

National Foundation for American Policy

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New Research: Wage Mandates Could Threaten Ability To Hire Foreign-Born Scientists and Engineers

H-1B Restrictions Could Be Debated In Congressional Immigration Legislation

Arlington, Va. – Requiring employers to pay far higher than the market wage for H-1B professionals, including by mandating a standard called the “median local wage,” will threaten the ability of employers to hire high-skilled foreign nationals and prevent many international students from working in the United States, according to a [new report](#) from the National Foundation for American Policy (NFAP), a nonpartisan research organization based in Arlington, VA. The issue could be crucial if Congress tackles legal immigration reforms this year, as indicated by House Judiciary Committee Chair Jim Jordan (R-OH).

An [amendment](#) offered in January 2025 by Sen. Bernie Sanders (I-VT) to the Laken Riley Act exemplifies the effort to price recent foreign-born graduates with limited work experience out of the U.S. labor market. If passed, the amendment would have required employers to pay over \$80,000 a year more (a 72% increase) than under current law for a recently graduated software developer in San Jose. The Senate did not vote on the amendment. The most likely outcome of mandating vastly higher salaries for foreign-born professionals is not more jobs for U.S. workers but companies sending more work out of the United States. The initial H-B registration period for the FY 2026 H-1B cap begins March 7 and runs through March 24, 2025.

The study “Employers and Wage Requirements for H-1B Visa Holders,” can be found at <https://nfap.com/>.

Mandating inflated salaries for H-1B visa holders through legislation or regulation would price out of the labor market many recent graduates of U.S. universities but could also lead to many tenured employees in H-1B status being forced from the United States if their employers cannot afford the higher government-mandated salaries. Employers could run into fairness or civil rights issues if they follow the government’s dictates and pay a new foreign-born graduate far higher than a U.S. worker with much more experience.

The “median local wage” bears no resemblance to the market wage for many professionals, particularly those with less experience. The median number of years since obtaining a degree is 13 years for a software developer and 14 years for electrical and electronics engineers, according to the National Survey of College Graduates. The median local wage does a poor job approximating a market wage because it reflects the salaries of people with more than a decade of work experience. Requiring employers to pay the “median local wage” to H-1B visa holders could price many younger workers, particularly recent graduates, out of the U.S. labor market. Employers should be aware that changing the law to impose a higher wage requirement would have a significant negative impact similar to the Trump administration’s first-term Department of Labor rule that changed the prevailing wage formula. A court blocked the rule for violating the Administrative Procedure Act.

An H-1B visa is typically the only practical way a high-skilled foreign national, including an international student at a U.S. university, can work long term in the United States. International students account for approximately 70% of the full-time graduate students at U.S. universities in key technical fields, including electrical engineering and computer and information sciences. Fifty-five percent of the [billion-dollar startups](#) in the United States have at least one immigrant founder. [Almost two-thirds](#) of the top AI companies in America have immigrant founders.

NFAP [research](#) has found an H-1B is already the most restrictive visa category in the U.S. immigration system. Only 20% of applications resulted in approved workers in FY 2025. “A European teenager is four times more likely to get a visa to work at a summer amusement park than a graduate student is to receive H-1B status to work for a U.S. company on artificial intelligence,” according to the analysis.

Under the law, to gain approval of an H-1B petition, an employer must pay “at least- (I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or (II) the prevailing wage level for the occupational classification in the area of employment, *whichever is greater.*”

The Sanders amendment would have eliminated the prevailing wage as the minimum wage level for H-1B visa holders and replaced it with “the higher of the *median local wage level* or the actual wage of similarly employed workers.”

Attempting to change the required minimum salary for H-1B professionals is not aimed at correcting an identified problem. Economists have concluded in many published studies that H-1B visa holders earn the same or more than comparable U.S. professionals. In a May 2020 NFAP [study](#), University of North Florida economics professor Madeline Zavodny wrote, “[T]he evidence points to the presence of H-1B visa holders being associated with lower unemployment rates and faster earnings growth among college graduates, including recent college graduates.”

NFAP [research](#) has found up to 90% of international students are paid at level 1 and level 2. DOL determines the prevailing wage by gathering data from the government’s Occupational Employment Statistics (OES) wage survey and using a mathematical formula to create four levels of wages for each occupation. Under the DOL definitions, the four levels are: Level I “entry level,” Level II “qualified,” Level III “experienced,” and Level IV “fully competent.”

Among the findings:

- NFAP compared the median local wage to the top three prevailing wage levels for common occupations in four different technology hubs: San Jose-Sunnyvale-Santa Clara, Seattle-Tacoma-Bellevue, Washington-Arlington-Alexandria and Dallas-Fort Worth-Arlington. The NFAP analysis shows that compelling employers to pay all H-1B visa holders the median local wage significantly distorts pay scales and would be unfair to less experienced professionals.
- The median local wage is higher than the first three prevailing wages for positions examined in the four areas. That means requiring the median local wage would be like mandating all H-1B visa holders, regardless of experience, be paid like the most experienced technology professionals.
- The annual salary for a software developer in the San Jose area would be significantly higher at the median local wage than at the current prevailing wage levels. For a software developer in the San Jose area, the annual salary would be \$83,512 (or 72%) more at the median local wage than at the current prevailing wage level 1 (\$199,097 vs. \$115,585). The annual salary would be \$57,720 (or 41%) more at the median local wage than at the current prevailing wage level 2 (\$199,097 vs. \$141,377). And for a software developer in

the San Jose area, the annual salary would be \$31,944 or 19% more at the median local wage than at the current prevailing wage level 3 (\$199,097 vs. \$167,148).

- Electronics engineers, except computers, are often semiconductor engineers. For electronics engineers in the San Jose area, the annual salary would be \$75,088 (or 74%) more at the median local wage than at the current prevailing wage level 1 (\$176,113 vs. \$101,025). The annual salary would be \$49,649 (or 39%) more at the median local wage than at the current prevailing wage level 2 (\$176,113 vs. \$126,464). And for an electronics engineer in the San Jose area, the annual salary would be \$24,211 or 16% more at the median local wage than at the current prevailing wage level 3 (\$176,113 vs. \$151,902).
- For a software developer in the Seattle-Tacoma-Bellevue area, the annual salary would be \$60,383 (or 57%) more at the median local wage than at the current prevailing wage level 1 (\$167,024 vs. \$106,641). The annual salary would be \$39,687 (or 31%) more at the median local wage than at the current prevailing wage level 2 (\$167,024 vs. \$127,337).
- For an electrical engineer in the Seattle-Tacoma-Bellevue area, the annual salary would be \$44,221 (or 51%) more at the median local wage than at the current prevailing wage level 1 (\$130,208 vs. \$85,987). The annual salary would be \$24,898 (or 24%) more at the median local wage than at the current prevailing wage level 2 (\$130,208 vs. \$105,310).
- For a software developer in the Washington-Arlington-Alexandria area, the annual salary would be \$54,683 (or 63%) more at the median local wage than at the current prevailing wage level 1 (\$141,502 vs. \$86,819) and 28% and 6% higher at level 2 and level 3.
- For an electrical engineer in the Washington-Arlington-Alexandria area, the annual salary would be \$49,837 (or 62%) more at the median local wage than at the current prevailing wage level 1 (\$130,208 vs. \$80,828), and 28% and 6% higher at levels 2 and 3.
- For a software developer in the Dallas-Fort Worth-Arlington area, the annual salary would be \$48,651 (or 60%) more at the median local wage than at the current prevailing wage level 1 (\$129,500 vs. \$80,849) and 31% and 11% higher at level 2 and level 3.
- For an electronics engineer in the Dallas-Fort Worth-Arlington area, the annual salary would be \$41,288 (or 49%) more at the median local wage than at the current prevailing wage level 1 (\$125,278 vs. \$83,990), and 20% higher at level 2.
- Examining 180,000 combinations across the country, NFAP found the median local wage is higher than the level 1 prevailing wage for 99.2% of occupations and location combinations, higher than 93.7% of level 2 prevailing wage occupations and locations, 65.1% of level 3 prevailing occupations and locations and 23.6% of level 4 prevailing wage occupations and locations. It's an indication that mandating the median local wage would significantly inflate the wage requirements for high-skilled foreign nationals and would not represent market wages for such professionals.

The first-term Trump administration [rule](#) published by the Department of Labor in 2020 significantly raised the minimum wage required for employers to pay H-1B visa holders and employment-based immigrants. That rule, which was blocked in court, increased the required minimum by changing the formula for calculating the prevailing wage. An NFAP analysis found that the rule increased the average minimum salary required by 39% to 45% depending on the prevailing wage level (1 through 4), although some positions rose more than 100%.

Immigration measures that prevent recent graduates of U.S. universities from working in the United States would deal a blow to America's early-career talent pipeline. Another first-term Trump administration rule would have replaced the H-1B lottery with a system that awarded H-1B petitions

by salary level. “Selecting H-1B petitions by salary level would favor those with the most experience in the labor market over those with the least experience,” concluded NFAP. The rule would have disfavored recent international students.

About the National Foundation for American Policy

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) nonprofit, nonpartisan 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, Cornell Law School professor Stephen W. Yale-Loehr and former INS Commissioner James W. Ziglar. 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. X.com: [@NFAPResearch](https://twitter.com/NFAPResearch)

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