

## Reform of H-1B Visas

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### **I. Introduction**

Originally, H-1B visas were intended to allow United States (hereinafter “U.S.”) employers to address shortages of skilled labor in the workplace by temporarily hiring highly skilled foreign workers only when they are unable to obtain employees with needed skills from the U.S. workforce. [1] In the 1990’s, Congress raised the initial cap of 65,000 H-1B visas a year to 115,000 for fiscal years 1999 to 2000, and to 107,500 for fiscal year 2001 to address a shortage of computer science specialists, but there is now a growing number of U.S. workers who are highly skilled in science, technology, engineering, and math (STEM) fields unable to find work. [2] Even though there is an abundance of U.S. citizens who are more educated than nearly half of all H-1B workers, the H-1B program is often abused to hire cheaper workers from abroad at the expense of their U.S. citizen counterparts. [3]

In order to address this issue, the Senate has proposed various bills to reform the H-1B visa program. Strategies include reallocating H-1B visas to prioritize higher skilled workers, increasing the transparency of employment statistics, and raising the income of H-1B workers. [4] However, these efforts are inadequate because they do not sanction employers who fail to comply with the new rules in these bills and would not protect the program’s intent of

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supplementing the U.S. workforce with skilled foreign workers only where there are no U.S. citizens with the appropriate skill sets available. [5]

## **II. Employers' Abuse of the H-1B Program**

Despite the myriad of skilled U.S. STEM workers, employers are eschewing these ready, willing, and able citizens for foreigners in an attempt to cut costs and protect their bottom lines. [6] Instead of hiring skilled laborers, employers often abuse the H-1B program to hire low-skilled foreign workers instead. [7] Alternatively, U.S. employers may obviate paying higher salaries for U.S. workers by hiring moderately skilled foreign workers, typically in STEM fields, in their stead. [8] As a result, U.S. employers often terminate U.S. workers and fill those vacancies with foreign workers to perform the same jobs for significantly lower pay. Alarming, some employers may even go so far as to instruct the U.S. workers to train their foreign replacements before terminating them and filling them with foreign workers to perform the same jobs for significantly lower pay [9]

When employers hire H1-B workers for low-income work, they usually hire them for jobs that can be filled by U.S. workers. In some cases, foreigners under H-1B visas are hired for jobs that do not require a bachelor's degree—like operating laundry machines— rather than using the program to fill the highly skilled positions as the program mandates. [10] It is difficult to believe that employers are unable to comply with the H-1B program's necessity requirement and only hiring foreign workers when they are unable to find Americans to fill these jobs. [11]

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Certain employers also violate the program's intent by hiring cheap, foreign workers who have to be trained by the U.S. born employees they are hired to replace. For example, in 2014, Southern California Edison directed employees with annual salaries of approximately \$110,000 to train new foreign workers with significantly reduced annual salaries of approximately \$65,000-\$75,000 to replace them. [12] After these skilled U.S. employees finished training their own replacements, Southern California Edison terminated them. [13] Because these vacant positions would not have existed if Southern California Edison did not fire experienced systems analysts and technicians to hire cheaper, foreign employees who had to be trained by the employees they replaced, it violated the intent of the H-1B program. [14]

Similarly, in January of 2015, Disney eliminated 250 technology positions at the Walt Disney World Resort in Orlando, Florida. [15] Many of these workers stated that they were asked to train less experienced, less compensated workers from India in exchange for their severance packages. [16] Although Disney canceled some of its plans to replace its workers with new employees from abroad, the fact that many companies are considering reduced-cost initiatives to hire from abroad, in violation of the H-1B program's intended motive (hiring skilled foreign workers to fill a need), shows the extent of the enforcement challenges facing the program. [17]

### **III. Effect of Employers' Abuse of the H-1B Program**

While employers continue to needlessly hire foreign workers under the H1-B visa program, U.S. born workers are left without work in their fields of expertise, and thus, underemployed. [18] In 2010, there were 25,000 individuals born in the U.S. with Masters' or Ph.D. engineering degrees who were unemployed and another 68,000 with advanced degrees who were not in the labor force. [19] The Bureau of Labor Statistics defines "unemployed" individuals as those who do not have jobs and have actively sought jobs in the last 4 weeks and defines individuals as "not in the labor force" when those individuals do not have jobs and have NOT actively sought jobs in the last 4 weeks. [20]

In addition to those individuals who were "unemployed" or "not in the labor force" in 2010, there were also 489,000 U.S. citizens with graduate degrees in engineering who were working in other fields, which indicates that employers were not utilizing their specialized skills. [21] In contrast, 46% of the H-1B petitions approved in 2012 went to foreigners with only bachelor's degrees, meaning many of the unemployed U.S. born citizens (who have graduate degrees) are better educated than nearly half of all H-1B workers. [22] Despite this discrepancy in education levels, according to a poll by the U.S. Census Bureau published in 2014, about 1.8 million U.S. citizens with engineering degrees were either unemployed, not in the labor force, or working in jobs that did not require an engineering degree. [23]

#### **IV. H-1B Reform Efforts**

In an effort to prevent employers from hiring cheaper labor from abroad at the expense of U.S. workers with similarly specialized skills, the Senate has recently proposed a number of bills to reform the H-1B program. [24] For example, Senator Nelson (D-Fla.) is sponsoring Senate Bill 2365, while Senators Chuck Grassley (R-Iowa) and Dick Durbin (D-Illinois) introduced Senate Bill 2266, and Senator Ted Cruz (R-TX) is sponsoring Senate Bill 2394. [25] These bills focus on improving the transparency of employment statistics, raising the income of H-1B workers, and reallocating H-1B visas to higher skilled workers. [26] Such measures may improve the salaries of foreign replacements and change the average skill level of such replacements, but they do not directly encourage employers to hire, or *retain* U.S. workers. Additionally, the proposed legislation fails to address the H-1B program compliance issues; for instance, it does not provide sufficient incentives for employers to comply with the program. [27]

#### A. Senate Bill 2365

Senate Bill 2365 (hereinafter “S.2365”) was, introduced on December 8, 2015 and sponsored by Senator Nelson, attempts to reallocate visas to applicants with the highest projected wages. [28] The bill would reduce the number of H-1B visas given out each year from 65,000 to 50,000 and reallocate the available visas to the highest paid workers if more than 50,000 H-1B petitions are filed in a given fiscal year. [29] S.2365 would also allocate available visas to workers who will earn the highest wages when more than 20,000 petitions are filed by individuals who have earned master’s degrees or higher from U.S. institutions. [30] This

proposal would force employers to hire more salary competitive workers from abroad, which would address the issues of outsourcing where companies hire low-income workers from abroad.

Although S.2365 provides a good starting point in reforming the H1-B visa program, there is still an underlying issue with the suggested resolution as many of the most competitive salaries of workers from abroad would still be lower than the salaries of U.S. workers laid off to create vacancies. [31] An example of this was discussed above, where Southern California Edison workers earning annual salaries of \$110,000 were laid off to make room for H-1B workers with median incomes of \$70,000. [32] As a result, the bill would still allow employers to hire workers from abroad to take jobs that could go to the millions of U.S. citizens who are either unemployed, out of the labor force, or underemployed. [33]

#### B. Senate Bill 2266

Similarly, Senate Bill 2266 (hereinafter “S.2266”) seeks to restructure the H-1B program and deter abuse by decreasing the number of U.S. employers who can use the program while increasing the costs to employers that do in fact use’ costs of using the H-1B program. [34] For example, the bill raises the salaries of many foreigners who are hired through it by requiring U.S. employers to hire employees of their choosing, only if they agree to pay that worker a salary that is equal to the upper half of the Department of Labor’s pay scale. [35] The bill would also impose a fee to use this program upon U.S. employers to be paid to the U.S. Department of Labor to fund H-1B enforcement activities. [36] The bill would increase monetary fines for

noncompliance by a factor of 5 from \$5,000 per willful violation to \$25,000, and from \$1,000 per non-willful violation to \$5,000. [37] However, such fines would be insufficient, because employers could save much more money by simply taking the risk of violating the H-1B program instead of complying with it. [38] Although S.2266 would force U.S. employers to raise salaries for low income workers, the raised salaries would still be lower than the salaries of their U.S. counterparts.

S.2266 also seeks to reallocate H-1B visas to the most skilled and salary competitive workers. For example, although the bill does not reduce the program's numerical ceiling of workers that can be hired, it reduces the total number of H-1B workers in the U.S. at a given time by reducing the years in which foreign workers can work in the U.S. from 6 years to 3 years. [39] In 2012 alone, the USCIS approved approximately 260,000 H-1B visas in total. [40] However, the total number of foreigners with H-1B visas in the U.S. during that time was estimated to be a whopping 650,000, because H-1B visas were often extended up to 6 years in 2012. [41] Therefore, by reducing the length of time foreign workers could work in the U.S., it would drastically reduce the total number of foreign workers in the U.S. at any given time.

S.2266 also proposes regrouping foreign employees into nine different categories based on skillset; some of these categories would likely include income level and visa priority. [42] Priority would be given to skilled workers with advanced STEM degrees. [43] Afterwards, the

process would allow employees to be hired based off a lottery system that uses the different categories to randomly award H-1B visas to applicants. [44]

Furthermore, S.2266 prohibits the issuance of H-1B visas if 50% of their workers already hold H-1B visas for companies larger than 50 employees, which would prevent outsourcing companies that use a large portion of their allotted visas for lower income or less skilled workers by preventing them from hiring more workers from abroad. [45] Although this would be very helpful in limiting the abuse of the program by larger contracting companies like Infosys, smaller outsourcing companies smaller than 50 employees could circumvent S. 2266's requirements, which would allow them to evade the 50% workforce maximum for H-1B visas. [46] This would simply force U.S. employers like Southern California Edison and Disney to hire from a larger group of smaller outsourcing companies rather than a few large ones, leaving the problem unaddressed. [47]

Finally, S.2266 also seeks to increase the transparency of U.S. employers' hiring statistics. [48] The bill proposes mandatory collection of data and publication of program statistics. [49] Such visibility of a U.S. employer's hiring preference for workers from abroad could result in negative publicity. [50] Although negative publicity could motivate companies like Southern California Edison and Walt Disney to reconsider hiring cheap labor from abroad at the expense of U.S. citizens, this tactic puts too much emphasis on public scrutiny as a deterrence tool. [51]

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C. Senate Bill 2394

Senate Bill 2394 (S.2394) also attempts to prevent employers from hiring foreign workers at the expense of U.S. workers by only allowing U.S. employers to hire the most salary competitive, and thus presumably the most highly skilled, foreign workers. [51] The bill would require employers to pay the foreign workers the higher amount of either the income of an American worker who performed identical or similar work two years prior to the recruiting effort. or \$110,000 a year, as adjusted annually by inflation. [52]

The bill eliminates the Diversity Visa Lottery Program, which has been used to provide employment visas to employees coming from traditionally underrepresented countries, and instead allows employers to hire only *highly* skilled laborers from abroad. [53] Under this new bill, nonimmigrants with undergraduate degrees or a combination of undergraduate and master's degrees (or the foreign equivalents) would need at least 10 years of relevant post-degree experience for program eligibility. [54] The bill would give great employment placement priority to nonimmigrants with one or more doctorate or post-doctorate degrees from a U.S. university. [55] Unlike other bills, S. 2394 sets a bottom line salary for H-1B employees, and strict requirements for candidates with only undergraduate or master's degrees. The bill would still leave unaddressed the issues of U.S. born workers with doctorate degrees who are unable to find suitable work. [56]

S. 2394 also contains provisions that prevent employers from directly replacing U.S. born employees with foreign workers. Employers would be forbidden to displace or terminate without cause, a U.S. citizen or lawful permanent resident employee 2 years before or after an H-1B visa petition is filed. [57] The bill also establishes a “layoff cool-off period” which would prevent employers from hiring H-1B workers within two years of an involuntary employee termination other than for cause dismissals, employee strike, employer lockout, or layoffs. [58] S. 2394 would also prevent the use of training programs to hire workers and nonimmigrant foreign students under the pretense of student training at the expense of American workers, unless such programs are expressly authorized by an Act of Congress. [59] Although S. 2294 would address issues arising from the direct replacement of U.S. workers with foreign workers, employers would still be able to indirectly replace U.S. workers over a longer period of time. For example, employers could hire more foreign workers over U.S. workers as U.S. workers voluntarily leave or are terminated for for-cause reasons.

S. 2394 would also strengthen transparency requirements to ensure that employees as well as the general public are aware of company participation in the H-1B visa program. [60] For example, the bill would require companies to electronically publish H-1B applications by either e-mailing copies to employees and posting electronic copies on publically accessible websites or physically post copies in prominent areas of worksites and business locations. [61] The U.S. Department of Labor must also report all program abuses to both houses of Congress. [62] In

order to ensure compliance with these transparency and application requirements, the U.S. Department of Labor would establish a process to investigate whether U.S. employers meet employment conditions and do not misrepresent material facts in their employee H-1B applications. [63] U.S. federal courts would also have jurisdiction to address individual civil actions dealing with employer misuse of the program. [64] Despite these attempts at transparency, these reforms are unlikely to prevent employers' abuse of the program, because their abuses are often not direct violations of the H-1B program. Employers can be fully compliant with the H-1B program's transparency requirements and still be replacing U.S. workers with foreign workers by simply disregarding the negative publicity they may receive as a result of their practices. [65]

#### **IV. Assessment of Senate Reform Efforts**

Regardless of these reform efforts, these bills are still insufficient in bringing the H-1B program into full compliance with the original intent of allowing U.S. employers to hire foreign workers only if they cannot find such needed skills in the American workforce. Some of the current problems deal with insufficient pay for U.S. born workers compared to foreign workers, a lack of jobs for U.S. born workers, and the fact that employers are simply hiring foreign workers when they can be hiring U.S. workers for the same jobs. The senate bills are likely to increase the pay of foreign workers and increase the level of skills required of foreign workers hired. However, U.S. employers would still be continue hiring to hire workers abroad and

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replace U.S. born workers because they would still be able to hire foreign workers who are more skilled and cost more but are still less expensive than a U.S. worker of similar skill level. [66]

S.2394 would likely prove most effective in reducing the difference in pay of U.S. born workers and foreign workers. For example, 61% of all H-1B visa holders work in computer-related jobs, but the average salary for H-1B visa holders in the technology sector is approximately \$70,000 a year compared to approximately \$108,000 a year for similarly situated American workers. [67] In an attempt to force employers to only hire the most income competitive workers from abroad, the bill would require employers to pay foreign workers the higher amount of either \$110,000 a year, adjusted for inflation annually, or what a U.S. born worker was making performing the same or similar job. [68]

However, S.2394 does not set a limit to how many employees companies can hire from abroad (as the other bills would do), so recruiting companies could simply shift their business models from hiring a huge amount of lower skilled workers to hiring a huge amount of relatively cheaper, higher skill laborers from abroad. [69] For example, as long as they hire laborers from abroad for more than \$110,000 a year, they would be able to pay them a salary of what a U.S. born worker was making performing a similar job, which is hard to determine. [70] Nonetheless, the issue may never even reach a court, because these outsourcing companies have had a very successful record of settling these cases for amounts that maintain the profitability of

their business. [71] As a result, there would still be a surplus of foreign workers from abroad who are paid less than U.S. workers even if we adopt S. 2394.

In turn, S.2365 and S.2266 would likely be the most effective for reducing the amount of workers an employer can hire at a time, targeting outsourcing companies like Tata Consultancy and Infosys. However, to avoid such limits, U.S. employers can simply hire from a greater amount of outsourcing companies rather than a small amount of big outsourcing companies like Tata and Infosys, to make up for the reduction of foreign workers they may hire from each individual outsourcing company. [72] As a result, these bills do not prevent U.S. employers from replacing U.S. born workers with foreign workers.

Even though S.2394 only allows employers to hire foreign workers with an income of at least \$110,000 and 10 years or more work experience, the bill is still ineffective in limiting employers' hiring of foreign workers to only those that have skills that cannot be found in the U.S. workers. [73] For example, the bill would require employers to pay their foreign workers the higher amount between \$110,000 a year adjusted annually for inflation or what they would pay U.S. born workers with "identical or similar skills." [74] However, many technology companies hire workers who earn over \$110,000 but still less than what a U.S. born worker would earn because "identical or similar skills" is difficult to define. [75] As a result, employers would still be able to replace high-skilled U.S. workers with high skilled but still less expensive foreign workers.

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Furthermore, S.2394, unlike the other bills, does not lower the amount of H-1B visas awarded each year. S. 2365 reduces the number of visas granted each year from 65,000 to 50,000 and S. 2266 reduces the length of time foreign workers can remain in the U.S from 6 years to 3 years. [76] As a result, even though S.2394 would do much to prevent companies from hiring cheap, lower skilled labor from abroad, the bill would still allow employers to replace higher skilled U.S. born workers with similar workers from abroad. [77] Without a reduction in the number of workers hired each year through the H-1B program, the number of foreign workers hired each year would likely remain the same. [78]

Finally, violation of S. 2394 would not necessarily violate the intent of the statute, so S. 2394's enforcement mechanisms are ineffective in reforming the H-1B program. Although government agencies and federal courts would be given jurisdiction to investigate and handle cases regarding noncompliance with the statute, the statute does not address the inherent salary disparities arising from the H-1B program.

## **V. Recommendations**

Although each of the proposed bills would not individually be adequate to reform the H-1B program, they each possess certain aspects that would complement each other well if they were incorporated into a new comprehensive bill. For example, the S.2394 requires employers to pay their foreign workers the higher amount between \$110,000 a year, adjusted annually for

inflation, or what they would pay U.S. born workers with “identical or similar skills.” This would be useful in setting a bottom line for foreign workers’ salary and skill level. However, the S.2365 reduction of available visas from 65,000 to 50,000 a year is also necessary to reduce the number of U.S. born workers replaced by foreign workers. Finally, a new bill would also benefit from incorporating the S.2266 regrouping of H-1B visa priorities into nine different categories based on skillsets, because a higher income may not necessarily correlate with high-level skills that cannot be found from the U.S. workforce. By directly designating certain skills as priorities, the U.S. government would be able to have more direct control over what type of foreign workers can be hired.

## **VI. Conclusion**

Regardless of the policy, an adequate solution to the H-1B program’s problems would require redistributing H-1B visas to only foreign workers who offer skills that cannot be found in the U.S. workforce. Congress cannot simply reform the policy to hire higher-skilled laborers, because there remains a surplus of highly skilled laborers in the U.S. Nearly half of U.S. Ph.D. scientists and engineers were born abroad, even though there is a huge surplus of U.S. born PhDs, scientists, and engineers who are either unemployed, not in the labor force, or underemployed. [79] Although some employers attempt to justify their desire to hire foreign workers by claiming foreign workers possess the innovation needed to create start-ups that can then hire U.S. workers, the H-1B program is intended to fill vacant positions, not create new

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jobs. [80] As a result, a successful reform bill would need to ensure that U.S. born workers are not being replaced by foreign workers.



- [1]. See American Competitiveness and Workforce Improvement Act of 1998, Pub. L. No. 105-277, §411(a)(A), 112 Stat. 2681-641, 2681-642 (1998) (current version at 8 U.S.C. §1184 (2006)); see also Steven A. Carmarota, *Is President Obama Right About Engineers? Significant Numbers Unemployed or Underemployed*, Center for Immigration Studies (February 2012).
- [2]. U.S. Department of Labor, *H-1B Visas*, Wage and Hour Division, <http://www.dol.gov/whd/immigration/h1b.htm> (last visited November 3, 2016).
- [3]. See U.S. Citizenship and Immigration Services, *Characteristics of H-1B Specialty Occupation Workers*, Department of Homeland Security (June 26, 2013), <http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/H-1B/h1b-fy-12-characteristics.pdf>.
- [4]. See Beryl Lief Benderly, *Displaced American Stem Workers Spur Senate Hearing*, Science Magazine (Mar. 3, 2016, 3:00 P.M.), <http://www.sciencemag.org/careers/2016/03/displaced-american-stem-workers-spur-senate-hearing>.
- [5]. See *id.*
- [6]. U.S. Citizenship and Immigration Services, *supra* note 3.
- [7]. See Lornet Turnbull, *Report Finds Fraud in 20% of H-1B Applications*, Seattle Times (Feb. 15, 2009, 12:00 am), <http://www.seattletimes.com/nation-world/report-finds-fraud-in-20-of-h-1b-applications/>.
- [8]. See Beryl Lief Benderly, *supra* note 4.

[9]. *See id.*

[10]. *See* Lornet Turnbull, *supra* note 7.

[11]. *See Id.*

[12]. *See* Michael Hiltzik, *A Loophole in Immigration Law is Costing Thousands of American Jobs*, Los Angeles Times (Feb. 20, 2015 9:02 PM), <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-20150222-column.html>.

[13]. *See id.*

[14]. *Id.*

[15]. *See* Tiffany Hsu, *Disney Reverses Plan to Replace Tech Employees with Outsourced Workers*, Los Angeles Times (June 17, 2015, 3:20 PM), <http://www.latimes.com/business/la-fi-disney-technology-h1b-20150617-story.html>.

[16]. *See id.*

[17]. *Id.*

[18]. *See* Steven A. Carmarota, *supra* note 1.

[19]. *See id.*

[20]. *See* U.S. Bureau of Labor Statistics, *How the Government Measures Unemployment*, U.S. Department of Labor, [http://www.bls.gov/cps/cps\\_htgm.htm#overlap](http://www.bls.gov/cps/cps_htgm.htm#overlap) (last visited November 3, 2016).

[21]. *See* U.S. Citizenship and Immigration Services, *supra* note 3.

[22]. *See id.*

[23]. *See* Steven A. Carmarota, *supra* note 1.

[24]. *See* Beryl Lieff Benderly, *supra* note 4.

[25]. *See id.*

[26]. *See* American Jobs First Act of 2015, S.2394, 114th Cong. (2015); Protecting American Jobs Act, S.2365, 114th Cong. (2015); H-1B and L-1 Visa Reform Act of 2015, S.2266, 114th Cong. (2015).

[27]. *See* American Jobs First Act of 2015, S.2394, 114th Cong. (2015); Protecting American Jobs Act, S.2365, 114th Cong. (2015); H-1B and L-1 Visa Reform Act of 2015, S.2266, 114th Cong. (2015).

[28]. *See* Protecting American Jobs Act, S.2365, 114th Cong. (2015).

[29]. *See id.*

[30]. *Id.*

[31]. *See* U.S. Citizenship and Immigration Services, *supra* note 3.

[32]. *See* Michael Hiltzik, *supra* note 12; *see also* Graphiq, *Foreign Employment*, FindtheData, [http://foreign-employment.findthedata.com/1/388662/Summary?utm\\_source=viz&utm\\_medium=viz.referral&utm\\_campaign=viz.ref&utm\\_viz\\_id=YQeM6ZyLCR&utm\\_pubreferrer=wpcomwidgets.com%2F#h-1b%20visa%20lcas&s=ahXsP](http://foreign-employment.findthedata.com/1/388662/Summary?utm_source=viz&utm_medium=viz.referral&utm_campaign=viz.ref&utm_viz_id=YQeM6ZyLCR&utm_pubreferrer=wpcomwidgets.com%2F#h-1b%20visa%20lcas&s=ahXsP) (last visited November 3, 2016).

[33]. *See* Michael Hiltzik, *supra*, note 12; *see also* Graphiq, *supra*, note 32.

[34]. *See* H-1B and L-1 Visa Reform Act of 2015, S.2266, 114th Cong. (2015).

[35]. *See id.*

[36]. *Id.*

[37]. *Id.*

[38]. *See* Michael Hiltzik, *supra* note 12; *see also* Graphiq, *supra* note 32.

[39]. *Id.*

[40]. *Id.*

[41]. David North, *Estimating the Size of the H-1B Population in the U.S.*, *Center for Immigration Studies*, Center for Immigration Studies (Feb. 2011).

[42]. S.2266, *supra*. note 26

[43]. *Id.*

[44]. *Id.*

[45]. *Id.*

[46]. Hiltzik, *supra* note 12.

[47]. *Id.*

[48]. David North, *Sens. Grassley and Durbin Propose H-1B and L-1 Program Reforms*, *Center for Immigration Studies* (Nov. 2015).

[49]. *Id.*

[50]. *Id.*

[51]. *Sens. Cruz and Sessions Introduce Strong H-1B Reform Bill*, NumbersUSA (Feb. 19, 2016), <https://www.numbersusa.com/news/sens-cruz-and-sessions-introduce-strong-h-1b-reform-bill>.

[52]. S.2394, *supra*. note 26

[53]. *Id.*

[54]. *Id.*

[55]. *Id.*

[56]. Jordan Weissman, *The Ph.D Bust: America's Awful Market for Young Scientists—in 7 Charts*, <http://www.theatlantic.com/business/archive/2013/02/the-phd-bust-americas-awful-market-for-young-scientists-in-7-charts/273339/> (last visited Nov. 3, 2016).

[57]. *Id.*

[58]. *Id.*

[59]. S.2394, *supra*. note 26

[60]. *Id.*

[61]. *Id.*

[62]. *Id.*

[63]. *Id.*

[64]. *Id.*

[65]. Hiltzik, *supra* note 12; and Graphiq, *supra*, note 32.

[66]. Kiran Dhillon, *How Google, Facebook, and Others Pay Their H-1B Employees*, TechCrunch, <http://techcrunch.com/2015/03/29/how-google-facebook-and-others-pay-their-h-1b-employees/> (last visited Nov. 3, 2016).

[67]. U.S. Citizenship and Immigration Services, *supra* note 6.

[68]. S.2394, *supra*. note 26

[69]. *Id.*

[70]. *Id.*

[71]. *INFOSYS REJECTS CLAIMS OF HIRING DISCRIMINATION IN U.S. Koehler v. Infosys Tech*, 28 No. 2 Westlaw Journal Employment at 12 (Aug. 28, 2013).

[72]. Dean DeChiaro, *Congress raises H-1b fees for outsourcing firms*, WL 9242817 (2015).

[73]. S.2394, *supra*. note 26

[74]. *Id.*

[75]. Kiran Dhillon, *supra* note 66.

[76]. S.2365, *supra* note 26; and S.2266, *supra*. note 26.

[77]. Jordan Weissman, *supra* note 56.

[78]. *Id.*

[79]. Thomas A. Aleinikoff, *Immigration and Citizenship Process and Policy*, 410 WEST 7th ed. 2012).

[80]. Sam Gustin, *Why Mark Zuckerberg Is Pushing for Immigration Reform*, Time (April 12, 2013), <http://business.time.com/2013/04/12/why-mark-zuckerberg-is-pushing-in-immigration-reform/>.