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STATEMENT OF THE AMERICAN IMMIGRATION COUNCIL

**SUBMITTED TO THE COMMITTEE ON THE JUDICIARY OF THE U.S. HOUSE OF REPRESENTATIVES
HEARING ON "PRESIDENT OBAMA'S EXECUTIVE OVERREACH ON IMMIGRATION"**

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The American Immigration Council is a non-profit educational foundation which for over 25 years has been dedicated to increasing public understanding of immigration law and policy and the role of immigration in American society. We write to first, provide the ample legal and historical authority for the President's recent Immigration Accountability Executive Action; second, detail some of the significant social benefits of the action; and third, detail the significant economic benefits as well. This Statement summarizes information in our Report, *A Guide to the Immigration Accountability Executive Action* (November 2014),¹ and other materials.

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Presidents have ample legal authority—and abundant historical precedent—supporting their discretion to take action in immigration matters. The president's broad executive authority to shape the enforcement and implementation of immigration laws includes the exercising of prosecutorial discretion to defer deportations and streamline certain adjudications.² Over 100 law professors from around the nation,³ and four former chief counsels of USCIS and INS,⁴ have affirmed that the DACA and DAPA programs are well within the President's authority.

Under this authority, since at least 1956, every U.S. president since Eisenhower has granted temporary immigration relief to one or more groups in need of assistance. Our report *Executive Grants of Temporary Immigration Relief, 1956-Present* collects 39 examples,

¹ <http://www.immigrationpolicy.org/special-reports/guide-immigration-accountability-executive-action>.

² Hiroshi Motomura, *The President's Discretion, Immigration Enforcement, and the Rule of Law* (August 2014), at <http://www.immigrationpolicy.org/perspectives/president%E2%80%99s-discretion-immigration-enforcement-and-rule-law>.

³ <https://pennstatelaw.psu.edu/sites/default/files/documents/pdfs/Immigrants/executive-action-law-prof-letter.pdf>.

⁴ Stephen Legomsky, Roxana Bacon, Paul W. Virtue, and Bo Cooper, Letter to chairs of Judiciary Committees (Nov. 29, 2014) (affirming arguments in law professors' letter).

including large scale actions, actions designed to protect immigrant families, and actions taken while legislation was pending.⁵

Perhaps the most striking historical parallels to President Obama’s action are the “Family Fairness” deferred actions implemented by Presidents Ronald Reagan and George Bush, Sr. between 1987 and 1990.⁶ The 1986 Immigration Reform and Control Act (IRCA) made roughly 3 million unauthorized immigrants eligible for lawful permanent residence, but did not allow spouses and children to apply as derivatives. The ensuing controversy over “split-eligibility” families ultimately led the Reagan administration to announce, in 1987, that it would defer deportation for children under 18 who were living in a two-parent household with both parents legalizing, or with a single parent who was legalizing. Then, in July 1989, the Senate passed legislation to protect a larger group—prohibiting deportation of all spouses and children of those who were legalizing under IRCA. But the legislation stalled in the House. In 1990, President Bush Sr. extended deferred action to cover spouses and children.

Preliminary evidence from the National UnDACAmented Research Project suggests that even a temporary legal status can improve economic opportunities for undocumented individuals.⁷ There is significant evidence that legalization would provide critical economic benefits, while by nature, deferred action is a temporary status—a mechanism that provides a measure of relief and protection from removal during the allotted time period. Nonetheless, preliminary analysis, such as that from the Center for American Progress, the Fiscal Policy Institute, and the Universities of Southern California and Los Angeles, all suggest that the earning power of individuals with DACA and DAPA will increase, which will therefore trigger corresponding increases in consumption and economic growth.⁸

Deferred action is expected to lead to higher wages and more tax revenue, leading to positive benefits not only for individuals and their families, but also for the communities in which they live and work. With approximately [5 million](#) people potentially eligible for work permits under the executive action, more immigrants will be able to work legally, better protect themselves from workplace abuses, and move freely within the labor market. According to the Center for American Progress, these new abilities will increase wages by an average of [8.5 percent](#).⁹ Today, just over one-third of undocumented workers and employers are paying payroll

⁵ <http://www.immigrationpolicy.org/just-facts/executive-grants-temporary-immigration-relief-1956-present>.

⁶ Mark Noferi, *When Reagan and GHW Bush Took Bold Executive Action on Immigration* (Oct. 2, 2014), at <http://thehill.com/blogs/congress-blog/foreign-policy/219463-when-reagan-and-ghw-bush-took-bold-executive-action-on>.

⁷ Roberto G. Gonzales and Angie M. Bautista-Chavez, *Two Years and Counting: Assessing the Growing Power of DACA* (American Immigration Council: Washington DC, June 2014), at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

⁸ Dr. Sherrie A. Kossoudji, Ph.D., *Back To The Future: The Impact Of Legalization Then And Now* (Jan. 2013), at http://www.immigrationpolicy.org/sites/default/files/docs/back_to_the_future.pdf; Rob Paral, *Economic Progress via Legalization: Lessons from the Last Legalization Program* (updated Jan. 2013), at <http://www.immigrationpolicy.org/special-reports/economic-progress-legalization-lessons-last-legalization-program-0>.

⁹ Center for American Progress, *The Economic and Fiscal Benefits of Deferred Action* (November 21, 2014), at <https://www.americanprogress.org/issues/immigration/news/2014/11/21/102041/the-economic-and-fiscal-benefits-of-deferred-action/>.

taxes. The Center for American Progress has estimated that executive action will raise an additional [\\$3 billion](#) in payroll taxes during the first year alone. As more workers and employers get on the books and begin paying taxes for the first time, the amount of payroll taxes paid over five years could be around \$22.6 billion. [Individual states](#) will also experience similar tax gains as undocumented immigrants begin to work legally and file taxes.

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America's immigration system remains in urgent need of reform. Although legislation is the only way to provide lasting change, Congress has not been able to pass a bill while American families, businesses, and communities languish under the current system. The President's executive actions are an important first step that can spur further, lasting Congressional reforms.