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Grassley Works to Eliminate Fraud and Abuse from H-1B Visa Program

WASHINGTON – Senate Judiciary Committee Ranking Member Chuck Grassley today is introducing legislation to bring much needed reform to the H-1B and L visa programs, and help ensure that Americans are given top consideration when applying for jobs.

The legislation makes reforms to increase enforcement, modify wage requirements and ensure protection for visa holders and American workers. Grassley believes the bill would provide a good basis for H-1B reform in the comprehensive immigration bill being put together by a bipartisan group of senators.

“Somewhere along the line, the H-1B program got side-tracked. The program was never meant to replace qualified American workers, but it was instead intended as a means to fill gaps in highly specialized areas of employment. When times are tough, like they are now, it’s especially important that Americans get every consideration before an employer looks to hire from abroad,” Grassley said. “The legislation will benefit the American worker, while still ensuring that U.S. companies get the specialized workers they need.”

An October 2008 Benefit Fraud and Compliance Assessment from U.S. Citizenship and Immigration Service revealed more than a 20 percent violation rate by those who use the H-1B visa program. The GAO also revealed in 2011 that the program lacks sufficient controls to ensure that employers are abiding by the rules. Recently, data from fiscal 2012 revealed that the top 10 companies that use the program are offshoring firms that take up nearly 50 percent of the visas available.

A summary of the bill is below. The text of the bill can be [found here](#).

The H-1B and L-1 Visa Reform Act of 2013

- Requires all companies to make a good faith effort to hire Americans first.
- Requires prospective H-1B employers to list available positions on a Department of Labor sponsored website for a period of 30 days prior to petitioning for foreign labor.
- Prohibits employers from advertising only to H-1B visa holders.
- Prohibits companies from outsourcing visa holders to other companies. A waiver is provided for companies that can attest that they have not displaced a U.S. worker, and if it is not a “labor for hire” arrangement.
- Provides that the wages paid to H-1B visaholders must be the highest of (1) the locally-

determined prevailing wage for the occupational classification in the area of employment; (2) the median average wage for all workers in the occupational classification in the area of employment; or (3) the median wage for skill level 2 in the occupational classification found in the most recent occupational employment statistics survey.

- Increases the ability of the departments of Labor and Homeland Security to enforce worker protections by allowing random audits, and removes burdensome requirements for initiating Department of Labor investigations.
- Ensures that an H-1B application filed by an employer that employs 50 or more U.S. workers will not be accepted unless the employer attests that less than 50 percent of the employer's workforce are H-1B and L visa holders.
- Requires Department of Labor employees to share information about H-1B petitions with the U.S. Citizenship and Immigration Services.
- Requires that each employer filing an application for an H-1B visa holder must submit to the Department of Labor the W-2 tax form for each H-1B visa holder employed during the previous period.
- Increases administrative fines per violation from \$1000 to \$2000 and from \$5000 to \$10,000 for willful misrepresentation and restricts the ability of these companies to participate in the future recruiting of H-1B and L-1 employees.
- Requires State Department consular officers to provide a brochure to visa holders about their rights under the H-1B and L visa programs. The employee would also get copies of his immigration paperwork, and a list of employer obligations (including wage and working condition requirements).
- Requires an L visa holder to prove that a legitimate business is being set up in the United States, modifies the wage requirements and outplacement rules, provides L visa holders with a brochure about their rights, and requires a report on the blanket petition application process.

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