



**Statement of the American Immigration Lawyers Association
Submitted to the
Committee on the Judiciary of the U.S. Senate**

**Hearing of February 13, 2013
“Comprehensive Immigration Reform”**

The American Immigration Lawyers Association (AILA) submits the following testimony to the Committee on the Judiciary. 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 12,000 attorney and law professor members.

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Immigration Reform is Good for America

Across America, millions of immigrants and their families, businesses and communities—indeed our entire nation—are calling for immigration reform. AILA urges lawmakers to enact a common sense immigration policy that helps to rebuild America’s economy, recognizes the contributions of immigrants, keeps families together, and strengthens America’s security. Well-documented are the benefits immigrants bring to every sector of the economy. Immigrants are innovators and job creators, especially in the science and technology fields where they represent about half of all Ph.D. holders. Immigrant families are more likely to start small- and medium-sized businesses. Finally, comprehensive immigration reform that includes a legalization plan for the undocumented and enables the future flow of legal workers will bring an estimated \$1.5 trillion in additional gross domestic product over ten years.

Legalization of the Undocumented

Polling nationwide shows two-thirds of American voters support immigration reform, including a path to legal status, permanent residency and eventually citizenship for the estimated 11 million undocumented persons living in the country.

Both Republican and Democratic leaders have spoken out against mass deportation of undocumented men, women and their families, most of whom have deep roots in this country. Such an approach is not only impractical but also damaging to the economy and an unwise use of taxpayer dollars.

A sensible legalization plan should include a rigorous process that requires undocumented immigrants to register with the government, undergo background checks and pay any fees or taxes. Once they complete these steps, they should receive legal status and eventually earn a green card and citizenship. The registration and legalization process would not be an amnesty. By definition, amnesty is an automatic pardon or a free pass granted to a group of people who do not have to do anything in return and are not required to atone for their past actions.

Some reform proposals would require those undergoing legalization to “go to the back of the line” to ensure they do not obtain green cards before others who have been waiting for permanent residence. This requirement could be workable but only if changes are made to the future legal immigration system to ensure that long backlogs existing in the current system are eliminated. As the system stands now, some green card applicants must wait decades, with such extensive backlogs that people literally die waiting. If the legal immigration system is not fixed, the “back of the line” requirement could force millions of people to wait for decades in limbo in a second class status.

The Legal Immigration System – Growing Businesses and the Economy

Currently the immigration system functions so poorly that it is hurting business growth, job creation and the American economy. AILA’s immigration attorney members frequently help their clients—be they small or large businesses, family-owned startups or corporations—navigate labyrinthine rules and survive extremely long delays in the visa application process. In far too many instances, delays due to backlogs in both temporary and permanent visa availability prevent projects from moving forward and hurt businesses and job growth. America’s immigration system must be flexible and responsive to meet the needs of American businesses to ensure our economic security—both in times of prosperity and times of recession.

Reforms must update the archaic quota limits that have no relationship to the needs of the economy and the businesses that drive it. This can be done by exempting those who graduate with degrees in science, technology, engineering and math fields as well as accompanying spouses and children from the employment-based visa cap count. Reforms must also revise quotas to increase the number of green cards for people with vital skills, assure the ready availability of needed workers on short-term and temporary bases, while protecting the wages and working conditions of all workers in the United States.

The Legal Immigration System -- Ensuring Family Unity

As vital as expansions to employment visas may be, such reforms cannot be made at the expense of the family immigration system. Family unification has always been the cornerstone of the U.S. legal immigration system. Keeping families strong and united is a core national value and interest, and we must continue our historic commitment to bringing families together. Some proposals call for increases in employment visa categories only at the expense of reducing visas in family categories. This approach is premised on the faulty assumption that America can only absorb a fixed number of immigrants at a given time when in fact our nation’s needs are constantly changing—sometimes expanding and other times contracting. Our immigration system must be flexible and capable of meeting the needs of American businesses, families, and the economy.

A popular misconception about the immigration system is that people who would like to immigrate can simply get into line to obtain a green card in a reasonable period of time. That is hardly the case. Under the current system, the close family members of U.S. citizens and legal permanent residents wait years, or even decades, to get green cards, due to quotas that limit visa numbers. For example, a U.S. citizen parent typically has to wait about seven years to bring an adult child; and almost 20 years for those coming from Mexico. Siblings of U.S. citizens

typically wait about 12 years. But siblings coming from the Philippines wait 24 years. In the employment-based system, reports have indicated that a highly-skilled worker from India could end up waiting multiple decades to receive a green card.

The exceptionally long waits for both family- and employment-based visas keep families apart and hinder or even halt business operations. Immigration reform should improve the legal immigration system by enacting policies that eliminate the backlogs. To keep families together and to ensure our nation is strong, additional green cards should be added to both family and employment categories.

Immigration Enforcement

In recent years, immigration reform bills have proposed dramatic increases in border security and interior enforcement resources, reflecting the perception that the U.S. government is not doing enough to enforce immigration laws. But immigration enforcement efforts of the past decade have been aggressive and have reached a historic high-point. With \$18 billion annually going toward immigration enforcement agencies and technologies, our borders and the interior have never been more secure.

In 2012, the Department of Homeland Security (DHS) removed a total of 409,849 individuals—a record number. In January, AILA released, “Border Security: Moving Beyond Past Benchmarks,” which found that border security efforts have exceeded the border security benchmarks established by each of the Senate immigration reform bills of 2006, 2007 and 2010.

In just over two years—between July 1, 2010 and September 30, 2012—DHS deported 204,810 parents of U.S. citizens, amounting to nearly 23% of all deportations. In other words, more than one in every five people deported is the parent of a U.S. citizen. America’s deportation laws are literally tearing families apart and hurting people who know America as their only home. Thousands of people, including those seeking asylum, are unnecessarily detained at great expense to taxpayers even though they pose no threat to anyone. Our laws mandate detention or deportation for many people, denying them access to a hearing before a judge, in a system that does not guarantee legal counsel for those who cannot afford it. Immigration enforcement measures frequently target minority and immigrant communities with strategies that often instill fear and distrust of law all enforcement, and, as a consequence, make communities less safe.

Bring Fairness to Immigration Decisions

Current immigration laws and policies deny basic due process to millions of people who live in the U.S. Long-time residents are subject to deportation even when they have strong ties to the community, pay taxes, and desperately want to become full-fledged members of our society. Many are eligible to apply for legal status, but because they lived in the U.S. for a period of time that was unauthorized they are now barred from fixing their status. Judges often have no ability to weigh the individual circumstances of the case. Low-level immigration officials often act as judge and jury, and the federal courts have been denied the power to review most agency decisions. Congress should restore fairness and flexibility to our system by authorizing immigration judges and officials to exercise discretion in considering the individual circumstances of each case.

Worksite enforcement should protect workers, ensure safe working conditions, and prevent worker exploitation while at the same time minimizing the impact on businesses. With respect to employment verification, AILA recognizes that America needs an effective way to verify that workers are authorized. Such a system must be workable and not overly burdensome for employers—including large and small businesses, and employers in various industry sectors. Employment verification should be done in a way that protects the rights of all workers—foreign and American born.

The smart solutions to our immigration system and to our border security will not come from blindly increasing spending on enforcement. Nor will it come from outdated and unrealistic frameworks, such as a 100 percent-sealed border. With immigration enforcement occurring at unprecedented levels, it is time to re-evaluate how to move forward.

America is a nation of values, founded on the idea that all people are created equal and that all people have rights, no matter what they look like or where they came from. Our immigration laws should reflect our commitment to these values. They should be grounded in civil and human rights and ensure due process, equal treatment, and fairness. AILA looks forward to working with all of our leaders to ensure that all aspects of our immigration system reflect America's values.