

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
September 16, 2003

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Ranking Member, Senate Judiciary Committee
"Examining the Importance of the H-1 Visa to the American Economy"
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When the Congress last considered the H-1 visa program in 2000, the United States was in the midst of an extraordinary economic boom. At that time, we authorized a substantial increase in the number of visas under this program, which allows highly skilled foreign workers to come to the United States on a temporary basis. In a few weeks' time the increases we authorized will end, and we will go from allowing 195,000 H-1B visas annually to allowing 65,000. Given the weakness of our current economy, and the rising unemployment we have experienced under President Bush's stewardship, many who supported the increase in 2000 now believe that 65,000 visas are sufficient. I have not yet heard compelling reasons to increase the cap above 65,000, but I look forward to reviewing the testimony of today's witnesses before making any final conclusions on that issue.

Although members may disagree about how many visas should be available, I hope that we can all agree to extend and even strengthen the protections for American workers that are included in the law and which are also slated to expire at the end of the current fiscal year. For example, under current law employers whose workforce includes a substantial percentage of H-1B visa holders must attest that they have not and will not displace an American worker within a 180-day period surrounding the visa petition. We should extend that provision, and consider applying it to all employers, not just so-called "H-1B dependent" ones. Similarly, the Department of Labor's authority to initiate fraud investigations also expires at the end of this month and that, too, should be extended.

In addition, we increased the fee paid by employers petitioning for H-1B visas from \$500 to \$1000 in 2000 in order to better fund worker training programs. The fee will revert to \$500 at the end of this fiscal year absent Congressional action. We need to act to retain the current fee as soon as possible. I know that the H-1B fees make a difference to training programs in my state of Vermont and around the nation. They also preserve the idea behind this program - that the long-term solution to shortages in workers with specialized skills is to educate the American workforce. I understand that John Steadman, the president-elect of IEEE, will offer suggestions to improve our training programs on behalf of America's engineers, and we should take his advice into account as we review the H-1B program.

Finally, I am curious whether our witnesses today support the "carve-out" of 7,000 H-1B visas for nationals of Chile and Singapore, which was included in the legislation Congress passed in July to implement our Free Trade Agreements ("FTAs") with those nations. Statistics released this month by the Department of Homeland Security indicate that neither Chile nor Singapore have been among even the 20 most frequent users of the H-1B program, and yet we are now devoting more than 10 percent of the available visas to those two nations. This is an example of the misguided policies we will have if the Administration continues to include immigration provisions in the FTA's it negotiates. I have joined Senator Feinstein and many others on both sides of the aisle in opposing their inclusion, and I urge the Administration to make the agreements with Chile and Singapore the last FTAs that contain immigration provisions.