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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

GLOBAL NURSE FORCE, et al.,

 Plaintiffs,

 v.

 DONALD TRUMP, in his official capacity as
 President of the United States, et al.

 Defendants.

Case No. 4:25-cv-8454-HSG

**[PROPOSED] BRIEF FOR THE STATES
 OF NEW JERSEY, CALIFORNIA, MAS-
 SACHUSETTS, ARIZONA, COLORADO,
 CONNECTICUT, DELAWARE, HAWAI'I,
 ILLINOIS, MAINE, MARYLAND, MICHIGAN,
 MINNESOTA, NEVADA, NEW
 MEXICO, NEW YORK, NORTH CAROLINA,
 OREGON, RHODE ISLAND, VERMONT,
 WASHINGTON, AND WISCONSIN, AND THE
 DISTRICT OF COLUMBIA AS AMICI CURIAE
 IN SUPPORT OF PLAINTIFFS' MOTION
 FOR PRELIMINARY INJUNCTION**

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INTRODUCTION

For years, the H-1B program has been a lifeline for hospitals, public schools, and universities in Amici States, as they have relied on skilled workers from around the world to address critical unmet labor needs, particularly in underserved rural and low-income communities. Faced with persistent and growing shortages of healthcare and education workers, public, nonprofit, and other employers in Amici States have turned to highly motivated and skilled guest workers to help care for patients, educate children, and support vital research and teaching needs at American universities. Far from displacing American workers, these efforts have addressed acute gaps in the provision of basic human services to American citizens. Congress has long recognized the importance of H-1B workers to supporting these core public interests, exempting public, nonprofit research, and higher education employers from the otherwise strict annual cap on H-1B visas.

Yet three months ago, in the Administration's latest effort to close the Nation's doors to foreign talent, the President unilaterally imposed an exorbitant \$100,000 fee on all new H-1B petitions. The President justified this precipitous and drastic change to the program—taken without even an attempt to solicit public comment—by pointing to the allegedly deleterious effects of the H-1B program on domestic workers in the corporate IT industry. But his unsubstantiated assertions run up against reams of evidence showing that the H-1B program broadly benefits the American economy, with positive impacts on domestic workers. Indeed, the new policy will only incentivize private employers to move domestic jobs overseas. And regardless, the policy's focus on corporate IT hiring offers no justification for its broad and undifferentiated reach, which will gut the ability of many healthcare and education employers, including Amici States themselves, to use the H-1B program. Amici States' residents will suffer as a result. Classrooms will grow increasingly understaffed and course offerings reduced, as school districts struggle to find qualified teachers. Medical treatment will be more frequently delayed or forgone. Groundbreaking research will be unfinished. In short, the public interest will be severely harmed—a critical consideration that supports Plaintiffs' request for injunctive relief.

BACKGROUND AND INTERESTS OF AMICI CURIAE

On September 19, 2025, President Trump issued a proclamation (the “Proclamation”) restricting the adjudication of H-1B petitions and H-1B employees’ entry into the United States unless the petitions were accompanied by an unprecedented \$100,000 fee.¹ The Proclamation was set to take effect on September 21 at 12:01 a.m.—less than 48 hours later—and gave the Secretary of Homeland Security exclusive discretion to grant exceptions to the policy.² During the Proclamation’s unveiling, Secretary of Commerce Howard Lutnick added that the fee would be due annually.³ If employers were not willing to pay it, their H-1B employees “should head home.”⁴

Chaos ensued. Employers and employees alike were confused about whom the policy applied to and under what circumstances.⁵ In response, the federal government distributed piecemeal guidance regarding the \$100,000 fee through a series of public-facing statements, memoranda, and FAQs (the “Policy”). For example, the day after the Proclamation was announced, Press Secretary Karoline Leavitt took to social media to explain that the fee is not, in fact, annual and does not apply to current H-1B visa holders or those seeking renewals.⁶ That same weekend, United States Citizenship and Immigration Services (“USCIS”) published a memorandum and a Frequently Asked Questions document, explaining that the Proclamation’s effect is limited to visa petitions that had not yet been filed.⁷ And about a month later, USCIS issued guidance further revising the

¹ See generally Proclamation No. 10973, *Restriction on Entry of Certain Nonimmigrant Workers*, 90 Fed. Reg. 46,027 (Sept. 19, 2025), <https://tinyurl.com/3utk437s>.

² *Id.* at 46,029.

³ Cat Zakrzewski et al., *Trump unveils \$100K yearly fee on H-1B visas in clampdown on legal immigration*, Wash. Post (Sept. 19, 2025), <https://tinyurl.com/2vpwrd37>.

⁴ *Id.*

⁵ See Maria Aspan & Michael Martin, *Trump’s 100k fee for H-1B visas creates chaos, confusion for employers and workers*, NPR (Sept. 22, 2025), <https://tinyurl.com/5r5bh53p>; Madeleine Ngo et al., *Trump’s \$100,000 Visa Fee Spurs Confusion and Chaos*, N.Y. Times (Sept. 20, 2025), <https://tinyurl.com/mtp26tvv>.

⁶ See Karoline Leavitt (@PressSec), X (Sept. 20, 2025, 4:16 PM), <https://tinyurl.com/36u5hecvz>.

⁷ U.S. Citizenship and Immigration Services, *Proclamation, Restriction on Entry of Certain Nonimmigrant Workers, H-1B* (Sept. 20, 2025), <https://tinyurl.com/bd6rhyrp>; USCIS, *H-1B FAQ* (Sept. 21, 2025), <https://tinyurl.com/355vwd9>.

1 Proclamation’s reach, now apparently excluding successful petitions for amendment or change of
 2 status from certain other nonimmigrant visas to H-1B.⁸ Still subject to the new fee, however, are
 3 “new” H-1B petitions filed on behalf of individuals located outside the United States,⁹ which ac-
 4 count for tens of thousands of those approved each year.¹⁰

5 As justification for the Proclamation, the President alleged that the H-1B program—which
 6 “was created to bring temporary workers in the United States to perform additive, high-skilled
 7 functions”—has been exploited to “replace” American employees “with lower-paid, lower-skilled
 8 labor,” suppressing wages and undermining “economic and national security.”¹¹ Relying on un-
 9 supported assertions about the harms caused by “information technology (IT) firms” that rely on
 10 foreign STEM workers, the policy expressly states that its purpose is to “impose higher costs on
 11 companies seeking to use the H-1B program.”¹² Nothing in the Proclamation or the implementing
 12 guidance acknowledges the tens of thousands of H-1B workers hired by public and non-profit
 13 healthcare and education institutions. Yet the Policy sweeps broadly, imposing the prohibitively
 14 high fee on all H-1B petitions, regardless of employer or industry.

15 The sudden and dramatic imposition of an H-1B fee is just one of the federal government’s
 16 recent efforts to exclude international talent from the United States. Just before the Proclamation
 17 issued, the Department of Homeland Security (“DHS”) indicated that it will propose a rule to “re-
 18 form the H-1B program by revising eligibility for cap exemptions,” on which academic and
 19

20
 21 ⁸ See USCIS, *H-1B Specialty Occupations*, <https://tinyurl.com/h5vj62es> (last updated Dec.
 22 12, 2025).

23 ⁹ *Id.*

24 ¹⁰ For example, in 2024, USCIS reported that it approved approximately 65,000 H-1B ap-
 25 plications for initial employment (excluding petitions based on a change of status to H-1B). In
 26 2023, USCIS approved approximately 59,000. See *Characteristics of H-1B Specialty Occupation*
 27 *Workers*, USCIS Fiscal Year 2024 Annual Report to Congress at 17, 59 (Apr. 29, 2025), [https://ti-
 28 nyurl.com/ku2uy2uy](https://tinyurl.com/ku2uy2uy); *Characteristics of H-1B Specialty Occupation Workers*, USCIS Fiscal Year
 2023 Annual Report to Congress at 20, 62 (Mar. 6, 2024), <https://tinyurl.com/y77jw75d>.

¹¹ See Proclamation No. 10973, *supra* n.1.

¹² *Id.*

research institutions rely, “among other provisions.”¹³ That will “make it more challenging to qualify for H-1B specialty occupations” and to “enact other restrictions” on the program.¹⁴

The federal government has also targeted international students—many of whom will need an H-1B visa to remain in the United States after completing their studies and practical training.¹⁵ For example, last spring, the federal government terminated thousands of international students’ Student Exchange Visitor Information System (“SEVIS”) records without notice, placing their ability to continue their studies in the United States at imminent risk.¹⁶ After district courts across the United States enjoined the terminations,¹⁷ the federal government reversed course, restoring the records.¹⁸ And in August, DHS initiated a rulemaking to terminate the longstanding “duration of status” rule, which allows international students to remain in the United States as long as they

¹³ Office of Info. and Regulatory Affairs, OMB, Exec. Office of the President, *Proposed Rule Reforming the H-1B Nonimmigrant Visa Classification Program*, RIN No. 1615-AD00, <https://tinyurl.com/yc75dmaw>.

¹⁴ *NFAP Policy Brief: H-1B Petitions and Denial Rates in FY 2025*, Nat’l Found. for Am. Policy at 9 (Nov. 2025), <https://tinyurl.com/3mau9app>; see also Stuart Anderson, *The Next Trump Immigration Rule Aiming to Restrict H-1B Visas*, *Forbes* (Oct. 7, 2025), <https://tinyurl.com/yc5ep3zh>.

¹⁵ See, e.g., *NFAP Policy Brief: H-1B Petitions and Denial Rates in FY 2025*, *supra* n.14 at 1 (“H-1B visas are important because they typically represent the only practical way for a high-skilled foreign national, including an international student, to work long term in the United States....”); *Characteristics of H-1B Specialty Occupation Workers* (FY 2024), *supra* n.10 at 17–18 (majority of approved petitions for change of nonimmigrant status were from students); *Characteristics of H-1B Specialty Occupation Workers* (FY 2023), *supra* n.10 at 20 (same).

¹⁶ See, e.g., Kimmy Yam & Chloe Atkins, *Trump administration reveals how it targeted thousands of international students on visas*, *NBC News* (Apr. 30, 2025), <https://tinyurl.com/42uvtsrc>.

¹⁷ See, e.g., *Doe v. Trump*, 784 F. Supp. 3d 1297 (N.D. Cal. 2025); *Doe v. Noem*, 781 F. Supp. 3d 1055 (E.D. Cal. 2025); *Doe # 1 v. Noem*, 781 F. Supp. 3d 246 (D.N.J. 2025); *Doe #1 v. Trump*, 785 F. Supp. 3d 575 (D. Ariz. 2025).

¹⁸ See, e.g., Zach Montague & Hamed Aleaziz, *U.S. Restores Legal Status for Many International Students, but Warns of Removals to Come*, *N.Y. Times* (Apr. 25, 2025), <https://tinyurl.com/mr285c33>; Ashley Mowreader, *Federal Government Reverses SEVIS Terminations*, *Inside Higher Ed* (Apr. 25, 2025), <https://tinyurl.com/yh2pdruu>.

are in compliance with their visas.¹⁹ DHS’s proposed rule would instead limit their period of admission to a fixed term, forcing them to reapply even if their academic course of study does not conclude during that term.²⁰

The federal government’s objective is clear: deter—and perhaps even bar—highly-skilled foreign nationals from investing their talents in the United States, leaving states and localities, healthcare providers, K-12 school systems, colleges, research institutions, businesses, taxpayers, and others to bear the consequences. Among those directly harmed by the Policy are Amici States, who rely on the H-1B program to support core public services. Amici States employ thousands of H-1B workers and are home to myriad other employers—public and private alike—who depend on highly-skilled foreign nationals to fill critical vacancies. But the policy’s \$100,000 price tag will make it exceedingly difficult, if not impossible, for many employers to use the H-1B program. This is particularly true for non-profit and publicly funded institutions like universities, hospitals, and public schools that simply cannot afford the fee. And, more broadly, Amici States and the Nation will be left with a weakened economy as foreign nationals take their talents to other countries.

Amici States, denied the opportunity to comment on the procedurally deficient \$100,000 fee Policy and harmed by its implementation, now write to emphasize the public interest considerations that support the Plaintiffs’ request for injunctive relief and that underscore the importance of the notice-and-comment process.²¹

¹⁹ *Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media*, 90 Fed. Reg. 42,070 (proposed Aug. 28, 2025), <https://tinyurl.com/ycmfw9uw>.

²⁰ *See id.*

²¹ “Amici States” include the States of New Jersey, California, Arizona, Colorado, Connecticut, Delaware, Hawai‘i, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, and Wisconsin, the Commonwealth of Massachusetts, and the District of Columbia.

ARGUMENT

I. THE PUBLIC INTEREST FAVORS INJUNCTIVE RELIEF BECAUSE H-1B WORKERS ARE CRITICAL TO THE AMICI STATES' ECONOMIES AND TO ADDRESSING EMPLOYMENT SHORTAGES IN KEY FIELDS.

In evaluating a request for a preliminary injunction, courts consider whether the “injunction is in the public interest.” *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008). “This is particularly the case where ‘the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences.’” *Inst. of Cetacean Research v. Sea Shepherd Conservation Soc’y*, 725 F.3d 940, 946 (9th Cir. 2013) (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)). Hardship to third parties, like Amici States, is integral to the public interest analysis. *See Golden Gate Rest. Ass’n v. City & Cnty. of S.F.*, 512 F.3d 1112, 1126–27 (9th Cir. 2008).

This Court has already determined that “cessation of a radical change in [H-1B] policy that negatively affects...hundreds of thousands of American businesses of all sizes and economic sectors”—like the Policy—furtheres the public interest. *See Nat’l Ass’n of Mfrs. v. DHS*, 491 F. Supp. 3d 549, 570–71 (N.D. Cal. 2020) (enjoining President Trump’s Proclamation 10052, which suspended entry of nonimmigrant temporary workers, including H-1B workers, during COVID-19). That is just as true here, as the new H-1B fee will impose grave harms in particular on the healthcare and education systems in Amici States. *See, e.g., City & Cnty. of S.F. v. Trump*, 897 F.3d 1225, 1244 (9th Cir. 2018) (“[T]he public interest cannot be disserved by an injunction that brings clarity to all parties and to citizens dependent on public services.”); *City & Cnty. of S.F. v. USCIS*, 981 F.3d 742, 762 (9th Cir. 2020) (affirming injunction against DHS’s redefinition of “public charge,” where the rule would have “adverse effects on the health and welfare of the immigrant as well as general population”).

A. By Undermining The H-1B Program, The New \$100,000 Fee Will Broadly Harm Amici States, Their Economies, And Their Residents.

Congress developed the modern H-1B visa program to address the need “for highly skilled, specially trained personnel to fill increasingly sophisticated jobs for which domestic personnel

cannot be found” and “the need for other workers to meet specific labor shortages.” H.R. Rep. No. 101-723 (1990), reprinted in 1990 U.S.C.C.A.N. 6710, 6721, 1990 WL 200418. While formally established by the Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (1990), the program has roots dating back to the 1950s, when Congress established an “H visa” for “an alien having a residence in a foreign country which he has no intention of abandoning who is of distinguished merit and ability and who is coming temporarily to the United States to perform temporary services of an exceptional nature requiring such merit and ability.” Immigration and Nationality Act, Pub. L. No. 82-414, § 101(a)(15)(H), 66 Stat. 163, 168 (1952). Sponsoring H-1B candidates is a laborious process Congress carefully designed to ensure that employers hire foreign nationals out of need, not mere preference. And this design paid off: H-1B workers have successfully filled labor gaps, particularly in industries providing core public services, like education and healthcare, while fortifying national and state economies. This extreme fee undermines those benefits.

To fulfill the program’s purpose—remediating problematic labor shortages—and balance the need to protect American workers, Congress has imposed carefully calibrated requirements on employers seeking to hire H-1B workers.

First, U.S. employers may only hire foreign nationals to fill jobs in “specialty occupations,” which involve the “theoretical and practical application of a body of highly specialized knowledge” and require “a bachelor’s or higher degree in the specific specialty (or its equivalent).” 8 U.S.C. § 1184(i)(1); *see also* 8 C.F.R. § 214.2(h)(4)(ii). In other words, only limited occupations can be filled by an H-1B worker, and those workers must be highly skilled to qualify for a visa.

Second, employers must complete wage and employment certifications pledging to pay H-1B workers *the higher* of the wage they pay (1) to workers with similar experience and qualifications and (2) the prevailing wage for that job in the relevant geographical area. *See* 8 U.S.C. § 1182(n)(1)(A). They must also attest that H-1B employees’ working conditions “will not adversely affect the working conditions of workers similarly employed,” that “[t]here is not a strike or lock-out in the course of a labor dispute in the occupational classification,” and that the employer has

provided notice to employees in the occupational classification and location for which H-1B workers are sought. *Id.* § 1182(n)(1)(A)–(C).

Third, new H-1B visas are generally subject to a numerical limit. 8 U.S.C. § 1184(g). The government caps the aggregate number of visas available to nearly all employers at 85,000 each fiscal year, with 20,000 reserved to foreign workers with an advanced degree—just 0.05% of the American labor force.²² Approximately 442,000 foreign workers vied for these slots in fiscal year 2025, meaning USCIS rejected over 300,000 H-1B beneficiaries.²³ Importantly, though, Congress exempted higher education, as well as nonprofit and governmental research employers, from the cap, 8 U.S.C. § 1184(g), recognizing the interest in ensuring that such institutions can meet their hiring needs. And to top it off, employers must pay various filing fees with H-1B petitions to cover fraud prevention and processing costs. These fees are prescribed by statute and DHS regulations and typically range from \$960 to \$7,595 for an initial H-1B petition. *See* 8 U.S.C. § 1184(c)(9)(A)–(B); *id.* § 1184(c)(12)(A)–(C); *id.* § 1356(u)(3); 8 C.F.R. § 106.2(a)(3); *id.* § 106.2(c)(4); *id.* § 106.2(c)(5)(i); *id.* § 106.2(c)(8); *id.* § 106.2(c)(11); *id.* § 106.2(c)(13); *id.* § 106.4; *id.* § 214.2(h)(19).

Unsurprisingly, given its careful structure, the H-1B program has proven to be massively beneficial to the United States and the Amici States. Today, there are an estimated 730,000 H-1B visa holders in America, and an additional 550,000 dependents, representing nearly 1.3 million U.S. residents.²⁴ Together, H-1B workers and their dependents contribute \$86 billion annually to the economy, and pay \$24 billion in federal and payroll taxes, on top of \$11 billion in state and local taxes.²⁵

There is overwhelming evidence that specialized H-1B workers grow the economy by

²² *NFAP Policy Brief: H-1B Petitions and Denial Rates in FY 2025*, *supra* n.14 at 1.

²³ *Id.* at 6.

²⁴ Andrew Moriarity, *The H-1B Visa Program*, fwd.us. (Jan. 27, 2025), <https://ti-nyurl.com/2rjn7x38>.

²⁵ *Id.*

1 increasing productivity and innovation and by developing new technologies and businesses, to the
 2 benefit of domestic workers and the broader public. One study found that H-1B holders caused
 3 30–50 percent of all productivity growth in the U.S. economy between 1990 and 2010.²⁶ Indeed,
 4 “H-1B workers have an especially big impact on American innovation,” as they frequently drive
 5 new “patents, innovation, and entrepreneurship.”²⁷ As a result, all workers benefit, as the produc-
 6 tivity growth driven by H-1B workers “causes more higher-paying jobs for native workers, both
 7 with and without a college education, across all sectors.”²⁸ A bevy of research supports this, show-
 8 ing that H-1B visa holders are associated with a range of positive economic indicators for the
 9 country, including lower unemployment rates and faster earnings growth among college gradu-
 10 ates,²⁹ higher wages,³⁰ higher job growth,³¹ increased employment of domestic workers,³² and
 11 firm value creation.³³

12 Not only is the H-1B program a clear net-positive for Amici States and the country, but H-
 13 1B visas are also not a zero-sum game where the benefits come at the expense of domestic workers.
 14 Instead, a broad body of research shows that the H-1B program does not displace domestic
 15

16 ²⁶ Giovanni Peri et al., *STEM Workers, H-1B Visas, and Productivity in US Cities*, 33 J.
 17 Lab. Econ. S225, S227 (2015), <https://tinyurl.com/u5ary523>.

18 ²⁷ Alex Nowrasteh, *Don’t Ban H-1B Workers: They Are Worth Their Weight in Innovation*,
 CATO Institute (May 14, 2020), <https://tinyurl.com/3n4hvx4b>.

19 ²⁸ Michael A. Clemens, *New US curb on high-skill immigrant workers ignores evidence of*
 20 *its likely harms*, Peterson Inst. Int’l Econ. (Sept. 22, 2025), <https://tinyurl.com/5cxzmcnp>; see also
 Giovanni Peri & Chad Sparber, *Presidential Executive Actions Halting High Skilled Immigration*
 21 *Hurt the US Economy*, U.C. Davis Global Migration Center (July 2020), [https://ti-](https://tinyurl.com/bsubr3tc)
[nyurl.com/bsubr3tc](https://tinyurl.com/bsubr3tc).

22 ²⁹ See Madeline Zavodny, *NFAP Policy Brief: The Impact of H-1B Visa Holders on the*
 23 *U.S. Workforce*, Nat’l Found. for Am. Policy at 1 (May 2020), <https://tinyurl.com/5n6j9nv3>.

24 ³⁰ *Id.*

25 ³¹ See Sari Pekkala Kerr et al., *Skilled Immigration and the Employment Structures of US*
 26 *Firms*, 33 J. Lab. Econ. S147, S183 (2015), <https://tinyurl.com/yk2yrwr9>.

27 ³² See Parag Mahajan et al., *The Impact of Immigration on Firms and Workers: Insights*
 28 *from the H-1B Lottery*, Fed. Reserve Bank of Richmond at 25 (May 2025) (“H-1B hires seem to
 crowd-in other workers, such as non-college workers, as lottery-winning firms expand their usage
 of workers outside of the immigrant college group.”), <https://tinyurl.com/mvc4arwr>.

³³ Hiao Jiang et al., *Undervaluing Immigrants*, SSRN (Nov. 21, 2025), [https://ti-](https://tinyurl.com/42d7p3mj)
[nyurl.com/42d7p3mj](https://tinyurl.com/42d7p3mj).

workers.³⁴ For one, as detailed below, many employers face acute labor shortages, particularly in areas like education and healthcare. But more generally, research and data have demonstrated that “H-1B visa holders do not adversely affect U.S. workers,”³⁵ with studies failing to find displacement of domestic workers, even at the individual firm level.³⁶ By contrast, *restrictions* on H-1B visas have proven to harm domestic workers—including by “induc[ing] more American companies to hire workers overseas.”³⁷

If the United States cannot attract and retain the top talent from around the world, it will lose one of its defining and historic competitive advantages.³⁸ The \$100,000 fee will cause exactly this outcome, harming Amici States, their economies, and their domestic workforce.

B. The New Fee Will Specifically Harm Amici States And Their Residents By Exacerbating Healthcare Provider Shortages And Reducing Access to Care

The H-1B visa program is crucial to ameliorating significant healthcare provider shortages nationwide.³⁹ Without H-1B nurses, physicians, surgeons, and other medical staff, patient care—particularly in rural and low-income communities—will suffer across the United States.⁴⁰ This

³⁴ A Senate report for the H-1B Visa program directly addressed this misguided critique: “Many of the concerns about H-1B visas revolve around the fear that individuals entering on H-1B visas will ‘take’ a job from an American worker. This fear arises from the premise that there is a fixed number of jobs for which competition is a zero-sum game. But this premise is plainly flawed[.]” S. Rep. 106-260 at 11–12 (Apr. 11, 2000).

³⁵ Zavodny, *supra* n.29 at 1.

³⁶ Mahajan et al., *supra* n.32.

³⁷ Liya Palagashvili & Patrick O’Connor, *Unintended Consequences of Restrictions on H-1B Visas*, Mercatus Ctr.–George Mason Univ. (Jan. 28, 2021), <https://tinyurl.com/bddwj9d3>.

³⁸ Peri & Sparber, *supra* n.28 (“The world competes for global talent. Lost technological and productivity growth in the US could mean increased growth elsewhere.”).

³⁹ See Fran Smith, *The Health Divide: Trump’s new H-1B visa fee could worsen America’s doctor shortage*, USC Annenberg Ctr. for Health Journalism (Oct. 13, 2025), <https://tinyurl.com/32ja6j5d>.

⁴⁰ See *id.*; Omar Abughanimeh & Mouhanna Abu Ghanimeh, *H-1B Visa Program and Implications for Health Care*, JAMA (Oct 29, 2025), <https://tinyurl.com/7h8zk5ay>; David Ovalle, *Rural America relies on foreign doctors. Trump’s visa fee shuts them out*, Wash. Post (Dec. 8, 2025), <https://tinyurl.com/5ceys47a>.

means “longer waits and care farther from home for people who already struggle to be seen,”⁴¹ degraded patient care, and even closures of health care facilities.

In the United States, qualified healthcare workers are in short supply. The American Medical Association (“AMA”) and 50 other medical organizations recently projected a shortfall of 86,000 physicians by 2036.⁴² Other studies estimate this shortage may be significantly higher—over 187,000—by 2037.⁴³ The shortfall results in part from a large portion of the physician workforce nearing retirement age, with two in five active physicians reaching age 65 or over within the decade.⁴⁴ The United States also faces a deficit of trained nurses, with a projected national shortage of over 108,000 registered nurses by 2038.⁴⁵ Moreover, these shortages affect millions of Americans’ quality of medical care. “[A]pproximately 75 million people live in a primary care Health Professional Shortage Area [HPSA],” “58 million people live in a dental health HPSA,” and “122 million people live in a mental health HPSA.”⁴⁶ Inadequate medical staffing leads to a host of negative consequences: decreases in the quality of patient care; increased errors, wait times, and mortality rates; and even facility closures. Simply put, adequate medical care is not feasible with inadequate staffing.

Amici States are no strangers to this phenomenon. Indeed, New Jersey has one of the lowest concentrations of primary care physicians in the country with roughly 17 doctors per 100,000

⁴¹ Abughanimeh & Ghanimeh, *supra* n.40.

⁴² *Letter to Kristi Noem from National Medical Societies and State Medical Associations* (Sept. 25, 2025), <https://tinyurl.com/4zc525ba>.

⁴³ *State of the U.S. Health Care Workforce, 2024*, Nat’l Ctr. for Health Workforce Analysis (Nov. 2024), <https://tinyurl.com/mr4aeukr>.

⁴⁴ *See AAMC Report Reinforces Mounting Physician Shortage*, AAMC (Jun. 11, 2021), <https://tinyurl.com/bp6shv73>.

⁴⁵ *Nurse Workforce Projections, 2022–2038*, Nat’l Ctr. for Health Workforce Analysis (Dec. 2025), <https://tinyurl.com/4pzpa6hj>.

⁴⁶ *State of the U.S. Health Care Workforce*, *supra* n.43. A HPSA “can be geographic areas, populations, or facilities. These areas have a shortage of primary, dental, or mental health providers.” *What is a Shortage Designation*, Health Res. & Servs. Admin. (Jun. 2023), <https://tinyurl.com/3xjbrky8>.

1 people.⁴⁷ Arizona similarly faces a critical shortage of primary care physicians, and will reportedly
 2 need 493 additional primary care physicians by 2035 to erase current shortages.⁴⁸ In Rhode Island,
 3 there are only 700 primary care providers for a population of 1.1 million,⁴⁹ and at least 300 addi-
 4 tional physicians are needed to cover the State.⁵⁰ Amici States also face critical nursing shortages.
 5 For instance, New Jersey is expected to have 10% fewer nurses than it needs by 2035.⁵¹ California
 6 is facing a projected shortage of 84,750 registered nurses by 2038, and New York is likewise facing
 7 a deficit of almost 40,000 nurses by 2030.⁵² In Minnesota, as of March 2024, 29.9% of physicians
 8 are within retirement range, and there is a projected shortfall of 2,260 doctors by 2030, with an
 9 especially acute projected shortfall of 1,187 primary care physicians.⁵³

10 H-1B medical professionals “play a critical role in filling this void,”⁵⁴ often working di-
 11 rectly for Amici States or their agencies and subdivisions. Approximately 8,492 H-1B visas went
 12 to workers in medicine and health occupations in the 2024 fiscal year,⁵⁵ and thousands of these
 13 medical professionals serve Amici States’ residents. In New Jersey, for example, USCIS approved
 14 4,854 H-1B beneficiaries between 2009–2025 in the “Healthcare and Social Assistance” category,
 15

16 ⁴⁷ See Christopher Cheney, *New Jersey Primary Care Report Has National Implications*,
 17 N.J. Health Care Quality Inst. (Feb. 21, 2024), <https://tinyurl.com/3xj428eb>.

18 ⁴⁸ *Arizona Medically Underserved Areas–Biennial Report*, Ariz. Dep’t of Health Servs. at
 21–22 (Oct. 2024), <https://tinyurl.com/sszhrts7>.

19 ⁴⁹ Alexandra Leslie, *Hundreds more physicians needed to address RI primary care short-
 age, experts say*, WPRI (Feb. 19, 2025), <https://tinyurl.com/2vssfy3a>.

20 ⁵⁰ *Id.*

21 ⁵¹ *Fact Sheet: Nursing Shortage*, Am. Assoc. of Colls. of Nursing (May 2024), [https://ti-
 nyurl.com/5bn7358f](https://tinyurl.com/5bn7358f).

22 ⁵² See *Nurse Workforce Projections, 2023–2038*, *supra* n.44; *New York State Department
 of Health Honors 350,000 Nurses in Observance of National Nurses Week, May 6–12*, N.Y. State
 Dep’t of Health (May 10, 2023), <https://tinyurl.com/4xpsp8tj>.

23 ⁵³ *Minnesota Physician Shortage Facts*, Cicero Inst. (Mar. 5, 2024), [https://ti-
 nyurl.com/4r3zf4sm](https://tinyurl.com/4r3zf4sm).

24 ⁵⁴ *Letter to Kristi Noem*, *supra* n.42; see also Tony Payan et al., *Reduce Health Care Labor
 Shortages by Recruiting Skilled Immigrants*, Baker Inst. (Nov. 6, 2024), [https://ti-
 nyurl.com/zk7a8uby](https://tinyurl.com/zk7a8uby).

25 ⁵⁵ In FY 2024, USCIS granted 141,205 H-1B petitions for initial employment. *Character-
 istics of H-1B Specialty Occupation Workers (FY 2024)*, *supra* n.10 at 16, 57.

1 with 342 approved in 2025 alone.⁵⁶ In Connecticut, UConn Health currently has 58 employees on
 2 H-1B visas, and in 2025 UConn filed 39 H-1B petitions.

3 H-1B medical workers are indispensable in rural and low-income communities that des-
 4 perately need doctors. While 20% of the U.S. population lives in rural areas, only about 11% of
 5 physicians practice there, leading to disparate health outcomes for rural residents.⁵⁷ H-1B
 6 healthcare workers have played an outsized role in addressing these disparities in care: For in-
 7 stance, between 2001 and 2024 almost 23,000 H-1B physicians worked in underserved communi-
 8 ties,⁵⁸ with “64 percent of foreign-trained physicians...practicing in Medically Underserved Areas
 9 [MUA] or Health Professional Shortage Areas [HPSA].”⁵⁹ A recent study found that “foreign
 10 healthcare workers fill critical gaps in health systems such as primary care and rural health, and
 11 millions of Americans depend on them to receive timely and high-quality care.”⁶⁰

12 Amici States’ experience underscores how vital H-1B healthcare workers are to addressing
 13 these shortages in rural and low-income communities. In California, for example, access to spe-
 14 cialists and primary care providers in rural areas is already extremely limited and is projected to
 15 worsen as physicians retire and these communities struggle to attract new doctors. About 11.4
 16 million Californians—roughly one quarter of California’s population—live in federally designated
 17 Primary Care Health Professional Shortage Areas.⁶¹ Minnesota’s rural areas have less than one-

19 ⁵⁶ See USCIS, *H-1B Employer Data Hub*, <https://tinyurl.com/579wcd9v> (these numbers
 20 are the total beneficiaries, which includes new employment approvals, continuation approvals,
 21 change with same employer approval, new concurrent approvals, change of employer approvals,
 and amended approvals).

22 ⁵⁷ See Breno Braga et al., *Migration Policy and the Supply of Foreign Physicians: Evidence*
 23 *from the Conrad 30 Waiver Program*, Nat’l Bureau of Econ. Research Working Paper No. 32005
 at 2 (Dec. 2023), <https://tinyurl.com/4mejbj4z>.

24 ⁵⁸ *Letter to Kristi Noem*, *supra* n.42.

25 ⁵⁹ *Id.* MUAs “have a shortage of primary health services within geographic areas.” *What*
 26 *is a Shortage Designation*, *supra* n.46 (providing the definition of HPSAs).

27 ⁶⁰ Michael Liu et al., *Health Care Professionals Sponsored for H-1B Visas in the US*,
 28 JAMA (Oct. 29, 2025), <https://tinyurl.com/yusu7ers>.

⁶¹ *New Survey Highlights Worsening Shortage of Physicians in Rural California*, Cal.
 Health Care Found. (Jun. 26, 2025), <https://tinyurl.com/ys9zx6hn>.

tenth the number of family medicine physicians and less than one-hundredth the number of internal medicine practitioners for every 100,000 residents as the State's metropolitan areas. There are similarly striking disparities across other critical specialties such as pediatrics, psychiatry, general surgery, and obstetrics and gynecology. And of Minnesota's relatively few rural physicians, almost one in four plan to leave the workforce within the next five years.⁶² Likewise, in New York's 16 rural counties, there are four primary care physicians for every 10,000 people.⁶³

Importantly, foreign doctors working in underserved communities do *not* limit U.S. trained physicians' employment opportunities. Recent studies show that less restrictive visa policies for foreign-born doctors do not "crowd out" U.S. born physicians, but simply increase the overall pool of physicians, filling essential gaps in coverage.⁶⁴ For many medical positions across the country, and particularly in underserved communities, "health care systems are not choosing between eager lines of US applicants and an [international medical graduate] with an H-1B; they are choosing between filling a slot that serves patients and leaving it empty."⁶⁵

The new H-1B fee will make it all but impossible to hire new healthcare workers on H-1B visas, exacerbating already severe medical staffing shortages, dangerously degrading patient care, and harming Amici States' residents. Hospitals and other health care facilities that hire foreign-trained physicians are generally public or non-profit entities and are unable to afford the fee mandated in the Policy. As the President of the AMA explained, "[i]f a hospital needs 50 foreign residents, and it's \$100,000 each for each one, that's \$5 million, and that's not going to happen.... There will be shortages."⁶⁶ The consequences, he explained, are that "spots at hospitals will

⁶² *Rural Health Care in Minnesota: Data Highlights*, Minn. Dep't of Health at 23, 25 (Nov. 2025), <https://tinyurl.com/msuahcu4>.

⁶³ See Thomas P. DiNapoli, N.Y. State Comptroller, *The Doctor Is...Out: Shortages of Health Professionals in Rural Areas* (Aug. 2025), <https://tinyurl.com/mrxu8cf2>.

⁶⁴ Braga et al., *supra* n.57 at 3.

⁶⁵ Abughanimeh & Ghanimeh, *supra* n.40.

⁶⁶ Roni Caryn Rabin, *Medical Groups Warn Against Visa Fees for Foreign Doctors*, N.Y. Times (Sept. 26, 2025), <https://tinyurl.com/8bt7srs2>. For example, Frederick Health in Maryland had been planning to sponsor up to 45 nurses on H-1B visas, but those plans are on hold given the

not be filled. Wait times will go up, and people will wait even longer at emergency departments.”⁶⁷
 The \$100,000 fee will also “predictably fall hardest on institutions least able to absorb it, likely
 rural health care systems that are already wrestling with staffing vacancies and financial issues.”⁶⁸
 Consequently, the communities that are in most dire need of healthcare workers will suffer dispro-
 portionately from this policy. At a time when many hospitals are already facing serious financial
 stress from cuts in health insurance subsidies and reduced Medicaid payments, paying a \$100,000
 fee for H-1B healthcare workers is simply not feasible.⁶⁹

The loss of a crucial segment of the healthcare workforce will endanger access to quality
 care for many of Amici States’ residents who most need it.⁷⁰ Without access to international phy-
 sicians and nurses, hospitals will be forced to reduce capacity in ICUs, emergency rooms and
 surgical units. Wait times will increase and patient outcomes will worsen, especially in rural and
 urban communities that are already medically underserved. As the Nation’s population ages, there
 will not be enough doctors to care for older adults, many of whom suffer increased rates of chronic
 disease and have other complex medical needs.⁷¹ America’s shortage of healthcare workers will
 become even more dire, and patients across the country will suffer directly as a result.

The \$100,000 fee will also harm public and private hospitals that rely on the H-1B program
 to hire researchers to staff critical medical research projects.⁷² A shortage of qualified researchers
 will force hospitals to eliminate projects aimed at developing new treatments and therapies, se-
 verely limit the availability of clinical trials to assess the safety and efficacy of new treatments,

new \$100,000 fee—as they “cannot afford that [fee] for even one individual.” Natalie Brand, *Hos-
 pitals hope for exemption from Trump administration's new \$100,000 H-1B visa fee: “We cannot
 afford that,”* CBS News (Oct. 29, 2025), <https://tinyurl.com/wuuyjr4a>.

⁶⁷ Rabin, *supra* n.66.

⁶⁸ Abughanimeh & Ghanimeh, *supra* n.40.

⁶⁹ Rabin, *supra* n.66.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² For example, one study found that “80% of nephrology fellowship programs, which pro-
 vide specialty training after residency, had J-1 or H-1B visa holders among their clinical or re-
 search fellows.” Smith, *supra* n.39.

1 and stymie hospitals' ability to remain on the forefront of medical innovation that improves and
 2 protects the well-being of Amici States' residents.

3 **C. The New Fee Will Specifically Undermine American Education, Worsening The**
 4 **K-12 Teacher Shortage And Weakening Higher Education.**

5 H-1B workers also serve crucial roles as educators, both in K-12 school districts and higher
 6 education. As of 2024, nearly 30,000 approved H-1B petitions—approximately seven percent of
 7 all approved petitions—were from the educational services sector, making it the fifth-largest in-
 8 dustry with respect to the number of H-1B workers employed.⁷³ In the face of ongoing K-12
 9 teacher shortages, those approvals mean manageable class sizes, a greater range of course offer-
 10 ings, and higher quality instruction. And for higher education, those approvals mean innovation,
 11 cutting-edge research, and best-in-class training and scholarship. If allowed to stand, the Admin-
 12 istration's draconian fee will make it exceedingly difficult—if not impossible—for educational
 13 institutions to hire international support, leaving American students and the public to bear the con-
 14 sequences.

15 *K-12 Schools.* The United States faces a severe K-12 teacher shortage. Year over year, the
 16 Bureau of Labor Statistics estimates 103,800 openings for kindergarten and elementary school
 17 teachers, 40,500 openings for middle school teachers, and 66,200 openings for high school teach-
 18 ers.⁷⁴ But last year, a staggering 74% of school districts reported having trouble filling these open-
 19 ings, mostly due to a lack of qualified candidates and too few applications.⁷⁵ The problem is even
 20
 21

22 ⁷³ *Characteristics of H-1B Specialty Occupation Workers* (FY 2024), *supra* n.10 at 16, 57.

23 ⁷⁴ U.S. Bureau of Labor and Statistics, *Occupational Outlook Handbook: Kindergarten*
 24 *and Elementary School Teachers*, <https://tinyurl.com/4ye3p8hz>; U.S. Bureau of Labor and Statis-
 25 tics, *Occupational Outlook Handbook: Middle School Teachers*, <https://tinyurl.com/y2rktv2j>; U.S.
 26 Bureau of Labor and Statistics, *Occupational Outlook Handbook: High School Teachers*, [https://ti-](https://ti-nyurl.com/4tum5zz6)
 27 [nyurl.com/4tum5zz6](https://tinyurl.com/4tum5zz6).

28 ⁷⁵ *See Most U.S. public elementary and secondary schools faced hiring challenges for the*
start of the 2024–25 academic year, Nat'l Ctr. for Educ. Statistics (Oct. 17, 2024), [https://ti-](https://tinyurl.com/4ux3j3ar)
[nyurl.com/4ux3j3ar](https://tinyurl.com/4ux3j3ar).

more acute in rural and other underserved areas.⁷⁶ To fill these teaching gaps, hundreds of school districts have turned to H-1B educators.⁷⁷ In fiscal year 2025, for example, 500 K-12 public school districts employed more than 2,300 H-1B visa holders nationwide.⁷⁸

Amici States' experiences confirm this trend. New Jersey, for example, has faced a years-long teacher shortage, resulting in increased class sizes, overburdened teachers, and more limited curricula.⁷⁹ This shortage is only expected to worsen, given the substantial decline in provisional teacher certifications relative to the number of professionals permanently exiting the teaching profession.⁸⁰ Like other Amici States, New Jersey schools have turned to H-1B workers to fill the gap. For example, in 2022, the Camden County School District passed a resolution to use the H-1B visa program to fill months-long vacancies, with a focus on foreign language positions and on ensuring adequate support for non-native English speakers.⁸¹ Camden County is just one of approximately 20 New Jersey school districts that petitioned for H-1B educators to supplement their workforce in 2025.⁸²

⁷⁶ See Richard M. Ingersoll & Henry Tran, *Teacher Shortages and Turnover in Rural Schools in the US: An Organizational Analysis*, 59 Educ. Admin. Quarterly 396, 421 (Apr. 2023), <https://tinyurl.com/56b7sswh>; Zeke Perez Jr., *Recruiting Teachers in Areas of Critical Need*, Educ. Comm'n of the States (Nov. 19, 2025), <https://tinyurl.com/56wkndns>.

⁷⁷ See NEA Data Brief: *H-1B Visas in Public School Districts*, Nat'l Educ. Ass'n (Oct. 8, 2025), <https://tinyurl.com/4cy98ksj>; Madeleine Ngo, *Trump's H-1B Visa Fee Could Strain Universities and Schools*, N.Y. Times (Oct. 8, 2025), <https://tinyurl.com/4y6f9h3n>; Sequoia Carrillo, *Many rural schools rely on international teachers. Trump's visa changes threaten that*, NPR (Oct. 15, 2025), <https://tinyurl.com/5dtz8uku>.

⁷⁸ NEA Data Brief: *H-1B Visas in Public School Districts*, *supra* n.77.

⁷⁹ Nikita Biryukov, *New Jersey school districts still face teacher shortages as new school year begins*, N.J. Monitor (Sept. 3, 2024), <https://tinyurl.com/3dv6855u>.

⁸⁰ Daniel Douglas et al., *New Jersey's Teacher Workforce Landscape: 2024 Annual Report*, Heldrich Ctr. for Workforce Dev. at Rutgers Univ. at 24 (Feb. 2024), <https://tinyurl.com/3dew-cwpb>.

⁸¹ Norris McLaughlin P.A., *New Jersey School District Votes to Utilize H-1B Program for Teaching Vacancies*, The Nat'l L. Rev. (Mar. 3, 2022), <https://tinyurl.com/38sfvtfh>.

⁸² This count includes charter and private schools. See USCIS, *H-1B Employer Data Hub*, *supra* n.56.

Other Amici States have also turned to the H-1B program to address the unmet need for K-12 educators. To address the “extensive shortage of qualified educators in the state,” California school districts were granted 287 H-1B visas for teachers for the 2023–2024 school year—a six-year high.⁸³ Arizona has also relied on international educators to address its persistent teacher shortage—over 1,000 unexpected vacancies were reported at the start of the 2025–2026 school year, and approximately 4,200 teaching positions are reportedly being filled through long-term substitutes, contracted personnel, classified staff, and student teachers.⁸⁴ For example, some districts report that 10% of certified staff, and 26% of all teachers, are international,⁸⁵ and Arizona public schools reportedly requested 130 H-1B visa approvals in 2025.⁸⁶ A superintendent affirmed that he does not “even have candidates to speak with and interview....[Their] only choice is hiring international teachers.”⁸⁷ In Illinois, where 3,864 teaching positions were unfilled in the 2023–2024 school year,⁸⁸ some districts, such as Chicago Public Schools (CPS), have successfully recruited international teachers to fill vacancies for a range of positions that are especially difficult to staff, including bilingual teachers; speech-language pathologists; and special education, math, and computer science teachers. CPS currently employs 82 H-1B visa holders, including 58 teachers, clinicians, or service providers in school-based roles, and 24 highly-skilled technical workers in the central office who provide critical district-wide services. Similarly, Maryland faces persistent K-12 teacher shortages, with more than 1,600 teacher vacancies across the State’s public

⁸³ *Report to the Legislature: Teacher Credentialing: Teacher Preparation Outside of the United States and H-1B Work Visas*, Cal. Dep’t of Educ. at 1, 3, 5–7 (Nov. 2024), <https://tinyurl.com/2f9d75rt>.

⁸⁴ *See Arizona Teacher Shortage Impact Fall 2025 Report*, Ariz. Dep’t of Educ. (2025), <https://tinyurl.com/4skzw2mv>.

⁸⁵ Erica Little, *Short on teachers, Pinal districts increasingly turn to international educators*, PinalCentral (Aug. 21, 2025), <https://tinyurl.com/zzvmtrds>.

⁸⁶ *NEA Data Brief: H-1B Visas in Public School Districts*, *supra* n.76.

⁸⁷ Little, *supra* n.85.

⁸⁸ Illinois State Bd. of Educ. et al., *Educator Shortage Report: Academic Year 2024–2025* at 2, 5 (2025), <https://tinyurl.com/5t3a7rpk>.

1 school systems at the start of the 2024–2025 school year.⁸⁹ The shortage is exacerbated by a sig-
 2 nificant retention challenge, as 10% of Maryland’s public-school teachers do not return each
 3 year.⁹⁰ Several Maryland school districts—including Baltimore City Public Schools, Prince
 4 George’s County Public Schools, and Montgomery County Public Schools—have therefore relied
 5 heavily on H-1B teachers to fill critical positions in hard-to-staff schools.⁹¹ Baltimore City Public
 6 Schools, for example, currently sponsors 80 H-1B visa holders, including 78 teachers. Over 84%
 7 of Minnesota school districts responding to a Minnesota Professional Educator Licensing and
 8 Standards Board survey reported a teacher shortage with a significant effect on their schools.⁹²

9 As with healthcare providers, H-1B educators are not displacing domestic workers but are
 10 instead filling roles that would otherwise go vacant. As one school superintendent has explained,
 11 hiring H-1B teachers became necessary “because we quite simply didn’t have other applicants for
 12 those positions.” They are “certainly not taking jobs from Americans,” but instead are “filling jobs
 13 that otherwise just simply we would not get filled.”⁹³

14 In a profession where median salaries are well under \$100,000,⁹⁴ many schools will lack
 15 the resources to pay an additional \$100,000 fee for a K-12 teacher on top of a competitive salary,
 16 filing fees, and legal costs. As school administrators have lamented, “to pay that fee on top of a
 17 salary is just gonna kill the H-1B for education.”⁹⁵ As a result, thousands of schools in Amici

18 ⁸⁹ See Rachel Hise & Alex Reese, *Teacher Recruitment, Development, and Retention*, Md.
 19 State Dep’t of Educ. (Jan. 28, 2025), <https://tinyurl.com/2zpf6cm>.

20 ⁹⁰ See Carey M. Wright, State Superintendent of Schools, *Educator Workforce Data Up-*
date at 6, Md. State Dep’t of Educ. (Feb. 25, 2025), <https://tinyurl.com/yc6y9fjn>.

21 ⁹¹ See USCIS, *H-1B Employer Data Hub*, *supra* n.56.

22 ⁹² *Minnesota’s Education Workforce: Demographic and Compensation Trends*, Inst. on
 Metro. Opportunity, Univ. of Minn. L. Sch. (Mar. 15, 2023), <https://tinyurl.com/4pmduaa2>.

23 ⁹³ See Sarah Raza, *Trump’s \$100,000 H-1B visa fee threatens rural schools and hospitals*
reliant on immigrant workers, PBS (Oct. 8, 2025), <https://tinyurl.com/mtsuywkz>.

24 ⁹⁴ U.S. Bureau of Labor and Statistics, *Occupational Outlook Handbook: Kindergarten*
 25 *and Elementary School Teachers* (2024 median pay \$62,310 per year); U.S. Bureau of Labor and
 26 Statistics, *Occupational Outlook Handbook: Middle School Teachers* (2024 median pay \$62,970
 per year); U.S. Bureau of Labor and Statistics, *Occupational Outlook Handbook: High School*
Teachers (2024 median pay \$64,580 per year).

27 ⁹⁵ Carrillo, *supra* n.77.

1 States will be forced to make a difficult choice: leave classrooms empty or siphon funds from other
 2 needs to cover sponsorship fees. Either choice harms American students.

3 *Higher Education.* The Policy will also harm American colleges and universities that use
 4 the H-1B visa to recruit faculty capable of meeting the needs of world-class universities.

5 As of June 30, at least 930 U.S. colleges and universities collectively employed over 16,000
 6 H-1B workers for academic, research, and other positions.⁹⁶ These workers “educate domestic
 7 students in areas of national need, such as health care, engineering, and education fields” and “of-
 8 ten play an outsized role in advancing innovation and academic research.”⁹⁷ Indeed, nearly half of
 9 the currently approved H-1B visas are for 50 institutions, 48 of which are classified as R1 research
 10 institutions and more than half of which are public four-year universities.⁹⁸ Amici States operate
 11 several of these top institutions that rely on H-1Bs. For example, the University of California, the
 12 world’s largest public academic research system, employs over 1,700 individuals on H-1B visas.
 13 Twenty-four percent are faculty, 30% are researchers, 19% are postdoctoral scholars, medical in-
 14 terns or residents, and 30% are other academics like researchers or librarians. The State University
 15 of New York (SUNY) employs 396 faculty members with H-1B visas, including 110 health sci-
 16 ences and clinical faculty, and 90 H-1B medical residents. Maryland’s public university system
 17 sponsors more than 530 H-1B faculty, staff, and researchers, while the University of Massachusetts
 18 sponsors more than 340. And these states are just a few among many employing H-1B visa holders:
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23 ⁹⁶ See Katherine Knott, *Higher ed’s H-1B visas in 4 charts*, Inside Higher Ed (Sept. 29,
 24 2025), <https://tinyurl.com/yzhb2wbp>.

25 ⁹⁷ Ted Mitchell, *American Council on Education Letter to Secretary Kristi Noem* (Oct. 23,
 26 2025), <https://tinyurl.com/mr35db8n>; Nicolas Morales, *Economic Brief: Understanding the Po-
 27 tential Impact of H-1B Visa Program Changes*, Fed. Reserve Bank of Richmond (Oct. 2025),
 28 <https://tinyurl.com/yc4f4v62>.

⁹⁸ See Katherine Knott, *supra* n.96.

Public universities in Illinois, New Jersey, Washington, Oregon, Hawai‘i, and Rhode Island collectively employ more than 1,000 H-1B visa holders, including as faculty and researchers.

As in the K-12 sector, higher education experts predict that many colleges will be unable to afford the new \$100,000 fee, especially as institutions with the most H-1B visas are already reeling from federal funding cuts.⁹⁹ At a major research university, the total expense could surpass \$10 million a year if the university continued to hire similar numbers of H-1B workers as in years past.¹⁰⁰ But universities almost certainly will not, to the detriment of their ability to excel in research and academia and attract faculty, coveted research funding, and student enrollment. The National Postdoctoral Association confirmed that the fee will “create an enormous barrier for employers seeking to attract top talent from around the world. America’s competitors must be celebrating this radical policy position that lets them steal away extraordinary workers that would otherwise bring their skills to the United States.”¹⁰¹

If allowed to stand, the Policy will also have long-lasting impacts that extend beyond higher education. To start, when Congress exempted institutes of higher education from the H-1B numerical cap, it did so to prioritize providing all students with higher quality instruction, resulting in an American workforce better prepared to enter specialized positions.¹⁰² Now unable to hire qualified candidates, universities may leave American students under-educated and unprepared. And international academics, the “lifeblood of advanced research,” will be unable to bring their talents to

⁹⁹ See *id.*; Josh Moody, *How Trump Forced Cuts at Wealthy Universities*, Inside Higher Ed (Aug. 7, 2025), <https://tinyurl.com/4s8y3b8c>.

¹⁰⁰ Michael T. Nietzel, *Universities May Face Huge Costs From Trump’s \$100,000 H-1B Visa Fee*, Forbes (Sept. 26, 2025), <https://tinyurl.com/ypcrkf92>.

¹⁰¹ *Statement on the Trump Administration’s Recent Proclamation of a Raise in New H-1B Visa Fees*, Nat’l Postdoctoral Assoc. (Sept. 22, 2025), <https://tinyurl.com/y5xnaek2>.

¹⁰² S. Rep. 106-260, *supra* n.34 at 21–22 (“[B]y virtue of what they are doing, people working in universities are necessarily immediately contributing to educating Americans. The more highly qualified educators in specialty occupations we have in this country, the more Americans we will have ready to take positions in these fields upon competition of their education.”).

American universities, where they would otherwise be developing new, cutting-edge technologies and sparking economically productive innovation.¹⁰³

II. AMICI STATES HAD NO OPPORTUNITY TO PRESENT THESE IMPORTANT CONCERNS REGARDING IMPACT OF THE POLICY.

The harms to Amici States outlined above underscore the importance of the notice-and-comment requirements for promulgating such a consequential and far-reaching policy. The statutorily required procedure is not some frivolous bureaucratic exercise; it “gives affected parties fair warning of potential changes in the law and an opportunity to be heard on those changes” while “afford[ing] the agency a chance to avoid errors and make a more informed decision.” *Azar v. Allina Health Servs.*, 587 U.S. 566, 582 (2019). Said differently, this deliberative process mitigates the risk of arbitrary and capricious rulemaking, helping ensure that any rule is “reasonable and reasonably explained,” and that the agency did not “simply ignore an important aspect of the problem,” like the effect of regulation on the impacted parties. *Ohio v. EPA*, 603 U.S. 279, 292–93 (2024) (citation modified); *E. Bay Sanctuary Covenant v. Garland*, 994 F.3d 962, 980 (9th Cir. 2020) (finding asylum rule arbitrary and capricious for DHS’s failure to consider its effects on impacted immigrant populations). By failing to even solicit views on the new H-1B fee, much less consider the impact on states and other regulated parties, the Administration has turned a blind eye to the profound harms the Policy will have on the healthcare and education sectors, in particular—all but ensuring that the government has overlooked “important aspect[s] of the problem.” *Ohio*, 603 U.S. at 293.

Because of their broad involvement in a wide range of policy matters and unique insight into regional and local concerns, States are routine—and highly valued—participants in the rule-making process. Indeed, States have long weighed in on immigration policy during the notice-and-

¹⁰³ See Alex Shaw, *H-1B Fee Hike Threatens Innovation and Talent*, Global Bus. & Econ. J. (Sept. 29, 2025), (describing a Northwestern University postdoctoral researcher, whose “fundamental research [in neuroscience] . . . underpins future medical breakthroughs,” and the Proclamation’s impact on his continued ability to work in the United States), <https://tinyurl.com/7ffvxxfa>.

comment process, and agencies have regularly altered their final rules in response. *See, e.g., Labor Certification Process for the Temporary Employment of Nonimmigrant Aliens in Agriculture in the United States*, 64 Fed. Reg. 34,958, 34,963–64 (Jun. 29, 1999) (revising the date of departure rule for H-2A workers to account for, in part, “the concern of States regarding their need to know [workers’] date of departure”); *Temporary Agricultural Employment of H-2A Nonimmigrants in the United States*, 87 Fed. Reg. 61,660, 61,728–30 (Oct. 12, 2022) (declining to adopt a proposed H-2A staggered entry provision partly due to state concerns regarding “clarity and efficiency” of the provision, as well as “administrative challenges” that may increase the burdens of State Workforce Agencies); *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31,314, 31,438 (May 16, 2023) (revising rule’s preamble to account for concerns raised by States regarding the increased provision of state-funded services for migrants because of the rule).

Here, Amici States were deprived of the opportunity to share important concerns regarding the Policy’s tangible impacts on their economies and human services sectors, like education and healthcare, and the Administration has not otherwise considered the Policy’s impact on states and other regulated parties. The devastating result is a half-baked and harmful policy that will be bad for patients, students, workers, the broader public—and the Amici States.

CONCLUSION

This Court should grant Plaintiffs’ motion for a preliminary injunction.

DATED this 23rd day of December 2025. Respectfully submitted,

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