

Statement of

The Honorable Chuck Grassley

United States Senator
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Before the Committee on the Judiciary
Subcommittee on Immigration, Refugees and Border Security
"The Economic Imperative for Enacting Immigration Reform"
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For years, our country has struggled to find a way forward on immigration reform. Since the debate reached its peak in 2007, our economy has experienced turmoil comparable to the Great Depression. Americans are out of work, families are being foreclosed on, and businesses are suffering. I agree we must do all we can to improve our economic situation. However, I have concerns with the notion that increasing immigration levels and enacting legalization programs is the answer to the current economic downturn.

We know it's unlikely that this Administration will push immigration reform in the next year and half. However, it's my firm belief that we can find agreement on reforms for high skilled workers - and this hearing is a good first step in starting the discussion.

I've spent a lot of time and effort into rooting out fraud and abuse in our visa programs, specifically the H-1B and L visa programs. I have always said these programs can and should serve as a benefit to our country, our economy and our U.S. employers. However, it is clear they are not working as intended, and the programs are having a detrimental effect on American workers. Thankfully, the H-1B visa program has an annual cap as a stop-gap measure. But frankly, we need to act immediately to enact true reforms. For this reason, and for many years, Senator Durbin and I have worked on legislation to close the loopholes in the programs. Our legislation would ensure that American workers are afforded the first chance to obtain the available high paying and high skilled jobs. We have worked together to make sure visa holders know their rights. We have worked to increase oversight by the executive branch and have advocated for the Departments of Labor and Homeland Security to implement tighter controls. The bill we have written would strengthen the wage requirements, ridding the incentives for companies to hire cheap, foreign labor. Our bill would require companies to attest that they have tried to hire an American before they hire a foreign worker.

The attention that Senator Durbin, I and others have put on H-1B visas has had an impact. Our efforts have increased scrutiny and have forced bad actors to find other ways to enter, live and work in the United States under false pretenses. The increased oversight of the H-1B program, for example, has caused businesses to "think creatively" to get around the program, using both the L and B-1 visa to bypass the requirements and protections under the H-1B visa program.

On February 23, 2010, an employee of Infosys filed a complaint alleging that his employer was "sending lower level and unskilled foreigners to the United States to work in full-time positions at Infoysys' customer sites in direct violation of immigration laws." The complaint further states "Infosys was paying these employees in India for full-time work in the United States without withholding federal or state income taxes." Infosys, one of the top ten H-1B petitioning companies, has worked to "creatively" get around the H-1B program by using the B-1 business visitor visa in order to bring in low-skilled and low-wage workers. However, B-1 visa holders are not able to receive salary or income from a U.S. based company and thus, Infosys is being accused of visa fraud. That plaintiff, Jay Palmer, has written a statement to be placed into the record. The courts will decide if the activities of Infosys were illegal. But I can definitely say that their actions don't comport with the spirit of the law.

In addition to using the B-1 visa to get around the H-1B, companies are looking at ways to increase their use of the L intercompany transfer visa. The L visa program has no annual cap. It does not hold employers to wage requirements. It provides flexibility and allows businesses to bypass the red tape that comes with other work programs. On March 29, 2011, I wrote to the Acting Inspector General at the Department of Homeland Security with my concerns on the L intracompany transferee visa program and requested the office investigate the fraud and abuse. The last review of the program was completed over five and a half years ago with recommendations that have yet to be implemented. Serious loopholes continue to exist and be exploited to the detriment of the system.

That brings me to another program that is undermining American workers, and one that gets very little attention from bureaucrats and investigators. The Optional Practical Training - known as OPT - is a program that was created entirely through regulation. There's nothing in the Immigration and Nationality Act that allows the executive branch to run the OPT program. But, it's high time that we start taking a closer look at the impact this program has on American students and workers. Originally, OPT was created to give foreign students the ability to further their knowledge before returning to their home country. However, today it is being used as a bridge to an employment visa or other immigration status. Students are allowed to work in any field for an extra 12 to 29 months. There is no limit on how many can apply for OPT, and more importantly, it is the schools and universities that principally administers the program. There are very few checks and balances when it comes to the schools and employers. The Department of Homeland Security may not even know where the student is being employed, creating a substantial national security risk. More scrutiny must be placed on this program. This past January, Senator Durbin and I wrote to Secretary Napolitano in regards to this, and other immigration issues. The Secretary in response provided figures which were quite surprising. U.S. Citizenship and Immigration Services approved 95,259 OPT petitions in fiscal year 2010 alone. She did not, however, give any reassurances that the Department would add any safeguards nor will they commit in this economy to reduce the amount of time these foreign students are working in the U.S. I will continue to press the Department for this much needed reform to protect American students and workers.

Finally, I'd like to address the idea being pushed by many immigration advocates and some members in the House of Representatives. As part of the solution to America's immigration

problem, some policy makers have proposed the idea of giving immigrants a green card upon graduation. In their opinion, this would prevent the loss of all the resources put into these students if they are forced to return home. While it is important to keep the best and the brightest, getting a degree from a U.S. institution should not equate to a fast track to citizenship for all. Should this happen, the demand for enrollment in U.S. universities by international students would only increase and further erode the opportunities for American students.

America should continue to be the land of opportunity for those who wish to seek it. We have a rich history of multiculturalism which has helped us become the strong, proud country we are today. Our excellent system of higher education boasts many of the best scholars and researchers in their fields. This system is one of our best resources and should be made available to all American students. For more and more students, this resource is often not available to them. As the amount of international students continues to rise, access to this precious resource for American students is lost. Attaching a green card to each international student's diploma would only accelerate this process and crowd more and more American students out of a chance to achieve their dreams.

I will continue to push for more reforms in our immigration system to ensure Americans are the number one priority and are not displaced. I thank the Chairman and Ranking Member for their courtesies in scheduling this hearing and I look forward to the testimony from our panels of witnesses.