TESTIMONY OF Peter A. Eckstein

ON BEHALF OF
IEEE—USA

FOR THE HEARING ON

The Impact of High-Skilled Immigration on U.S. Workers

PRESENTED TO THE

SENATE JUDICIARY COMMITTEE
Subcommittee on Immigration and the National Interest

FEBRUARY 25, 2016

On behalf of the IEEE-USA, I want to thank Chairman Sessions, ranking member Schumer, and distinguished members of the subcommittee for holding this hearing today. You have a vital job to do in these difficult economic times. We all want to help identify consensus on actions that the Congress can take to create jobs for Americans.

The IEEE-USA is an organizational unit of the Institute of Electrical and Electronics Engineers, Inc., which was founded by Alexander Graham Bell, who was an immigrant, and Thomas Edison, who was not: two Americans who knew something about innovation, about creating not just jobs, but whole industries in this country which have in turn led to better lives for literally billions of people around our planet.

IEEE-USA was created in 1973 to support the career and public policy interests of IEEE's U.S. members. It represents over 200,000 engineering, computing and technology professionals and students. Our mission is to help technical professionals achieve life-long career vitality and provide an effective voice for the profession on policies that promote U.S. prosperity.

Personally, I am the current President of IEEE-USA. A graduate of the New York Institute of Technology, of Adelphi, and of LIU, I am retired from many years working at Northrop Grumman on Long Island, where I built naval electronic warfare systems vital to our national defense. I teach physics and engineering part-time at the US Merchant Marine Academy, and physics at both Suffolk County and Queensborough Community

College.

For the record, the IEEE-USA would like to make a few simple points.

"Immigration" Must Mean Green Cards

It is easy to become confused by the public debate over skilled immigration. Framing a false choice guarantees the wrong decision. Some are very skeptical about employment-based immigration, and regard outsourcing using the H-1B and L visa programs as different only in degree, not in kind. That is wrong.

Let me be clear.

Debating the national interest in attracting a 21st century Alexander Graham Bell to leave his – or her – native country to become an American is a waste of time. It does not take a PhD in economics to know truly innovative people are valuable to America, regardless of where they are born.

The better question is whether we're more likely to attract that 21st century Alexander Graham Bell with a "green card" or with an H-1B visa used primarily to facilitate the outsourcing of a critical technical work function. Clearly, outsourcing is not immigration.

Carefully reading the economic literature will show a consistent failure on the part of pro-outsourcing economists to make the distinctions which matter: Most H-1Bs (more than half) go to outsourcers. Their business model is to recruit tech workers abroad (where the prices are much lower than the US), and bring those workers here to work at substantially less than US wages, because outsourcers compete on price. H-1B workers are easily exploited by the outsourcers while in the U.S., because of their precarious legal status which depends on their employers' good graces. Temporary foreign workers are willing to accept such work because even an exploitative temp job in the US pays so much more than back home.

The workers are trained by the laid off US workers. So this is not a search for skills. When their training is done, a management workforce is left in the US, and the workers are shipped back home, with the jobs. More than half of any year's crop of H-1Bs are used in this manner, so cumulatively it is a very substantial percentage of H-1Bs in the US.

The rest are left on the long, tortuous and uncertain path to green cards.

There are distinctions that matter within this also large population: 1) some are searching for an employer to sponsor them and start labor certification (which can take years); 2) some have a sponsor who has filed for labor certification and are pending in that process (years); and 3) a very substantial number, particularly from India and China, have completed labor certification but are stuck in backlogs of 4, 8, a dozen years -- for only India and China in EB-2, but for all countries (with huge backlogs) in EB-3.

Aren't there very significant and substantial differences in the economic impact of those groups? Particularly between those still on H-1Bs who have less and less leverage in the market, and those with green cards and even naturalized US citizens, who have made it through the gauntlet? Ask the economists on the pro-H-1B side, and you will hear there is no difference and no cost.

But when you look closely, you see the data used by pro-outsourcing economists doesn't make the distinctions which matter: not that the analysis isn't compelling, but they're not looking at the right data to illuminate it.

Pretending that it is helpful to lump all these very different populations together – so that the enormous contributions of actual immigrants are buried and distorted to promote outsourcing, does no one any good.

Outlaw H-1B Outsourcing

Outsourcing is not a search for skills. It isn't a market. It's a Congressionally-provided subsidy for outsourcing American jobs – and even shipping them overseas. The fact that these H-1B workers are being trained by the workers they replace belies any false or misleading claims about skills shortages.

Yet it can be stopped. The IEEE-USA strongly supports S.2266, the bipartisan Grassley-Durbin legislation to reform the H-1B and L visa programs. We recognize that our immigration system is comprehensively broken, and that it must be comprehensively reformed. We also strongly supported S. 744, particularly the high-tech provisions that emphasize more green cards, delivered faster.

There are so many simple steps that Congress can take.

For example: H-1B outsourcing companies are *exempted* from a labor

market test, so long as they hire workers with masters' degrees or pay $60,000 a year. Even tech employers are embarrassed by this loophole, and have suggested raising the rate. But is there a price Congress is willing to set for outsourcing American jobs? At what point are American jobs for sale?

You can do better than that: Eliminate the exemption completely. Why should outsourcing companies get special treatment from the US government?

Another simple step Congress could take: Award H-1B visas by salary. If these visas are so valuable to tech employers and America's future, why on earth are we literally giving H-1B visas away at random? Allocate H-1B visas under the cap to the highest salaries offered first. Make a set-aside for small business: problem solved.

Common Sense

We ask Congress to apply skeptical common sense, particularly to extravagant economic claims: every H-1B creates 1, 2, 10 US jobs? Consider just two different versions of the same study – one on the Norface Research Migration Programme website (a project based in Europe and Canada), and the one publicized in the United States by the Partnership for the New American Economy, Compete America and FWD.us in promoting an H-1B increase. The European version includes this:

> Even more remarkably, H-1B issuances were three times as large as the net increase in college educated STEM between 2000 and 2010. This implies that many foreign STEM workers, including H-1B recipients, must have left the U.S., **while many native STEM workers must have lost their jobs or changed occupations**.[1]

This last phrase has, inexplicably, been omitted from the American version of the report. Same authors (one of whom is testifying before you today), same title, same evidence – yet the one published in Europe acknowledges "many native STEM workers must have lost their jobs", and the one published in America does not.

America deserves a better debate than that.

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[1]http://www.norface-migration.org/publ_uploads/NDP_09_13.pdf Page 13.

Green cards, Not Guest Worker Visas

One reason America so clearly needs comprehensive immigration reform is because our policy for legal immigration was set more than 25 years ago, in the Immigration Act of 1990. Congress chose to promote American economic competitiveness by using our greatest economic and civic advantage over the rest of the world – almost unique among the nations of the world, the United States does not merely admit foreigners as workers. We welcome high skilled individuals from around the world as full Americans.

That is why the 1990 Act nearly tripled employment-based green cards from 54,000 to 140,000 a year – and why Congress set a permanent cap of 65,000 H-1B visas a year. They wanted to ensure that employers hiring foreigners for permanent jobs used legal permanent residency visas— "green cards". This status puts immigrants on a road to citizenship, and while on that road they have all workplace rights and economic autonomy of Americans.

We are not, and should not become, a nation based on more people, with fewer rights.

This is a value judgment. Congress could make our country more like Europe, which issues work permits and tolerates asylum-seekers and calls that "immigration." But that is not our history. It was the Ellis Island model that literally made us America.

It is often said that America is a land of immigrants, because it is true. We ought to say something else a lot more, because it is also true: we are *not* a nation of guest workers. Of course there are seasonal jobs and a certain number of temporary jobs, including international transfers by multinational enterprises that involve temporary workers who should have temporary status. But for most of those with skills whom we want to come to help build America a unanimous finding of the Jordan Commission applies:

> [G]uestworker programs are predicated on limitations on the freedom of those who are invited to enter and work. Experience has shown that such limitations are incompatible with the values of democratic societies. For that very reason, "temporary" guestworkers tend to become permanent residents, *de facto* or even *de jure*. The inconsistency between the stated intent of guestworker programs and their actual

consequences cannot be ignored by policymakers who seek credibility in a reformed system.

The challenge for Congress as you attempt to reform skilled immigration is to avoid this trap.

So the IEEE-USA does not agree with those who lump H-1Bs and Ls and green card backlogs and new Americans together, and oppose all of it. We take the only genuinely pro-immigration position – more green cards, faster.

Green cards, not guest workers.