

**Prepared Statement by Senator Chuck Grassley of Iowa  
Chairman, Senate Judiciary Committee  
Subcommittee on Immigration and the National Interest  
Hearing on “The Impact of High-Skilled Immigration on U.S. Workers”  
February 25, 2016**

A little over a year ago, the Committee on the Judiciary held a hearing on “Immigration Reforms Needed to Protect Skilled American Workers.” We heard from witnesses about the H-1B visa program which allows employers to import so-called “specialty” workers from abroad. We heard about fraud and abuse, and how some U.S. workers were forced to train their replacements who were in the country on a work visa. We talked about how federal agencies needed to keep pace with the schemes that some employers use to bypass worker protections.

Today’s hearing can serve as an update to the findings of last year’s hearing. We continue to hear from U.S. workers who have been harmed by the H-1B visa program, and the strong desire by many Americans to see stronger protections and better oversight. Before us today is Mr. Leo Perrero, an American IT worker who, along with several hundred other U.S. workers, was laid off by the Disney Company in 2015 after he was required to train his replacement who was on an H-1B visa. I commend Mr. Perrero for coming forward and telling us his story. I know he is one voice for thousands of laid off American workers who are unable to speak.

Abuse of the H-1B program is dynamic and always evolving; it seems a new scheme to abuse the H-1B visa program is thought up every day. According to recent press reports, there is now a growing movement by U.S. employers and institutions to “hack” the H-1B visa program in order to open up the program to more foreign workers. The concept is aimed at opening up the visa program to more foreign workers by using novel, and seemingly unlawful, interpretations of the law to shoehorn workers into existing cap exempt categories and otherwise make H-1B visas available through cynical exploitation of loopholes in the law.

I sent a letter to the Director of U.S. Citizenship and Immigration Services today, calling his attention to this issue and asking him several questions related to the practice. I’m concerned that this agency is indifferent to the issue. Frankly, I would like to see more oversight from other federal agencies that have a role to play in the H-1B visa program.

Last year, I and nine other senators wrote to the three federal agencies with jurisdiction over the H-1B program and authority to investigate abuses of that program: the Departments of Justice, Labor, and Homeland Security. We asked those departments to investigate the troubling practice so many employers had adopted of laying off American workers and replacing them with H-1B workers. Unfortunately, at this point, no action has been taken. I still have hope that the Office of Special Counsel for Immigration-Related Unfair Employment Practices in the Department of Justice may scrutinize the matter more closely.

However, it’s clear to me, at least, that the Obama Administration is not interested at all in reform of the H-1B program. In fact, it is actually proposing new regulations that make it easier to bring over H-1B workers.

That's why legislative reform of the H-1B program is more important than ever. Last November, Senator Durbin and I co-sponsored S. 2266, the "H-1B and L-1 Visa Reform Act of 2015." This is an updated version of the bill that we have introduced several times over the last decade, now strengthened with several provisions addressing new or previously unknown abuses of the program that have, unfortunately, come to light since our bill was first introduced. Our bill would reform the H-1B visa program by returning it back to its original intent and ensuring that qualified American workers are given the first crack at high-skilled job opportunities.

The legislation makes reforms to increase enforcement, modify wage requirements and ensure protection for American workers as well as visa holders. It clarifies that working conditions of similarly employed American workers may not be adversely affected by the hiring of the H-1B worker, including H-1B workers who have been placed by an employer at the American worker's worksite. In addition, the bill now explicitly prohibits the replacement of American workers by H-1B or L-1 visa holders.

Our bill cracks down on so-called "job shops" by prohibiting companies whose U.S.-based workforce is more than 50% H-1B and L-1 workers from importing more H-1B workers, and generally prohibiting outplacement of H-1B visa holders to other companies without a waiver from the Department of Labor.

The bill also gives the Department of Labor enhanced authority to review, investigate, and audit employer compliance, as well as to penalize fraudulent or abusive conduct. It requires the production of extensive statistical data about the H-1B program, including wage data, worker education levels, place of employment and worker gender breakdown.

The Grassley-Durbin reform bill will also for the first time include enhancements to the annual allocation of H-1B visas that would prioritize allocation of visas to certain high value classes of workers. The new priority allocation system would ensure that students being educated in the United States receive preference for an H-1B visa. The preference system also gives a leg up to advanced degree holders, those being paid a high wage, and those working in shortage occupations.

In addition, the bill includes several reforms of the L-1 visa program. These include establishment of a wage floor for L-1 workers; authority for the Department of Homeland Security to investigate, audit and enforce compliance with L-1 program requirements; assurance that intra-company transfers occur between legitimate branches of a company and don't involve "shell" facilities; and a change to the definition of "specialized knowledge" that reflects more accurately original Congressional intent that the category be limited and reserved only for truly key personnel.

I hope today's hearing will shed further light on the continuing abuses of the H-1B visa program and the ways that these abuses can be terminated, while at the same time giving a voice to the human victims of these abuses.