

H.R. 670 “HIGH-SKILLED INTEGRITY AND FAIRNESS ACT OF 2017”
INTRODUCED BY REP. ZOE LOFGREN
SECTION-BY-SECTION SUMMARY AND ANALYSIS

SECTION 1. SHORT TITLE: “High-Skilled Integrity and Fairness Act of 2017”.

SECTION 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE

- Eliminates the “per country” cap for employment-based immigrant visas so that all workers are treated fairly.
 - Ends discrimination in allocation of employment-based visas so employers can hire the most skilled workers without regard to national origin.
 - Ensures that all employment-based immigrants are subject to the same wait times for visas.
- Raises the “per country” cap from 7% to 15% for family-sponsored immigrant visas.

SECTION 3. STRENGTHENING INTEGRITY IN THE H-1B PROGRAM BY REFORMING THE EXEMPT H-1B DEFINITION

- Re-sets the current dependent wage exemption level of \$60,000 which was established in 1998 and has since remained unchanged.
- The new H-1B dependent employer wage exemption level will be set at 35 percentile points above the median for the most recent national annual wage for Computer and Mathematical Occupations (Group 15-0000) as published in the Department of Labor (DOL) Occupational Employment Statistics (OES).
- Per the Department of Labor May 2015 Occupational Employment and Wages (the most recent data available), the new annual wage exemption level would be greater than \$130,000 (<http://www.bls.gov/oes/current/oes150000.htm>).
- Dependent employers are those with more than 15% of their workforce in H-1B status.
- Unless dependent employers compensate their H-1B workers above the required wage level, they must make attestations regarding recruitment and non-displacement of U.S. workers.
- Non-discretionary bonuses and similar compensation may be applied to wages based on their fair market value at the time of filing. No discretionary compensation may be counted towards wages.
- Eliminates the Master’s Degree exemption for dependent employers.

SECTION 4. TRANSPARENCY FOR AND PROHIBITING PENALTIES AGAINST FOREIGN HIGH-SKILLED WORKERS

- Provides for transparency for H-1B workers by requiring employers to provide immigration paperwork to the H-1B visa holder within three years of the date on which the petition was filed with the government. Provides for the withholding of information if it is confidential or sensitive business information.
- Protects H-1B workers by prohibiting liquidated damages for H-1B workers who cease employment prior to a date agreed to by the nonimmigrant and the employer.

SECTION 5. REFORMING THE PREVAILING WAGE SYSTEM TO PROTECT AMERICAN WORKERS

- Increases prevailing wage requirements to protect U.S. workers by replacing the current 4-level wage calculation with a new, more balanced 3-level wage formula.

- The new formula effectively eliminates the lowest wage level and puts upward pressure on the wages in the remaining levels.

Old Formula (4 Levels)	New Formula (3 Levels)
Level 1 = approximately the mean of the bottom 1/3 of wages surveyed. Level 2 = just under the mean of the bottom 2/3 of wages surveyed. Level 3 = just under the mean of all wages surveyed. Level 4 = approximately the mean of the top 2/3 of wages surveyed.	Level 1 = mean of bottom 2/3 of wages surveyed. Level 2 = mean of all wages surveyed. Level 3 = mean of top 2/3 of wages surveyed.

SECTION 6. MARKET-BASED H-1B VISA ALLOCATION

- Prioritizes allocation of H-1B visas based on wages as follows:
 - Employers paying prevailing wage level 3 at 200% of prevailing wage, then 150% of prevailing wage (including cash bonuses and similar compensation);
 - Employers paying level 2 at 200% of prevailing wage, then 150% of prevailing wage (including cash bonuses and similar compensation);
 - Employers paying level 1 at 200% of prevailing wage, then 150% of prevailing wage (including cash bonuses and similar compensation);
 - Any remaining petitions.
- Requires that if employers have beneficiaries work 30 days or more in an area of employment other than the one indicated at the time of filing, they must pay the prevailing wage of the area of employment with the highest prevailing wage at the same wage level indicated at filing.
- Tightens employee protection by stipulating that employers may not reduce beneficiary wages, regardless of whether the deduction is in accordance with a voluntary authorization by the employee. Makes exceptions for taxes, garnishments, and deductions that are reasonable and customary in the occupation.

SECTION 7. VISAS RESERVED FOR SMALL AND START-UP EMPLOYERS

- Sets aside 20% of the annual allocation of H-1B visas for small and start-up employers (those with 50 or fewer employees).
- Petitions filed under this subsection must include an attestation from the petitioner that the beneficiary will not be placed for more than 30 days at a third party worksite.

SECTION 8. REMOVING VISA HURDLES FOR STUDENTS AND OTHER TEMPORARY VISA HOLDERS.

- Builds a bridge from F-1 student status to Lawful Permanent Residence by:
 - Providing for “dual intent” for students, as well as O-1 (Extraordinary Ability), P (Athletes, Artists, and Entertainers) and free trade visa holders, so they are not denied visas solely on the basis that they might intend to immigrate to the United States;

- Permitting experience gained on the job with the employer to count for the purposes of labor certification; and
- Providing employment and travel authorization to those with approved employment-based petitions awaiting visa availability, so they have similar protections to those provided portability under the American Competitiveness in the 21st Century Act.

SECTION 9. REMOVING PAPERWORK BURDENS

- Streamlines H-1B filing requirements and reduces administrative costs by clarifying that an amended petition need not be filed with USCIS upon an employee worksite change, if the petitioner has already secured a valid, certified Labor Condition Application for the new place of employment.

SECTION 10. H-1B ENFORCEMENT AUTHORITY

- Provides a technical fix so that USCIS can pass along information regarding potential violations in H-1B filings to the Department of Labor to commence an investigation.