

Statement of

The Honorable Edward Kennedy

United States Senator
Massachusetts
September 16, 2003

Edward M. Kennedy Hearing Questions
Senate Judiciary Committee Hearing on
"Examining the Importance of the H-1B Visa to the
American Economy"
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Responses from
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Testifying on Behalf of the US Chamber of Commerce

Question 1: From your perspective as an employee of a Fortune 200 company and member of U.S. Chamber of Commerce, can you explain generally why U.S. companies need H-1B foreign professionals? What kinds of industries use H-1B? What are the positions filled by H-1B workers? What professional credentials or specialized skills do H-1B workers possess?

US companies need talented H-1B foreign professionals to fill critical skill shortages found in the US, particularly for high technology jobs that require advanced degrees and/or professional experience in the areas of engineering, computer science, mathematics, and other sciences. Americans continue to earn fewer graduate degrees in math and science and in fact, fall further behind their international competition in virtually any test of math and science literacy. Many H-1B's hired by American companies have been educated at US colleges and universities, particularly at the graduate school level. Additionally, foreign nationals bring bilingual capabilities and multicultural expertise to the companies that employ them that further enhance our capabilities to market our products and services around the world. Our need for such knowledge continues to grow if we are going to maintain our leadership in innovative product design and competitiveness in the global marketplace.

The industries that rely on H-1B workers include manufacturing, information technology, financial services, universities, research centers, medicine, and many others. H-1B workers fill professional highly skilled positions that require a bachelor's degree as a minimum qualification. At Ingersoll-Rand, the majority of H-1B workers are employed in engineering design and product development, information technology that supports business and manufacturing operations, manufacturing management, as sales engineers, and in international financial management positions.

Question 2: In your testimony, you advocate an H-1B policy that recognizes market realities. But there is little reliable data to measure regional labor shortages, or even shortages in specific sectors. What would a market-driven policy look like? How would you measure shortages in the H-1B specialty categories? How can the analysis be broken down by region?

We really do not believe that there needs to any specific measurement of industry or regional shortages. We

believe that H-1B usage will fluctuate depending upon market demand. The Department of Homeland Security's recent report seems to reflect this reality. Usage of the H-1B numbers does in fact mirror the needs of the market. There are currently protections in the law requiring essentially equal pay and benefits. These protections provide adequate safeguards for US workers as long as they are properly enforced.

Inability to meet market demands and company goals will inevitably drive projects overseas, resulting in a loss of more U.S. jobs and a decrease in U.S. spin-off revenue. Trying to second guess a dynamic economy is likely to cause even greater problems.

Question 3: If we enact more restrictions and lower the cap on H-1Bs, what happens if the economy rebounds? Could the new restrictions actually harm our economic growth?

Yes. There is no doubt that further restrictions will harm economic growth. The H-1B visa category is already highly regulated, requiring companies to maintain extensive public access files that document prevail wage data and compliance with all the other attestations mandated by the labor condition application. Additionally, the Department of Labor has the authority to investigate companies that do not properly comply with these regulations. So an effective mechanism for enforcement already exists and I feel further restrictions are unnecessary, burdensome to business, and can limit our economic growth.

As I stated in my remarks, I hope Congress will look for an H-1B solution that is not just based on current economic conditions but will take into consideration that we are beginning to see an economic recovery and understand the skills we need for America to remain competitive in this global economy. We must recognize the fact that there is an unavailability of advanced-degree American professionals in the math, science and engineering disciplines. Education and training of US workers will not fill the gap for many years to come and we have already trained many of these skilled foreign professionals at our own universities. Right now there are many other countries around the globe that are easing immigration requirements to attract foreign-born professional talent for their own economic advantage. We do not want a restrictive immigration policy that limits our hiring ability and lets other countries lure away the talented professionals that generate ideas, innovation, and the prosperity that supports American economic growth.