National Foundation for American Policy

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New Research: Detailed Analysis of Point System Finds Deep Flaws; Foreign Nurses and Many Other Potential Immigrants Unlikely to Gain Admission Under Senate Bill; Inadequate Quotas, Emphasis on Paper Qualifications Among Key Problems

Arlington, Va. – As the U.S. Senate continues debate on a sweeping immigration reform bill, the National Foundation for American Policy (NFAP), an Arlington, Va.-based policy research group, has released a new study calling into question the proposed point system that would replace most current legal immigration to the United States.

The study "The Point System's Impact on Foreign Nurses and Other Potential Immigrants" by Stuart Anderson can be found on the NFAP website at www.nfap.com. (NFAP also is releasing today an analysis of the Senate bill's provisions on H-1B and L-1 visas.)

The study finds foreign nurses, vital to addressing America's nursing shortage in the midst of an aging U.S. population, would be unlikely to gain entry to the United States under the immigration point system contained in S. 1348, the Senate immigration bill. Other categories of professionals and skilled individuals are also unlikely to become immigrants under the new – and perhaps inappropriately named – "merit" visas, the study finds. Internationally renowned actors, athletes, physicians in rural areas, factory managers, certain executives and possibly even Nobel Prize winners may all be left out due to fundamental flaws in the legislation.

"The most serious flaws are insufficient annual quotas and mandating an immigration system skewed toward 'paper' qualifications," said NFAP Executive Director Stuart Anderson, the author of the study. Anderson served as Executive Associate Commissioner for Policy and Counselor to the Commissioner of the INS (August 2001 to January 2003) and as Staff Director of the Senate Immigration Subcommittee.

The bill's language contains ambiguity with regards to such basic questions as to whether points will be awarded for the intended occupation in the United States and what happens when applicants apply in excess of the annual limits. Under one interpretation of the bill a Nobel Prize winner would be better off with a job offer from McDonald's than MIT. How the per country limits in the bill operate in practice will determine whether even individuals who score among the highest will be able to gain permanent residence. The study asks: If 100,000 people from India score 80 or higher under the system but 1,000 individuals from Luxembourg score 40 or less, would the 1,000 people from Luxembourg gain a visa while most of the potential Indian immigrants are denied?

Family members of U.S. citizens, including the adult children and siblings the bill would no longer permit to be sponsored, are exceedingly unlikely to gain admission, despite the assurances of the bill's supporters, the study finds.

The number of people applying under the point system will be far in excess of those annually permitted, leaving foreign nurses and other potential immigrants on the outside of America looking in. Based just on the individuals expected to work on temporary visas and those already waiting for green cards, the oversubscription to the point system should easily reach 1 million people within 5 years of the bill's passage.

The study concludes that upturning the entire legal immigration system on the basis of a backroom deal designed to pass a controversial bill is an enormous gamble for the nation. "If the point system in S. 1348 became law, then no employer in America can be assured that a valued employee or prospective new hire would become a legal immigrant and be able to stay permanently in the United States," said Anderson. Employers need certainty and this bill does not provide it, the study finds.

Points for Potential Immigrants Under S. 1348

Characteristics of Potential Immigrants	Points Awarded Under S. 1348
30 year-old M.A. in electrical engineering, employed 5 years on H-1B visa for U.S. company will to sponsor. Fluent English. No family ties.	90 pts*
29 year-old PhD in molecular biology employed for U.S. research institute on H-1B visa for 4 years. Fluent English. No family ties.	88 pts
33 year-old computer systems analyst employed by U.S. consulting firm for 2 years on H-1B visa. Bachelor's degree (B.A.). Native English speaker.	86 pts
25 year-old dental assistant. Applied for asylum but claim recently denied. Worked for U.S. employer for 5 years (on EAD card) while asylum claim was pending. Mother is legal resident. High school diploma. Fluent English. Employer willing to sponsor.	70 pts
55 year-old Nobel Prize winner in Chemistry. Not fluent in English. No U.S. work experience but a willing sponsor.	46 to 54 pts**
27 year-old nurse, B.A. degree. Job offer. TOEFEL score of 75.	40 to 64 pts***
22 year-old daughter of U.S. citizen. B.A. in business. Not fluent in English. Job offer from U.S. employer.	22 pts

*Source: National Foundation for American Policy and American Council on International Personnel analysis of text of S. 1348. *Depending on interpretations, per country limits that restrict awarding merit visas to 10 percent or less of nationals of one country could prevent the immigration of individuals from India, China and other higher volume countries regardless of point total. **The Nobel Prize winner would see his or her point total lowered by 8 points depending on the interpretation of "U.S. employment in STEM" (STEM means Science Technology Engineering Math).***A nurse's score could drop an additional 24 points, down to 40 points, depending on how agencies interpret the phrases "U.S. employment in High Demand Occupation" (16 points) and "U.S. employment in STEM or health occupation current for at least 1 year" (8 points). The issue in both cases is whether agencies interpret the bill to mean intended U.S. employment or only past U.S. employment.*

About the National Foundation for American Policy
Established in the Fall 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) non-profit, non-partisan public policy research organization based in Arlington, Virginia focusing on trade, immigration and related issues. The Advisory Board members include Columbia University economist Jagdish Bhagwati, Ohio University economist Richard Vedder and other prominent individuals. Over the past 24 months, NFAP's research has been written about in the Wall Street Journal, the New York Times, the Washington Post, and other major media outlets. The organization's reports can be found at www.nfap.com.