



Testimony of

**Avideh Moussavian
Economic Justice Policy Attorney
National Immigration Law Center**

**Joint Subcommittee Hearing on
“The Fiscal Costs of the President’s Executive Actions on Immigration”**

**Before the
Committee on Oversight and Government Reform
Health Care, Benefits and Administrative Rules Subcommittee
National Security Subcommittee
U.S. House of Representatives
Washington, D.C.**

March 17, 2015

Introduction

Chairmen DeSantis and Jordan, Ranking Members Lynch and Cartwright, and members of the subcommittees:

Thank you for the opportunity to appear before the committee today and provide testimony on behalf of the National Immigration Law Center (NILC).

I am Avidah Moussavian, Economic Justice Policy Attorney at the National Immigration Law Center, the primary organization in the United States exclusively dedicated to defending and advancing the rights and opportunities of low-income immigrants. At NILC, we believe that all people who live in the United States – regardless of their race, gender, immigration, and/or economic status – should have the opportunity to achieve their full human potential. Over the past thirty five years, NILC has won landmark legal decisions protecting fundamental human and civil rights and successfully advocated for federal and state policies that reinforce our nation’s values of equality and justice for all.

NILC utilizes a core set of integrated strategies – litigation, advocacy, and strategic communications – to focus on key program areas that affect the lives and well-being of low-income immigrants and their families, including: access to justice, education, healthcare and economic opportunities, and immigration reform. We also conduct trainings, publish educational materials, and provide legal counsel and strategic advice to inform a wide range of audiences about complex legal and policy matters affecting immigrants and to help strengthen other groups’ advocacy work.

In the absence of comprehensive immigration reform, the president’s Immigrant Accountability Executive Actions, announced on November 20, 2014, represent a much-needed first step toward restoring fairness and order to a system that everyone agrees is broken. Parents will be able to more fully contribute to their local economies and communities, which will help their children thrive. There will be increased workplace fairness as the economic incentive for unscrupulous employers to hire undocumented workers will have been removed. Fewer workers will be subjected to abuse by employers who retaliate against them for lack of work authorization. This will, in turn, benefit American workers as working conditions for all workers will improve.

While Deferred Action for Parents of Americans and lawful permanent residents (DAPA) and expanded Deferred Action for Childhood Arrivals (DACA) are not legalization programs and only provide a temporary reprieve from deportation, one cannot understate the significant impact this policy change will have on the estimated 4.4 million individuals who might qualify and on our country. Most importantly, this will lift the traumatic and paralyzing experience of living in fear of deportation that has robbed individuals with deep ties to our country of their humanity and dignity – a fear magnified in recent years by record deportations.

DAPA and expanded DACA will allow longstanding community members to apply for protection against deportation and work authorization so that they can continue to make meaningful contributions. Those applying will be required to complete a full

background check at their own expense, an action that will enhance our national security while also injecting positive economic growth in our local, state and national economies. These executive actions promote our nation's values by doing both what is morally right for our country as well as advancing our shared economic prosperity.

I. Deferred Action and economic benefits of issuing work permits and SSNs

a. Overview of DAPA and expanded DACA

On November 20, 2014, President Obama announced the Immigrant Accountability Executive Actions, which amount to significant immigration policy changes aimed at bringing about fairness and accountability to a dysfunctional immigration system. Among other new policy directives, the Department of Homeland Security (DHS) will “implement a new department-wide enforcement and removal policy that places top priority on national security threats, convicted felons, gang members, and illegal entrants apprehended at the border.”¹ The plan is comprehensive in that it establishes these more targeted border and interior enforcement priorities, among other policy changes, though much of the public debate is focused on DAPA and expanded DACA.

Under the new DAPA initiative, individuals who have been continuously residing in the United States since January 1, 2010 and who can establish they are the parents of a United States citizen or lawful permanent resident, will be able to come forward and affirmatively apply for a temporary reprieve from deportation. If after an adjudication conducted on a case-by-case basis, including a national security and criminal background check, DHS determines that the individual meets the criteria and merits a grant of deferred action, she will be able to also obtain an Employment Authorization Document if she has an economic necessity for it.

While these two particular elements of the president's actions are currently subject to litigation, legal experts across the country agree that they rest on solid legal ground, and that their implementation should be allowed to proceed.² Our family members, friends, and loved ones look forward to taking part in these critical initiatives so that they can finally go about their daily lives knowing they can pay more taxes, work, and remain united with their family members in this country without the fear of deportation.

These immigration directives will allow even more individuals to engage in steady employment, contributing to our gross domestic product (GDP) and our tax base. Better working conditions for non-citizen workers who will now be able to pursue healthy work environments means American workers will also be treated more fairly by employers, and wages for everyone will rise. Employers who have employed immigrant workers for decades, investing in their workforce and providing training, will now have made a secure investment in workers who are able to remain in the United States Moving

¹ Memo from Jeh Charles Johnson, Secretary, “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,” November 20, 2014.

² Preliminary Injunction Ruling Halting Expanded Deferred Action Program "Deeply Flawed" Legally, <http://lawprofessors.typepad.com/immigration/2015/03/law-professors-preliminary-injunction-ruling-halting-expanded-deferred-action-program-deeply-flawed-.html>.

workers from the informal economy to the formal economy will ensure that America's competitiveness, GDP and tax base continues to grow. Moreover, the president's immigration initiatives included important policy changes to allow businesses to more easily retain high-skilled talent. Finally, the actions included important provisions to allow entrepreneurs grow new businesses in the United States.³

b. Current contributions

i. Immigrant contributions to the workforce

More than eight million undocumented workers compose a crucial component of our national workforce. Many of them perform important low-wage work in a wide range of industries that strengthens our economy and improves our quality of life. They harvest and prepare the food that we eat. They build and clean our homes and businesses. They sustain our domestic manufacturing. They care for our children.⁴ The American Action Forum estimates a loss of 5.7% in Real GDP (\$1.6 trillion) if undocumented immigrants were removed from our country.⁵

The modern American workforce is dynamic and immigrants play a complementary role within it, sustaining and helping to create improved job opportunities for the native-born. Economists examining recent United States regional and national economies have found that immigrant workers stimulate an overall average wage increase of 0.6% for native-born workers. They find overall average wage benefits for native-born workers across education and skill levels.⁶ Diverse community leaders nationwide further recognize that immigrants create jobs for the native-born though their consumption of goods and services.⁷

ii. Tax contributions of non-citizen workers

Undocumented workers perform some of the most essential jobs that makes up the backbone of our economy and make significant tax contributions at every level. These tax contributions include local, state and federal income taxes, as well as payroll taxes that bolster our Social Security and Medicare systems. A January 2015 Congressional Budget Office (CBO) report cited two studies that estimate that over 50% of unauthorized immigrant workers pay income taxes and payroll taxes.⁸ In 2010 alone,

³ Memo from Leon Rodriguez, Director, U.S. Citizenship and Immigration Services, "Policies Supporting U.S. High-Skilled Businesses and Workers," November 20, 2014.

⁴ Jeffery S. Passel and D'Vera Cohn, "Unauthorized Immigrant Totals Rise in 7 States, Fall in 14," Pew Research Center, 18 November 2014; <http://www.migrationpolicy.org/programs/data-hub/state-immigration-data-profiles>

⁵ Ben Gitis and Laura Collins, *The Budgetary and Economic Costs of Addressing Unauthorized Immigration: Alternative Strategies*, 6 March 2015.

⁶ G. I. P. Ottaviano, and G. Peri, "Rethinking the Effect of Immigration on Wages." *Journal of the European Economic Association*, 10, February 2012, 152–197; Gianmarco I.P. Ottaviano, Giovanni Peri, and Greg C. Wright, "Immigration, Offshoring, and American Jobs," Centre for Economic Performance Discussion Paper No 1147, May 2012; Giovanni Peri, "The Effect of Immigrants on U.S. Employment and Productivity," Federal Reserve Bank of San Francisco Economic Letter, 2010-26, 30 August 2010.

⁷ <http://www.welcomingamerica.org/>

⁸ Congressional Budget Office, "How Changes in Immigration Policy Might Affect the Federal Budget" (January 2015), , at p. 16, fn 34, citing Economic Report of the President, 2005 (February 2005), Chapter 4, p. 107, <http://tinyurl.com/c9kdark>; Social Security Administration, Office of the Chief Actuary, "Letter to Senator Richard

these workers contributed \$13 billion to the Social Security trust funds⁹ and \$10.6 billion in state and local taxes.¹⁰ Most of these contributions will never be recouped: many of these workers may never be eligible to collect these earned benefits that were intended to protect them and their families upon the retirement, serious disability or death of a wage earner. These are workers who are playing by the rules by paying their fair share into a system that may give them nothing in return.

Individual Taxpayer Identification Number (ITIN) filing statistics further show the contributions of undocumented workers. Any individual – including both undocumented as well as lawfully present immigrants – who earns income in the United States is still required to report that income to the federal government. The Internal Revenue Service (IRS) created the ITIN to ensure that all wage earners who are not eligible for a Social Security Number, regardless of their immigration status, can comply with tax laws. Since the creation of the ITIN program in 1996, undocumented workers have been able to make enormous contributions in federal income taxes. According to the Treasury Inspector General for Tax Administration (TIGTA), in tax year 2010, over 3 million federal tax returns were filed with ITINs, which accounted for over \$870 million in federal income taxes.¹¹

c. Overall economic benefits of deferred action

DAPA and expanded DACA will only serve to increase the economic contributions of immigrant workers by providing them with work authorization. When immigrants are able to work lawfully, they can better protect themselves from wage theft and other workplace abuses. They will also be able to move freely across the labor market, and find work that matches their skills.

Both the CBO and Joint Committee on Taxation (JCT) estimated that DAPA and expanded DACA would generate \$18.9 billion in revenues over the 2015-2025 period. Conversely, they estimated that not implementing DAPA and expanded DACA would severely harm the federal budget, increasing the federal deficit by over \$6.3 billion over this same period. This assessment was based on the impact of the costs associated with changes to eligibility and program participation, as well as new revenues from higher wages and a larger tax base. In addition to these net fiscal benefits, the deferred action programs will yield other positive economic effects such as increased productivity of

J. Durbin” (June 5, 2007). Also see Alice H. Wade and others, “Projections of Immigration for the 2008 Social Security Trustees Report,” Actuarial Note 148 (Social Security Administration, Office of the Chief Actuary, March 2009), <http://go.usa.gov/BaRG>.

⁹ Institute on Taxation and Economic Policy, “Undocumented Immigrants’ State and Local Tax Contributions” July 2013, <http://www.itep.org/pdf/undocumentedtaxes.pdf>.

¹⁰ Stephen Goss Alice Wade and others, “Effects of Unauthorized Immigration on the Actuarial Status of the Social Security Trust Funds,” Actuarial Note No. 151, Office of the Chief Actuary, Social Security Administration, April 2013, http://www.socialsecurity.gov/OACT/NOTES/pdf_notes/note151.pdf.

¹¹ Treasury Inspector General for Tax Administration, “Recovery Act: Individuals Who Are Not Authorized to Work in the United States Were Paid \$4.2 Billion in Refundable Credits,” Ref. No. 2011-41-061, July 7, 2011, <http://www.treasury.gov/tigta/auditreports/2011reports/201141061fr.pdf>, appendix IV, table 1, p. 20.

labor and capital, increased educational attainment, income, earnings and tax payments.¹²

i. Increased Social Security contributions

The CBO and JCT also estimated that, out of the overall net tax revenues that DAPA and expanded DACA would generate, an estimated \$14.5 billion over the 2015-2025 period is from increased Social Security contributions alone, as workers and employers get on the books, earn higher wages and pay taxes.¹³ Given that the noncitizen population in the United States is significantly younger and much more likely to be of working age than the citizen population, they are also much less likely to need Social Security or Medicare for decades to come.¹⁴

ii. Increased local and state taxes

Individual states will experience similar tax gains for the same reasons. For example, the Center for American Progress (CAP) estimates that, over five years, expanding deferred action will lead to increases in tax revenues in Texas and California by \$338 million and \$904 million, respectively.¹⁵ Georgia and Arizona's tax revenues are estimated to grow by \$190 million¹⁶ and \$100 million.¹⁷ Other states would similarly experiences boosts to their tax revenues, with Florida, Pennsylvania and Ohio estimated to see \$102 million, \$75 million, and \$41 million, respectively, in tax revenue. While DAPA and expanded DACA are only available to part of the undocumented population, there are estimates that allowing undocumented immigrants to work in the United States legally would increase their state and local tax contributions by approximately \$2 billion a year.¹⁸

iii. Positive impact on GDP

The economic benefits go beyond payroll and income taxes. The Council of Economic Advisors estimates that, in the next ten years, President Obama's November 2014 immigration executive actions will collectively increase the country's Gross Domestic Product by \$90-\$210 billion, cut the federal deficit by \$25-\$60 billion through increased economic growth, and raise average wages for U.S.-born workers by 0.3%, without any adverse impact on the employment rates or wages of U.S.-born workers.¹⁹

These collective economic benefits are still not as robust as those predicted under the immigration reform bill passed by the Senate last year (S. 744), which would have raised the GDP by more than 5.4 percent over the next 20 years and reduced the deficit by \$832 billion. They are also not, however, theoretical benefits. The 2012 DACA process,

¹² Letter from Congressional Budget Office Director Douglas W. Elmendorf to Senator Susan Collins, "Re: Budgetary Effects of S. 534, the Immigration Rule of Law Act of 2015, as introduced on February 23, 2015," (February 26, 2015), <https://www.cbo.gov/sites/default/files/cbofiles/attachments/s534Collins.pdf>.

¹³ Id., at p. 3, change in revenue from Social Security Taxes in fiscal years 2015-2025.

¹⁴ See fn 8, Congressional Budget Office report, at pp. 7-10.

¹⁵

¹⁶ <http://www.scribd.com/doc/247296797/Economic-Benefits-of-Executive-Action-in-Georgia>

¹⁷ <http://www.scribd.com/doc/247296794/Economic-Benefits-of-Executive-Action-in-Arizona>

¹⁸ Institute on Taxation and Economic Policy, "Undocumented Immigrants' State and Local Tax Contributions" July 2013, <http://www.itep.org/pdf/undocumentedtaxes.pdf>.

¹⁹

https://www.whitehouse.gov/sites/default/files/docs/cea_2014_economic_effects_of_immigration_executive_action.pdf

implemented less than three years ago, has indisputably proven that access to work authorization directly enhances the economic contributions of deferred action recipients. Within two years of DACA's rollout, 70% of recipients reported obtaining their first job or starting a new one; 45% reported higher earnings; 50% opened their first bank account; and 21% enrolled in health insurance.²⁰

d. Public safety benefits

i. Issuance of driver's licenses and associated benefits

DAPA and expanded DACA will also improve public safety as immigrants will be eligible to obtain driver's licenses and trust between law enforcement and local immigrant communities will be restored.

Deferred action recipients will be eligible for driver's licenses in most states. States that have broadened immigrant eligibility for driver's licenses to date have seen improvements in traffic safety, as unlicensed drivers are five times more likely to be involved in a fatal crash and ten times more likely to leave the scene of a hit and run. They have also seen declines in auto insurance rates, as rates fall for all policyholders when more motorists are licensed and insured. Insurance commissioners, law enforcement leaders, and immigrants alike support allowing all residents to apply for licenses, and for good reason: Making sure each driver is trained and tested, licensed and insured, improves highway safety for everyone. Law enforcement leaders in particular have supported DAPA, DACA (and its expansion), and expanded access to driver's licenses as a form of identification they can rely on in their daily service activities.²¹

ii. Cooperation with law enforcement

Deferred action will reduce critical barriers of fear currently preventing many immigrants and their loved ones from reporting crimes and serving as witnesses in criminal investigations. Surveys highlight pervasive community fear of police entanglement in immigration law enforcement that deters full law enforcement cooperation. In 2013, a University of Illinois researcher found that 44% of Latinos and 70% of undocumented Latinos in major cities would be less likely to report that were a victim of a crime if they feared it would lead to immigration status inquiries.²² For this reason, many law enforcement leaders and associations, including the Major Cities Chiefs Association, oppose state and local immigration law enforcement entanglement. Reducing fears of deportation of community members will benefit public safety in the interest of everyone.²³

²⁰ <https://www.americanprogress.org/issues/immigration/report/2014/11/19/101868/how-daca-has-improved-the-lives-ofundocumented-young-people/>

²¹ <http://www.nilc.org/driverlicenses.html>; "NILC Lauds Police Chiefs Legal Defense of Administration Deferred Action Initiatives," 12 January 2015, <http://www.nilc.org/nr011215.html>

²² Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* (Dept. of Urban Planning and Policy, Univ. of Illinois at Chicago, May 2013).

²³ <http://www.nilc.org/policechiefs.html> ;

II. DAPA and DACA: eligibility for economic supports

a. Extremely limited access to federal means-tested public benefits

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) denies DACA and DAPA recipients access to all of the major federal health care and public benefit programs that are based on income. They are not eligible for federally funded Medicaid, the Children's Health Insurance Program (CHIP),²⁴ the Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps), Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), HUD public housing or Section 8, federal financial aid for college, or most other federal public benefits. Individuals granted deferred action under DACA are ineligible for federal tax subsidies for health care, and are barred from purchasing coverage through the Affordable Care Act's health insurance marketplaces, *even at full cost*.²⁵ In states that implement a Basic Health Program, DACA grantees would be ineligible. If otherwise eligible, DACA grantees can receive services that are available regardless of immigration status, such as emergency Medicaid (which includes labor and delivery care), Women, Infants, and Children (WIC), health care provided by Federally Qualified Health Centers (FQHCs) and other community clinics, and services necessary to protect life or safety, such as shelters for survivors of domestic violence or homeless persons, soup kitchens, in-kind disaster-related assistance and other essential services. In other words, a grant of DACA or DAPA does not make a person eligible for services that he or she would otherwise not be able to obtain.

b. Eligibility for tax credits

i. Tax credits as effective anti-poverty programs

The Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) are earned programs that are entirely different from income-based federal public benefits. Indeed, they were specifically designed to encourage and reward work as an alternative to public economic security programs. Both the EITC and CTC are available only to working, tax-paying families. They have a long-standing record of combatting poverty and creating a positive economic multiplier effect for the entire community.

The EITC and CTC support millions of low-income working families each year and have allowed young children and families to make ends meet. Studies have shown that children in families receiving the credit are more likely to succeed in school, attend college and have a better chance of increased earnings and contributions as they join the ranks of our next generation's workforce.

²⁴ Despite their lawful presence in the U.S., DACA grantees were excluded from Medicaid and CHIP eligibility under the state option to cover lawfully residing children and pregnant women. Children and pregnant women granted deferred action on other grounds (such as individuals with approved self-petitions under the Violence Against Women Act) remain eligible under this option. See Center for Medicaid and CHIP Services, State Health Officials Letter SHO# 12-002 (Aug. 28, 2012) at <http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/SHO-12-002.pdf>.

²⁵ 45 C.F.R. 152.2(8).

Workers who receive these vital tax credits inject the money directly into goods and services, directly boosting their local economies while also providing a boon to the Social Security Trust funds. These tax credits help families move off the economic sidelines to be able to be more productive and contributing members of their communities. They make an extraordinary difference in the lives of the working families who receive them. 74% of households receiving the EITC earn less than \$25,000 per year, while over 50% of families receiving the refundable portion of the CTC earn less than \$20,000 per year. These vital tax credits help keep the lights on and food on the table for working families living at or below poverty.

ii. CTC

The CTC and its refundable portion, the Additional Child Tax Credit (ACTC) are enormously effective anti-poverty programs that have helped save millions of U.S. citizen children from falling deeper into poverty. Families are eligible whether they file their taxes with an SSN or an ITIN. Therefore, DACA and DAPA do not provide any change in eligibility for the CTC/ACTC. In fact, many of these individuals may become ineligible for this credit if their income goes up as a result of obtaining work authorization.

iii. EITC

The EITC is an integral part of the tax code and was established to lessen the heavy tax burdens on low-income working families. It was designed to offset other regressive federal taxes and to make up for some of the erosion in the minimum wage.

Because DAPA and DACA grantees with work permits are eligible to apply for SSNs, some deferred action recipients may become eligible to apply for the EITC. These workers would be treated like all other taxpayers who file federal income taxes with a SSN.

Not all DAPA and DACA grantees, however, will be eligible to claim the EITC. The tax filer, spouse and qualifying children must all have an SSN in order to be eligible for the EITC. In addition, the tax filer must meet several strict eligibility criteria based on income, family size, and filing status, and any qualifying child must meet tests for relationship, age, residency and joint returns.²⁶ Workers without minor children may also qualify for the EITC, but for a much smaller amount.

Furthermore, the increases in wages for newly legalized workers would result in fewer DAPA and DACA recipients being eligible for the EITC either immediately or shortly after obtaining work authorization. This is partly due to the fact that, as the CBO notes, “the EITC has the most stringent requirements for noncitizens. Over time, workers who earn more would eventually become ineligible for the EITC.”²⁷

²⁶ <http://www.irs.gov/uac/Newsroom/Earned-Income-Tax-Credit-Do-I-Qualify>

²⁷ Congressional Budget Office, “How Changes in Immigration Policy Might Affect the Federal Budget” (January 2015), <https://www.cbo.gov/sites/default/files/cbofiles/attachments/49868-Immigration4.pdf>.

EITC eligibility to DAPA and DACA grantees with valid SSNs directly benefits millions of children – most of whom are U.S. citizens – and their families who have lived and worked in the United States for more than 5 years. In fact, 95% of those potentially eligible for DAPA are parents of U.S. citizens.²⁸

c. Limited access to Social Security and Medicare under DAPA/DACA

Social Security and Medicare are earned benefits funded through workers' payroll taxes. They are based on the credits earned from the taxes paid and work performed in the United States. Most often, taxpayers need to contribute into 40 qualifying quarters (10 years) of work through payroll taxes in order to be eligible for Social Security retirement and disability benefits and Medicare. Even then, workers can only apply for Social Security payments only if they are in a lawful status, have sufficient work history, and are retirement age or have a qualifying disability.

Because DAPA and expanded DACA grantees will only receive access to work authorization for three-year periods, they will not be entitled to Social Security or Medicare benefits automatically. Furthermore, according to the CBO, most prospective grantees are decades away from retirement age. Because of the temporary nature of these programs, there is no guarantee that DAPA and DACA recipients will maintain their lawful presence long enough to ever access these benefits that they will have accrued and earned through years of hard work.

III. Impact of proposals to limit or deny access to EITC

a. Dangers of a two-tiered tax system

Some opponents of DAPA and expanded DACA, have unfortunately distorted the facts of the EITC's long-standing track-record in promoting work and meaningfully fighting poverty. Denying DACA and DAPA grantees with SSNs eligibility for the retroactive or future EITC claims would create a two-tier tax code. It would establish a dangerous precedent where some workers are taxed more harshly than other workers in similar circumstances. It would also violate the longstanding federal tax principle of applying the same rules to everyone who works lawfully in the U. S. These workers would effectively be taxed at much higher rates than other workers with the same family situations and incomes.

b. Chilling effect of discriminatory treatment and privacy concerns

Segregating some lawfully present workers with SSNs from certain benefits under our tax code would also create a dangerous chilling effect on all taxpayers. This is because such segregation would require sharing of information among the DHS, SSA, and the IRS. Confidentiality of personal information is a hallmark of agencies like the IRS and

²⁸ Migration Policy Institute press release, "As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program" (November 19, 2014).

SSA. These agencies have strictly protected the data they collect for decades, and the success of their work depends on the trust that people have in these agencies.

The IRS, in particular, has always been clear that its mandate is to enforce our nation's tax laws, not our immigration laws, and that it abides by strict confidentiality rules in order to ensure that all workers, regardless of their immigration status, are able to comply with their federal tax obligations without fear of sensitive information being disclosed to other agencies. Indeed, confidentiality of taxpayer information is the pillar of the American tax system, as it promotes the voluntary disclosure upon which the system is built. Our tax code recognizes this and has long guaranteed that the IRS will maintain the confidentiality of taxpayer information.²⁹

Any discriminatory treatment of certain taxpayers would erode the trust that all taxpayers expect when providing confidential information to the IRS and undermine Americans' reliance on the confidentiality of social security account, tax and earnings reports. Furthermore, not all agencies have similar methods or comparable track records for protecting sensitive, personally-identifying information. Entrusting DHS with vulnerable information from multiple agencies with differing levels of security could jeopardize the security of personal data. Dangerously stockpiling information is not the way to fix our dysfunctional immigration system.

c. Economic impact of errors

Information sharing discourages reporting of earnings information and promotes work "off the books." One of the primary purposes of the SSA's and IRS's confidentiality mandates is to encourage workers to report earnings to the SSA and to file tax returns and to pay taxes on income. Information sharing requirements will have the opposite effect, as individuals who would otherwise have reported their income and paid taxes will instead enter the cash economy. This will not only deprive the federal government of much-needed revenue, but it will give unscrupulous employers a competitive advantage over law-abiding businesses.

Indeed, the IRS has affirmed that individuals are less likely to file their taxes accurately and completely if their information will be used for immigration enforcement purposes. The IRS Commissioner has stated that "any sharing of confidential taxpayer information, directly or indirectly, with immigration authorities would have a chilling effect on efforts to bring ITIN holders, and potential ITIN holders, into the U.S. tax system."³⁰ Similarly, targeting certain SSN filers will have the same chilling effect.

²⁹ 26 U.S.C. § 6103.

³⁰ Testimony of Internal Revenue Service Commissioner Mark W. Everson before the Subcommittee on Oversight of the House Ways and Means Committee, March 10, 2004.

d. Discriminating against certain SSN taxpayers is an unrealistic mandate for the IRS

Limiting access to the EITC for DAPA or DACA recipients would invite discriminatory treatment of taxpayers, create severe economic harm, and pose severe privacy threats. It would also present the IRS with an overly burdensome and unrealistic mandate for enforcing the rules of an already complicated tax credit. The IRS is already operating under an extremely constrained budget.³¹ Creating harmful two-tiered systems within a tax credit program will only further hamper the IRS' mission and invite errors that will bog down the agency in extra work. Distinguishing eligible versus ineligible SSN tax filers places an unrealistic, untenable and costly burden on the IRS.

IV. Deferred Action is a crucial step in the right direction

a. The human cost of heavy enforcement without comprehensive immigration reform

Americans who care deeply about civil rights and civil liberties have criticized the Obama administration for the aggressive detention and deportation policies which have been well documented in the Migration Policy Institute's *Immigration Enforcement in the United States: The Rise of a Formidable Machinery* report.³² Spending for the federal government's two main immigration enforcement agencies surpassed \$17.9 billion in fiscal year 2012. This figure exceeded total spending for the FBI, Drug Enforcement Administration, Secret Service, U.S. Marshalls Services, and Bureau of Alcohol, Tobacco, Firearms, and Explosives combined and is 15 times the spending level of the Immigration and Naturalization Service when the Immigration Reform and Control Act was passed in 1986.³³

Despite the dramatic increase in funding for immigration enforcement, the nation's laws have not been updated to address failing aspects of the nation's immigration system. Although there have been several attempts to pass comprehensive immigration reform, America's system has not been significantly updated in over twenty years. This has led to a situation where our nation focuses solely on detention and deportation rather than addressing the system as a whole.

The number of immigrants detained and deported by immigration authorities has reached historic highs in recent years, at a time when overall migration to the United States has decreased. Since 2009, nearly 400,000 people have been deported each year, compared with just 189,000 in 2001. In early 2014, the number of individuals removed

³¹ National Taxpayer Advocate, 2013 Annual Report to Congress, MSP #2, "IRS Budget: The IRS Desperately Needs More Funding to Serve Taxpayers and Increase Voluntary Compliance," <http://www.taxpayeradvocate.irs.gov/2013-Annual-Report/downloads/IRS-BUDGET-The-IRS-Desperately-Needs-More-Funding-to-Serve-Taxpayers-and-Increase-Voluntary-Compliance.pdf>.

³² Meissner, Doris; Kerwin, Donald; Chisti, Muzaffar and Bergeron, Claire, "Immigration Enforcement in the United States," Migration Policy Institute, January 2013.

³³ *Id.* at 2.

from the United States thus far under the Obama administration surpassed two million.³⁴

Significant numbers of U.S. citizen children are impacted by these enforcement activities. Data from DHS reveals that 72,410 parents of U.S. citizen children were removed in 2013.³⁵ This data only reflects those parents who reported having U.S. citizen children and therefore fails to account for those individuals who did not voluntarily report parental status out of fear that they would lose their children. Using deportation data, researchers estimate that at least 152,000 U.S. citizen children experience the deportation of a parent each year.³⁶ Children suffer immensely when a parent is arrested or deported, facing years of separation, decreased economic support, and social and psychological trauma. For some, the trauma of separation can have even more devastating consequences: as of 2011, 5,100 children were living in our foster care system due to their parents' detention or deportation.³⁷

b. Alternatives to executive action and comprehensive reform are costly and unrealistic

Opponents of the president's actions have not presented a viable alternative to address this untenable status-quo. Should we continue along the enforcement-only path of criminalization and record deportations? Or pursue the self-deportation policies of Arizona and Maricopa County Sheriff Joe Arpaio? Some say "enforce the law," but they ignore the fact that deporting all undocumented immigrants would have severe economic and human costs.

One example of these costs is what would happen to Maria, the proud mother of five children, including a son and daughter who are U.S. citizens, and one child who is a DACA recipient and is attending college. She came to the United States 19 years ago to escape domestic violence and poverty that enveloped her and her young children in Mexico. While struggling to support her family as a waitress, she and her family live in fear of deportation. DAPA would greatly benefit Maria and her children, allow family members who are undocumented to get work permits, be paid fair wages while striving for greater education and job opportunities to reach their full potential. Maria and her family -- including a nephew who is a military veteran -- consider themselves proud Americans. Maria and her family are long-time residents of Orange County, CA.

³⁴ Caplan-Bricker, Nora, The New Republic, "Who's the Real Deporter-in-Chief, Bush or Obama?" April 17, 2014 .ICE Press Release. (December 18, 2013) FY2013: ICE announces year-end removal numbers. Retrieved from <https://www.ice.gov/news/releases/1312/131219washingtondc.htm>; Print edition. (2014, February 8). The Great Expulsion: Barack Obama has presided over one of the largest peacetime outflows of people in America's history. *The Economist*. Retrieved from <http://www.economist.com/news/briefing/21595892-barack-obama-has-presided-over-one-largest-peacetime-outflows-people-americas>.

³⁵ Foley, E. "Deportation Separated Thousands of U.S. Citizen Children from Parents in 2013." *Huffington Post*, June 25, 2014.

³⁶ Farhang, Lili; Heller, Jonathan; Hu, Alice; and Satinsky, Sara, "Family Unity, Family Health: How Family-Focused Immigration Reform Will Mean Better Health for Children and Families," June 3, 2013 at i.

³⁷ Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System, Race Forward, the Center for Social Justice Innovation, November 2, 2011.

V. Conclusion

The president's executive actions, while much needed, are only a first step in resolving a complex problem. DAPA and expanded DACA, as outlined by the Obama administration, do not lead to permanent residence or a road to citizenship. These deferred action processes will have clear, defined limits with strict cut-off dates and eligibility criteria. There is no adjustment of status process, only a deferral of deportation. The only way to fix the broken immigration system once and for all is for Congress to pass and the President to sign comprehensive immigration reform legislation.

In just under three years, we have already seen the powerful and positive economic impact of President Obama's the 2012 DACA process. Numerous studies have shown that the program is an undeniable success. Young adults who participated in DACA are more integrated into the nation's economic and social institutions.³⁸ DACA beneficiaries work at levels comparable to or higher than their peers. 45 percent of DACA beneficiaries have increased their earnings.³⁹ Before DACA, their ability to pursue a career and educational opportunities was severely limited.⁴⁰ Additionally, work permits allow this population to better provide for themselves and their families and pay taxes.

The benefits of the DACA program will only be magnified with DAPA and expanded DACA. We commend the president for creating these new deferred action processes and for recognizing the essential role that deferred action has in keeping families together stimulating our economy, and strengthening our national security.

We at the National Immigration Law Center look forward to working with members of this committee and others in Congress to make that a reality. Thank you again for the opportunity to testify today. I look forward to answering any questions you may have.

³⁸ Immigration Policy Center, "Two Years and Counting: Assessing the Growing Power of DACA," June 2014, p. 2.

³⁹ *Id.* at p. 5.

⁴⁰ *Id.*

Committee on Oversight and Government Reform
Witness Disclosure Requirement – “Truth in Testimony”
Required by House Rule XI, Clause 2(g)(5)

Name: **AVIDEH MOUSSAVIAN**

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2012. Include the source and amount of each grant or contract.

None

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

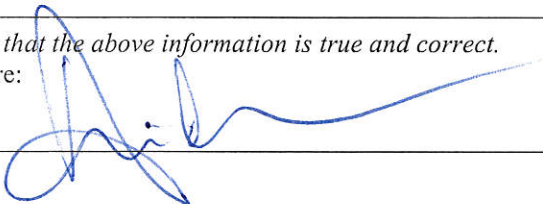
National Immigration Law Center (NILC)
I am employed as an Economic Justice Policy Attorney at NILC. NILC's mission is to advance and defend the rights of low income immigrants.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2012, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None

I certify that the above information is true and correct.

Signature:



Date:

3/16/2015

Avideh Moussavian, Economic Justice Attorney, Washington, DC, office

Avideh Moussavian's advocacy at NILC focuses on promoting economic justice for low-income immigrants, including access to economic supports. She has previously worked on immigration reform advocacy and state and local enforcement issues at the New York Immigration Coalition and directly represented immigrant victims of gender-based violence at Sanctuary for Families in New York City, with a particular emphasis on representing immigrants in detention or with criminal convictions. She has served as board treasurer at Families for Freedom, an anti-deportation community organizing network in New York City, and as a visiting professional with the Office of Public Counsel for Defense at the International Criminal Court. She holds a juris doctor from Boston University School of Law and a bachelor of arts from Columbia University.