

# National Foundation for American Policy

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## **Research: High-Skilled Foreign Nationals Make Important Contributions to the U.S. Economy**

### **New Data Show High-Skilled Foreign Professionals Spread Across Many Companies**

Arlington, Va. – High-skilled foreign nationals make important contributions to the U.S. economy and American society, filling key positions as everything from engineers to cancer researchers, according to a new report released by the National Foundation for American Policy (NFAP), an Arlington, Va.-based policy research group. They also provide key elements of economic growth by improving productivity, increasing the growth of skilled labor, and encouraging increased business investment in the United States. Despite this, criticism fueled by allegations that some companies have laid off U.S. workers and replaced them with foreign nationals on H-1B visas has resulted in restrictive legislative proposals and arguments that America should sharply curtail the entry of skilled professionals and researchers. Data obtained from U.S. Citizenship and Immigration Services (USCIS) and other research question the main arguments leveled against high-skilled foreign nationals and help illustrate how the country benefits from the entry of such individuals.

“Historically, America is a nation of immigrants. Those ‘yearning to breathe free’ may also have a college degree,” said NFAP Executive Director Stuart Anderson, former head of policy at the Immigration and Naturalization Service and author of the report. “We should welcome those who study at U.S. universities and decide to stay and work for U.S. companies, as well as welcome those who are educated abroad and bring to America important skills and talents.”

The report, “Setting the Record Straight on High-Skilled Immigration,” is available at [www.nfap.com](http://www.nfap.com). A companion study, “The Real World Impact of High-Skilled Immigration Restrictions,” was also released.

Among the key findings in the report:

- An H-1B visa is, in practice, often the only way to hire a skilled foreign national to work long-term in the United States. An analysis of USCIS data on FY 2015 H-1B petitions reveals high-skilled foreign nationals are important across the U.S. economy, with approximately 26,000 different U.S. employers hiring at least one high-skilled foreign national on a new H-1B petition in 2015. Of those 26,000 employers, about 17,000 hired only 1 individual on an H-1B and about 24,600 hired between 1 and 10 H-1B visa holders.
- The top companies with new H-1B petitions approved in 2015 were TCS (4,674), Cognizant (3,812), Accenture (3,385), Wipro (3,079), Infosys (2,830), and IBM (1,919), with others in the top 30 including Amazon (1,058), Microsoft (961), Google (833), Intel (628), Apple (532), Oracle (493), Facebook (408), and Cisco (267). The mix of companies reflects, in part, the strong demand for information technology (IT) services in the economy.

- Overall, new H-1B petitions approved for all employers in 2015 represent only a tiny proportion of the U.S. labor force at 0.07 percent. Approximately 54 percent of new H-1B visa holders each year earn a master's degree or higher.
- Some believe that Indian-based companies receive most of the new H-1B visas each year. However, the 7 Indian-based companies who had the most H-1B petitions approved for new employment in FY 2015 received 14,610, or about 13 percent of the total approved new petitions that year. Those 14,610 individuals come to only 0.009 percent of the U.S. labor force.
- The technological revolution since 1990 has increased the demand for high-skilled technical labor, leading the supply of H-1B visas to be exhausted for the past 14 fiscal years (from FY 2004 through FY 2017). Back in 1990, the World Wide Web was unavailable for individuals on a global scale. That means in 1990, when Congress set the annual limits on H-1B visas (65,000) and employment-based green cards (140,000), it could not have anticipated the technological transformations in the world that would make those annual limits inadequate.
- Neither the law nor reliable research show foreign nationals on H-1B visas are, on balance, paid less than comparable U.S. workers. That does not mean some individuals are not underpaid or taken advantage of, or that there are not employers who evade or violate the law. Nor does it mean Congress should not fix the employment-based green card system, since some individuals are hesitant to leave their current employer if it could affect their wait for permanent residence.
- After comparing the median reported salaries of U.S. workers and H-1B professionals in the same fields and age groups, the Government Accountability Office (GAO) found H-1B professionals *generally earn the same or more than their U.S. counterparts*. In the category Systems Analysis, Programming, and Other Computer-Related Occupations, the median salary for an H-1B professional *is higher* (\$60,000 vs. \$58,000) than for a U.S. professional in the age group 20-29 and the same (\$70,000) in ages 30-39. Several academic studies reach similar conclusions.
- An examination of stories in the media and understanding how and why U.S. companies contract out for work calls into question the charge that H-1B visa holders were responsible for the layoffs at Southern California Edison, Disney and other companies. Substantial evidence exists that companies decide to contract out for normal business reasons, including focusing on core competencies and gaining access to new technology and solutions. Experts who advise companies on whether to contract out services explain that these decisions are made without regard to immigration law.
- Contracting out or outsourcing and potential layoffs happen whether or not H-1B visa holders appear on a company's site, but it is the physical presence of a foreign national that spurs media attention. Citizens Bank of Rhode Island did the exact same thing as other companies – hiring a contractor that employs people abroad and laying off hundreds of incumbent employees whose work became redundant as a result. Yet Citizens Bank received virtually no negative media attention because no H-1B visa holders were seen on-site during the transition to the new contract, which was accomplished via the web and phone.
- Once a contracting out decision is made by a company, some employees, unfortunately, are likely to lose their jobs regardless of whether H-1B visa holders are present. For context note that every year in the U.S. economy 21 million people are discharged or laid off, according to the U.S. Department of Labor.

- Eliminating H-1B visas entirely would not reduce the instances of companies contracting out work or functions, according to experts on outsourcing, since the visas do not figure into company decisions on contracting out. “I would say cutting off the H-1B visa program wouldn’t really impact outsourcing overall, as the H-1B visa holders have a limited and specialized role in the outsourcing process (specifically, in pushing through the transition phase),” according to Alex Kozlov, director of content, Alsbridge, a leading management consulting firm.
- New technologies, such as cloud computing and automation, affect far more jobs than anything related to foreign nationals on skilled visas.
- Some have argued that government statistics show Americans are not getting jobs in science and technology fields. However, this argument relies on a federal government definition of a STEM (science, technology, engineering and math) “occupation” that is narrow and fails to count millions of people who work in jobs that use their science and engineering (S&E) degrees. For example, a professor of physics would *not* count as working in a STEM occupation but instead would be listed in Census data as a postsecondary teacher. An engineer promoted to management no longer counts as working in a STEM occupation. Tim Cook, the CEO of Apple, is considered not to be working in a STEM occupation.
- “According to the 2013 National Survey of College Graduates (NSCG), nearly 17.7 million college graduates reported that their jobs required at least this level of technical expertise in one or more S&E fields; this figure is almost three times as large as the nearly 6 million college graduates employed in S&E occupations,” explains the National Science Foundation’s *Science and Engineering Indicators 2016*. In other words, *nearly 12 million people* with a STEM degree are not classified by the federal government as working in a STEM occupation but report “their jobs required at least this level of technical expertise in one or more S&E fields.” That means any attempt to define the STEM job market as including only those working in a STEM “occupation” would be misleading, since it would ignore almost 12 million people using their degrees in the U.S. labor market.
- Degrees in computer science and electrical engineering have the highest “return on investment” (ROI) of any degrees other than a degree in petroleum engineering, according to the website Launch My Career Colorado, a web-based tool endorsed by the state of Colorado to help students and parents. That would not be the case if obtaining a degree in those fields was a poor career choice. A degree in computer science at UC-Boulder would bring a return on investment of \$875,930, while a degree in psychology at UC-Boulder would bring a return on investment of only \$131,154.
- Between 1990 and 2010, the number of college degree holders outside the United States increased from 119 million to 303 million, more than doubling. During the same period, the U.S. share of world college degree holders declined from 26 percent to 18 percent. It is understandable U.S. employers would seek access to the global labor pool, since most of the world’s educated people live (or were born) outside the United States.
- The benefits to the U.S. economy of admitting highly skilled foreign-born individuals can be overlooked. Those benefits include raising productivity, adding to the growth of high-skilled labor, increasing wages and jobs, complementing native-born labor, starting successful businesses, working in important positions for cutting edge companies, paying taxes, funding scholarships (via H-1B fees), contributing patents, and providing a source of highly educated individuals that helps keep jobs in America.
- Recent bills in Congress to restrict high-skilled immigration are likely to produce significant unintended consequences for the U.S. economy. Efforts to restrict high-skilled immigration strike at the heart of America’s economic growth engine by seeking both to slow the growth

of high-skilled labor and limit those workers who are most important to improving U.S. productivity. “Economic growth stems from two main sources: putting more people to work or enabling workers to operate more efficiently (i.e., better productivity),” explains *The Economist*. “With the workforce in many developed economies likely to stagnate or decline in the next two decades as the baby-boomer generation retires, a lot is riding on improvements in productivity.”

- Economists Giovanni Peri (UC, Davis), Kevin Shih (UC, Davis) and Chad Sparber (Colgate University) concluded that H-1B visa holders significantly improve U.S. productivity: “The productivity growth and skill biased growth due to growth in foreign STEM workers may explain between 10 and 25 percent of the aggregate productivity growth and 10 percent of the skill-bias growth that took place in the U.S. during the period 1990-2010.” In short, the entry of more high-skilled professionals would help the U.S. economy and allowing fewer to enter would hurt the economy.

In the companion study, “The Real World Impact of High-Skilled Immigration Restrictions,” the key findings include:

- S. 2394, sponsored by Senators Ted Cruz (R-TX) and Jeff Sessions (R-AL), would, in effect, expel international students from the United States after graduation by eliminating any method for them to stay and work in America. This would have a significant negative impact on the U.S. economy and the ability of U.S. companies to grow and innovate inside the United States. Today, at U.S. universities, international students represent 77 percent of the full-time graduate students in electrical engineering and 71 percent in computer science.
- The Cruz-Sessions bill explicitly eliminates Optional Practical Training (OPT), a measure that allows international students to work for 12 months after graduation and to receive extensions of OPT status if working in a STEM (science, technology, engineering and math) field. All of America’s major competitors for talent maintain programs to allow international students to stay and work after graduating.
- The most far-reaching provision of S. 2394 would bar high-skilled foreign nationals from working in the United States in H-1B status if they have earned a master’s or bachelor’s degree unless they first worked 10 years outside the United States. This provision would virtually end high-skilled immigration to America. That’s because nearly 90 percent of H-1B visa holders in FY 2014 had a master’s or bachelor’s degree, according to U.S. Citizenship and Immigration Services. To the extent individuals with Ph.D.’s receive H-1B visas it is primarily for jobs in academia, not with high tech or other companies.
- The bill would also require foreign nationals with Ph.D.’s to work outside of America for two years, pushing out of the country even those the bill’s authors claim to prioritize. In addition, the legislation establishes a minimum wage of \$110,000 a year for any H-1B visa holder. It appears the requirement would even apply to universities and other non-profits, including hospitals. That would affect professors and imperil the contributions made by cancer researchers, of whom 40 percent are immigrants at America’s top U.S. cancer institutes.
- While Sen. Ted Cruz and Sen. Jeff Sessions are both conservative Republicans who argue against making it easier for trial lawyers to sue employers or for the Department of Labor to litigate against companies, their bill contains multiple provisions aimed at making it easier to bring actions against employers. The goal appears to be to produce enough legal peril for employers that they will avoid hiring high-skilled foreign nationals in the United States. Of course, that would have the effect of denying opportunity to many individuals, while also encouraging many companies to expand resources abroad and place more people in other countries.

- S. 2394 would grant jurisdiction for addressing “civil actions by any person claiming misuse of the H-1B visa program” to each U.S. district, U.S. court of appeals and the U.S. Supreme Court and would smooth the way for trial attorneys by explicitly stating administrative remedies do not need to be exhausted prior to pursuing a civil action. Another provision of the Cruz-Sessions bill could have the unintended consequence of discouraging employers from offering severance to laid-off employees.
- If enacted, both the Cruz-Sessions bill (S. 2394) and the Durbin-Grassley bill (S. 2266) would violate U.S. commitments under the General Agreement on Trade in Services (GATS) in numerous ways, which would expose U.S. exporters to retaliation. Those violations, in S. 2394, include excluding individuals from obtaining an H-1B visa at a master’s or bachelor’s level if they had not first worked 10 years abroad, imposing a minimum wage of \$110,000 per year, prohibiting an H-1B professional from working for a U.S. employer if there has been a strike or lockout on the premises within the past two years, and compelling employers to attest an H-1B professional would not displace a U.S. worker who was laid off during a period 2 years before or 2 years after the filing of an H-1B petition.
- S. 2266, the Durbin-Grassley bill, would, in practice, make it extremely difficult for multinational companies to transfer employees with “specialized knowledge” into the United States on L-1B visas. The bill accomplishes this by redefining “specialized knowledge” in a way that would allow few employees to qualify. USCIS adjudicators already have been denying a high percentage of petitions for employees in L-1B status in recent years. The measure betrays a fundamental misunderstanding of the global economy by assuming if Congress prevents a company from transferring into the United States an employee who already works for a company it would protect a U.S. worker. Not allowing companies to transfer their own employees where needed encourages employers to invest and operate more outside of the United States.
- S. 2266 compels employers to pay high-skilled foreign nationals mandated wages that are generally unconnected from the actual wage levels employers pay to similarly situated Americans, in many cases \$20,000 or more. Companies would be told to do without skilled foreign nationals, hire them outside the United States, pay U.S.-born employees well above the market wage, or pay U.S.-born employees much less than the mandated minimum wage they must pay to foreign nationals. This attempts to solve a problem that reliable research shows does not exist, while giving the U.S. Department of Labor significant authority to establish wage rates in the technology industry and other sectors. In sum, the bill would cause the United States to be a less attractive place for growth and investment.
- The Durbin-Grassley bill, S. 2266, contains numerous provisions that seek to empower the U.S. Department of Labor to micromanage the day-to-day operations and human resources policies of many of America’s leading companies. These new bureaucratic requirements include prior permission required from the federal government to move personnel (Section 113), a ban on moving some personnel to a client worksite (Section 201), exposure to DOL legal action on hiring and dismissals (Section 101), limiting which employers can file for H-1B and L-1 petitions (Section 102), and requiring the use of a government website for company recruitment (Section 121).
- Among the likely GATS violations in S. 2266 include prohibiting employers from filing for H-1B or L-1 petitions if their workforce consists of more than 50 percent H-1B and L-1 visa holders, prohibiting the placement of H-1B visa holders on the site of another employer and requiring a waiver to move high-skilled foreign nationals to another office, new wage requirements that unilaterally change current U.S. commitments, requiring a nondisplacement attestation that covers a period 180 days after the filing a petition, rather than the U.S. commitment of 90 days, and redefining the L-1B visa category almost out of

existence through new legislative definitions designed to prevent employers from transferring personnel into the United States.

- The Visa Integrity and Security Act of 2016, H.R. 5203, while well-intentioned, includes new mandates that are onerous and overly burdensome without improving national security.

At least some members of Congress do not view high-skilled and highly educated foreign nationals as valuable human beings looking to make a better life and benefiting our nation with their contributions. If some members of Congress have their way, America will no longer be a land of opportunity for highly skilled and ambitious immigrants. A grant from the Ewing Marion Kauffman Foundation funded the research. The contents are solely the responsibility of the National Foundation for American Policy.

#### **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, former U.S. Senator and Energy Secretary Spencer Abraham 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](http://www.nfap.com).

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