TESTIMONY

OF

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ON BEHALF OF
THE COLLEGE AND UNIVERSITY PROFESSIONAL ASSOCIATION FOR HUMAN RESOURCES

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ON
THE LEGAL WORKFORCE ACT

BEFORE

THE
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON
IMMIGRATION AND BORDER SECURITY
OF
THE COMMITTEE ON THE JUDICIARY

Chairman Gowdy, Ranking Member Lofgren and Honorable Members of the Subcommittee, thank you for the opportunity to appear before you today to express support for H.R. 1772, the "Legal Workforce Act." I am the International Employment Manager within Human Resources at North Carolina State University. NC State is an active member of the College and University Professional Association for Human Resources, known as CUPA-HR. I am speaking today on behalf of CUPA-HR.

CUPA-HR serves as the voice of human resources in higher education, representing more than 16,000 human resources professionals at over 1,900 colleges and universities across the country, including 92 percent of all United States doctoral institutions, 77 percent of all master's institutions, 57 percent of all bachelor's institutions, and nearly 600 two-year and specialized institutions. Forty four percent of CUPA-HR's member institutions are public employers, the remaining private. Higher education employs over 3.7 million workers nationwide, with colleges and universities in all 50 States.

By way of context, my institution has been using E-Verify since January 1, 2007, when it was mandated by the State of North Carolina for all public agencies and the University system. As the International Employment Manager at NC State, I have responsibility for the daily oversight of the institution's I-9 and E-Verify processes. With more than 8,000 regular employees, and almost 8,000 more student workers and temporary employees each academic year, including many foreign nationals, our use of the E-Verify process is substantive.

So I will speak to you today as someone who has experienced the positive effects of this program and who has found most aspects of the program to be administratively manageable, as well as someone who might be in a position to offer some informed suggestions as to its implementation by other employers.

CUPA-HR supports the majority of provisions within the Act as being positive for both employers and employees. For example, we support the reduction in the number of documents acceptable to prove identity and employment authorization; we support the recognition of good faith compliance; and we especially support the Act's clear preemption of any state or local law, ordinance or policy on employment verification. By example, as a research-extensive university, NC State has employees in more than 40 states. The current patchwork of policies and laws around the country make it incredibly difficult for employers with worksites in multiple locations to know each jurisdiction's rules regarding employment eligibility verification, much less to interpret and comply.

As NC State wrote in an article for CUPA-HR in 2008 to help allay concerns of other universities around the country about E-Verify, we did not experience the worst-case scenarios that were circulating at the time. We have never, for example, experienced 35% non-confirmation rates. We have found the confirmation turnaround times for the majority of inquiries to be virtually instantaneous. We have developed a successful process for handling foreign national scholars and graduate students who are coming to the U.S. for the first time and who do not yet have a Social Security number. In the six years we've been managing this process, we have experienced only a handful of cases in which a new hire could not present valid documentation or be cleared through the E-Verify process. So we believe the process works as intended.

That said, based on our direct experience, we do have concerns regarding the phased roll-out effective dates for compliance as currently written. In Section 2, the Act would require that within six months after enactment, all federal, state and local government employers re-verify

employment eligibility of any employees that had not previously been run through the E-Verify system. Having verified the entire workforce at NC State under the current E-Verify system, I can tell you with confidence that this is an unrealistic timeframe to achieve full compliance for large employers.

Executive Order 12989, as amended by President George W. Bush in 2008, required all federal contractors with a contract containing the federal acquisition regulation (or FAR) language to use E-Verify to verify the employment eligibility of employees performing work under that contract. NC State is a federal contractor, and we received our first FAR contract in September 2009. We quickly realized that tracking and verifying individual university employees working on FAR contracts would be impractical, since such contracts are constantly starting and ending, and workers on such contracts, especially graduate student workers, would be quite a changeable workforce. So we selected the only other available alternative, to verify our entire workforce, which meant that every active employee would have to be verified if hired before January 1, 2007 -- when we had started E-Verifying all new hires.

We were required to verify all of our pre-existing employees within six months in the E-Verify system. We had to enter data from approximately 12,000 I-9 forms into E-Verify to achieve full compliance, and it took us approximately seven months to fully accomplish the goal, even after hiring full-time temp staff to do nothing but non-stop data entry into the E-Verify system. The time and concentrated effort by me and my staff, my boss, and volunteers from other areas of HR, easily cost NC State more than $250,000 to achieve compliance for 12,000 employees. I will say that it was an incredibly intense and exhausting effort -- and my institution may be fortunate to have more dedicated HR resources in this arena than most. To ease the burden going forward, we have now implemented an electronic system to manage I-9 and E-Verify data, which has an annual cost of more than $20,000.

I can only imagine the costs, time, and technical resources that would be needed by employers with 50,000 or 100,000 existing employees -- or, for my colleagues in other resource-strapped colleges and universities -- the burden of trying to accomplish this within such a timeframe. CUPA-HR would strongly encourage a longer phased roll-out compliance timeline, particularly for the largest employers, of 24 months. Not only can these employers then spread the costs across a longer timeframe, they might also be able to avoid some the extra costs altogether such as hiring temporary staff or re-allocating current staff. In the end, it is more important to have done this process well than to have done it fast.

Additionally, CUPA-HR would suggest allowing a longer re-verification period for those employees with limited work authorization. In Section 2, the Act would require re-verification of such employees (including many foreign nationals) during the three business days preceding the expiration of their current work authorization, after a phased-in implementation period. As an employer with over 3,000 foreign nationals on our payroll during the academic year, it will be challenging at best and impossible at worst for us to re-verify all of these individuals within the three business days before their current work authorization expires. Three business days is not practicable in many situations, including during final exam periods, or in situations of absences due to illness or work-related travel, for example. We support a re-verification timeframe of 30 days. This would give employers a more realistic one-month period to achieve the required re-verification. Our spring semester just ended on Saturday at NC State, and the number of foreign national student employment expiration dates that have popped up in our electronic I-9 and E-Verify system for the end of May is in the hundreds, which is true at the end of every academic year. A three-business day re-verification will be impractical for us and I believe for many institutions, especially those of us with hundreds or thousands of foreign national students or

exchange visitors whose expiration dates tend to converge around the end of the fall or spring semester.

Related to this issue, we would recommend that the Act clearly allow employers to notify employees with limited work authorization up to 60 or 90 days in advance that their employment authorization will need to be re-verified in order for the employment to continue after that expiration date arrives. The new system should also have a mechanism to note when a timely filed extension of status and work authorization has been filed but is still pending with United States Citizenship and Immigration Services (USCIS). If the employer could enter the USCIS receipt number into the new system, it could comply with the Act requirements even while not yet having the new employment expiration dates due processing times out of its control. Likewise, with the "receipt rule" for I-9 completion, if there is a way for employers to enter some proof that a required document was timely applied for by the new employee, it could meet the Act requirements with alternative, valid documentation.

In closing, I would like to express my gratitude to the members of the Subcommittee for your time and attention today. The Legal Workforce Act is a balanced approach to creating a more secure and flexible employment eligibility verification system that will benefit and protect both employers and employees alike. We respectfully encourage the Subcommittee to consider some of the suggestions we have offered today, and I personally thank you for this opportunity to testify.