15 March 2006

The Honorable Arlen Specter
Chair, Committee on the Judiciary
711 Hart Building
United States Senate
Washington, DC  20510

Re: Comprehensive Immigration Reform Act Provisions

Dear Senator Specter:

As a long-time proponent of balanced reforms in America’s legal immigration system, IEEE-USA is very encouraged by the inclusion of substantive improvements in temporary student and permanent, employment-based admissions programs in the draft Comprehensive Immigration Reform Act currently being considered by the Senate Judiciary Committee.

We support Title IV proposals to extend the allowable duration of Optional Practical Training for F-1 foreign students from 12 to 24 months and to establish a new F-4 visa program for foreign nationals pursuing advanced degrees in science, technology, engineering, mathematics and related fields at American colleges and universities. Draft bill provisions that would expand employment-based immigrant admissions programs by raising numerical limits on permanent admissions (from 140,000 to 290,000); excluding immediate family members from the limit; recapturing unused immigrant visas from prior years and exempting advanced degrees professionals from the cap are even more important. Taken together, these new student admissions and employment-based immigrant visa provisions will make it much easier for aspiring advanced degree professionals to study and work temporarily in the United States and, if they choose to do so, to adjust to legal permanent resident status on a fast-track to full-fledged U.S. citizenship.

In view of the substantial increases in permanent employment-based admissions that will result from the above changes, and absent the inclusion of any reforms needed to fix the badly-broken H-1B temporary work visa program, IEEE-USA strongly opposes Title IV provisions calling for an immediate increase in the numerical H-1B cap from 65,000 to 115,000, an automatic escalator mechanism in future years and an unlimited exemption for foreign nationals with advanced degrees in STEM fields from U.S schools. Having established an unlimited exemption for advanced degree professionals in immigrant admissions programs, we see no need to do so in the non-immigrant H-1B program.

The attached list of critical studies and reports from key Federal agencies including the General Accountability Office, Inspectors General at the Departments of Labor and Homeland Security and the White House Office of Management and Budget points to significant weaknesses in the H-1B program that must be corrected in order to ensure that U.S workers are not adversely affected and H-1B workers are not exploited. As the Administration concluded last year, the program has major flaws that leave it vulnerable to fraud and abuse that should be fixed statutorily.
APPENDIX

Findings from Official Studies and Reports

H-1B (Specialty Occupations) Temporary Admissions Program
1996 - 2005

1. The Labor Condition Application (LCA) program is being manipulated beyond its intent to provide
U.S. businesses with timely access to the "best and brightest" in international labor markets to meet urgent
but generally temporary needs for specialty occupations while protecting the wage levels of U.S. workers.
(May 1996)

US Department of Labor, Office of the Inspector General, “The Department of Labor’s Foreign Labor
Certification Programs: The System is Broken and Needs to Be Fixed.”
http://www.oig.dol.gov/auditreports/htm [Report # 06-96-002-03-321

2. The Department of Labor’s limited authority to enforce program requirements –
it cannot take enforcement action even if it believes that employers are violating the law – and weaknesses
in the Immigration and Naturalization Service’s (INS) administration leave the H-1B program vulnerable to
abuse. (September 2000)

US General Accounting Office, “H-1B Foreign Workers: Better Controls Needed to Help Employers and
Protect Workers.” http://www.gao.gov/ [Report # GAO/HEHS-00-157]

3. Much of the information policymakers need to effectively oversee the H-1B program is not available
because of limitations in the Department of Homeland Security’s (DHS) current tracking systems. Without
this information, they don’t know if the H-1B program is meeting employers’ needs for highly skilled
temporary workers in the current economic climate or how to adjust policies that may affect labor market conditions over time, such as the H-1B visa cap. (September 2003)


4. The applications processing system used by DoL is designed to certify labor condition applications quickly rather than to screen out those that do not meet program requirements. In spite of this limitation, the OIG continues to identify cases of fraud and abuse involving LCAs filed by fictitious companies and by individuals who file using the names of legitimate companies without their knowledge or permission. (Sept 2003)


5. Unlike the Permanent Labor Certification statute, the temporary labor condition application (LCA) statute waives a labor market test, does not require submission of supporting documentation by employers, limits DoL’s authority to review or question LCAs submitted by employers and prioritizes the processing efficiency rather than the overall effectiveness of the H-1B program. (Feb 2005)


6. The Citizenship and Immigration Services (CIS) at the Department of Homeland Security (DHS) has neither the technology nor an operational methodology needed to ensure compliance with statutory limits on the numbers of persons who are granted H-1B visas. Faced with the prospect of issuing too few or too many approvals, it has been CIS’s explicit practice to avoid approving too few. (Sept 2005).