

May x, 2020

The Honorable Donald J. Trump
President of the United States of America
The White House
Washington, DC 20500

Dear Mr. President,

The undersigned organizations, speaking for a variety of sectors and geographies across the American economy, and small, medium, and large employers, are writing about the importance of the high-skilled workforce to America's economic recovery. In particular, the undersigned represent employers that rely on a highly skilled, college-educated, science and engineering workforce, including nonimmigrant professionals, to innovate, produce, research, develop, and lead. At this critical juncture in our nation's history, the ability to continue to do so is in the ***national interest***.

A critical part of recovery is unleashing the private sector's creativity and ingenuity. And, the science, technology, engineering and mathematics (STEM) workforce, including professionals holding nonimmigrant visas, are vital to that. Allow us to provide facts and information (attached Appendix) as your administration evaluates next steps in preserving jobs and economic security for Americans.

We urge you to avoid outcomes, even ones limited in validity for temporary periods, that restrict employment-authorization terms, conditions, or processing of L-1, H-1B, F-1, or H-4 nonimmigrants at this critical inflection point in our nation's history. Artificial constraints on our human capital are likely to result in unintended consequences and may cause chaos if we have to recalibrate our personnel based on country of birth.

We join you in your continued commitment to protect the health and economic well-being of Americans, and hope our attached Appendix is helpful to you as you consider weighty judgments on how to navigate this important moment.

Cc:

The Honorable Secretary of State Mike Pompeo
The Honorable Secretary of Labor Eugene Scalia
The Honorable Acting Secretary of Homeland Security Chad Wolf

Respectfully submitted,

xxx [number of total signatories] employers, trade and industry associations, and groups across the American economy focused on the high-skilled workforce (signatory list follows Appendix)

APPENDIX

Importance to the nation of the STEM workforce and avoiding artificial constraints to this workforce

IMPORTANCE OF THE COLLEGE-EDUCATED STEM WORKFORCE, INCLUDING NONIMMIGRANTS

STEM jobs. It has been well-understood in the post-World War II era that the STEM workforce is of particular interest to all developed economies because of its central role in fostering innovation, economic competitiveness, and national security. The centrality of the STEM workforce today across the American economy is evidenced by the fact that in the 21st century Americans with university STEM degrees are called upon to use their quantitative skills in finance, public administration, professional services, manufacturing, information, education, health care, transportation, and retail, in addition to high-tech, as the [Census Bureau has explained](#). In particular, though, over the years, it has evolved across sectors that computer-related professional job openings have outstripped the availability of qualified Americans. For this reason, the [Department of Homeland Security reports that 66% of all H-1B visa petition approvals are in computer-related occupations](#) and, correspondingly, the [Department of Labor reports that 60% of Permanent Labor Certifications approved to sponsor new green card holders are in the computer and mathematical occupations](#), with most such labor certifications filed on behalf of H-1B visa holders. The unemployment rate in computer occupations remains low, at about 2.8% through April 2020, [according to a May 2020 analysis of the government's occupational-level unemployment data](#). Importantly, when Department of Labor wage data on H-1B workers is compiled, as the [Cato Institute did for a May 2020 article](#), “the unequivocal takeaway from the data is that H-1B employers are, on average, paying a premium for many of their foreign workers.”

Innovation. These foreign-born STEM professionals have had a positive impact on Americans. As described in a [July 2019 economic study on the impact of highly-skilled STEM immigration on the U.S. economy](#), the foreign-born share of STEM professionals in the United States increased from about 16% to 24% over the period 2000 to 2015 creating an estimated benefit of \$103 billion for American workers almost all “attributed to the generation of ideas associated with high-skilled STEM immigration which promotes the development of new technologies that increase the productivity and wages of U.S.-born workers.” An [economic report on global talent and U.S. immigration policy published in April 2020](#) highlights that when looking at the net global migration of inventors from 2000 to 2010 China and the United States are at opposite ends of the spectrum, where China receives virtually no immigrant inventors and instead possesses the largest number of natives moving to other countries to become inventors elsewhere. The United States dwarfs all other 26 advanced economies in the world in welcoming new inventors, with about ten times that of Germany, the next highest country. Indeed, economists from [George Borjas in June 1986](#) (National Bureau of Economic Research) to [those at the Census Bureau and George Mason University in February 2019](#) (IZA - Institute for Labor Economics) to [William Kerr in April 2020](#) (Harvard Business School) have consistently found that for immigrants coming to America their propensity toward innovation, as well as entrepreneurship, is higher than for U.S.-born workers. We want to continue to harness that innovation and entrepreneurship for America and Americans, and we’re sure the Trump administration wants that for our country.

Nonimmigrants. Among the nonimmigrant classifications that play a role in providing access to this STEM workforce for American employers, three classifications have been most critical and have been tools in our toolbox for **decades**: the L-1, H-1B and F-1 nonimmigrant classifications.

- Created by Congress in 1970, over the last **50** years the L-1 visa category has been available to facilitate international transfers of existing employees to the United States within related firms. A cornerstone of business operations for those that do business both in the United States and abroad has been the ability to transfer current staff that are managers, executives, and specialized knowledge personnel across national boundaries in order to harmonize operations, expand markets, service clients, and share knowledge.

- Established in the 1952 rewrite of the nation's immigration laws, for over **65** years the H-1 visa classification has existed to allow U.S. employers to hire professionals born outside our country. Since 1990, this category has been subject to numerical limits and a labor condition application, and the category has been designated as the H-1B visa.
- In [August 1947 the Department of Justice promulgated a regulation permitting "employment for practical training"](#) for international students, after completion of the student's regular course of study. For over **70** years, a program allowing such post-completion employment authorization for international students has continued, now through Department of Homeland Security regulations governing F-1 nonimmigrants.

The stability of America's workforce – including L-1, H-1B, and F-1 nonimmigrants – cannot be more important than at this very moment when the Trump administration and the entire nation look to our companies to reinforce the backbone of the national economy.

IMPORTANCE OF AVOIDING UNNECESSARY CHURN IN THE COLLEGE-EDUCATED STEM WORKFORCE, INCLUDING NONIMMIGRANTS

Churn. Economists define “churn” as hiring for replacement, which means that a prior worker, being replaced, left voluntarily or was terminated. Turnover may come about because employers grow and shrink, but more frequently because of churn. It is inefficient for separations in the employment relationship to occur based solely on changes in government policy governing nonimmigrant employment authorization. Thus, at this critical juncture in our nation's economic life, creating government-mandated churn in our college-educated STEM workforce on nonimmigrant visas – part of our human capital – creates significant risks because the tentacles of such decisions are likely to reach into our capacity and productivity in unknown and unintended ways.

L-1. Narrowing access to L-1 intracompany transfers is a significant concern as we respond to Covid-19 challenges, because appropriate use of the L-1 classification by careful and responsible employers plays a direct role in supporting job creation and job retention in the United States, as well as expanding U.S. advanced manufacturing, continuing U.S.-centered research and development, increasing exports from the U.S., and encouraging foreign direct investment into the U.S. Multinational companies, of the type that might qualify to use the L-1 category, employ about one-quarter of all U.S. private sector employees. Sidestepping impacts to a group of firms that play such an outsized role in the economy seems significant.

With regard to U.S.-based R&D, an economist at the Wharton School of the University of Pennsylvania assessed Department of Commerce data [in a study published February 2020 and found restrictive high-skilled immigration policies encouraged multinational companies to off-shore R&D efforts](#). As the Wharton economist explains, “From a nationalistic perspective, this is problematic; if skilled foreign-born workers are at a U.S. firm's foreign affiliate instead of in the U.S., the innovative spillovers that they generate will go to another country instead.” The [National Science Foundation's 2020 reports](#) show that the U.S. performs one-quarter of global STEM R&D, the largest percentage for any single nation; that STEM R&D performed in the U.S. increased sharply in 2017, up 10% when compared to 2015 and 34% higher than 2010; that 73% of all development research in the U.S. is performed by private sector businesses; and that U.S. multinational firms are responsible for 80% of such private R&D in the U.S. Tinkering with immigration policies risks many unintended consequences, including disruption of these positive trends.

H-1B. Temporarily or indefinitely eliminating or reducing the H-1B program or discouraging its use would not create or leave more jobs for U.S. natives *and* would risk reducing growth and productivity. The [University of Chicago did a survey in February 2017 through its Initiative on Global Markets](#) (IGM Forum), asking its panel of economists from Yale, MIT, Princeton, Berkeley, Harvard, and Stanford about the following premise: “If the U.S. significantly lowers the number of H-1B visas now, employment for American workers will rise materially over the next four years.” None (0) of the economists agreed with the premise, 81% disagreed, 19% were

uncertain. A [May 2017 economic study on firm dynamics and immigration](#) found that completely eliminating the H-1B category would ultimately result in a 3.7% decrease in GDP. An [August 2018 economic study on the relationship between H-1B visa petitions and the entry of new products and exit of outdated products](#) (product reallocation) concluded that firm-level analysis shows H-1B visa petitions are associated with higher rates of product reallocation. Generating product reallocation is one measure to identify where smaller, incremental innovations are occurring. In a seminal economic evaluation of H-1B visas and productivity in 219 American cities, [published in the Journal of Labor Economics in July 2015](#), economists concluded that their simulations showed an increase of H-1B visa holders in a city explained increased productivity. Specifically, the economists found that “foreign STEM growth explained between one-third and one-half of the average Total Factor Productivity growth during the period” 1990 to 2010. It seems the Trump administration should not initiate a realignment of the H-1B category to respond to a downturn in the economy, especially because history shows us that H-1B demand from employers is tightly connected to market forces.¹

OPT. As the number of U.S. postsecondary STEM degrees attained by F-1 nonimmigrants has steadily grown, the Optional Practical Training (OPT) program, to include the STEM OPT extension, has correspondingly become a significant pipeline for the U.S. STEM workforce. [As explained by CRS in November 2019](#), from school year 88-89 (the earliest year for which annual data are available) to school year 16-17 (the most recent year for which data are available) there has been a 315% increase in STEM degrees awarded in the U.S. to foreign students, most of which is at the graduate level. When the Business Roundtable of American CEOs (BRT) partnered with the Interindustry Forecasting Project of the University of Maryland (Inforum) to assess the OPT program the [resulting December 2018 report showed a negative impact to the U.S. economy should OPT participation be reduced](#). The BRT-Inforum modeling showed, among other things, a loss of 443,000 jobs over a decade, including 225,000 jobs held by native-born workers. Relatedly, [an economist's study in March 2019](#), analyzing unemployment among STEM workers in 102 metro areas, concluded that unemployment rates are lower in areas with larger numbers of F-1 nonimmigrants doing OPT as a share of workers in STEM occupations. When [the Niskanen Center reported on its OPT research in March 2019](#) its data suggest that 10 additional OPT participants working in a core-based statistical area (CBSAs are aggregated metropolitan areas) leads to 5 additional patents originating in that CBSA. The economic risk of taking steps that might dilute the utility of OPT as a pipeline is further highlighted by a [policy brief from October 2018](#) that illustrated that 22% of America’s billion-dollar start-ups had at least one immigrant founder that first came to the U.S. as an international student.

H-4. Lastly, we draw attention to H-4 dependent spouses of the H-1B professionals we are sponsoring for green card status. These H-4 visa holders are permitted to work when they are waiting in long immigrant visa backlogs after the sponsoring employers have completed all legal hurdles to classify the H-1B professional as an immigrant. [Economists conducted a cost-benefit analysis in April 2019 on whether H-4 spousal work authorization rules should be rescinded](#), and found that rescinding the H-4 employment authorization regulation would cost the U.S. economy some \$7.5 billion including loss of employment for American workers employed by the 2% of H-4 workers that have started their own businesses and employ 5 workers on average. The same economists found that 66% of employed H-4 visa holders held a job in a core science, technology, engineering or mathematical (STEM) field, another 16% in business, finance, or management, and another 8% were health care professionals or health care support workers.

¹ The *only* three fiscal years *since FY1997* where cap-subject H-1B petitions did not exceed the numerical limit at some time prior to the end of the fiscal year were FY2000, 2001 and 2002, years for which Congress had temporarily increased the H-1B cap to 195,000 in response to the dotcom explosion. Because the new numbers became available only as the dotcom bubble burst, cap-subject H-1B filings in those three fiscal years were 163,600, 79,100, and 78,000 respectively – with decreasing numbers, well under the cap in each successive year. Similarly, following the 2008 great recession, H-1B filings were significantly down such that the numerical limits were *not* met in April (H-1B cap-subject filings are made in April for the government’s fiscal year beginning October 1 of that calendar year). The so-called “regular cap” of 65,000 H-1B petitions was met in December 2009, January 2011, November 2011, and June 2012 for, respectively, FY2010, 2011, 2012, and 2013. When the economy is stronger, numerical H-1B limits are met in April, as in calendar years 2008 and 2009 (for FY2009 and 2010) and calendar years 2014 to the present (for FY2015 to 2021).

SIGNATORIES