here and fails to pay the required wage or when an employer games the system by calculating the required wage in one market and then employing the person in another market where the wage would be higher. AILA recommends that Congress improve existing enforcement mechanisms used by Department of Labor and Department of Homeland Security and provide adequate resources to conduct rigorous enforcement.

For the U.S. to remain globally competitive, we must embrace the opportunities brought by high-skilled immigrant students, workers, and entrepreneurs. Moreover, AILA recommends that Congress enact reforms not only to the non-immigrant visa categories but also to the overall employment-based and family-based immigration system. The importance of reforming our system—all aspects of it—to benefit American businesses, workers and families cannot be overstated. On behalf of all Americans working and living in our country today and in forthcoming generations, we urge Congress to pass immigration reform that will ensure continued prosperity for the nation.