



Congress Should Not Eliminate Per-Country Caps

By Pawel Styrna | June 2019

The Issue

In June, Rep. Zoe Lofgren (D-Calif.) filed a motion to fast-track H.R. 1044, the “Fairness for High-Skilled Immigrants Act of 2019,” a proposal to eliminate per-country caps on employment-based visas (green cards). Under rules adopted by the House this session, a bill that maintains 290 cosponsors for 25 days can be placed on the “consensus calendar.” If Lofgren’s measure is placed on the consensus calendar than it will bypass the committee process and head straight to the House floor.

That would be good news for the tech companies and Washington lobbyists who’ve been trying to push different versions of the bill through Congress for years. But it would be bad news because scrapping per-country caps will disadvantage applicants from countries other than India and China and will hurt American workers.

What Are Per-Country Caps?

Per-country caps are an essential feature of our immigration system. The Immigration and Nationality Act (INA) of 1965 replaced the national-origins quota system – which favored immigration from Northern and Western European nations – with per-country caps.

On an annual basis, the INA allocates 140,000 visas for five employment-based categories. The Act also limits each country to an annual cap of 7 percent of all employment-based admissions. In practice, applicants from oversubscribed countries receive more visas than the per-country caps allow because they annually receive employment visas unused by other countries. However, no country is entitled to a given number of green cards.

The rationale behind country caps is clear and reflects the spirit of the INA of 1965. After all, one of the main objectives of the legislation is to ensure that no country, or a small number of countries, is able to monopolize the immigration flow into the United

States. Scrapping employment-based per-country caps therefore would undermine a key pillar of the Immigration and Nationality Act of 1965.

Why Removing Per-Country Caps is Harmful

Eliminating employment-based country caps is step in the wrong direction. If it becomes law, H.R. 1044 would further accelerate the displacement of American tech workers and deepen the tech industry's harmful addiction to cheap foreign labor. It would thus undermine the benefits of a tightening labor market for American workers. (This does not explain why eliminating caps would displace tech workers.

Furthermore, the proposal is deeply unfair to visa applicants outside of India and China, where most of the applicants for tech jobs originate. Currently, the citizens of those two Asian nations – Indians in particular – must contend with a large visa backlog, which is primarily the result of their huge populations (approximately 1.4 billion each). As a result, if per-country caps are eliminated, Indian and Chinese nationals will monopolize available employment-based visas for many years to come, thereby discriminating against the citizens of other countries.

Conclusion

Rather than attempting to benefit tech companies and foreign workers, Congress should put American employees first. Unfortunately, H.R. 1044 will likely pass – unless voters make it clear to their elected representatives that they oppose this harmful legislation.