



May 21, 2013

United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

To the Members of the United States Senate Judiciary Committee:

As you enter the final stages of markup on S. 744, we are writing to express our strong support for the bipartisan agreement reached by Senators Hatch and Schumer to ensure our nation's skilled temporary visa programs work in a way that protects American workers while enabling our economy to strengthen and grow from access to critically needed talent and skills. We are extremely supportive of the goals set by the Gang of 8 to modernize and reform our broken immigration system, and we believe the additional positive improvements to the bill made in the agreement between Senators Hatch and Schumer will advance these goals with respect to high skilled immigration.

The undersigned associations represent more than 2500 innovative companies, and are proudly part of a dynamic technology industry that collectively employs 6 million Americans. In 2009, the gross domestic product (GDP) generated by the technology industry was \$1 trillion. The technology industry employs people in every state in America and high-tech manufacturing alone accounts for more than 1.2 million American Jobs.

Continued growth in the near term depends on access to skilled foreign talent, particularly those who graduate from our world-leading colleges and universities. Tens of thousands of jobs in our sector remain unfilled. Even accounting for every American graduate receiving an advanced science, technology, engineering, and math (STEM) degree, the U.S. still is estimated to face at least 200,000 unfilled advanced-degree STEM jobs by 2018.

To be clear, all of us *want* to hire American workers, and our industry has a strong track record of creating hundreds of thousands of new opportunities for American workers. That is why we have such robust domestic recruiting programs, including aggressive recruiting on college campuses, wide-scale advertisement and promotion of our job openings, market-leading compensation and incentive packages, and even bonuses to current employees who help us find new hires. Yet our schools simply do not graduate enough Americans in the STEM fields to fill all the jobs that our companies are creating. We cannot escape the reality that there is a place and a need for temporary skilled visas to help fill our open jobs, complement our U.S. workforce, and further grow our economy. Cutting off access to those visas will impede economic growth and stifle the creation of more jobs in this country.

An effective high skilled immigration program should include strong protections for American workers. In an effort to advance this bill, S. 744 includes significant new U.S. worker protections, including:

- Substantial increases in the wages required for H-1B workers (even though existing regulations already require employers to pay H-1B workers the same as their American counterparts);
- New requirements that U.S. employers pay foreign workers more than their equally qualified U.S. counterparts.
- New and significant prohibitions against the displacement of U.S. workers for all employers;
- New requirements on all employers to show that they have conducted good faith recruitment of U.S. workers;
- A new requirement on all employers to post H-1B positions on a website to be created by the Department of Labor, even though our recruiting teams already use all of the best, name-brand job search sites in our recruiting efforts;
- Substantial new fees—an additional \$2,500 for each H-1B or L-1 petition, more than doubling current fees—that will be used to educate and train Americans for STEM jobs; and
- Commonsense prohibitions on advertising only for H-1B workers (even though we see no such ads today).

The legislation would also dramatically expand the government's oversight of the H-1B program. Among other things, the legislation doubles the timeframe for the government to open an investigation, doubles civil penalties, and allows the government to conduct random audits and initiate investigations without any evidence of wrongdoing.

Furthermore, employers with more than 15% H-1B workers (H-1B dependent employers) would have substantial additional restrictions, including:

- Total prohibition on the outplacement of H-1B workers;
- Even higher required wages (likely resulting in H-1B workers *earning significantly more* than their U.S. worker counterparts);
- New, enhanced scrutiny on the recruitment and non-displacement of U.S. workers, including wholesale elimination of the existing exemptions to those requirements;
- An outright ban on having a U.S. workforce that is more than 50% comprised of H-1B and L-1 visa holders; and

- Massive new fees for these heavy users of H-1B and L-1 visas of an additional \$5,000 to \$10,000 per worker.

These worker protections need to be balanced with a visa program that can work to complement our U.S. workforce. We are pleased that with the addition of the proposed bipartisan agreement led by Senators Hatch and Schumer, the bill will provide that important balance. The agreement would allow for a workable temporary visa program that enables companies to recruit and retain foreign-born professionals with critical, hard-to-find skills to supplement and strengthen their U.S. operations and capabilities. With these critical improvements, U.S. employers will be better able to keep and create jobs in this country. Just as important, the bill preserves **all of the U.S. worker protections listed above: American workers will be recruited, American workers will not be displaced, and American workers will not have their salaries undercut.** In short, the bipartisan agreement retains U.S. worker safeguards while also creating an effective skilled visa process for U.S. companies.

We again applaud the significant progress made by the introduction of S. 744 by the Gang of 8 and the significant work of the Committee during this markup. We hope that with these important additional improvements, the Committee can complete its work and move Congress toward a final bill that will truly open a new path to American innovation, American economic strength, and greater opportunities for American workers.

Again, we thank you for your commitment to meaningful immigration reform this year and look forward to our continued work with you and your staff.

Very respectfully yours,

Association of Competitive Technologies (ACT)
BSA | The Software Alliance
Compete America
Computer & Communications Industry Association
Consumer Electronics Association
Information Technology Industry Council (ITI)
The Internet Association (IA)
The Semiconductor Industry Association (SIA)
Silicon Valley Leadership Group
TechAmerica
TechNet

cc: Majority Leader Harry Reid and Republican Leader Mitch McConnell
cc: Senate Members of the Gang of 8