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### **High-Tech Immigration**

by  
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Over the next eight years, demand for information-technology workers in the US is expected to grow by 150,000 people a year.<sup>1</sup> Qualified, foreign-born workers could help meet this need, but the 195,000 limit on H1-B visas, set last year by Congress, is insufficient. It is an arbitrary limit having little to do with labor markets and everything to do with special interests and faulty economics.

**Background.** H1-B visas allow foreign-born “skilled professionals” to enter the US. Once admitted, workers can remain and work for three years and, with an extension, for up to six years. The H1-B program is almost 50 years old, but until 1990 the law placed no limit on the number of visas that could be granted. In that year, a cap of 65,000 was imposed. By 1997, the need clearly exceeded this level, and, after considerable wrangling, in 1998 the limit was upped to 115,000 for both 1999 and 2000 and 107,500 for 2001.<sup>2</sup> Congress’s action last year marked a dramatic increase in the number of qualified foreign workers it will allow into the United States, although not dramatic enough to meet growing needs.

The quota for 1999 was filled three months before the end of the year, and 2000 reached capacity after only six months. After technology firms argued that shortages of workers cost them millions in lost productivity and innovation, the 106th Congress passed the American Competitiveness in the 21st Century Act. The act increases the number of visas to 195,000 per year for the years 2001 to 2003, and allows visa holders to change jobs without obtaining a new visa.<sup>3</sup> The new law also allows H1-B workers whose six years have expired, and whose application for a green card has been pending for 181 days, to work for any US employer without jeopardizing their application. The job must be in a similar field, but the official title need not be identical.<sup>4</sup>

**High-tech immigration fuels the new economy.** Protectionist labor groups and immigration opponents argue against higher caps on H1-B visas out of fear that American workers are being harmed. These concerns are frivolous.

Substantial economic evidence refutes the proposition that increased immigration decreases employment for native workers. Indeed, some studies, and considerable practical experience, show that the opposite is true. In California's Silicon Valley, immigrants founded one out of every five firms and are currently running one-quarter of the high-tech companies. In 1998, these companies collectively provided more than 50,000 jobs and accounted for almost \$20 billion in sales.<sup>5</sup> One recent study shows that admitting an extra 50,000 H1-B workers would mean \$5.5 billion in wealth transferred from other nations to the United States.<sup>6</sup>

The H1-B program is sometimes accused of exerting downward pressure on wages for US-born technology workers. But according to a Commerce Department study, "It seems clear from both government and non-government data, that the compensation level for IT professionals is both high and rising." The study cites salary growth estimates ranging from 3 to 4 percent up to double-digit growth.<sup>7</sup> So while it may be true that H1-B workers are preventing US salaries from skyrocketing (which would be to the detriment of consumers and the US economy in general), visa holders are certainly not depressing wages in the tech sector.

Because employers are obligated to pay H1-B workers at least the wage paid to their native-born counterparts, foreign-born workers are protected from inappropriately low wages. Very few instances of non-compliance with this requirement have been found. Close to 525,000 non-immigrant petitions were granted between 1991 and 1999; during that time, 134 violations were found, and only seven were determined "willful" violations of the law.<sup>8</sup> Contrary to some critics' accusations, an average of one intentional violation per year does not a slave-labor scheme make.

Another criticism often leveled against the H1-B program is that foreign workers displace native-born tech professionals. Given the number of high-tech jobs that are now unfilled, this claim makes no sense. It also assumes that US companies would rather hire H1-B visa holders than US workers. But why would they? As noted, a company cannot expect to save any money in wages because of the legal obligation to pay foreign-born workers and native workers equivalent salaries. Also, the time, trouble, and cost involved in obtaining an H1-B visa and in securing an H1-B candidate make native hiring far preferable to most employers. If qualified US workers can begin work immediately and with no hassles,

why would anyone choose to navigate through a sea of fees, attorneys, specialized consultants, complicated forms, and long delays?

**The employer fee discriminates against smaller companies seeking to sponsor an H1-B visa holder.** The government charges employers a \$1,000 fee for each H1-B visa application it approves (this figure was raised in 2000 from \$500). These funds are earmarked for high-tech training for US workers. Employers should not be forced to support such plans. Companies should be able to spend their money on programs to train their own workers; they should not be subject to a special tax to fund some general public good. To the extent that high-tech training *is* a public good, it should be paid for out of general tax revenues. This fee weighs heaviest on smaller firms and may prove cost-prohibitive for some.

**The H1-B visa program has become politically charged.** Many politicians are anxious to leverage the hearts and wallets of Silicon Valley and its equivalents in other parts of the nation, so each year there are small increases in the number of allotted H1-B visas. This temporarily appeases the technology sector. But not too many visas are allowed, because then the companies could no longer be pressured to make campaign contributions. Market demand, not special interests or political favors, should determine the number of skilled workers that enter the US every year.

**Policy recommendation.** Congress should remove both the cap on the number of H1-B visas and the fee employers are charged.

~ JESSICA P. MELUGIN

<sup>1</sup> Suzette Brooks Masters and Ted Ruthizer, "The H-1B [sic] Straightjacket: Why Congress Should Repeal the Cap on Foreign-Born Highly Skilled Workers" (Cato Institute, March 2000); available at [www.free-trade.org/pubs/briefs/tbp-007es.html](http://www.free-trade.org/pubs/briefs/tbp-007es.html).

<sup>2</sup> Ibid.

<sup>3</sup> The American Competitiveness Act of 2000 (P. L. 106-313), introduced by Sen. Orrin Hatch (R-Utah); available at [thomas.loc.gov](http://thomas.loc.gov).

<sup>4</sup> Reena Jana, "The New Brain Game," *The Industry Standard*, 1 January 2001, pp. 88-89; available at [www.thestandard.com](http://www.thestandard.com).

<sup>5</sup> Stephen Moore, "Immigration Reform Means More High-Tech Jobs," *Cato Today's Commentary*, 24 September 1998; available at [www.cato.org/dailys/9-24-98.html](http://www.cato.org/dailys/9-24-98.html).

<sup>6</sup> Ibid.

<sup>7</sup> Carol Ann Meares and John F. Sargent, Jr., "The Digital Workforce: Building Infotech Skills at the Speed of Innovation," US Department of Commerce (June 1999), p. 41; available at [www.ta.doc.gov/reports/itsw/Digital.pdf](http://www.ta.doc.gov/reports/itsw/Digital.pdf).

<sup>8</sup> Masters and Ruthizer, "The H-1B Straightjacket."