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# WHO IS AMERICA FOR?

## Issues and Facts About the Economy, and Actions You Can Take To Fix It

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### UNEMPLOYMENT AND THE SELLING OF AMERICAN TECH JOBS

In March 2003, the American Engineering Association reported that the U.S. high-tech sector lost 560,000 jobs—a 10 percent decline—between January 2001 and December 2002. During the same period, companies sponsored more than this number of high-tech workers on H-1B and other temporary visas.

The Immigration Act of 1990 established an annual quota of 65,000 H-1B visas. The stated purpose was to bring “the best and the brightest” to American shores. This number of available visas became a fixed requirement under the World Trade Agreement.

During the late 1990s, the Information Technology Association of America (ITAA), whose members include the major US technology companies and the India outsourcing companies, lobbied both Congressional Democrats and Republicans with high campaign contributions to raise the H-1B cap to 195,000 workers annually. They succeeded once in 1998 to raise the cap temporarily to 115,000, but that wasn’t enough for ITAA. They lobbied again in 2000 and the following is what happened.

On Tuesday, October 3, 2000, at 3:45 PM, a House of Representatives clerk announced the Senate passage of *S. 2045. An act to amend the Immigration and Nationality Act with respect to H-1B nonimmigrant aliens* (ironically named the “American Competitiveness in the Twenty-First Century Act of 2000”). Immediately following, the Speaker pro tempore announced that she would postpone further proceedings on the remaining motions and that any record votes on postponed questions would be taken on October 4th.

On the evening of October 3rd, a presidential debate between Bush and Gore was occurring and the majority of Representatives, as well as the press, were preparing for the debate. As it had been announced that no further votes would be taken, most Representatives left.

But at around 5:30 PM an email was sent announcing that an H-1B debate would begin shortly. Major supporters of the increased H-1B cap came to the

House for the vote. Only approximately 40 out of the 435 members were present.

A bit prior to 6:30 PM, Cannon (R-UT) made a motion to suspend the rules and pass Senate bill S2045 (which had been passed that morning) instead of voting on the House bills, one of which (introduced by Smith (R-TX)) included worker protections and had properly gone through the Judiciary committee—however, it was known that the tech companies opposed those worker protections.

There were only two copies of the Senate bill in the House that night, in non-compliance with House Rules. Mr. Cannon had one, the Speaker had the other, although it is interesting to note that the Speaker’s copy of S. 2045 that the House clerk read into the congressional record (which is the only knowledge of the bill for the other Representatives there that night) was not the bill that was ultimately enacted. The numbers entered into the record (on page H8699 under “Sec. 2. Temporary Increase in Visa Allotments”) were (1) 80,000 for fiscal year 2000; (2) 87,500 for fiscal year 2001; and (3) 130,000 for fiscal year 2002.

The Speaker allotted control of 20 minutes each to Cannon and Conyers (D-MI), leaving little opportunity for debate. Rorabacher (R-CA) stated, “This legislation is nothing more than a betrayal of American working people.” Owens (D-NY) said, “What we are doing here is steamrolling through a cap. We will have a cap which amounts to almost 600,000 people over a 3-year period.”

Smith (R-TX) was vocal in the issues he had with the Senate bill and his upset with it being railroaded through the House that night by Cannon, Conyers and Lofgren (D-CA). In the record, Smith detailed the polls of the American public that were overwhelmingly against raising the labor importation cap. In addition, he noted, “The goals of preventing abuse of the program and providing efficient services to employers and workers are not being achieved. Evidence suggests that program noncompliance or abuse by employers may be more prevalent than under other laws.”

Using various procedural moves, the GOP leaders ended the debate quickly and called for a voice vote, even though the House was nearly empty. Needless to

say, the H-1B increase was passed with no vote record, and only Cox News Service reported on it.

Since the day this passed, the new annual maximum of 195,000 H-1B visas have been issued in spite of the economic downturn, and the majority of these H-1B visas were used in Information Technology professions.

The official cap is not the actual number of H-1Bs admitted to the US each year as some are exempt from the cap. As a result, during 2002 there were a total of 312,000 new H-1B visas issued, in spite of record unemployment. (The cap of 195,000 is set to expire in October 2003 and return to the 65,000 annual cap as established in the Immigration Act of 1990. ITAA has been lobbying to maintain the high cap permanently.)

The result of this labor glut is that US citizen IT workers aren't even obtaining job interviews. This is especially true for older, more experienced American IT workers. US students graduating with engineering degrees are also being shut out of the job market.

These workers, often rejected on the employer claim of "over-qualification," have state-of-the-art skills far in excess of the majority of their H-1B replacements, many of whom have little or no experience. (IT education is a recent phenomena in India. INA ACT 203 [8 U.S.C. 1182] (the result of the 10/3/00 legislation) contains subsection B2 --Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. The vast majority of H-1B visa holders do not have advanced degrees and have limited skills, yet obtain their visas through this category.)

In many cases, American workers have been forced to train their H-1B replacements in order to obtain severance packages when they are laid off. Since the H-1B cap was raised in 2000, 9 out of 10 new jobs in IT have been awarded to H-1Bs. By the end of December 2001 more than 890,000 H-1B workers were employed in the United States. Add to this the 312,000 from 2002 and you have a total of 1,202,000 H-1Bs replacing US citizens and green card holders by year end 2002. Special interests have imported more than 17 million non-citizens to glut the labor market between the years 1985-2002.

In addition, there has been a recognized bias among H-1B (and L-1) hiring managers to hire only those of the same sex, age and ethnic origin as themselves, in direct non-compliance with US labor laws. Few of these activities have been reported.

As bad as this is, companies are also using L-1 visas to go beyond the H-1B cap. L-1s are intra-company transfers used to transfer aliens to work for a US firm or subsidiary of a company which already employs them outside of the US. There are over 325,000 L-1 visa holders in the US and that number is growing rapidly, as there is no cap on L-1s.

As an example of this practice, Microsoft in November 2002 announced plans to build a half-billion dollar complex in Hyderabad, India. With this new development center, Microsoft can use L-1 visas to displace further US citizen employees and will not be subject to H-1B caps. Other major companies in the US are doing the same. This is why reform is needed across all US visa types and not just for H-1B visas alone. It was through the use of these "special" visas that all of the September 11<sup>th</sup> terrorists secured admittance to the United States. There is virtually no security or monitoring of these special visa holders.

Further compounding the already gloomy economic condition, recent research from Forrester Research indicates that the percentage of offshore outsourcing for US IT budgets took a leap from 12 percent in 2000 to 28 percent in 2003. META Group, Inc. predicted that offshore outsourcing overall would grow more than 20 percent annually.

Special visas and offshore outsourcing go hand-in-hand, as many companies import H-1B and L1 workers, force US citizens to train them, then offshore the work and lay off their US staff. Also, offshore development contracts usually have a US presence of H-1Bs and L1s to perform "face-time" with their US clients and to lobby for further offshore work. This tactic has been highly successful for the major Indian offshore outsourcing companies like Infosys, Cognizant, MphasIS, Wipro, Tata (all members of ITAA) and other companies who have gotten into this profitable game.

### **RECORD STATE BUDGET DEFICITS FOLLOW GUEST WORKER EMPLOYMENT**

The downstream result of all this is the current massive state budget deficits that now threaten our educational system, social services, public safety and the public infrastructure. These special visas and offshore contracts are outside the federal and state tax systems, with payments transferred to offshore accounts. They usually do not pay taxes. Meanwhile, they are replacing taxpaying US citizen workers. In addition, when H-1Bs and L1s are in the US, they are using US services, paid for by US citizens.

As previously noted, there are over 1,202,000 H-1B visa holders and over 325,000 L-1 visa holders in the U.S. This does not include the H-4 and L-2 visa holders who are immediate family members of the H-1Bs and L-1s. Any fees generated by the admittance of these visa holders goes to the federal government, yet the total cost impact of services to support these visa holders falls to the states. In addition, it has been recognized that some visa holders do not leave the U.S. when their visas expire or are revoked, but remain in the U.S. as illegal aliens. Therefore, the numbers quoted above for valid visa holders are known to be less than the actual number of aliens who at one time were admitted to the U.S. under the H-1B and L-1 programs and legally or illegally have remained here. And, those valid H-1B and L-1 visa holder numbers are woefully inadequate to show the total U.S. state support impact.

When looking at the number of imported workers and offshore contracts per state, the highest numbers are in those states with the highest tax deficits. As an example, California employs by far the highest number of special visa holders at approximately 30% of all H-1B workers in the US and, at an estimated FY2004 deficit of \$18-26 billion, has by far the highest tax deficit of any state.

Other states with the highest employment of special visa holders include: New York (estimated FY2004 deficit \$10-12 billion), Texas (estimated FY2004 deficit of \$4-7.8 billion), New Jersey (FY2004 deficit of \$4 billion), and Illinois (FY2004 deficit of 3.6 billion). Rounding out the top seven states employing H-1Bs (whose H-1B numbers are more than double the states lower on the list) are Pennsylvania and Michigan with FY2004 deficits of approximately \$2 billion each.

The bottom line in all of this is that when corporations import H-1B and L-1 visa holders, they are being subsidized heavily by the taxpayers of their state.

Meanwhile, the reduced US citizen spending has begun its ripple effect throughout the economy, forcing further job losses in all sectors.

### **LONG TERM US TECHNOLOGY LEADERSHIP IN DANGER**

Couple the economic issues with the long term impact on the US technology sector (in which technology workers, who must constantly upgrade their skills, can no longer afford these costs) and you will find a society unraveling. Observers have noted the practice of replacing American workers with foreign visa holders and offshore outsourcing will soon erode the United States' position as a technology leader, and will bring further economic and security woes.

Although IT professionals have been the primary victims thus far, the practice of labor importation and its offshore outsourcing outcome applies across increasing numbers of job categories. Architects, designers, and Wall Street analysts are joining displaced US call center employees as offshore casualties.

US patent attorneys have been axed as their work is sent to India—a country with one of the worst intellectual property theft records in the world— and personal financial information is accessed by call centers and tax preparers in India. This trend adds the risks of personal financial information theft to the intellectual property theft threat already discussed.

In addition, wholesale worker importation is starting to occur in the teaching and nursing professions. In India H-1B “nurses training” companies have been training recruits they will sell to the US market; but they are not trained in modern medical techniques, but in American slang and “culture.”

### **WHY IS THIS OCCURRING?**

The goal is to flood the labor market with not just cheap labor, in defiance of the “prevailing wage” stipulation of the immigration law which permits their entry in the first place (according to the INS, the median salary for an H-1B worker is 25 percent less than that for an American), but also so they will be non-unionizable labor. They are in effect indentured servants.

Under the immigration rules, H-1B workers can be fired and deported immediately if the employer is unhappy with them. They cannot seek another position at another company unless the employer agrees to it and a lengthy process is undertaken to which both companies agree.

Additionally, the mere presence of that much more labor depresses wages and sends more people into the “working poor” category of those without healthcare, security or opportunity. We are witnessing the attempted destruction of the middle class.

This recession will continue and will get deeper, reducing the size of the US middle class and ultimately resulting in a weakened America with poor education, no technology leadership and few opportunities for our children if action is not taken now.

Ask yourself: “Who is America For?” Is its purpose to support short-term corporate profits for a few very rich individuals, or for the long term viability of American citizens? Please help us end this travesty and end this recession.

# Actions You Can Take NOW!

## **SEND FREE FAXES TO CONGRESS AND THE WHITE HOUSE**

[www.numbersusa.com](http://www.numbersusa.com) provides a free fax service to send messages to US senators and representatives, to the White House and to other governmental officials. Register in their "Join Action Network" section and your messages will automatically go to your elected officials. You do not need to worry about registering with them as they will not send you spam or share your information. In addition, check out the record for your elected officials and keep track of how they vote through the "Immigration Report Card" section of the numbersusa website.

## **REPORT ILLEGAL HIRING AND FIRING PRACTICES AND EMPLOYMENT DISCRIMINATION AGAINST US CITIZENS AND GREEN CARD HOLDERS**

For illegal employment practices involving private sector companies and organizations contact the Division of Foreign Labor Certification within the Employment Training Administration of the U.S. Department of Labor. Their regulations state that "complaints alleging failure to offer employment to an equally or better qualified U.S. worker, or an employer's misrepresentation regarding such offer(s) of employment, may be filed with the U.S. Department of Justice, Office of Special Counsel, 10th Street and Constitution Avenue, NW, Washington, DC 20530." You may also contact this office by telephone at (202) 514-2000 and ask for the Office of Civil Rights. This and other useful information may be obtained at [www.ows.doleta.gov](http://www.ows.doleta.gov)

For illegal employment activity involving federal subcontractors, the Office of Federal Contract Compliance Programs (OFCCP) administers and enforces three equal employment opportunity laws: Executive Order 11246, as amended (EO); Section 503 of the Rehabilitation Act of 1973, as amended (503); and the Vietnam Era Veterans' Readjustment Act of 1974, as amended, 38 U.S.C. 4212 (VEVRAA). These laws prohibit Federal contractors and subcontractors from discriminating on the bases of race, color, religion, sex, national origin, disability, and veteran status. They also require affirmative action in employment by Federal contractors and subcontractors. For issues involving Federal contracts contact OFCCP at <http://www.dol.gov/esa/ofccp/index.htm>

## **CALL YOUR U.S. SENATORS AND REPRESENTATIVE AND DEMAND ACTION**

Nothing is more effective than phone calls on a regular monthly basis to let them know you care. Tell them that you are aware of the irregular passage of the "American Competitiveness in the Twenty-First Century Act of 2000" that created this loss of US jobs and offshore outsourcing, that you know the major campaign contributions of the ITAA greased its passage, and that you will be watching. (96 out of the 100 US Senators voted for the bill and one of the non-voting members (Feinstein D-CA) was one of its sponsors, although she has now begun to lead the charge against the recent Singapore and Chile Free Trade Agreements).

If you visit your legislators, prepare before you visit. Present facts, not supposition and take materials as handouts on which you have based your arguments.

[www.numbersusa.com](http://www.numbersusa.com) provides congressional phone, mail and email contact information for local and Washington D.C. offices of your Senators and Representative, as well as offering the free fax service for Congressional contact.

If you don't know the names of your Senators and Representative, you can find them by entering your zip code on [www.congress.org](http://www.congress.org). This congressional site also includes current status of pending legislation by topic and is a good place to check regularly.

The Thomas site at <http://thomas.loc.gov> also covers the current status of bills which have been introduced for Congressional action. It contains what committee a bill is in, the text of the bill at each stage of the process, the archive of the congressional record and contains links to congressional databases for committee members and individual member websites.

Check on who is funding members of Congress or Congressional and Presidential campaigns at [www.opensecrets.org](http://www.opensecrets.org) It was created by the Center for Responsive Politics, a non-partisan, non-profit research group based in Washington, D.C. that tracks money in politics, and its effect on elections and public policy.

## **LET YOUR STATE SENATE AND ASSEMBLY KNOW THAT YOU EXPECT THEM TO ACT**

Actions against offshoring jobs and illegal hiring and firing practices have been initiated in Washington, New Jersey and Connecticut. Tell your State Senator and

Assembly official that your state needs to follow that lead, successfully and immediately, and that you will be watching for lobbyist interference.

**NEW JERSEY** Sen. Shirley Turner (D) Ewing, NJ introduced bill 1349 on March 2, 2003 to ban offshore outsourcing of IT and other state contracts. But by March 6, 2003, the day the bill was scheduled to be heard by the New Jersey Legislature's State Government Committee, technology lobbying groups such as the National Association of Software and Services Companies (NASSCOM), an association of Indian technology companies, were ready to water it down. They proposed an amendment stating that outsourcing could occur if the work cost less to do offshore or promised improved quality offshore. The lobbyists succeeded in getting the bill tabled. But they didn't succeed in persuading Turner to give up. If you are a New Jersey resident, consider helping her.

**WASHINGTON** The legislature in the US state of Washington (home of Microsoft, which is building a development center in Hyderabad, India and already has the highest rate of unemployed engineers in the US due to prior layoffs) may soon consider a bill that will make outsourcing difficult. The bill's basic objective is to reduce layoffs, relocation and termination of employees. Admitted by the India press (in their reporting on this bill), this is because a large number of layoffs in the US can be traced to companies sending these jobs to other countries. Unlike the New Jersey bill, which specifically barred outsourcing by state enterprises, the Washington layoff bill lays down a strict procedure which will slow down the outsourcing process for any company in the state with more than 75 employees. The Washington bill defines layoffs, mass layoffs, relocations and terminations. Most importantly, the bill covers outsourcing of work, which it defines as 'relocation.'

**CONNECTICUT** After an investigation by NBC30 on H-1B abuse, U.S. Rep. Nancy Johnson (R-CT) is asking the chief executives of five Connecticut insurance companies (Aetna Inc., CIGNA Corp., The Hartford Financial Services Group Inc., The Phoenix Cos. Inc., and Travelers Property Casualty Corp) to reveal how many Indian citizens they employ on H-1B visas in information technology now, whether that number has grown during the past two years and how many American IT workers the companies have laid off. To see the report that initiated this, go to <http://www.nbc30.com/nbc30/2190071/detail.html> and in the feedroom box click the little camera.

### **KNOW THE ENEMY AND OBTAIN MEDIA COVERAGE TO EXPOSE THEM**

Gaining coverage to allow the American public to understand the issues facing them on the economy has been difficult. ITAA and the Indian NASSCOM lobbying organizations have spent enormous amounts on PR and disinformation, in addition to their purchase of Congressional favors. To read or see the excellent Lou Dobbs interview with Rep. DeFazio (D-CO) go to <http://www.zazona.com/ShameH1B/MediaClips.htm>

It is encouraging to see this investigation on CNN and the February 3, 2003 Business Week issue on exporting US jobs. We must encourage more. A comprehensive **multimedia Press Investigation Kit** in Adobe PDF format was created that allows direct hyperlinked access to video files of TV investigations, audio files, LCA databases, print media, government statistics, whitepapers and more. It is available for free download at "Press Kit" <http://www.us1st.org/presskit.htm> (this zipped file downloads quicker to save to your hard drive) and <http://www.outsourcecongress.org:81/> (this opens the PDF – it is slow so please be patient as it downloads – you can then save it to their hard drive by clicking on the diskette icon in the upper left of the Adobe PDF toolbar). The US media determines what the public, and our elected officials, care about, so please burn CDs and send them to national television network news, local news, radio and television magazine programs describing the issues as noted above or in local stories that you uncover and ask them to investigate. Contact newspapers across the nation and write articles or Op Ed pieces to be submitted to these papers. Public awareness is the only tool we have. We have the high moral ground. We need to publicize it.

### **KNOW THE ARCHITECTS OF THE PROBLEM**

According to estimates made by the American Engineering Association (AEA) the Information Technology Association of America and its members have spent over \$100 million to finance this "business strategy." The ITAA is a powerful lobbying organization headed by Harris Miller. Their campaign financing efforts have produced exceptional success for their agenda, and the members are the deepest pocket corporations in the world. To view their huge member roster, go to <http://www.itaa.org/about/members.cfm>. Indian NASSCOM is also active in the influence purchasing arena. And, when you read or hear news items about the economy or the technology sector where Harris Miller, the ITAA, its members or NASSCOM are quoted, read between the lines.

### **KNOW WHICH SENATORS AND REPRESENTATIVES ARE ON-THE-TAKE, AND GET RID OF THEM**

On March 10, 2003, TATA Consultancy Services (TCS), one of the largest India H-1B bodyshops and offshore

outsourcing companies, announced that it opened its newest North American office in Buffalo, New York. As stated in TATA's press release, the deal was the brainchild of Senator Hillary Rodham Clinton (D-NY), and was facilitated by the Confederation of Indian Industry. TATA does not hire US citizens or green card holders and actively lobbies clients for offshore contracts. New Yorkers need to act now or their esteemed senator will sell them all. She is not the only one, however, nor is one party the sole villain. The corruption crosses party lines. As Deep Throat advised, "Follow the money."

To obtain an in-depth and chilling understanding of the corruption, read Dr. Norm Matloff's (Computer Science Professor, UC Davis) congressional testimony and commentary "Debunking the Myth of a Desperate Software Labor Shortage" at <http://heather.cs.ucdavis.edu/itaa.html>. Remember, what has happened in the tech sector is the model for what will happen in the rest of the US economy unless we stop it now.

### **KNOW WHICH COMPANIES ARE ABUSING THE H-1B PROGRAM AND REPORT THEM**

We have all heard about massive layoffs, but what most American's don't know is that these layoffs are happening to US citizens and green card holders while the same company is retaining and, in a majority of cases, adding H-1B and L-1 workers.

Rob Sanchez at [www.zazona.com](http://www.zazona.com) has created the Labor Condition Application (LCA) database in which users can do an advanced search entering the company name and city, to see the number of LCAs that have been approved. An LCA must be filed by a company hiring H-1Bs. You will find that many are hired in "batches" of 25 or 50 at a time, laying bare the lie that H-1B was for hiring "the best and the brightest." Instead it is used for bodycounts. Also, you will likely not find all the H-1Bs that a company has hired, as often the company will subcontract with H-1B bodyshops like Infosys, Tata, Wipro or with US based H-1B bodyshops like Rapidigm. If you do an advanced LCA database search on the city and find the names of these and other bodyshops, you know that they have been placed at a client's site.

In addition, [www.zazona.com/ShameH1B/](http://www.zazona.com/ShameH1B/) has a remarkable archive of information on H-1B legislation and history as well as on corporate and organizational corruption.

You can stay abreast of legislative action, congressional corruption and job destruction news by subscribing to Rob Sanchez' free "H-1B News and Job Destruction

Newsletter." Send an email to [H1BNews@ZaZona.com](mailto:H1BNews@ZaZona.com) and put SUBSCRIBE in the Subject line.

[www.h1b.info](http://www.h1b.info) also has an LCA database. Although it has fewer records, it has the ability to drill down into the LCA filing. There is also a rich archive of articles and news.

Pete Bennett at [www.nomoreh1b.com](http://www.nomoreh1b.com) has H-1B and L-1 totals and has created a breakdown of H-1B placement by US state that is fascinating and very useful in assessing the impact of the state budget deficits. Nomoreh1b also has a vast array of news articles, research and links.

### **LEARN AS MUCH AS YOU CAN ABOUT THE ISSUES, AND TELL YOUR FRIENDS**

Learn the truth about globalization and its impact on the US economy. A superb source is "[The Race to the Bottom: Why a Worldwide Worker Surplus and Uncontrolled Free Trade are Sinking American Living Standards](#)" by economist Alan Tonelson.

There are a number of organizations that have compiled information on the issues and are active in trying to notify the public. Join their effort if you can but, most of all, tell your friends. Please copy, mail, email or distribute this brochure freely. That is what it was designed for. If we all work together, we can set the economy back on track and keep America strong.

The American Engineering Association at [www.aea.org](http://www.aea.org) is trying to educate the public about the ITAAs impending push to increase the H-1B limit permanently.

The Programmer's Guild at [www.programmersguild.org/american.htm](http://www.programmersguild.org/american.htm) is an organization of systems professionals fighting to stop the loss of systems jobs from H-1Bs, L-1s and offshore outsourcing.

<http://www.RescueAmericanJobs.org> provides information and meeting resources for people across America.

FAIR at [www.fairus.org](http://www.fairus.org) is one of the oldest immigration reform organizations and has much current information.

Washtech at [www.washtech.org](http://www.washtech.org) is the Washington alliance of technology and communication workers. They are very active in the Pacific Northwest.

[TechsUnite.org](http://TechsUnite.org) is an online community supporting technology professionals and educating the public about the effects of destroying the US technology sector.