



# INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL ENGINEERS AFL-CIO & CLC

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May 29, 2013

Dear Senator,

As President of the International Federation of Professional and Technical Engineers (IFPTE), I am writing regarding S. 744, the *Border Security, Economic Opportunity, and Immigration Modernization Act*. This legislation was reported out of the Judiciary Committee earlier this week and will likely be on the Senate floor sometime in June. Absent changes to Title IV of S. 744, which calls for a drastic increase in the annual numbers of H-1B Visas without any concrete reforms to the program, IFPTE recommends that you oppose this legislation.

To be clear, IFPTE remains supportive of the broader objective of providing a path to citizenship for the millions of undocumented workers in our nation. We are especially pleased that this bill will give a swift path to citizenship and immediate relief to the DREAMers – foreign born children brought to this nation years ago from other countries who now find themselves without work authorization and without American citizenship. IFPTE remains supportive of these worthy efforts.

That said, it has also become crystal clear to our union that the bargaining chip for the path to citizenship has become our nation's STEM workers and students. This was evident during the final days of the Judiciary Committee's mark-up last week when Senator Schumer – a leading member of the so-called "gang of eight" – reached a deal with Senator Hatch to successfully foster to passage an all-encompassing amendment to gut the modest reforms to the H-1B program included in Title IV of the underlying bill.

The impact of the Schumer/Hatch compromise is simple: Hundreds of thousands of foreign STEM workers – engineers, scientists, and others – will enter the United States each year for the sole purpose of working in jobs that Americans would normally do. These are jobs that are currently being performed by highly educated and skilled workers, and jobs on the horizon that millions of American STEM students attending our colleges and universities plan to fill. Sadly, Senators Schumer and Hatch, among others, have sold these workers and students down the river, in favor of catering to the high-tech industry's interest in gaining unfettered access to cheap labor from all across the globe.

Make no mistake about it, there are many problems with the H-1B visa program that open up the floodgates to abuses of not only American workers, but the H-1B workers themselves. The most glaring flaw with the H-1B visa is that employers bring H-1B workers into this country and pay them a fraction of what an American worker could demand in any given labor market. There is no concrete wage standard that will force employers to pay H-1B workers the labor market wage that can be demanded by American workers. And, once here and working the H-1B worker is bound to a single company for years without any ability to move from one employer to another. This bill fails miserably in fixing the worker abuses inherent in this program.

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The Hatch amendment was objectionable for several reasons. First, the amendment gutted the language in the bill that required employers to prioritize hiring American workers who are, “equally or better qualified” than H-1B workers. Instead, the Schumer/Hatch compromise will allow American employers to simply overlook well qualified American STEM workers and graduating STEM students in favor of lower paid H-1B workers, regardless of how well qualified they are.

Second, the Schumer/Hatch compromise creates a loophole to exempt employers from the requirement that they cannot hire an H-1B worker within 90 days after firing or laying-off an American worker. Instead it renders the non-displacement language included in the original bill meaningless by giving employers carte blanche to fire American workers and replace them with lower paid H-1B workers. As the bill stands now, unless employers turn themselves in by stating that they intend to replace a ‘specific’ U.S. worker with an H-1B worker they are then allowed to bypass the 90 day waiting period.

Of equal importance, IFPTE would also like to address the huge increase in the annual allotment of H-1B Visas. If passed in its current form, this bill will further undercut American workers by more than tripling the numbers of H-1B Visas from 65,000 to as many as 230,000 a year – not the 180,000 stated in the bill. When the base number of allotted Visas reaches 180,000 there is an escalator that kicks in if all of the visas are issued within the first 45 days. The first escalator trigger is an additional 20,000, but it does not stop there. After 60 days another 15,000 are issued; after 90 days another 10,000; and, on the 185<sup>th</sup> day another 5,000. All total that is another 50,000 visas on top of the 180,000 H-1B Visas, not including the tens of thousands of exemptions already included in the bill. As if that were not bad enough, all spouses of H-1B Visa recipients also get work authorization to work in the United States – STEM and non-STEM alike, and with absolutely no prevailing wage protections to speak of. As you can imagine, while this may be a bonanza for high-tech employers, it is a lose-lose for both American and foreign workers.

Ideally, S. 744 should build on the minimal wage protections included in the bill; re-insert the displacement and hiring protections language that was stripped out due to the voice-vote approval of the anti-worker Schumer/Hatch amendment; eliminate the visa escalator trigger; count the spouses work authorizations against the H-1B cap (and the W cap, or other visa category caps depending on the line of work they pursue); and, adopt language that calls for the collection of occupation data across the workforce so that we can legitimately determine labor shortages in STEM fields using sound data versus blindly accepting the anecdotal claims by a tech industry whose sole interest is importing cheap labor.

IFPTE believes it is not appropriate or fair for politicians to trade the jobs of American workers – in this case STEM workers – in exchange for a path to citizenship. Such a scenario, which is what is reflected in S. 744, is akin to a cruel betrayal of American workers, and, absent the approval of amendments to improve Title IV, IFPTE urges you vote against this legislation in its current form.

Thank you for your consideration. Should you have any questions please contact IFPTE Legislative Director, Matt Biggs, at (202) 239-4880.

Sincerely,



Gregory J. Junemann  
President