

Oh, Canada! How Outdated U.S. Immigration Policies Push Top Talent to Other Countries

US Committee on the Judiciary

Chair Jarrod Jerrold Nadler, NY-10

Response by Lawrence P King

Hearing Date: 7/13/2021

Hearing Link: <https://www.youtube.com/watch?v=JEobWfhZMy4>

King's Remarks

Comment: My response to this hearing and the testimony of witnesses comes from my perspective and experience as a retired African American engineer that began a career in the early 70s, and with acquired experience in domestic and foreign business/marketing development, industrial systems, and energy/environmental research. I currently publish a globally distributed newsletter that facilitates the exchange of information featured in contributed articles for agency officials, education administrators, and business executives across all levels of engineering, science, and technology.

It should be understood my sweet spot is not immigration policy. My commitment to expand opportunities for under-represented minorities in STEM has been my career long commitment. So, let's talk about STEM.

The indiscriminate broadening of what constitutes a STEM profession combined with no established tracking metrics across agencies and industry segments results in the inability to associate loss of jobs by underrepresented persons to guest worker immigration. What is known with the host of reports submitted to members of the committee and others is that major tech workers displacement in favor of guest workers is undeniable and has the effect of depressing the recruitment and retention of the underrepresented in STEM fields. The findings of the committee must include emphasis on this. Black and Brown students who could become a scientist, AI professional, or software engineer have become

collateral losses to the US workforce because of an H1B program that has become ineffective and abused.

The program serves as a flesh-colored Band-Aid over an impotent and crippled system of education and immigration in America. As an incentive to supply low cost and immobile labor for special technology interests, H1B has created a dangerous dependency on a foreign science and engineering worker pool that America cannot continue to afford. There is no doubt that foreign workers support our important industry segments. When thinking about immigrants entering under H1B and other guest worker programs in comparison to persons entering our southern border, I see the former as a greater risk to our security and economic competitiveness.

To grow our nation's science, technology, engineering, and mathematics (STEM) capacity and workforce so all Americans participate in a science and engineering (S&E) intensive economy, the United States must engage more of our population. Changes in work, education, technology, workforce demographics, and international competition is occurring at 5G speed, and our competitiveness, security, manufacturing, and research enterprise is at risk.

It is essential that our science/engineering enterprise be weaned from its dependency on foreign guest workers across all sectors of production. Expanding equitable diversity and inclusion of science and engineering cannot continue as a lofty unmet goal. Too many students/workers from China and India take spots on campuses and in research labs that should be occupied by black/brown Americans and women. If we want top talent, we must develop more talent.

Question: *What is driving this problem?*

Answer: Policy makers and corporate stakeholders are not making long view choices on immigration and education policy are complicit.

Universities make admission decisions driven by disproportionate revenue concern.

Question: *What about the essential worker shortage?*

Answer: Skills gaps are transitional as workers change jobs, job skills change is normal within competitive high tech. Some of the perception over gaps comes from research by sources and consultant tied to the industry.

The race for tech talent can be won by using our native born human capital rather than guest workers. Dependence on foreign guest tech workers is testimony that insufficient resources and investment exists to develop our Black and Brown aspiring tech workers. Lack of investment results in lack of results. We are in competition with nations that do not restrict the path to becoming a software engineer due to their gender or race. The workforce shortage issue has been well known for years and suffers from lack of collective will for corrective actions to solve. The overarching pipeline issue begins in our K12 education system that does not produce enough students that are technically (math/science) competitive with our global counterparts. As an incentive to supply low cost and immobile labor for special technology interests, H1B has built a dangerous dependency on a foreign science and engineering worker pool that America cannot continue to afford.

What is known about H1B, is that program rules create strong and straightforward incentives for employers to prefer an H-1B worker over a US worker. Simply put, H-1B workers can be substantially cheaper. These cost savings come from two key H-1B program rules. First, wage rules allow employers to legally pay their H-1B workers' salaries far lower than what a US worker would command. Second, the H-1B work permit is held by the employer rather than the worker, making it a de facto monopsony—the worker essentially has no choice in selecting their employer. As a result, the employer can exercise its power advantage in bargaining with the H-1B worker over wages and working conditions.

Conclusion

This hearing was convened because of problems in the US immigration system, but in reality, it is a workforce problem. The misinformation being promulgated by supporters and corporations who feed at the H1B trough that claim;

“We cannot find American born technical staff with the needed skills and training”.

Businesses need to affirm that no US citizen with a degree and appropriate skills is available who can do the job and that foreigners will not replace American workers.

Debunking these Inaccuracies

The first of the qualification statements used by corporate cheats is not true and the lie is promoted by lobbyists and other perpetrators. The second is just laughable since smoke and mirrors and other chicanery has blinded policy makers who drink the Kool-Aid. On the last point, there are many instances where American workers have been required to train guest workers entering under H1B and later have been replaced by these persons under contracts with offshore placement firms.

As long as corporations employ plausible deniability and non-feasance to bring in workers from outside the US, American workers will continue to be under-employed in the tech job market. To limit this scheme, any company found guilty and participating in visa fraud, should not be permitted to file for another visa for five (5) years. Visas applied for and granted though that company over the prior 5 years should be revoked after 12 months.

I am pleased with this opportunity to share information concerning the workforce issue and the risk posed to our global competitiveness and national security.

Respectfully,

Lawrence P King

STEM News Technical Journal, LLC