

**EMPLOYERS HAVE PAID OVER \$3 BILLION IN
MANDATORY FEES TO HIRE SKILLED FOREIGN
NATIONALS IN PAST DECADE**

EXECUTIVE SUMMARY

In addition to paying skilled foreign-born professionals the same wages as comparable American workers, government data show U.S. employers have been required to pay over \$3 billion in mandatory government fees since 2000. The data call into question critics' assertions H-1B visa holders are hired to save money. Data from U.S. Citizenship and Immigration Services obtained by the National Foundation for American Policy (NFAP) show from FY 2000 to FY 2011, employers have paid over \$2.3 billion to the federal government in H-1B scholarship/training fees (generally \$1,500 per individual), while a \$500 anti-fraud tax/fee on each H-1B and L-1 visa has cost employers more than \$700 million. Including visa adjudication levies, premium processing fees and costs associated with dependent family members the amount employers paid to the federal government to hire H-1B visa holders approaches \$4 billion since 2000. Employers must also typically pay legal fees of \$1,800 to \$2,500 per H-1B temporary visa, as well as staff time, while sponsoring an individual for a green card (permanent residence) can be as high as \$35,000.¹

Among the other findings of this NFAP report, which is based on official government data:

- In addition to charitable donations and state and local taxes to support education, U.S. employers have funded college scholarships for 58,000 U.S. students in science and math through fees paid to hire H-1B visa holders, according to the National Science Foundation.
- While employers train their own workforce, spending over \$50 billion a year, according to *Training* magazine, employer-paid H-1B fees have funded training for more than 100,000 U.S. workers through the Department of Labor since 2000.

COMPANY-PAID H-1B FEES

Mandatory H-1B visa fees paid by employers to fund training and scholarships total almost \$2.4 billion between FY 2000 and FY 2011, according to U.S. Citizenship and Immigration Services data obtained by the National Foundation for American Policy.² (Table 1 provides annual tallies.) The fee is \$1,500 for most employers but \$750 for those with 25 or fewer fulltime employees.

As related in other NFAP reports, H-1B visas are temporary visas that allow foreign nationals to work in the United States on short-term projects or as a prelude to a green card. The visas generally are good for up to 6 years (with a renewal after three years). A reason H-1Bs visas are economically important is that without such visas skilled foreign nationals generally could not work or remain in the United States.³ The current long waits for employer-sponsored green cards (used to stay permanently) make them unrealistic to use for hiring new employees. Therefore, an H-1B visa often is the only practical means for an employer to hire a skilled foreign-

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born professional for a short or long period of time. Under the law, when hiring an H-1B professional, companies must pay the higher of the prevailing wage or actual wage paid to “all other individuals with similar experience and qualifications for the specific employment in question.”⁴

Table 1
Employer-Paid Mandatory H-1B Training/Scholarship Fees: FY 2000-2011

Fiscal Year	H-1B Scholarship/Training Fees Collected
2000	\$ 134,266,000
2001	\$ 234,600,000
2002	\$ 164,975,000
2003	\$ 177,500,000
2004	0
2005	\$ 211,810,579
2006	\$ 263,468,550
2007	\$ 272,540,625
2008	\$ 261,074,967
2009	\$ 221,643,375
2010	\$ 228,052,719
2011 (est.)	\$ 228,052,719
TOTAL	\$2,397,984,534

Source: U.S. Citizenship and Immigration Services, National Foundation for American Policy. Note: Fee collection lapsed in FY 2004 until Congress reauthorized the fee in FY 2005. FY 2011 receipts are estimated based on prior year totals.

The American Competitiveness and Workforce Improvement Act of 1998 (Public Law 105-277) established the H-1B Nonimmigrant Petitioner Account funded by a \$500 fee on each new petition (and the first renewal of H-1B status) for H-1Bs sponsored by U.S. companies. While originally part of a political compromise to fund training and scholarships in exchange for more H-1B visas, the fee has continued at higher levels – without corresponding increases in H-1B visas – and employers have received no apparent political or policy credit for the U.S. students and workers benefitting from the scholarships and training funded by the fee. Employers, with the exception of universities, primary and secondary schools, and non-profit research institutes, are required to pay the fee when they first hire an H-1B professional and again the first time they renew that individual’s H-1B status in the United States.⁵

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Congress increased the fee to \$1,000 in 2000. The “L-1 Visa and H-1B Visa Reform Act,” passed in November 2004, raised the training and scholarship fee again to \$1,500. The November 2004 legislation also adjusted the division of the fees as follows:

- 50 percent to Department of Labor training programs for U.S. workers.
- 30 percent to National Science Foundation scholarships for U.S. undergraduate and graduate students in science and math.
- 10 percent to the National Science Foundation for K-12 math and science programs.
- 5 percent to the Department of Homeland Security for processing.
- 5 percent to the Department of Labor for processing and enforcement.⁶

ANTI-FRAUD FEE TOTAL CLIMBS TO OVER \$700 MILLION SINCE FY 2005

In the “L-1 Visa and H-1B Visa Reform Act,” which passed Congress in November 2004, a new “Fraud Prevention and Detection” tax or fee was established, at \$500, to be paid by employers for individuals who initially obtain H-1B or L-1 status, or when such individuals change employers. As Table 2 illustrates, the anti-fraud fee has raised \$772 million since 2000, with funds divided equally among the Secretaries of State, Labor and Homeland Security to combat fraud.⁷

Table 2
Fraud Prevention and Detection Fee on H-1B
and L-1 Visas: FY 2005 to FY 2011

Fiscal Year	Fraud Prevention and Detection Fees on H-1B and L-1 Visas Collected
2005	\$ 79,213,809
2006	\$130,779,064
2007	\$137,030,999
2008	\$131,229,975
2009	\$ 99,745,017
2010	\$ 97,326,811
2011 (est.)	\$ 97,326,811
TOTAL	\$772,652,486

Source: U.S. Citizenship and Immigration Services, U.S. Department of State, National Foundation for American Policy. FY 2011 receipts are estimated based on prior year totals.

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Public Law 111-230, passed in August 2010, increased the filing fee and fraud prevention and detection fee by \$2,000 for H-1B visas and by \$2,250 for L-1 visas, but only for employers that employ 50 or more employees in the United States and more than 50 percent of the employees are in H-1B or L-1 status.⁸ That money goes to the U.S. treasury, not a particular account, and no data are yet available on the amount of money employers have paid for this additional levy.

COLLEGE SCHOLARSHIPS AND K-12 PROGRAMS FUNDED BY H-1B FEES

Seeking to encourage more U.S. students to enter math and science fields, in 1998 Congress initiated scholarships through the National Science Foundation (NSF) as part of the American Competitiveness and Workforce Improvement Act. “Approximately 58,000 students have received scholarships ranging from one to four years,” according to the National Science Foundation.⁹ The amount of the scholarship has risen from \$3,125 to \$10,000. The scholarships are used by U.S. undergraduate and graduate students pursuing degrees in math and science fields.

An early evaluation of the NSF scholarships conducted by the Government Accountability Office (GAO) concluded: “The program is attracting a higher proportion of women and minorities than are included among computer science, engineering, and mathematics degree awardees.” GAO also interviewed student recipients. “One student told us that even though she excelled in math in high school, she only considered becoming a math major after she learned about the scholarship opportunity.”¹⁰

H-1B fees paid by employers also have been used to fund Private-Public Partnerships in K-12 and Information Technology Experiences for Students and Teachers (ITEST). Both of these are National Science Foundation programs designed to foster early interest in math and science. “ITEST impacts an estimated 216,000 students (grades K-12), 7,700 educators and 2,300 parents and caregivers,” according to the National Science Foundation.¹¹

**Table 3
College Scholarships and Job Training Funded by Employers
Through H-1B Fees: FY 2000 to FY 2011**

College Scholarships through National Science Foundation	58,000
Job Training through Department of Labor	100,000 +

Source: National Science Foundation, U.S. Department of Labor, National Foundation for American Policy.

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JOB TRAINING FUNDED BY EMPLOYER-PAID H-1B FEES

An analysis of DOL budget documents and other government data reveal employer-paid H-1B fees have funded training for more than 100,000 U.S. workers since 2000. “Through December 31, 2002, 55,685 U.S. workers and professionals had either completed training, were in training, or were waiting for their training program to begin,” according to a GAO report.¹² Good data on the number of individuals trained through H-1B visa fees are not available for the years 2003 to 2008. That is because much of the H-1B training money was sent to regions or states, including “through the WIRED (Workforce Innovation in Regional Economic Development) initiative.”¹³ For FY 2009, 19,593 participants are listed by the Department of Labor as receiving training from H-1B fees used for “Job Training for Employment in High Growth Industries.” The same number of participants was listed for FY 2010, with 9,796 participants listed for FY 2011, according to the U.S. Department of Labor.¹⁴

In its annual budget document the Department of Labor describes its H-1B-funded job training initiatives as follows: “To meet the training needs for high-growth industries and economic sectors, the Department will award grants to projects that: 1) target skills and competencies in demand by industries for which employers are using H-1B visas to hire foreign workers; 2) provide education/training for jobs currently available or job openings that are anticipated during the life of the grant; and 3) result in an employer- or industry-recognized credential.”¹⁵

COMPANY JOB TRAINING AND CHARITABLE CONTRIBUTIONS FOR EDUCATION

In addition to mandatory government fees, U.S. employers spend a significant amount of funds on training their workers and supporting charitable activities related to education. “Total 2010 U.S. [employer] training expenditures – including payroll and spending on external products and services – inched up \$600 million to \$52.8 billion,” according to *Training* magazine.¹⁶ Contrary to criticisms that employers that hire H-1Bs do not train their workers – a criticism without much factual backing – *Training* magazine ranked Microsoft and Intel numbers 9 and 21, respectively, in its 2011 list of the “top 125 organizations” to excel at employee development.¹⁷

Many high tech companies devote significant resources to career development and training staff. For example, Qualcomm recorded more than 48,400 enrollments in employee classroom training courses in 2009, according to its Social Responsibility report. The company’s learning center “offered over 360 instructor-led sessions and 700 online courses.”¹⁸ According to Texas Instruments, “In 2009, TI employees worldwide received an average of more than 30 hours of recorded training and development.”¹⁹

High tech companies often sponsor local events at schools and engage in other charitable activities related to education. The Bill and Melinda Gates Foundation, funded from the sale of Microsoft stock by founder Bill Gates, has spent more than \$3 billion since its inception on grants to improve education in the United States, with an

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emphasis on scholarships, science education and innovation in schools.²⁰ Microsoft is not alone. The Intel Corporation spends \$100 million annually on math and science education in the United States and sponsors the prestigious Intel Science Talent Search Competition for the nation's outstanding young scientists.²¹ The Oracle Corporation regularly donates more than \$100 million worth of software to schools around the country every year.²²

According to the Council on State Taxation, property taxes on businesses totaled \$215 billion in 2009.²³ In many localities, property taxes are the leading or primary source of funding for K-12 education.

CONCLUSION

The significant amount of mandatory fees, legal costs and staff time expended by U.S. employers to hire skilled foreign nationals on H-1B temporary visas undermines the argument that companies hire foreign-born professionals as a way to save money. In a recent report, the Government Accountability Office (GAO) compared the median reported salaries of U.S. workers to H-1B professionals in the same fields and age groups and found H-1B professionals generally earned the same or more as their U.S. counterparts.²⁴

Given that an employer can pay as much as \$35,000 to sponsor a skilled foreign national for permanent residence and up to \$6,000 or more in various government, legal and other costs to petition for an H-1B visa holder, it is difficult to argue employers are engaging in this time-consuming and uncertain immigration process to save money. The more than \$3 billion employers have paid in mandatory government fees to hire skilled foreign nationals since 2000 is a testament to one thing – if companies really are trying to save money by hiring H-1B visa holders, then they are not doing a very good job of it.

END NOTES

¹ American Council on International Personnel.

² Data obtained from U.S. Citizenship and Immigration Services.

³ While other visa categories exist, they carry significant restrictions that limit their applicability to most skilled foreign nationals, such as an L-1 visa, which requires working abroad for a company for at least a year and then qualifying as a manager, executive or an employee with “specialized knowledge” under USCIS regulations to reenter the United States.

⁴ Section 212(n)(1) of the Immigration and Nationality Act.

⁵ An individual on an H-1B petition generally can stay for two three-year periods, although it is possible to extend that stay in certain circumstances.

⁶ INA Section 286(s).

⁷ INA Section 286(v).

⁸ Pub. L. No. 111-230, 124 Stat 2485 (2010).

⁹ National Science Foundation, FY 2012 Budget Request to Congress, p. EHR-23.

¹⁰ *High-Skill Training: Grants from H-1B Visa Fees Meet Specific Workforce Needs, but at Varying Skill Levels*, General Accounting Office, September 2002, GAO-02-881, p. 19.

¹¹ National Science Foundation, FY 2012 Budget Request to Congress, p. EHR-24.

¹² Department of Labor; *High-Skill Training: Grants from H-1B Visa Fees Meet Specific Workforce Needs, but at Varying Skill Levels*, General Accounting Office, September 2002, GAO-02-881.

¹³ “Workforce Innovation in Regional Economic Development, Selected Regions,” U.S. Department of Labor Employment and Training Administration. “Programs funded by the H-1B Visa Education and Training Fee, and Labor Market Conditions for Information Technology (IT) Workers,” Congressional Research Service, updated January 23, 2007, p. 12.

¹⁴ Budget in Brief, Department of Labor for FY 2009, 2010, 2011 and 2012.

¹⁵ Budget in Brief, Department of Labor for FY 2012.

¹⁶ <http://www.trainingmag.com/article/2010-training-industry-report>.

¹⁷ <http://www.trainingmag.com/article/training-reveals-rankings-2011-top-125>.

¹⁸ http://www.qualcomm.com/citizenship/corporate_responsibility/qsr09/.

¹⁹ Texas Instruments 2009 Corporate Citizenship Report.

²⁰ www.gatesfoundation.org.

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²¹ Intel Corporation.

²² Oracle Corporation.

²³ <http://www.cost.org/Page.aspx?id=69654&terms=total%20state%20and%20local%20business%20taxes>.

²⁴ See *H-1B Visa Program: Reforms Are Needed to Minimize the Risks and Costs of Current Program*, Government Accountability Office, GAO-11-26, January 2011, p. 42, Table 1. The report can be found at: <http://www.gao.gov/products/GAO-11-26>. See also *Analysis: GAO Report Finds H-1B Professionals Are Paid Comparable to Similar U.S. Professionals, Important to Large and Startup Companies*, National Foundation for American Policy, January 2011.

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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, former U.S. Senator and Energy Secretary Spencer Abraham, Ohio University economist Richard Vedder, former INS Commissioner James Ziglar 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.