

Corona **negates**, Resolved: The United States federal government should increase its quota of H-1B visas.

Our first and only contention is Exploiting Dreams.

Though the H-1B system was originally designed to fill labor shortages in America, it has since transformed into a system controlled by body shops. Indeed, [Trimbach](#) of Northwestern University writes in 2017 that 40% of H-1B visas given each year go to these body shops. These body shops perpetuate a cycle of abuse in two ways.

First, the threat of deportation.

[Hira](#) of US News writes in 2011 that because the H-1B visa is held by the employer and not the worker, an H-1B worker would be deported right upon termination, giving complete control to the company. This destroys all bargaining power for them to combat the systemic abuse they go through. The cycle continues when they apply for a green card, as [Matloff](#) of UC Davis furthers in 2003 that companies also sponsor the application, rendering the worker subject entirely to the company's whims.

Second, abusive contracts.

[Ontiveros](#) of UC Berkeley writes in 2017 that body shops coerce their workers into contracts that force them to pay a variety of fees, including the associated fees to bring them to America. Moreover, if they quit, they are forced to pay liquidated damages up to \$30,000, entrenching the worker into a form of indentured servitude. Should they not pay, she furthers that these body shops sue to enforce these provisions, trapping workers into a sense of bondage. Problematically, [Stonawski](#) of Concordia University corroborates that H-1B workers lack substantial legal rights to stop exploitive conditions.

The impact is twofold.

First, American jobs.

[Hira](#) of the Economic Policy Institute writes in 2010 that closing loopholes affiliated with body shopping in the current system would create and retain tens of thousands of jobs, as well as ensuring a fair labor market for both immigrants and Americans. Critically, [Karnani](#) of the University of Michigan explains in 2011 that employment opportunities provide for the means to escape the cycle of poverty.

Second, structural violence.

[Smith](#) of the Guardian writes in 2014 that through humiliation and legal threats, body shops withheld \$29.7 million from thousands of workers, creating an “underground system of financial bondage”, with workers calling it an “ecosystem of fear”. For example, [Ontiveros](#) furthers that workers are often benched into homes with many other workers, barred from leaving the premise

and often not paid at all, which is why she concludes that the H-1B system is one of “slavery and involuntary servitude”.

Fortunately, reform is on the horizon.

[Sanchez](#) of Mercury News writes in 2018 that the “Protect and Grow Jobs Act” has bipartisan support for reforms to the H-1B system, passing a strict committee unanimously. [Morrissey](#) of the San Diego Tribune corroborates in 2018 that the legislation is gaining momentum and will reach a vote in the coming months. [Selyukh](#) of NPR explains that it has the votes to pass the House. Critically, it targets outsourcing companies by raising the minimum wage from \$60,000 to \$90,000 as well as increasing regulation of H-1B dependent companies, severely increasing oversight of body shops specifically.

However, increasing the quota of H-1Bs would reverse all progress in the status quo for two reasons.

First, sparking controversy.

[Chopin](#) of the National Law Review writes in 2013 that ambitious policies that spearhead a program spark backlash that kills enforcement of the policy and propels us backwards in progress. This is specifically true for H-1Bs, as [Rosenbaum](#) of the University of Pennsylvania explains in 2011 that raising the quota of H-1Bs is vastly more controversial than reforming abuse, concluding that the issue of the cap kills any political momentum for reform by sparking disagreement on how reform should be conducted. As [Selyukh](#) of NPR corroborates in 2017, the political climate in Congress requires legislation about high-skilled immigration that is narrow in reform or gridlock will kill it.

Second, empowering pro-H-1B lobbyists.

[Bernstein](#) of Bloomberg writes in 2016 that H-1Bs serve as the lifeblood for many of the tech giants in America, who lobby immensely in favor of the program in order to drive down their own costs. Conversely, he explains that they haven’t lobbied against current reform efforts because they think they need to cut a deal with Trump to raise the quota. However, if the quota is raised, they lose all incentive to hold back on lobbying against current reforms because they’ve already reached the policy objective they wanted. When this happens, [Facchini](#) of the CEPR writes in 2008 that lobby groups fight against invisible reforms like the regulations currently being passed, killing current progress.

Because one step forward never justifies two steps backwards, we negate.

Gupta often begin in India. *High-tech workers who are desperate for jobs in the United States may be charged huge fees to apply for an H-1B visa.*¹⁰⁷ Workers like Sanjiv *are willing to pay a \$3,000 fee in order to land a job* in the United States allegedly paying \$75,000 per year because an Indian college graduate earns approximately \$4,500-\$6,000 per year; *however, it will be extremely difficult for them to come up with the equivalent of six months' earnings.*¹⁰⁸ They may have to borrow the fee from friends or, in some instances, the labor broker. Body shops hide the illegal fee collection by making the employee pay the fee to a subsidiary company in India or to a relative of the company's owner. In order to process the visa, the body shop may engage in several different types of fraud. The most common is to generate a false "client letter" that states that a job exists when it in fact does not. These letters take many forms—they "can be issued by a corporation that's actually an empty shell, a real company selling letters to staffing firms or someone creating pure forgeries."¹¹⁰ Sponsors may also pressure employees in India to create false resumes or pad them with a process known as "spicing of the resume" so the employee appears to possess the correct education or experience to qualify for the visa.¹¹¹ *Once an individual like Sanjiv gets an H-1B, he may be required to sign a contract promising to pay the body shop a variety of fees, including liquidated damages, if he stops working before the end of their contract.*¹¹² *The liquidated damages stated in the contract generally range from \$10,000 - \$30,000.*¹¹³ On its face, this type of fee may seem reasonable to prevent an H-1B worker from leaving a subcontractor to go work directly for a client or a competitor, although even that form of employment restriction is not allowed in several states.¹¹⁴ However, when *these fees prevent a worker from escaping an abusive situation and returning home,* they become much more like *a bonding fee creating indentured servitude, because the employee cannot quit until he earns enough to pay off the fee.* Enforcement of these provisions is not just an idle threat. *Body shops wield this power often, suing to enforce the provisions in hundreds of cases.*¹¹⁵ Employees who engaged in resume fraud are especially at risk because they have broken the visa rules and can be prosecuted for visa fraud—even if they committed the fraudulent act at the behest of the body shop. According to one body shop worker, "You can pretty much see a leash on my neck with my employer. It's kind of like a hidden chain."¹¹⁶ One of the most distressing problems facing body shop workers is that they are brought to the United States without a job waiting for them.¹¹⁷ Under the visa, they are technically employed by the body shop, so they have an employer but no work. While they wait for a job, they are told to "sit on the bench" and wait. They are not paid for this unproductive time and will sometimes find menial jobs (working at a gas station or convenience store, for example) in order to make ends meet.¹¹⁸ Other times, the body shop will place them in a short-term job (or a series of short-term jobs); again, they are not paid between jobs while sitting on the bench. Body shop employers use an illegal tactic known as "running the payroll" to facilitate this practice. In order to make it appear like a benched worker is earning money, the employer will take money from the employee and run it through the payroll system of the body shop to make it appear as if the money came from a high-tech employer. While "on the bench," workers sometimes live in "guesthouses" provided by the body shops. The guesthouses are cramped quarters, with as many as eight to ten workers staying together.¹²⁰ One worker described sleeping in a closet "with his feet sticking out the door."¹²¹ Workers are charged excessively for rent, and the living situation prevents the worker from bringing his family to the United States.¹²² Guesthouses are also used as a form of control because the body shops prevent the workers from leaving the premises. One body shop employer told a newly arrived worker, "We are placing you in the guesthouse. Until you get the job you have to stay in the guesthouse, you should not go out, even for a walk."¹²³ Since the body shop is the official employer for these workers, it controls the worker's paycheck and often engages in wage theft, stealing some or all of the employee's earnings. One worker estimated that the body shop kept approximately one-third of his salary to cover "expenses" and "taxes."¹²⁴ In addition to making unlawful deductions, employers also fail to pay for overtime and delay payment of wages.¹²⁵ Sometimes, employers entirely fail to pay employees for their work. For example, one body shop, Itek, placed an employee at JP Morgan. Itek stopped paying him in December 2006, even though he continued to work at the bank (and Itek continued to be paid for his services) through February 2007.¹

Rebecca Stonawski. "Understanding Proposed Changes to the H-1B Visa: Protecting American Government Interests, Improving the Opportunities for American Companies, or Potentially Hurting Hopeful Immigrants?." MDPI. 21 Aug. 2013. Web. 27 Apr. 2018. <<http://www.mdpi.com/2075-471X/2/3/233>>

Despite the potential benefits that come with H-1B reform, a number of problems remain and are not addressed by the current proposals. They include a lack of court protections, a system which encourages delays in filing, low wages, incorrect interference by the US government, and a mis-allocation of H-1B visas.

7.1. No Court Protections

One key problem with the immigration reform bill is that immigrants still lack court protections granted to American citizens. On paper, legal immigrant workers should receive prevailing wages. The law also says that H-1B victims should not suffer from retaliation and discrimination by their employer; however, use of the court system is not possible [14]. H-1B workers who feel that their rights have been violated, i.e., through the withholding of wages, discrimination, etc., may file complaints with the federal government, **but no further substantial legal rights belong to them.**

The problem is that there is little recourse for H-1B visa holders who are let go or pass six years without receiving permanent residency. First, **H-1B visa holders have few protections** when their positions are terminated. The US government requires that H-1B workers be notified of termination, that the US Citizenship and Immigration Services also be notified, and that the company offers to pay the H-1B worker for the costs of return abroad [15]. If an employee feels that this is not done correctly, she cannot ask a court for help. She may file a complaint with the US Citizenship and Immigration Services (USCIS), but USCIS is not required to enforce these employer obligations nor are there any regulatory mechanisms for the employee's protections [16]. This essentially means that when an H-1B holder loses her job, she receives a letter and a ticket back to her home country, with no other protections for her or her family.

By closing the H-1B and L-1 visa loopholes described above, **we would create and retain tens of thousands of good quality American jobs and ensure that our labor market works fairly for American and foreign workers alike.** Bi-partisan legislation, the H-1B and L-1 Visa Reform Act of 2009, would accomplish that. The United States benefits enormously from high-skilled permanent immigration, especially in the technology sector. When we need foreign workers with truly specialized skills, we should rely on permanent immigration rather than guestworker visas. "The intent is that H-1B visas only be issued if qualified American workers are unable to take the jobs in question.... I fully agree that H-1B hires should be a last recourse as a matter of labor policy." —Senator Barack Obama in a 2007 letter responding to a constituent concerned about the H-1B program

Karnani. "Reducing Poverty through Employment" MIT Press. 18 Jul. 2011. Web. 27 Apr. 2018.
<https://www.mitpressjournals.org/doi/pdf/10.1162/INOV_a_00071>

Widespread poverty is an urgent challenge for the world. The starting point for addressing this challenge is the simple and obvious observation that the primary problem of the poor is that they have a low income. As the above parable indicates, **the best way to alleviate poverty is to increase the income of the poor by providing productive employment. It is necessary to view the poor as producers and emphasize buying from them.**¹ Many of the current approaches to poverty alleviation miss this simple point.

Matloff. Huffington Post. 2017. "Trump Is Right: Silicon Valley Is Using H-1B Visas To Pay Low Wages To Immigrants" https://www.huffingtonpost.com/entry/trump-h-1b_us_5890d86ce4b0522c7d3d84af

The order aims to overhaul and limit work visas, notably the H-1B visa program. Tech companies rely on these to bring in foreign talent. Their lobbyists claim there is a "talent shortage" among Americans and thus that the industry needs more of such work visas. This is patently false. The truth is that they want an expansion of the H-1B work visa program because they want to hire cheap, immobile labor — i.e., foreign workers. To see how this works,

note that most Silicon Valley firms sponsor their H-1B workers, who hold a temporary visa, for U.S. permanent residency (green card) under the employment-based program

in immigration law. EB sponsorship renders the workers de facto indentured servants; though they have the right to move to another employer, they do not dare do so, as it would mean starting the lengthy green card process all over again. This immobility is of huge value to many employers, as it means that a foreign worker can't leave them in the lurch in the midst of an urgent project.

In a 2012 meeting between Google and several researchers, including myself, the firm explained the advantage of hiring foreign workers: the company can't prevent the departure of Americans, but the foreign workers are stuck. David Swaim, an immigration lawyer who designed Texas Instruments' immigration policy and is now in private practice, overtly urges employers to hire foreign students instead of Americans. This stranglehold on foreign workers enables firms to pay low wages. Academics with industry funding claim otherwise, but one can see how it makes basic economic sense: **If a worker is not a free agent in the labor market, she cannot swing the best salary deal.** And while the industry's clout gives it bipartisan congressional support concerning H-1B and green card policy, Congress's own commissioned report found that H-1B workers "received lower wages, less senior job titles, smaller signing bonuses and smaller pay and compensation increases than would be typical for the work they actually did."

Maria L. Ontiveros "H-1B Visas, Outsourcing and Body Shops: A Continuum of Exploitation for High Tech Workers." Berkeley. 1 Mar. 2017. Web. 27 Apr. 2018.

<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1499&context=bjell>

One of the most distressing problems facing body shop workers is that they are brought to the United States without a job waiting for them.¹¹⁷ Under the visa, they are technically employed by the body shop, so they have an employer but no work. While they wait for a job, they are told to "sit on the bench" and wait. They are not paid for this unproductive time and will sometimes find menial jobs (working at a gas station or convenience store, for example) in order to make ends meet.¹¹⁸ Other times, the body shop will place them in a short-term job (or a series of short-term jobs); again, they are not paid between jobs while sitting on the bench. Body shop employers use an illegal tactic known as "running the payroll" to facilitate this practice. In order to make it appear like a benched worker is earning money, the employer will take money from the employee and run it through the payroll system of the body shop to make it appear as if the money came from a high-tech employer.¹¹⁹

While "on the bench," workers sometimes live in "guesthouses" provided by the body shops. The guesthouses are cramped quarters, with as many as eight to ten workers staying together.¹²⁰ One worker described sleeping in a closet "with his feet sticking out the door."¹²¹ Workers are charged excessively for rent, and the living situation prevents the worker from bringing his family to the United States.¹²² Guesthouses are also used as a form of control because the body shops prevent the workers from leaving the premises. One body shop employer told a newly arrived worker, "We are placing you in the guesthouse. Until you get the job you have to stay in the guesthouse, you should not go out, even for a walk."¹²³

[**Matt Smith**, Center for Investigative Reporting "Job Brokers steal wages and entrap Indian tech workers in the US" *The Guardian* October 28th 2014 <https://www.theguardian.com/us-news/2014/oct/28/-sp-jobs-brokers-entrap-indian-tech-workers>]

"You can pretty much see a leash on my neck with my employer," said Saravanan Ranganathan, a Washington-area computer security expert here on an H-1B visa. "It's kind of like a hidden chain ... and you'd better shut up, or you'll lose everything." Through thousands of documents filed with government agencies and in courts across the US and interviews with dozens of workers, CIR found the tools of intimidation included restrictive employment contracts – signed by workers unaware of their rights – as well as legal loopholes. Even immigration experts have trouble sorting

out how the brokers manage to game the system. **From 2000 through 2013, at least \$29.7m was illegally withheld from about 4,400 tech workers here on H-1B visas,** US Department of Labor documents show. And this barely hints at the problem because, in the hidden world of body shops, bad actors rarely are caught. No federal clearinghouse logs labor brokers' punitive lawsuits against employees, often filed in far-flung courthouses. But by running the Labor Department violators' names through court dockets in tech hubs across the country, CIR unearthed a sample of 100 cases in which companies have sued workers for actions as commonplace as changing jobs.

[**Matt Smith**, Center for Investigative Reporting "Job Brokers steal wages and entrap Indian tech workers in the US" *The Guardian* October 28th 2014 <https://www.theguardian.com/us-news/2014/oct/28/-sp-jobs-brokers-entrap-indian-tech-workers>]

Labor brokers providing Indian high-tech workers to American companies have hijacked a professional visa program, creating an underground system of financial bondage by stealing wages and benefits, even suing workers who quit. About 840,000 people from around the world work in the United States on temporary visas, intended to help companies seek uniquely talented employees for specific jobs. In the tech realm, labor brokers often sponsor the visas, then contract out the workers to technology companies or government agencies to build databases, test software and complete other technical projects. For decades, critics have sounded alarms about immigrant tech workers being treated as indentured servants by the worst of these staffing firms, known as "body shops." In a yearlong investigation, The Center for Investigative Reporting has documented why this exploitation persists – **through humiliation, intimidation and legal threats. Judgments against Indian workers sued for quitting their US jobs can exceed \$50,000.** One worker called it an "ecosystem of fear".

Tatiana Sanchez. "Plan finally moving to overhaul H-1B visa program." *The Mercury News*. 2 Jan. 2018. Web. 27 Apr. 2018. <<https://www.mercurynews.com/2018/01/02/plan-finally-moving-to-overhaul-h-1b-visa-program/>>

Amid bitter partisan divisions over immigration, **Democrats and Republicans in Congress have come together in support of a bill** under close watch in Silicon Valley **that would make it harder for certain companies to employ skilled foreign workers.**

The plan, expected to go before Congress in the new year, is aimed at reforming the H-1B visa program, which critics say allows companies to bring in cheaper, skilled foreign labor at the expense of American technical workers.

"We created a reform that will minimize the abuses," said Rep. Darrell Issa, R-Vista, author of the "Protect and Grow American Jobs Act" that emerged from the bipartisan House Judiciary Committee. **The bill would likely put Indian outsourcing firms,** outfits that specialize in supplying cheaper visa workers to larger firms, **at a particular disadvantage.** But it seeks to avoid hurting tech companies such as Facebook, Microsoft, IBM, Qualcomm and others that say they're highly dependent on H-1B workers to stay competitive.

Kate Morrissey. "Issa's bill to alter H-1B program gaining momentum in House." *San Diego Tribune*. 8 Jan. 2018. Web. 27 Apr. 2018. <<http://www.sandiegouniontribune.com/news/immigration/sd-me-issa-h1b-20180108-story.html>>

A bill intended to prevent temporary foreign workers from displacing Americans could reach the House floor for a vote in coming months.

The [Protect and Grow American Jobs Act](#), sponsored by Rep. Darrell Issa, passed the Judiciary committee by unanimous voice vote in November, a difficult feat for legislation modifying immigration law. The bill, co-sponsored by Rep. Scott Peters and Rep. Duncan Hunter, would tweak the H-1B visa program, which grants 3-year work visas to skilled workers.

Updates and Strengthens Requirements for H-1Bs Exempt from the Recruitment

Attestation. The legislation revises the definition of an “exempt H-1B nonimmigrant.” It replaces the exemption for H-1B workers with advanced degrees and the \$60,000 exemption wage level in favor of a new formula—the lesser of \$135,000 or the mean wage for the occupational classification in the area of employment (but in no event less than \$90,000). It would also require that the relevant dollar amounts in this formula be increased based on the Consumer Price Index.

Improves protections related to not laying off/displacing existing employees in favor of an H-1B. Current law requires certain H-1B employers to attest that they will not displace a U.S. worker within the 90 days prior to the filing of the H-1B petition and the 90 days after such filing. The new legislation extends this provision to cover the entire period of H-1B employment.

Strengthens displacement protections for workers placed at third-party sites to reign in H-1B gamesmanship. Similar to above, current law requires certain H-1B employers that *place* H-1B workers with third-party employers to attest that the third-party employer does not intend to displace a U.S. worker within the 90 days prior to the filing of the H-1B petition and the 90 days after such filing. The amendment extends this provision to cover the entire period in which the H-1B worker is placed with the third-party employer.

Holds Third-Party Employers Accountable. The attestation is further amended to require the H-1B employer to obtain certain written assurances from the third-party employer, including that the third-party employer: (1) does not intend to displace a U.S. worker during the covered period, (2) will inform the H-1B employer if a U.S. worker is displaced, and (3) agrees to provide reasonable information to the Department of Labor during any investigation of the H-1B employer. In the case of a displacement by the third-party employer, the attestation further requires the H-1B employer to: (1) inform the Secretary of Homeland Security of such displacement; (2) cease the placement of relevant H-1B employees with the third-party employer; and (3) cease the performance of relevant services for the benefit of the third party employers. Additionally, the legislation make these attestations required of all H-1B dependent employers, regardless of the wages paid to its H-1B employees.

Chopin 13 – JD, associate in the Labor & Employment Law Department and a member of the Employee Benefits & Executive Compensation Group, focusing on complex employee benefits litigation (Lindsey, “COMMENT: UNTANGLING PUBLIC SCHOOL GOVERNANCE: A PROPOSAL TO END MEANINGLESS FEDERAL REFORM AND STREAMLINE CONTROL IN STATE EDUCATION AGENCIES,” *59 Loyola Law Review* 399, Lexis)//BB

1. The Exoskeleton of Policy

On a broad level, one that is much broader than education policy alone, ambitious federal policies are often difficult to implement because there is a large gap between the theory of the policy and the actual ability to put the theory into practice. 196 There are many reasons for this gap, one being that the policy put forth by the federal government must pay the "political price of passage." 197 This price consists of two components - attractiveness and flexibility - and ultimately weakens the strength of the policy. Policy may be considered attractive for many reasons, such as the perceived level of impact it will have and the speed at which it is enacted. 198 Therefore, once the public perceives a "crisis," politicians have to react quickly for their actions to have high appeal. The result is that their policy often rests more on rhetoric and hope, than on actual research itself. 199 Moreover, their proposed solution must generally be wide-reaching and hard-hitting, even if common sense indicates that it will be too difficult to enact or that failure is likely. 200 Economic research has shown that the further a policy stretches from standard procedure, the more likely it is to fail or have perverse side effects; thus, these types of reforms, although attractive, will likely have a high failure rate. 201 When failure occurs, the policy must be reformed, which creates a vicious cycle of policy after policy. 202 Section III(B)(1)(a) explores this method of "rapid fire reform" and why it is not suited to govern educational policy. Second, because legislation must pass through a Congress composed of members with vastly different viewpoints and agendas, policies must be flexible enough to please representatives of all fifty states. As seen in the recent [*434] congressional impasse, this type of agreement is not easily reached, and the policies suffer as a result. 203 With every concession of flexibility comes a chance for failure, and the result is a set of regulations with no substance or enforcement potential. 204 *Even if the initial policies or goals were sound, the policies will likely never make any real, widespread change.* 205 Section III(B)(1)(b) will explore the difficulty in implementing these innovations.

Jessica Rosenbaum. "Exploiting Dreams: H-1B Visa Fraud, Its Effects, and Potential Solutions." UPenn. May 2011. Web. 27 Apr. 2018.

<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1388&context=jbl>

As we have seen in the past, **reform proposals that attempt to accomplish too much too quickly are unlikely to be successful. While there is general agreement that the H-1B system is an area ripe for reform, there is debate over the process by which reform can best be achieved.** In this author's opinion, it is essential to initiate the reform process with proposals that are narrow in scope. **By beginning with smaller issues that are more likely to garner political consensus, the likelihood of achieving larger and more comprehensive reform will be increased.**

[...]

Additionally, **the H-1B visa cap should be an issue dealt with only after the initial foundation for reform has been laid. The issue of the cap generates abundant political, social, and economic debate,** as previously discussed in Part VI. **Therefore, prior to implementing changes to the cap, Congress should focus on issues more likely to generate consensus.** One such issue involves increasing the DOL's authority to regulate the H-1B program.

Alina Selyukh. "Trump May Weigh In On H-1B Visas, But Major Reform Depends On Congress." NPR.org. 28 Feb. 2017. Web. 27 Apr. 2018.

<https://www.npr.org/sections/alltechconsidered/2017/02/28/517496648/trump-may-weigh-in-on-h-1b-visas-but-major-reform-depends-on-congress>

Each says the other kept moving the goal post or altering the bill. In the end, the two of them introduced separate bills. With Republicans controlling the majority, Issa's has more potential — at least he says **he's got the votes to pass it in the House.** Shapiro's CTA supports it.

"This piece of legislation is small, it's focused, and it's highly bipartisan," Issa says, "and that gives it an opportunity to break a logjam that has gone on for approaching two decades."

Issa sees merit in Lofgren's bill — he says parts of it came from their joint effort. But, he says, the time for broader legislation is after a narrow bill passes.

"I support comprehensive high-skilled reform," Issa says. "But there's a difference between plugging a leak and building a better ship. ... In this particular structure of Republicans and Democrats, simplicity may be the best way to at least get a partial fix."

Danielle Bernstein. "Tech industry backs H-1B bill to detriment of Indian companies (Correct) | Bloomberg Government." Bloomberg Government. 25 Aug. 2016. Web. 27 Apr. 2018.

<https://about.bgov.com/blog/tech-industry-backs-h-1b-bill-detriment-indian-companies/>

Issa's bill would raise the threshold for these so-called H-1B-dependent companies to \$100,000. It also

would remove an exemption for employees who have master's degrees or equivalents.

H-1B visas have been a lifeblood for tech giants such as Microsoft Corp., Google Inc., Intel Corp., Amazon Inc., IBM Corp. and Apple Inc., as well as for Walt Disney Co. and Toys 'R' Us Inc. Supplying many of those temporary workers are Indian firms Tata Consultancy Services, Wipro Ltd. and Infosys Ltd., among other offshore companies. The trade association representing Indian companies is resisting changes to the system.

Another player is U.S.-based Cognizant Tech Solutions, which supplies H-1B visa workers to other companies. In addition, Ireland-based Accenture uses H-1B visas to transfer its employees into temporary assignments in the U.S., said Accenture spokesman Jim McAvoy.

The window for action on Issa's bill — or any legislation — is narrow. Congress returns after Labor Day with a focus on crafting a stopgap spending bill to keep the government running after Sept. 30. Calvin Moore, a spokesman for the congressman, said attaching the bill to an omnibus, a broader spending that Congress may take up after the election, is an option. The omnibus typically becomes the vehicle for riders such as Issa's proposal.

Last year, language to raise fees for H-1B visas was added to the omnibus, Public Law 114-113. The same law allowed more low-skilled foreign workers into the U.S. through the H-2B visa program. Under the omnibus, foreign workers who came in to do temporary non-agricultural jobs in the past three years are able to return without counting against the cap of 66,000 H-2B visas allowed to be issued in fiscal 2016. That change increased the effective cap to 264,000 this year, raising objections from organized labor.

With comprehensive immigration overhaul stalled in Congress over partisan divisions, tech and consulting groups long have urged Congress to raise its cap on H-1B visas, which stands at 85,000 per fiscal year. In 2015, Southern California Edison and Disney's use of H-1B worker visas to replace Americans with cheaper labor — even having American workers train their lower-paid replacements — heightened public scrutiny.

Though Issa's bill as introduced wouldn't change the number of visas that could be legally issued, the legislation suits tech companies, said Ronil Hira, a Howard University professor who studies visa programs.

"The tech industry realizes it has to cut a deal in order to get the cap raised, so I think they're just playing smart politics," Hira said.

Issa and his allies say the current rules contain a loophole because companies can displace American workers by paying visa holders more than \$60,000, allowing them an exemption for the declaration while paying a salary well below what a skilled American worker would make.

Giovanni Facchini. "Do Interest Groups Affect US Immigration Policy." Centre for Economic Policy Research. 2008. Web. 27 Apr. 2018.

<https://www.colorado.edu/economics/seminars/SeminarArchive/2008-09/mayda.pdf>

In addition **interest groups can carry out their lobbying activity on** both “visible” and “**invisible**” **restrictions**, approaching officials at different level of policy making. For instance, for a “statutory change” like increasing a visa cap, interest groups will lobby Congress. This was the case for the increase in the number of H1B visas which was approved by the US Congress in 1998 as part of the broader Omnibus Appropriations Bill (HR 4328). Similarly, agricultural interests played an important role in shaping the HR 371 Bill recently introduced by Congressman Berman to “improve the agricultural job opportunities, benefits, and security for aliens in the United States.” **For a “regulatory change” instead, like labor certification or the H2A specific wage rate, interest groups lobby an agency in the executive branch such as the Department of Labor.**⁴⁰

First, wage exploitation.

[Campbell](#) of the Atlantic explains in 2016 that because of the low minimum wage requirement, H-1Bs provide a source of cheap labor for companies. Unfortunately, he furthers that these workers don’t have any leverage in negotiating for higher salaries, allowing for exploitation that expands profits. This is because [Matloff](#) of UC Davis writes in 2003 that in order to get a green card, the company needs to sponsor the worker, rendering the worker subject to the company’s whims. As a result, [Costa](#) of the Economic Policy Institute writes in 2013 that 83% of H-1B workers are paid wages below the average. This is because [Campbell](#) of the Atlantic explains in 2016 that a loophole allowing companies to hire an H-1B as long as they pay them \$60,000 a year allows companies to hire foreign labor at cheaper costs, thus outcompeting American labor.

Second, body shopping.

[Rosenbaum](#) of the University of Pennsylvania writes in 2011 that labor suppliers abroad flood the H-1B visa system, creating opportunities for large corporations in America to outsource jobs out to these body shops instead of hiring real workers. Moreover, [Cromwell](#) of the Brooklyn Law Review furthers in 2009 that these companies exploit their workers by paying substantially lower wages, thereby displacing American workers because the outsourced H-1Bs are cheaper.