Testimony of

The Honorable Orrin Hatch

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Like most, if not all, of the Senators on this Committee, I have been approached many times by people who are living illegally within the United States, but who have heartbreaking and compelling personal stories. Often we deal with such situations through private immigration bills. We all recognize that there are times when special consideration is warranted.

Particularly moving are the stories of undocumented alien children who were illegally brought to the United States through no act of their own. Many such people have been in the United States for many years, if not the majority of their lives. By and large, these children are assimilated into American culture; they attend school, participate in extracurricular activities, and even go to college. They grow up to be contributors to society, working to better themselves and provide for their families. But the law denies them any chance, no matter what their individual accomplishments, to become lawful permanent residents.

Take the case of Danny Cairo, an undocumented child from my home State of Utah. Danny's mother brought him into the United States illegally when he was 6 years old, and she abandoned him 8 years later. Danny dropped out of school in order to support himself. Fortunately for Danny, he met Kevin King, who helped Danny to resume his education and then, on September 25, 2001, adopted Danny as his son. Danny is now in his third semester of college at the University of Utah. This seems like a happy ending to the story, but the end is not yet written. Because of the date of his adoption, Danny is ineligible to become a lawful resident of the United States. He lives in legal limbo, ever-fearful that the INS may remove him from the only family he has known. He cannot legally work in this country.

As Mr. King wrote to me, "Danny is exactly what our country needs more of. He is a natural born leader with charisma and intelligence and a drive that will take him wherever he wants to go. But this will not be possible if Danny is unable to obtain permanent residency."

There are a lot of Dannys in the United States today. But there are other people in Danny's situation who drop out of school, join gangs, and bring misery upon themselves, their family, and others. The DREAM Act is aimed at helping both. It gives motivation and hope to those who need it, and it rewards those who work hard to earn it.

Now, there has been some misinformation floating around concerning this bill. So let me make clear what this bill will not do. It will not grant in-state tuition to undocumented children. Rather, it repeals a provision of federal law that prevents States from doing so if they so choose. In other words, it takes immigration - a federal issue - out of a state-based decision. Along with a few other States, my home State of Utah has passed a bill that would allow long-term undocumented

children to pay in-state tuition. Utah's bill, however, is only effective upon the repeal of this provision of federal law.

Turning to the second part of the bill, which provides that a long-term illegal child may earn lawful status upon graduation from high school, let me note that it will not benefit those who crossed the border today, yesterday, 1 week ago, or even 4 years and 364 days preceding the date of enactment. Nor will it benefit those who commit serious crimes. Further, there has been some inaccurate speculation that children who graduate only from middle school and not high school would obtain lawful immigration status under the DREAM Act. This is not accurate, nor is it intended by the bill.

Another area of misinformation concerns the waiver provision of the bill. Contrary to what has been stated by some, an alien convicted of a crime involving moral turpitude or a controlled substance violation is, in fact, ineligible for relief due to the good moral character requirement of this bill. In addition, the "exceptional and extremely unusual hardship" demonstration requirement is not easily met. A simple review of the lesser "extreme hardship" standard as interpreted by the Attorney General demonstrates that mere separation from one's parents, or even the accumulation of significant property in the United States, are insufficient to meet that test.

Finally, the DREAM Act will not provide any immediate benefit to any family member of the child who becomes a lawful permanent resident. First, a lawful permanent resident child cannot petition for his or her parents unless he or she becomes a United States citizen, which takes at least 5 years after obtaining lawful permanent resident status. Second, a lawful permanent resident who marries may petition for his or her spouse and children, but they must wait their turn in line - approximately a 6-year wait.

I sincerely hope that we can all agree that the status quo is unacceptable. We cannot sit idly by while more minds and potential go to waste. Therefore, as I commend Senator Durbin for working with me to draft this substitute amendment, I also ask the rest of my colleagues to consider, and support, this legislation.

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Statement of Senator Orrin G. Hatch (R-UT)
Ranking Republican Member
before the United States Senate Committee on the Judiciary
Executive Business Meeting

The Patent and Trademark Office Authorization Act of 2002

Mr. Chairman, I am pleased that we are considering S. 1754, the Patent and Trademark Office Authorization Act of 2002 today. One of the issues we have long worked on together is strengthening the ability of the United States Patent Office ("USPTO") to do its important work in reviewing and granting intellectual property rights to our inventors and businesses.

For American inventors and businesses to succeed using patent or trademark rights, the USPTO needs to do a quality and timely job in reviewing and granting those rights. To keep quality high and review periods short will require resources, and I think it only fair that the fees our innovators pay for services at the PTO be used by the PTO and not diverted to subsidize other government activities.

At a time when our economy needs support, it seems doubly wrong to levy what amounts to a tax on innovation - a tax imposed by taking a portion of the fees America's innovators and businesses pay to secure protection for their economy-generating products and services and spending it on unrelated government programs. I believe that fees paid to secure patent and trademark rights should be used to process those applications faster with better reliability precisely because getting the products of American ingenuity to market faster helps grow our economy faster.

In addition to establishing the principle that user fees collected by the USPTO should be used to serve those who pay them, the bill makes additional improvements to the way the USPTO does business, further enhancing its ability to serve American companies and inventors. Among these improvements are the requirement that the USPTO develop a user-friendly electronic system for the filing and processing of all patent and trademark applications, and that the PTO to implement and update a strategic plan to enhance patent and trademark quality, reduce pendency, and otherwise improve their systems and services for the benefit of applicants, examiners, and the general public. The bill also contains two sections which will clarify two provisions of current law regarding reexamination of patents to provide greater guidance to the USPTO and its customers about the scope and availability of the reexamination process. Both of these changes should help streamline and reduce the costs of post-grant patent decisions, and both of them are embodied in the two House bills we are also considering today, H.R. 1866 and H.R. 1886.

I am glad to support these bills that will further support the innovators who have driven our economy, and look forward to reporting them today.

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