

November 29, 2021

Secretary Alejandro Mayorkas  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, NW  
Washington, DC 20016

Re: Comments on Deferred Action for Childhood Arrivals, U.S. Citizenship and Immigration Services, Notice of Proposed Rulemaking, 86 Fed. Reg. 53,736 (Sep. 28, 2021), DHS Docket No. USCIS-2021-0006

Dear Secretary Mayorkas:

This comment is submitted by the undersigned 33 American companies and business associations in strong support of the Deferred Action for Childhood Arrivals (DACA) program and the Department's proposed rule.

Together, our companies employ tens of millions of people, have annual revenues of trillions of dollars, and are valued at trillions of dollars. We are very large businesses and smaller enterprises; some of our products and services are known around the world and others have a more limited reach.

The DACA program has produced tremendous benefits—for DACA beneficiaries, for businesses, and for the entire U.S. economy:

- American businesses in every part of the economy depend on DACA beneficiaries as valued employees, and many work directly in the very sectors of the economy that are most desperately in need of qualified workers.
- The whole economy benefits from the spending power exercised by DACA beneficiaries—including businesses that gain new customers and governments who receive tax payments.
- DACA has also enabled Dreamers to become business owners and job creators, who employ tens of thousands of workers and generate hundreds of millions of dollars in total revenue. In this way, Dreamers expand job opportunities everyone.
- All in all, the United States could stand to lose as much as \$460 billion in national GDP if DACA protections were eliminated.

Many of us joined an *amicus curiae* brief explaining these benefits, filed in the Supreme Court of the United States in *Department of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891 (2020). The Supreme Court cited that brief in its opinion when describing businesses' reliance interests based on the DACA program. That brief is attached to this comment and incorporated by reference.

Since its inception in 2012, the DACA program has had an enormous impact on the lives of roughly 832,881<sup>1</sup> young adults who “were brought to this country as children and know only this country as home.”<sup>2</sup> For the past decade, the program has enabled these “Dreamers” to attend school, find gainful employment, and conduct their daily lives free of the constant, crippling fear of deportation.<sup>3</sup> These individuals have prospered, and contributed to their communities in ways that may not have been imaginable just a decade ago, as students, employees, business owners, and neighbors.<sup>4</sup> Today, DACA recipients are indispensable parts of the social and economic fabric of communities across the country. Indeed, DACA has not only transformed the lives of the young adults at the center of the program, but has also contributed significantly to our companies and to the American economy as a whole by expanding work opportunities for everyone.<sup>5</sup>

The proposed rule takes a useful step by codifying DACA in a regulation. But it is important to recognize that the certainty that DACA beneficiaries deserve can be provided only through congressional action. We therefore continue to urge you and the rest of the government to work with Congress to enact legislation that provides DACA beneficiaries, and others, protection against deportation, the ability to obtain work authorization, and a path to citizenship.

### **I. DACA Recipients Are Valued Employees And Colleagues At Numerous American Businesses—And The Proposed Rule Will Protect Companies’ Substantial Reliance Interests In Current And Future Employment Relationships With DACA Recipients.**

Immigrants have long been essential to maintaining our Nation’s growth and prosperity. They have contributed to important breakthroughs in science and innovation<sup>6</sup>; they have created businesses—including many Fortune 500 companies—that generate over \$775 billion in sales and provide numerous jobs to others<sup>7</sup>; and they pay over \$300 billion in yearly state, local, and federal taxes.<sup>8</sup>

Since 2012, DACA recipients have been valued employees and colleagues at a large number of businesses throughout the country. In 2019, nearly 90% of DACA recipients were

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<sup>1</sup> This is the estimate of the total number of individuals who have participated in the program. See *Deferred Action for Childhood Arrivals (DACA): An Overview*, American Immigration Council (Sep. 30, 2021), [Deferred Action for Childhood Arrivals \(DACA\): An Overview | American Immigration Council](https://www.americanimmigrationcouncil.org/research/deferred-action-for-childhood-arrivals-daca-an-overview).

<sup>2</sup> Mem. from Janet Napolitano to David V. Aguilar (June 15, 2012), <https://tinyurl.com/zzxfoe>.

<sup>3</sup> American Immigration Council, *supra* note 1.

<sup>4</sup> *Id.*

<sup>5</sup> *Overcoming the Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy*, New American Economy Research Fund (June 3, 2019), <https://research.newamericaneconomy.org/report/overcoming-the-odds-the-contributions-of-daca-eligible-immigrants-and-tps-holders-to-the-u-s-economy/>.

<sup>6</sup> Matthew Denhart, George W. Bush Institute, *America’s Advantage: A Handbook on Immigration and Economic Growth* 70, 76 (3d ed., Sept. 2017), <https://tinyurl.com/y4ykkn9>.

<sup>7</sup> P’ship for a New Am. Econ., *Open for Business: How Immigrants Are Driving Business Creation in the United States* 12, 14 (Aug. 2012), <https://goo.gl/3mFkVz>.

<sup>8</sup> Dan Kosten, Nat’l Immigration Forum, *Immigrants as Economic Contributors: Immigrant Tax Contributions and Spending Power* (Sept. 6, 2018), <https://tinyurl.com/ycohpuvs>.

employed, and their presence was felt in virtually every sector of the economy.<sup>9</sup> From the largest American companies to small business owners in local communities, American employers from every major sector of the US economy rely heavily on Dreamers as employees.

More than 75% of the top 25 Fortune 500 companies employ Dreamers – including Walmart, Apple, Microsoft, IBM, Amazon, and JPMorgan Chase, among others.<sup>10</sup> Together, these companies represent every major sector of the U.S. economy and generate almost \$3 trillion in annual revenue. CEOs of nearly 100 of America’s leading companies have attested to the importance of DACA beneficiaries in their companies.<sup>11</sup>

Moreover, over the course of the COVID-19 global health crisis, more than 200,000 Dreamers have been helping to keep the American economy running as essential workers.<sup>12</sup> As of July, 2021, around 45% of DACA-eligible immigrants, or over half a million people, played some role in essential industries, such as in hospitals, supermarkets, and essential food services.<sup>13</sup> This rate is more than twice as high as that of the U.S. population as a whole, and includes over 60,000 Dreamers who work in healthcare and over 160,000 who work in essential food and restaurant services.<sup>14</sup> Even before the Coronavirus pandemic transformed the health care infrastructure of the United States, the American Medical Association warned that the loss of DACA health care workers would cripple the nation’s health care system.<sup>15</sup> That confirms how much the health care system relies on DACA employees.<sup>16</sup>

The health care sector is not at all unique in this regard. Millions of smaller businesses around the country rely on DACA beneficiaries for a stable workforce.<sup>17</sup> In industries like food services, retail trade, construction, and educational, health, and social services, Dreamers provide

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<sup>9</sup> *Deferred Action for Childhood Arrivals (DACA): By the Numbers*, Congressional Research Service (Apr. 14, 2021), [Deferred Action for Childhood Arrivals \(DACA\): By the Numbers \(fas.org\)](#).

<sup>10</sup> Kevin Gray, *Supporting Dreamers During Their Career Exploration, Job Search*, National Association of Colleges and Employers (Feb. 19, 2021), [Supporting DREAMers During Their Career Exploration, Job Search \(naceweb.org\)](#).

<sup>11</sup> Jordan Fabian, *Cook, Pichai Join CEOs Urging Congress Pass Path to Citizenship*, BLOOMBERG (July 29, 2021), <https://www.bloomberg.com/news/articles/2021-07-29/cook-pichai-join-ceos-urging-congress-pass-path-to-citizenship>.

<sup>12</sup> Claudia Flores and Nicole Prchal Svajlenka, *Why DACA Matters*, Center for American Progress (Apr. 29, 2021), <https://www.americanprogress.org/issues/immigration/news/2021/04/29/498944/why-daca-matters/>.

<sup>13</sup> *Why We Need DACA: The Contributions of DACA DREAMers to the US Economy*, Herman Legal Group (Jul. 28, 2021), <https://www.lawfirm4immigrants.com/contributions-daca-dreamers-us-economy/>.

<sup>14</sup> *Id.*

<sup>15</sup> Brief for the Association of American Medical Colleges, et al. at 2-3, *Department of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891 (2020); *Dreamers on the Frontlines of the COVID-19 Pandemic*, Justice for Immigrants (Jun. 18, 2020), [Dreamers-on-the-Frontlines-of-the-COVID-19-Pandemic-6.18.20.pdf \(justiceforimmigrants.org\)](#).

<sup>16</sup> Adam Liptak, “Dreamers” Tell Supreme Court Ending DACA During Pandemic Would be “Catastrophic,” The New York Times (Mar. 27, 2020), <https://www.nytimes.com/2020/03/27/us/dreamers-supreme-court-daca.html>.

<sup>17</sup> Nydia M. Velazquez, *Economic Impact of DACA: Spotlight on Small Business*, Democrats of the Committee on Small Business (Feb. 2018), [https://smallbusiness.house.gov/sites/democrats.smallbusiness-house.gov/files/documents/economic\\_impact\\_of\\_daca\\_report.pdf](https://smallbusiness.house.gov/sites/democrats.smallbusiness-house.gov/files/documents/economic_impact_of_daca_report.pdf).

qualified workers that small business owners can turn to.<sup>18</sup> Dreamers are teachers, entrepreneurs, doctors, and nurses, and they play vital roles in the countless communities that they call home.<sup>19</sup>

Elimination of DACA would cost small business employers over \$6 billion in turnover costs, which would cripple small businesses that already struggle to find workers.<sup>20</sup> These companies would have to forfeit the substantial investments they have made in training Dreamers, and would incur additional costs recruiting and training new employees, who will be less experienced and inevitably less productive than their Dreamer counterparts.<sup>21</sup> When Arizona targeted immigrant workers by enacting the Legal Arizona Workers Act (LAWA) in 2007, for example, the state's total employment rate promptly fell, and its GDP was reduced by an average of 2 percent a year between 2008 and 2015.<sup>22</sup>

Because American businesses today face a steep labor shortage, which has been exacerbated by the Coronavirus pandemic, DACA beneficiaries are more vital to the American workforce than ever before. Over the past several years, U.S. job creation has been outpacing supply – the U.S. unemployment rate has been shrinking even as the number of available job openings around the country remains high.<sup>23</sup> In a 2019 survey, 64% of small business owners reported that they had tried to hire workers, but of those, 89% reported that they found “few or no ‘qualified’ applicants.”<sup>24</sup> American employers have reported particular difficulty in finding skilled laborers, such as engineers, teachers, and medical staff.<sup>25</sup> This shortage has been largely driven by the exit of the “baby boomer” generation from the job market, but the COVID-19 pandemic has only worsened the national shortage of skilled workers, as a recent National Association of Business Economics survey found that nearly half of the American companies that responded reported difficulties in finding skilled workers.<sup>26</sup> As the researchers explained, “labor shortages are now a hallmark of the recovering pandemic economy,” as “companies have a hard time

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<sup>18</sup> *Id.*

<sup>19</sup> Nicole Prchal Svajlenka, *What We Know About DACA Recipients, by Metropolitan Area: Spring 2020 Edition*, Center for American Progress (Apr. 30, 2020), <https://www.americanprogress.org/issues/immigration/news/2020/04/30/484225/know-daca-recipients-metropolitan-area-2/>.

<sup>20</sup> David Bier, *Ending DACA Will Impose Billions in Employer Compliance Costs*, Cato Institute (Sep. 1, 2017), [Ending DACA Will Impose Billions in Employer Compliance Costs | Cato at Liberty Blog](https://www.cato.org/publications/working-paper/ending-daca-will-impose-billions-in-employer-compliance-costs).

<sup>21</sup> Heather Boushey & Sarah Jane Glynn, Ctr. for Am. Progress, *There Are Significant Business Costs to Replacing Employees* (Nov. 16, 2012), <https://goo.gl/ZSmRLq>.

<sup>22</sup> See Bob Davis, *The Thorny Economics of Illegal Immigration*, Wall St. J. (Feb. 9, 2016), <https://goo.gl/j4dd7J>; see also Sarah Bohn et al., *Do E-Verify Mandates Improve Labor Market Outcomes of Low-Skilled Native and Legal Immigrant Workers?* 17- 18, 21, 24-25 (May 2014), <https://goo.gl/7UihSE> (finding that employment rates of U.S.-born men dropped post-LAWA)

<sup>23</sup> See, e.g., *The Employment Situation – September 2021*, Bureau of Labor Statistics (Oct. 8, 2021), [The Employment Situation-September 2021 \(bls.gov\)](https://www.bls.gov/news.release/emp/situation-september-2021); U.S. Dep't of Labor, Bureau of Labor Statistics, *Job Openings and Labor Turnover Survey* (Sept. 10, 2019) <https://tinyurl.com/y57pxqrb>.

<sup>24</sup> Nat'l Fed'n of Indep. Bus., *Small Business Optimism Index* (Aug. 2019), <https://tinyurl.com/y72v3t69>.

<sup>25</sup> *Id.*

<sup>26</sup> Annaken Tappe, *Nearly Half of American Companies Say They Are Short on Skilled Workers*, CNN Business (Oct. 25, 2021), [Nearly half of American companies say they are short on skilled workers - CNN](https://www.cnn.com/2021/10/25/business/nearly-half-of-american-companies-short-on-skilled-workers/index.html).

attracting the workers they need to feed increased demand from consumers, while the risk of infections remains.”<sup>27</sup>

Dreamers have helped to fill these critical worker shortages, especially during the COVID-19 pandemic, and the DACA program will prove essential as employers attempt to fill skilled labor positions in the post-pandemic market.<sup>28</sup> As the Notice of Proposed Rulemaking explains, 16,391 new workers could enter the U.S. labor force in the first year after the Proposed Rule is implemented, as a fortified DACA program would empower young Dreamers to enter the workforce as qualified workers.<sup>29</sup> DACA also helps fill the shortage of skilled laborers, in particular, by enabling immigrants to “pursue and accept jobs for which their skills are well-suited.”<sup>30</sup> Indeed, a recent survey from the Center for American Progress found that over 50% of DACA recipients were able to move to a job that better fit their education and training after obtaining work authorization under DACA.<sup>31</sup>

Before DACA, young immigrants were often “restricted to particular sectors of the economy, such as agriculture, construction, and leisure and hospitality, where employers often do not insist on legal status and where wages are lower on average.”<sup>32</sup> Qualifying for deferred action has not only opened up new employment opportunities for Dreamers, but it has also encouraged recipients to improve their language skills and attain additional education and training, which has better prepared them for skilled labor jobs.<sup>33</sup> Forty percent of DACA beneficiaries are currently in school,<sup>34</sup> and nearly a third of them are pursuing studies in STEM fields that will equip them with the knowledge and skills that U.S. companies so desperately need to compete in the global marketplace.<sup>35</sup> DACA has opened up pathways to higher education in the form of vocational programs, universities, and graduate programs, which prepare Dreamers to help fill the steep

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<sup>27</sup> *Id.*

<sup>28</sup> *Why We Need DACA: The Contributions of DACA DREAMers to the US Economy*, Herman Legal Group (Jul. 28, 2021), <https://www.lawfirm4immigrants.com/contributions-daca-dreamers-us-economy/>.

<sup>29</sup> Proposed Rule, Deferred Action for Childhood Arrivals, 86 Fed. Reg. 53736, 53800 (Sept. 28, 2021).

<sup>30</sup> Cecilia Rouse, et al., *The Economic Benefits of Extending Permanent Legal Status to Unauthorized Immigrants*, The White House (Sep. 17, 2021), [The Economic Benefits of Extending Permanent Legal Status to Unauthorized Immigrants | The White House](#) (“Without legal status, unauthorized immigrants have limited opportunities for job mobility, a key channel by which other workers find better, more productive employment matches over their careers.”).

<sup>31</sup> Tom K. Wong, et al., *New DHS Policy Threatens to Undo Gains Made by DACA Recipients*, Center for American Progress (Oct. 5, 2020), [New DHS Policy Threatens To Undo Gains Made by DACA Recipients - Center for American Progress](#).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Tom K. Wong, et al., *DACA Recipients’ Livelihoods, Families, and Sense of Security Are at Stake This November*, Center for American Progress (Sep. 19, 2019), [DACA Recipients’ Livelihoods, Families, and Sense of Security Are at Stake This November - Center for American Progress](#).

<sup>35</sup> The UndocuScholars Project, *In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform* 8 (2015), <https://tinyurl.com/y7svqsr>.

shortage of skilled laborers that American employers currently face.<sup>36</sup> Moreover, because immigrants “are much more disposed to relocating for work,” Dreamers can fill geographic labor shortages that are created when skilled and qualified workers leave a town for greener pastures.<sup>37</sup> In this way, preserving DACA will help sustain local economies across the country—and “help stave off job decline in less urban areas of the country where skilled labor shortages persist.”<sup>38</sup>

Finally, it is important to make clear that DACA beneficiaries do not take employment opportunities away from American citizens. Rather, they help expand the number of jobs available to everyone by stimulating and growing the American economy.

Employment is not a zero sum game – rather, jobs beget more jobs. Economists have long discredited the notion that “there is a fixed amount of work to be done – a lump of labour,” such that increasing the employment opportunities available to Dreamers will decrease the opportunities available for American citizens.<sup>39</sup> Rather, job creation stimulates the economy as a whole, which in turn creates more jobs as wage-earners spend the money they earn on goods and services produced by other businesses. “When people work for a living,” in other words, “they earn money. They spend that money on goods and services that are produced by other people.”<sup>40</sup> This increased demand, in turn, creates additional jobs.

Unsurprisingly, a number of recent studies have confirmed that empowering immigrants to find gainful employment in turn creates more job opportunities, not fewer.<sup>41</sup> This has also been true across the history of America: increased immigration rates have had largely positive impacts on employment levels and incomes among U.S.-born workers.<sup>42</sup> Moreover, providing Dreamers with an opportunity to attain higher education and seek employment that matches their skills without the fear of deportation hanging over their heads makes the economy more productive and actually decreases the extent to which immigrants compete with American citizens for lower-income jobs.<sup>43</sup> As the Notice itself recounts, several studies have found that “high-skilled immigrant workers positively impact wages and employment of both college-educated and non-college-educated native workers.”<sup>44</sup>

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<sup>36</sup> Roberto G. Gonzales et al., *The Long-Term Impact of DACA: Forging Futures Despite DACA’s Uncertainty*, Immigration Initiative at Harvard (2019), [The Long-Term Impact of DACA: Forging Futures Despite DACA’s Uncertainty | Immigration Research Library](#).

<sup>37</sup> Ike Brannon, *Extending DACA’s Protection Creates Jobs and Tax Revenue for the U.S. Economy*, Forbes (Jul. 31, 2021), [Extending DACA’s Protection Creates Jobs And Tax Revenue For The U.S. Economy \(forbes.com\)](#).

<sup>38</sup> *Id.*

<sup>39</sup> Paul Krugman, Opinion, Lumps of Labor, N.Y. Times (Oct. 7, 2003), <https://goo.gl/GyYTG5>.

<sup>40</sup> Buttonwood, Keep on Trucking, The Economist (Feb. 11, 2012), <https://goo.gl/x8vqaL>.

<sup>41</sup> See, e.g., Adi Gaskell, *Immigrants Create More Jobs Than They Take*, Forbes (Nov. 11, 2020), [Immigrants Create More Jobs Than They Take \(forbes.com\)](#).

<sup>42</sup> See Jacqueline Varas, Am. Action Forum, *How Immigration Helps U.S. Workers and the Economy* (Mar. 20, 2017), <https://goo.gl/ovHQEh>.

<sup>43</sup> Brannon, *supra* note 37.

<sup>44</sup> Proposed Rule, Deferred Action for Childhood Arrivals, 86 Fed. Reg. 53736, 53801 (Sept. 28, 2021).



## II. The Proposed Rule Also Protects American Businesses' Reliance On DACA Recipients As Important Customers.

DACA beneficiaries are also important customers for American companies—buying goods and services by exercising their significant purchasing power. Over the past decade, as these individuals have increased their earning power as a result of the work authorization that DACA provides, they have contributed back to the American economy by exercising their spending power to stimulate and sustain American businesses.

Predictably, eligibility for work authorization under DACA has increased Dreamers' incomes, which has correspondingly increased their purchasing power.<sup>45</sup> With work authorization, Dreamers have been able to take advantage of previously unavailable opportunities and find better-paying jobs, which in turn has allowed them to contribute in new ways as consumers of American products and services. According to a 2019 national survey, Dreamers' hourly wages increased by 86% after they became eligible for work authorization under DACA. As a result, 79% of the study's respondents reported that they became financially independent for the first time, with 60% of respondents reporting that they bought their first car after receiving DACA eligibility and 14% reporting that they bought their first house.<sup>46</sup> In 2017, the DACA-eligible population held a total of \$19.4 billion in spending power.<sup>47</sup> That same year, DACA-eligible spending totaled at least \$100 million in 26 states.<sup>48</sup>

This increased spending power – combined with the newfound security Dreamers have experienced regarding their immigration status after receiving a grant of deferred action – has enabled DACA recipients to make purchases and investments that help our nation's economy grow and flourish. Because a majority of U.S. jobs are in the service sector, the American economy particularly depends on paying customers, without whom industries in the retail, healthcare, and hospitality sectors would not be able to thrive and support American jobs.<sup>49</sup> Indeed, consumer spending in the United States fuels around 70% of the nation's overall economic activity.<sup>50</sup> But, as the American economy continues to grapple with the Coronavirus pandemic, consumer

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<sup>45</sup> Tom K. Wong et al., *Results from Tom K. Wong et al., 2020 National DACA Study* (2020), <https://cdn.americanprogress.org/content/uploads/2020/10/02131657/DACA-Survey-20201.pdf> (finding that study respondents who were 25 or older reported wage increases of 129% after they received work authorization under DACA); *see also* Milady Nazir, *UTSA Study: DACA Protection Leads to Sizeable Economic Gains*, *UTSA Today* (Oct. 1, 2021), [UTSA study: DACA protection leads to sizeable economic gains | UTSA Today | UTSA | The University of Texas at San Antonio](#) (A new study found that “[t]he incomes of DACA beneficiaries more than doubled over the four-year span of the research, from \$7,627 to \$18,229.”); *see also* American Immigration Council, *supra* note 1 (“According to the results of the 2019 survey and four previous annual surveys, the average hourly wage of respondents increased by 86 percent after receiving DACA ... This not only helped 79 percent of respondents to ‘become financially independent,’ but benefitted the U.S. economy by increasing their purchasing power and tax payments at the federal, state, and local levels.”).

<sup>46</sup> American Immigration Council, *supra* note 1.

<sup>47</sup> New American Economy Research Fund, *supra* note 5.

<sup>48</sup> Velazquez, *supra* note 17.

<sup>49</sup> New American Economy Research Fund, *supra* note 5.

<sup>50</sup> Martin Crutsinger, *US Consumer Spending Up a Modest 0.6% with Inflation High*, *AP News* (Oct. 29, 2021), [US consumer spending up a modest 0.6% with inflation high \(apnews.com\)](#).

spending slowed significantly, hampering the overall growth of the U.S. economy.<sup>51</sup> In the wake of the pandemic and this new economic reality, the American economy depends, as much as it ever has, on the spending of Dreamers. With their increased purchasing power, Dreamers have frequented restaurants, solicited services, and purchased goods from American businesses at a time when businesses desperately need reliable consumers. They have paid mortgages and rental payments and invested in real estate. They have also contributed federal, state, and local taxes. Through these myriad contributions, Dreamers have supported the growth and success of countless American businesses throughout a pandemic that has riddled the economy with unforeseen hardships, and adoption of the Proposed Rule would bring certainty and stability to a population whose consumer spending has become an integral part of the backbone of the American economy.

### III. DACA Recipients Provide Important Benefits To The Entire U.S. Economy.

Dreamers are expanding the U.S. economy and creating new jobs—by starting and running their own businesses as well as by stimulating overall economic activity.. Like many other immigrant populations, Dreamers are entrepreneurs themselves, creating companies and running local businesses in communities across the country. As one 2019 survey reported, six percent of Dreamers (and nearly nine percent of Dreamers 25 years and older) started their own businesses after they were granted deferred action under DACA.<sup>52</sup> This rate is nearly twice that of the American public as a whole.<sup>53</sup> These businesses, in turn, employ nearly 86,000 people.<sup>54</sup> They also generate significant revenue, as businesses started by Dreamers reported a total income of \$658.7 million in 2015, which is then invested in employees and local economies.<sup>55</sup> Unsurprisingly, small businesses run by Dreamers have helped to revitalize towns across the country.<sup>56</sup>

With their new-found security and hard-fought socioeconomic gains, Dreamers have made massive contributions to the American economy as a whole. By one recent estimate, DACA recipients pay \$566.9 million in mortgages and \$2.3 billion in rental payments each year.<sup>57</sup> As previously noted, Dreamers spend their increased wages on goods and services produced by

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<sup>51</sup> *Id.*

<sup>52</sup> Tom K. Wong, et al., Ctr. for Am. Progress, *DACA Recipients' Livelihoods, Families, and Sense of Security Are at Stake This November* (Sept. 19, 2019), <https://tinyurl.com/y3c742re>; see also *The Financial Contributions of Dreamers: What the U.S. Economy Stands to Lose*, Justice for Immigrants (June 18, 2020), <https://justiceforimmigrants.org/wp-content/uploads/2020/06/Economy-and-DACA.pdf> (In 2017, 5 percent of DACA-eligible immigrants owned their own businesses.).

<sup>53</sup> John Suh, *Ending DACA Doesn't Just Hurt Immigrants – Businesses Across the U.S. Will Feel the Impact*, Entrepreneur (Aug. 9, 2018), [Ending DACA Doesn't Just Hurt Immigrants -- Businesses Across the U.S. Will Feel the Impact \(entrepreneur.com\)](https://www.entrepreneur.com/story/ending-daca-doesnt-just-hurt-immigrants-businesses-across-the-u-s-will-feel-the-impact).

<sup>54</sup> Claudia Flores and Nicole Prchal Svajlenka, *Why DACA Matters*, Center for American Progress (Apr. 29, 2021), <https://www.americanprogress.org/issues/immigration/news/2021/04/29/498944/why-daca-matters/>.

<sup>55</sup> David Dyssegaard Kalick, *Americas Soc'y/Council of the Americas, Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow* at 2, 5, 8-9, Jan. 2015, <https://tinyurl.com/lzuglue>.

<sup>56</sup> *Id.*

<sup>57</sup> Nicole Prchal Svajlenka, *What We Know About DACA Recipients, by Metropolitan Area: Spring 2020 Edition*, Center for American Progress (Apr. 30, 2020), <https://www.americanprogress.org/issues/immigration/news/2020/04/30/484225/know-daca-recipients-metropolitan-area-2/>.



American businesses, and invigorate the nation’s economy with their spending power. They also make enormous economic contributions to their communities by paying federal, state, and local taxes, which help fund schools, infrastructure investments, and services like police, fire protection, and economic development. Households with DACA recipients account for \$5.6 billion in federal taxes and \$3.1 billion in state and local taxes each year.<sup>58</sup> In 19 metropolitan areas around the country, Dreamers contribute more than \$25 million in tax revenue.<sup>59</sup> These contributions are particularly important at a time when many states’ budgets have been constrained by the COVID-19 global pandemic.<sup>60</sup>

The American economy simply cannot afford to lose these fiscal contributions, especially as it recovers from the impacts of a global pandemic. Eliminating DACA would inflict serious harm on American companies, workers, and the U.S. economy as a whole. Employers would lose qualified, valued employees at a time when they desperately need skilled workers. Companies would lose dependable consumers. Workers would lose employers and colleagues. All in all, the United States could stand to lose as much as \$460 billion in national GDP if it were to remove DACA protections for Dreamers.<sup>61</sup> On the other hand, strengthening and preserving DACA would improve the educational and economic prospects of another generation of young Dreamers, which, by one estimate, “would increase tax revenues by nearly \$90 billion” over the next decade.<sup>62</sup> Beyond their fiscal contributions as consumers and taxpayers, moreover, Dreamers also improve America’s economic prospects in several less quantifiable ways.

For example, DACA increases the human capital available in the United States by drastically improving the educational outcomes of an enormous youth population.<sup>63</sup> Before the DACA program was announced in 2012, undocumented youth faced steep, sometimes insurmountable educational and social barriers that often prevented them from realizing the same economic opportunities as their peers.<sup>64</sup> In the years since the DACA program was created, Dreamers have earned higher education degrees, obtained better-paying jobs, and ascended to

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Nicole Svajlenka and Philip E. Wolgin, *What We Know About the Demographic and Economic Impacts of DACA Recipients: Spring 2020 Edition*, Center for American Progress (Apr. 6, 2020), <https://www.americanprogress.org/issues/immigration/news/2020/04/06/482676/know-demographic-economic-impacts-daca-recipients-spring-2020-edition/>.

<sup>61</sup> Tim K. Wong, et al., *DACA Recipients’ Economic and Educational Gains Continue to Grow*, Center for American Progress (Aug. 28, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>; see also Garry Davis, *The Economic Benefits of the DACA Program*, Davis & Associates (Apr. 1, 2021), <https://gldlaw.com/economic-benefits-daca-program/>.

<sup>62</sup> Ike Brannon, *Extending DACA’s Protection Creates Jobs and Tax Revenue for the U.S. Economy*, Forbes (Jul. 31, 2021), [Extending DACA’s Protection Creates Jobs And Tax Revenue For The U.S. Economy \(forbes.com\)](https://www.forbes.com/sites/ikebrannon/2021/07/31/extending-daca-protection-creates-jobs-and-tax-revenue-for-the-u-s-economy/).

<sup>63</sup> Elaine Mei, *DACA’s Impact on Educational Outcomes*, Dartmouth Department of Economics (Aug. 20, 2021), [DACA’s Impact on Educational Outcomes | Department of Economics \(dartmouth.edu\)](https://economics.dartmouth.edu/daca-impact-on-educational-outcomes/); see also Rouse, *supra* note 32 (“Economists Jennifer Hunt and Marjolaine Gauthier-Loiselle have also shown that immigrants boost innovation, a key factor in generating improvements in living standards. Specifically, they find that a 1 percentage point increase in the population share of immigrant college graduates increases patents per capita 9 percent to 18 percent.”).

<sup>64</sup> Gonzales, *supra* note 36.

positions of leadership in their communities and places of employment.<sup>65</sup> Indeed, a survey tracking DACA recipients after the program's first seven years reported that "DACA facilitated the completion of vocational programs, associate's degrees, bachelor's degrees, and even graduate and professional degrees from master's programs to law and medical school. Respondents then acquired jobs in related fields. Many used these initial employment opportunities as stepping-stones to launch new careers."<sup>66</sup> A 2020 study found that DACA had enabled more than 49,000 additional Hispanic youth to obtain their high school diplomas, and had closed the gap in high school attendance and graduation rates between citizens and non-citizen immigrants by a staggering 40%.<sup>67</sup>

But despite this impressive progress, Dreamers today face new anxieties about their future in America, as recent legal challenges have made the unstable nature of the DACA program all too clear.<sup>68</sup> Even with all that it has achieved, the DACA program, as it currently exists, does not afford the kind of stable protection that could encourage Dreamers to reach their full economic and social potentials. The Notice of Proposed Rulemaking properly recognizes that promulgation of a rule cannot permanently cure these anxieties,<sup>69</sup> but it would alleviate much of the uncertainty and anxiety that surrounds Dreamers' immigration status by clarifying and preserving the program that grants them their lawful presence status. In this way, fortifying DACA is an important investment in the future of the American economy, as extending the program will empower hundreds of thousands of undocumented youth to attain higher education and rise to prominent positions in the economic market. Dreamers are the leaders who will power the American economy for decades to come, and the current uncertainty surrounding the DACA program threatens the very students and young professionals who could be at the helm of innovation and economic growth in the future.

Moreover, improving diversity in the workplace can also help the American economy operate more efficiently and productively. A diverse workforce that includes immigrants is also a more innovative one, as immigrants like Dreamers bring unique perspectives to American businesses. People with different backgrounds naturally offer new perspectives when confronted with problems, and these novel perspectives can open new possibilities.<sup>70</sup> This phenomenon has been demonstrated by a number of empirical studies. Economists Jennifer Hunt and Marjolaine Gauthier-Loiselle, for example, used 60 years of data to conclude that "a 1 percentage point increase in immigrant college graduates' population share increases patents per capita by 9-18 percent."<sup>71</sup> Rescinding DACA, or even allowing it to continue to exist in its current unstable state,

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<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Elira Kuka et al., *Do Human Capital Decisions Respond to the Returns to Education? Evidence from DACA*, 12 *American Economic Journal: Economic Policy* 293, 293 (2020).

<sup>68</sup> Gonzales, *supra* note 36.

<sup>69</sup> Proposed Rule, *Deferred Action for Childhood Arrivals*, 86 *Fed. Reg.* 53736, 53739 (Sep. 28, 2021).

<sup>70</sup> Katherine W. Phillips, *How Diversity Makes Us Smarter*, *Scientific American*, Oct. 1, 2014, <https://tinyurl.com/y4vrn8q2>; see also Deloitte, Waiter, *Is That Inclusion in My Soup? A New Recipe to Improve Business Performance* 8 (2013), [deloitte-au-hc-diversity-inclusion-soup-0513.pdf](https://deloitte-au-hc-diversity-inclusion-soup-0513.pdf).

<sup>71</sup> Jennifer Hunt and Marjolaine Gauthier-Loiselle, *How Much Does Immigration Boost Innovation?*, 2 *American Economic Journal: Macroeconomics* 31, 31 (2010).

would hamper the growth of American businesses, who will miss out on an entire generation of capable entrepreneurs, leaders, and employees.

#### **IV. The Department Has Legal Authority To Promulgate The Proposed Rule.**

The two elements of the DACA program—protection against deportation and eligibility for work authorization—fall well within the Department’s statutory authority.

Congress has broadly authorized DHS to “[e]stablish[] national immigration enforcement policies and priorities.”<sup>72</sup> Section 103(a)(1) of the INA also unambiguously confers to the Secretary of Homeland Security plenary power to direct the enforcement and administration of the nation’s immigration laws.<sup>73</sup> That grant of discretion must include the ability to set enforcement priorities for an agency with limited resources.

Indeed, “deferred action” is a longstanding administrative practice. As the Notice observes, “since at least 1956, DHS and the former INS have issued policies under which groups of individuals without lawful status may receive a discretionary, temporary, and nonguaranteed reprieve from removal.”<sup>74</sup> President Eisenhower, for example, authorized the admission of almost 1,000 foreign born children into the United States, and later Presidents made the decision to parole 600,000 Cubans.<sup>75</sup> In 1987, the Reagan Administration deferred removal actions against minors whose parents were in the process of obtaining legal status as part of its “Family Fairness Program,”<sup>76</sup> and President George H.W. Bush extended the program to qualified spouses three years later.<sup>77</sup> As a purely practical matter, the executive must be able to set priorities for administrative agencies with limited resources, and it may do so by choosing to defer action in certain areas. Unsurprisingly, both the Supreme Court and Congress have recognized this authority, as Congress has enacted statutes expressly recognizing the legal authority to grant deferred action<sup>78</sup> and the Supreme Court has acknowledged the “regular practice” of “deferred action.”<sup>79</sup>

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<sup>72</sup> 6 U.S.C. § 202(5).

<sup>73</sup> 8 U.S.C. §1103(a)(1).

<sup>74</sup> Proposed Rule, Deferred Action for Childhood Arrivals, 86 Fed. Reg. 53736, 53746 (Sep. 28, 2021).

<sup>75</sup> See President Dwight Eisenhower, Statement Concerning the Entry Into the United States of Adopted Foreign-Born Orphans (Oct. 26, 1956), <https://goo.gl/BkztnZ>; American Immigration Council, Executive Grants of Temporary Immigration Relief, 1956-Present (Oct. 2014), <https://goo.gl/Q87gqn>.

<sup>76</sup> Alan Nelson, Legalization and Family Fairness: An Analysis (Oct. 21, 1987), in 64 No. 41 Interpreter Releases 1191 app. I.

<sup>77</sup> Mem. from Gene McNary, Comm’r, INS, to Reg’l Comm’rs, Family Fairness: Guidelines for Voluntary Departure under 8 CFR 242.5 for the Ineligible Spouses and Children of Legalized Aliens (Feb. 2, 1990), in 67 No. 6 Interpreter Releases 153, app. I, at 164-65 (Feb. 5, 1990).

<sup>78</sup> See, e.g., 49 U.S.C. §30301 (authorizing States to issue driver’s licenses to immigrants with “approved deferred action status”).

<sup>79</sup> See, e.g., *Reno v. American Arab Anti-Discrimination Committee*, 525 U.S. 471, 483- 85 (1999); *Heckler v. Chaney*, 470 U.S. 821, 831 (1985) (“[A]n agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion.”).

Moreover, permitting deferred action recipients to obtain work authorization is similarly well-rooted in history. In the 1980s, the Reagan Administration promulgated a regulation that codified the existing practice of allowing individuals who receive deferred action to apply for work authorization.<sup>80</sup> In the four decades since, Congress has never limited this practice in any way. Instead, in 1986, Congress ratified the Attorney General’s authority to grant work authorization to individuals who had been granted deferred action by excluding individuals authorized to work by the Attorney General from a newly enacted law prohibiting employers from hiring unauthorized aliens.<sup>81</sup> Embodying DACA in a DHS rule thus falls squarely within the agency’s legal authority.

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Thank you for the opportunity to comment on this important proposed rule. If you or your staff would like any further information, please contact Aleix Jarvis, [ajarvis@coalitionfortheamericandream.us](mailto:ajarvis@coalitionfortheamericandream.us).

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Momentive	
National Association of Manufacturers	
National Milk Producers Federation	
New American Economy	
Nielsen	
Niskanen Center	
National Retail Federation	

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<sup>80</sup> See 8 C.F.R. § 274a.12(c)(14).

<sup>81</sup> 8 U.S.C. § 1324a(h)(3).