



U.S. Immigration Policy

Lessons From Canada and Australia

July 2023

Business Roundtable is an association of more than 200 chief executive officers (CEOs) of America's leading companies, representing every sector of the U.S. economy. Business Roundtable CEOs lead U.S.-based companies that support one in four American jobs and almost a quarter of U.S. GDP. Through CEO-led policy committees, Business Roundtable members develop and advocate directly for policies to promote a thriving U.S. economy and expanded opportunity for all Americans. Learn more at [BusinessRoundtable.org](https://www.businessroundtable.org).

Contents

Executive Summary	02
I. Introduction	09
II. The Business Case for Robust Legal Immigration	11
III. What Can Be Learned From Canadian and Australian Systems	13
Retaining International Students Postgraduation	13
Permitting the Spouses of Visa Holders to Work	17
No Per-Country Limits for Permanent Residence	19
No Annual Limits, Quicker Processing and Greater Transparency for High-Skilled Temporary Work Visas	22
Providing a Role for States, Provinces or Regional Areas	27
Dealing With an Unfavorable Demographic Future	30
Issuing a Startup Visa	32
IV. An Assessment of the Applicability of Canadian and Australian Point Systems to the United States	35
V. Policy Recommendations	43
VI. Conclusion	45
Endnotes	46

Executive Summary

Immigrants built the United States and are central to its future. America has a successful tradition as a nation of immigrants, and U.S. immigration policy should reflect that important fact. Higher levels of immigration would enhance economic growth and make dealing with the aging of America's workforce and population easier. Thus, the United States needs an immigration system that admits more immigrants and temporary visa holders at different skill levels to fill gaps in the labor market and fuel the country's growth and a prosperous future.

Examining the immigration policies of Canada and Australia, Business Roundtable finds that U.S. immigration policy puts our nation at a competitive disadvantage. Both Canada and Australia: make it easier for international students and the spouses of visa holders to work than under U.S. policy; impose no annual limits on high-skilled temporary visas, which allows their systems to adapt to labor market needs; provide for much greater speed and transparency in processing business visas than the United States; and do a better job than the United States in addressing the demographic challenges of aging populations. Canada and Australia also use point-based systems that have been cited by some in the United States as a direction for its immigration system, but a closer examination presents many cautions for policymakers in considering a point-based system for the United States.

This report is a follow-up to the 2015 Business Roundtable [State of Immigration](#) report, which examined the U.S. immigration system in relation to other advanced economies to determine which nations maintained "the best immigration policies to promote economic growth." In that report, Business Roundtable found that the United States ranked 9th out of the 10 countries analyzed, behind Germany, Australia, Singapore and other nations.

For this analysis, Business Roundtable analyzed Canadian and Australian immigration laws and interviewed individuals with practical knowledge of how the immigration systems of the two countries work. The goal of the research was to determine what lessons policymakers could gain from Canada and Australia that could best be applied to the U.S. immigration system.

The main findings of the research include the following:

- **International students are a key source of talent for companies in advanced Western economies.** Between 2010 and 2020, the number of international students in Canada increased 135 percent, compared to a 31 percent rise in international students in the United States during the same period. Since 2016, Canadian universities have attracted Indian-born students in large numbers who see

Canada offering an easier path from student to temporary work visa and permanent residence than the United States. Both Canada and Australia permit international students to work after graduation for one to four years and give preferences to make gaining permanent residence easier. Australia further reformed policies to retain international students to help in the economic recovery after the COVID-19 pandemic.

Canada and Australia also use point-based systems that have been cited by some in the United States as a direction for its immigration system, but a closer examination presents many cautions for policymakers in considering a point-based system for the United States.

- **Both Canada and Australia consider the ability of a spouse to work a key element for attracting and retaining skilled talent.** U.S. employers support expanding work authorization to all spouses of H-1B visa holders, not just those whose spouse is waiting for a green card. That would place the United States on close-to-equal footing for such skilled workers as Canada and Australia in providing work authorization to spouses of temporary visa holders.
- **Canada and Australia admit high-skilled immigrants without concern for country of origin.** The United States imposes a per-country cap on employment-based green cards, preventing any country from receiving more than 7 percent of the total number of green cards available in a given year. The cap can lead to long waits, potentially lasting decades, for immigrants from countries with high numbers of green card applicants such as those born in India. In contrast, Australia and Canada do not arbitrarily limit immigrants by country. In Australia, applications for permanent residence for employment generally only take 4 to 12 months. Under the federal Express Entry program in Canada, before the COVID-19 pandemic, processing times were generally just six months or fewer. The Canadian government has committed to returning to those times. Processing takes longer for those applications submitted outside of the federal Express Entry program, such as the Provincial Nominee Program, but are still much shorter than the years or possibly decades under the U.S. employment-based immigration system.
- **Employers in Canada and Australia can hire foreign-born professionals on high-skilled temporary visas without an annual limit, which helps both countries address needs in the labor market.** The most significant problem for U.S. employers that utilize temporary work visas is the fact that more than 80 percent of applications for H-1B visas fail to be approved due to the low annual limit of 85,000. Due to the low annual limit in the United States, the supply of H-1B temporary visas has been exhausted every year since 2004, forcing U.S. employers to either place a high-skilled foreign

national in another country or lose him or her to a foreign competitor. Canada has no annual limits on high-skilled temporary visas, and it has announced a “[Tech Talent Strategy](#)” that includes new policies to attract companies and foreign workers, including those experiencing problems with the U.S. immigration system. The government will provide up to 10,000 three-year, open work permits to H-1B visa holders to make their careers in Canada and promised other measures to attract highly skilled professionals.

- **Under its Global Skills Strategy, Canada committed to two-week processing for many high-skilled positions, and the processing time in Australia is similar (three to six weeks).** Long processing times and visa denials continue to present problems in the United States even though a legal settlement in 2020 with U.S. Citizenship and Immigration Services (USCIS) over the Trump Administration’s H-1B visa policies has caused a major source for the long wait times — Requests for Evidence — and denial rates to decline. Meanwhile in Canada, processing times for visas under the Global Skills Strategy have increased since the pandemic, but the government has committed to returning to the two-week timeframe. In Australia, processing times for high-skilled work visas are low, generally three to six weeks, and there is greater transparency there than in the United States because case officers are identified by name, which helps increase accountability.
- **Canadian provinces and Australian states and regional areas play key roles in the admission of immigrants and the establishment of criteria based on workforce needs, helping to fill gaps in the federal point systems in those two countries.** Both countries also often allow local employers to be a driving force in selection. However, U.S. states play no role in admitting or influencing the admission of immigrants, which makes the U.S. immigration system less responsive to local labor needs than the Canadian and Australian systems.
- **Canada admits four times as many immigrants as the United States as a percentage of its population.** To help address looming demographic and labor force problems, Canada increased the country’s annual immigration level from 300,000 in 2017 to a target of 465,000 in 2023, 485,000 in 2024 and 500,000 in 2025, a rise of 67 percent between 2017 and 2025.
- **Future U.S. growth depends on immigration.** Statutory limits on U.S. immigration have not changed since 1990. By 2042, net immigration will be the only source of population growth for the United States, according to the Congressional Budget Office.
- **Australia admits two times as many legal immigrants as the United States as a percentage of its population on an annual basis.** In September 2022, the newly elected Labor government announced an increase in the number of places in the permanent program to 195,000 in response to the severe skill shortages being experienced as a result of the pandemic and to assist in

Australia's economic recovery. This followed a short-lived lower level of 160,000 for 2019–2020 after several years of steady or increasing immigration levels.

- **Canada and Australia have programs, including at the provincial, state and regional levels, to facilitate the immigration of entrepreneurs.** The United States lacks a startup visa to provide permanent residence to foreign-born business founders.
- **While point-based systems work well in Canada and Australia, fundamental differences in how the U.S. government and its immigration system are structured would make such a system problematic to implement in the United States.** Given the intricacies of such a system, this report takes a deeper dive into point-based systems to assess the applicability of the Canadian and Australian systems to the United States. A major issue the research raises is that fixing significant problems that could arise with a point system might be difficult if the U.S. Congress eliminates employer-sponsored permanent immigration and replaces it with a point-based system that becomes “hard-wired” into the Immigration and Nationality Act and, therefore, requires new legislation to make corrections.

No matter what changes are made to the U.S. immigration system, the Canadian and Australian examples teach the United States that immigration is important to fuel economic growth. Much economic research has found that reducing the overall level of legal immigration into the United States would be bad for the U.S. economy because it would lead to slower labor force growth and, consequently, slower economic growth. Reducing legal immigration would deny opportunity to many people and be a significant policy error given the demographic future facing America. According to a report by Citi and the University of Oxford: “Our analysis finds from 1990 to 2014, U.S. economic growth would have been 15 percentage points lower without the benefit of migration.”¹

Fixing significant problems that could arise with a point system might be difficult if the U.S. Congress eliminates employer-sponsored permanent immigration.

Higher levels of immigration would enhance economic growth and make dealing with the aging of America's workforce and population easier. Immigrants built the United States and are central to its future. America has a successful tradition as a nation of immigrants, and U.S. immigration policy should reflect that important fact. The United States needs an immigration system that admits more immigrants and temporary visa holders at different skill levels to fill gaps in the labor market and fuel the country's growth and a prosperous future.

Table 1: U.S., Canadian and Australian Immigration Policies on Key Issues

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
International Students	Optional Practical Training allows many international students to work 12 to 36 months after graduation. However, it is difficult for international students to gain temporary work status and permanent residence to remain long term in the United States, placing employers in America at a competitive disadvantage.	University graduates can obtain work permits for up to three years and receive advantages in the Express Entry system for gaining permanent residence.	International students can use two different streams that allow work ranging from 18 months to 4 years, depending on their degree, and student status can increase their likelihood of gaining permanent residence.
Spousal Work Rights for Visa Holders	The United States limits work authorization to spouses of H-1B visa holders with a spouse in the process of applying for permanent residence.	Canada considers the ability of a spouse to work a key element for attracting and retaining skilled talent and grants such authorization. The spouses and dependent children (under age 22) of high-skilled and most low-skilled temporary workers are eligible for open work permits.	Australia considers the ability of a spouse to work important for attracting and retaining skilled talent and grants such authorization.
Per-Country Limits for Permanent Residence	Per-country limits on U.S. employment-based green cards result in much longer waits for Indian-and Chinese-born immigrants. Waits for employer-sponsored Indians can last potentially decades. By 2030, without legislation, the backlog for employment-based immigrants could exceed 2.1 million, according to the Congressional Research Service.	Canada admits high-skilled immigrants without restriction on country of origin; wait times are typically 6 to 12 months for permanent residence, though were longer during the pandemic.	Australia admits high-skilled immigrants without restriction on country of origin. The process typically takes 4 to 12 months once it begins, normally after an applicant works about two years on a temporary visa.

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Annual Limits, Processing and Transparency for High-Skilled Temporary Visas	The annual limit on H-1B temporary visas means over 80 percent of H-1B registrations fail to result in approvals for long-term employees.	Canada has no annual limit on high-skilled temporary visas. Under its Global Skills Strategy, Canada commits to two-week processing for many high-skill positions, though that standard was generally not met during the pandemic. Generous points are awarded in the Express Entry point system for work in Canada in temporary status. A new “Tech Talent Strategy” will provide up to 10,000 work permits to U.S. H-1B visa holders.	Australia has no annual limit on high-skilled temporary visas and processes many applications within three to six weeks. It allows identification of case officers, which ensures greater accountability. Foreign nationals in Australia can obtain permanent residence using a streamlined process based on prior approval of a temporary work visa after a qualifying period of employment.
Role for States, Provinces or Regional Areas	U.S. states are not allowed to admit or influence the admission of immigrants, resulting in much less input on local labor force needs.	Provinces in Canada play key roles in admitting immigrants and establishing immigration criteria to meet workforce needs through the Provincial Nominee Program. Admissions are often employer driven at the provincial level. The Atlantic Immigration Program provides a pathway to permanent residence for skilled foreign workers and international graduates from a Canadian institution who want to work and live in one of Canada’s four Atlantic provinces.	Through temporary Skilled Work Regional visas, which were introduced in 2019, and the Permanent Skilled Nominated visa category, states and regional areas in Australia play key roles in admitting immigrants, working with employers and establishing immigration criteria to meet workforce needs. Regional or State Nominated visas make up almost half of the permanent visa places in the Skill-Based stream for 2022–2023 migration.
Future Demographic Needs	Net immigration will account for all population growth in the United States starting in 2042, according to the Congressional Budget Office. That means immigration also likely will become America’s only source of labor force growth, a key part of economic growth and an improved standard of living.	Canada will increase its immigration level by 67 percent between 2017 and 2025; Canada admits four times as many immigrants as the United States as a percentage of its population.	Australia admits about two times as many immigrants as the United States as a percentage of its population, and in September 2022, announced it would increase its annual limit from 160,000 to 195,000.

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Startup Visa	There is no startup visa under U.S. law to allow a foreign national to gain permanent residence for establishing a new business that attracts capital and creates jobs.	Although it does not have an extensive program at the federal level, Canada facilitates the immigration of entrepreneurs at the provincial level.	Australia facilitates the immigration of entrepreneurs, including at the state and regional levels, with a pathway to permanent residence.
Point-Based System	The United States does not use a point-based system.	The Canadian system awards points based on age, education, language ability and, most significantly, work experience in Canada. The broad scope of the laws in Canada and the power given to immigration ministers to make discretionary changes to a point-based system — without the need to pass new legislation — significantly differ from the current U.S. immigration system.	Australia uses a point system only for people seeking permanent residence without employer sponsorship. Employer sponsorship in Australia works similarly to the U.S. system, although with much shorter wait times.

Source: Business Roundtable analysis of the immigration laws of Canada, Australia and the United States.

I. Introduction

In the past few years, the United States has paid increased attention to the Canadian and Australian immigration systems and whether American immigration policies are undermining the United States' ability to compete for talent. To examine this issue, Business Roundtable looked at Canadian and Australian immigration law and policies on international students, the ability of the spouses of visa holders to work, employment-based immigration, the roles for state and provincial authorities, and entrepreneurs, among other areas. The research builds upon the Business Roundtable *State of Immigration* report, which ranked U.S. immigration policies 9th among 10 advanced economies in promoting economic growth.

At U.S. universities, more than 70 percent of full-time graduate students in electrical engineering and computer and information sciences are international students.² Decisions by Congress and the executive branch determine whether this talent is employed in the United States and working for American companies or pushed to work in other countries.

If employers are not able to hire the talent in one country due to restrictive immigration laws or policies, then they will shift resources to places that allow them to access that talent.

Multinational companies and startup businesses need access to individuals with skills to compete. Individuals educated in science, technology, engineering and math (STEM) fields are highly sought by employers worldwide. If employers are not able to hire the talent in one country due to restrictive immigration laws or policies, then they will shift resources to places that allow them to access that talent. The Business Roundtable *State of Immigration* report explained that while other nations have established policies to attract talent, the United States at times appears to have adopted policies designed to push away foreign-born scientists, engineers and others.

In *State of Immigration*, Business Roundtable detailed key problems in the U.S. immigration system. Those problems have persisted and, in some cases, have worsened:

- The supply of H-1B temporary visas, the primary way U.S. employers hire high-skilled foreign nationals to work long term in the United States, has been exhausted for two decades, in every fiscal year since 2004. The low annual limit — 65,000 a year, plus 20,000 additional visas reserved

for individuals with a graduate degree from a U.S. university — is the main culprit. It has not changed much since the Immigration Act of 1990 established an annual limit, and since that time the demand for high-skilled technical labor has increased significantly due to the World Wide Web, social media, smartphones and many other technological advances.

- The long waits for employment-based green cards (for permanent residence) are fueled by a combination of a low annual limit and per-country caps that create longer wait times — especially for individuals born in more populous countries, such as India and China. Due to the per-country limits, the wait time for Indian-born employment-based immigrants is now generally measured in decades. By 2030, without action by Congress, the backlog for employment-based immigrants could exceed 2.1 million, according to the Congressional Research Service.³
- The lack of legal visas for year-round, lower-skilled workers prevents employers from accessing a critical workforce and contributes to illegal immigration.
- The absence of an immigrant entrepreneur visa discourages foreigners with innovative ideas and access to venture capital from pursuing startup opportunities in the United States.

This report examines the immigration systems in Canada and Australia and features interviews with attorneys who explain how the immigration systems in those countries work in the real world and what America can learn from the Canadian and Australian experiences. The goal is for U.S. policymakers to use this research as a guide when considering reforms to the U.S. immigration system — and remember America’s successful tradition as a nation of immigrants when crafting immigration policy.

II. The Business Case for Robust Legal Immigration

The business case for a robust legal immigration system rests on three elements: the global competition for talent, the scarcity of labor and the role of immigration in fueling growth and innovation.

First, if U.S. companies do not hire the best people, then their competitors will. A Society for Human Resource Management (SHRM) survey found that “74 percent of employers reported that the ability to obtain work visas in a timely, predictable and flexible manner is critical to their organization’s business objectives. [Thirty-five] percent of respondents whose organizations are subject to the H-1B visa cap [for high-skilled workers] reported that they had lost key organizational talent due to H-1Bs being unavailable under the cap.”⁴ According to an earlier SHRM survey, “[o]nly 19 percent of H-1B cap-subject employers [in the United States] agree that there are enough H-1B visas to meet their workforce needs. In other regions of the world, employer satisfaction with visa availability ranges from 52 percent to 74 percent.”⁵

Second, the United States is facing a looming demographic crisis, with a need for millions of new workers to replace retiring baby boomers. Net immigration will account for all population growth in the United States starting in 2042, according to the Congressional Budget Office.⁶ The difficulty in finding workers has been apparent for years. In 2017, a *Washington Post* headline declared: “Too Many Jobs, Not Enough Workers.”⁷ U.S. employers are being rocked by global competition and an increasing demand for highly skilled workers,” noted SHRM in 2019. “Foreign-born talent is a necessary component to the U.S. workforce, particularly as the workforce continues to age and the skills gap widens.”⁸ A 2022 Conference Board survey of human resource executives titled “Difficulty Finding and Retaining Office Workers Skyrockets” found 84 percent of employers seeking professionals and office workers were “struggling to find talent.”⁹ An April 2023 report from the Labor Department’s Job Openings and Labor Turnover Survey (JOLTS) found 9.9 million job openings in the United States, 42 percent higher than at the start of COVID-19 pandemic.”¹⁰

“Immigration is integral to the nation’s economic growth. Immigration supplies workers who have helped the United States avoid the problems facing stagnant economies created by unfavorable demographics.”

— **The Economic and Fiscal Consequences of Immigration, The National Academies of Sciences, Engineering, and Medicine, 2016**

Labor force growth, of which immigration is a major component, is a key element of a nation's economic growth. "Immigration is integral to the nation's economic growth," according to a 2016 National Academies of Sciences, Engineering, and Medicine report. "Immigration supplies workers who have helped the United States avoid the problems facing stagnant economies created by unfavorable demographics — in particular, an aging (and, in the case of Japan, a shrinking) workforce. Moreover, the infusion by high-skill immigration of human capital has boosted the nation's capacity for innovation, entrepreneurship and technological change."¹¹ The Pew Research Center reported: "Without future immigrants, the working-age population in the U.S. would decrease by 2035, ... [dropping] by almost 8 million (or more than 4 percent) from the 2015 working-age population."¹²

Third, immigration not only is part of America's tradition but also has been a key element of its success as a nation. The influx of immigrants in the 1800s and early 1900s fueled economic growth and led to the large population and manufacturing base that helped the country prevail when America faced peril during World War II. Over the past four decades, immigrant entrepreneurs and professionals have helped make America a world leader in high technology, biotechnology and many other sectors.

III. What Can Be Learned From Canadian and Australian Systems

Retaining International Students Postgraduation

In a world that grows smaller every year, the value of international students continues to increase, particularly for employers who view international students as a prime source of talent. At U.S. graduate schools, international students account for 82 percent of the full-time students in petroleum engineering; 74 percent in electrical engineering; 72 percent in computer and information sciences; and between 54 percent and 71 percent in fields that include industrial engineering, mechanical engineering, civil engineering and chemical engineering.¹³

Table 2: International Students

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	The difficulty in obtaining H-1B temporary status or employment-based green cards makes remaining in the United States long term after graduation challenging for international students.	University graduates can obtain three-year unrestricted work permits and advantages in the federal Express Entry system and provincial nominee programs.	International students can use two different streams to allow work ranging from 18 months to four years.

Source: Business Roundtable analysis.

International students also help keep graduate-level programs available for U.S. students, especially in fields such as computer science and electrical engineering. “At the graduate level, international students do not crowd-out but actually increase domestic enrollment,” according to Kevin Shih, an assistant professor of economics at Rensselaer Polytechnic Institute. “Foreign student tuition revenue is used to subsidize the cost of enrolling additional domestic students.”¹⁴

International students are allowed 12 months of work authorization for Optional Practical Training (OPT) after completing their studies in the United States. International students with a degree in a designated STEM field can work for an additional 24 months under the STEM OPT regulation published in March 2016.¹⁵

Today, the difficulty in obtaining H-1B temporary status or employment-based green cards makes remaining in the United States after graduation a challenge for international students. For the past

two decades, the supply of H-1B visas has been exhausted every fiscal year. One reason employers support STEM OPT is that it allows multiple attempts at obtaining an H-1B visa, typically the only practical way an international student can work in America long term.

Table 3: Full-Time Graduate Students and the Percentage of International Students by Field (2019)

Field	Percent of International Students	Number of Full-time Graduate Students — International Students	Number of Full-time Graduate Students — U.S. Students
Petroleum Engineering	82%	803	181
Electrical Engineering	74%	26,343	9,083
Computer and Information Sciences	72%	44,786	17,334
Industrial and Manufact. Engineering	71%	6,554	2,632
Statistics	70%	5,497	2,406
Economics	67%	8,023	4,049
Civil Engineering	61%	8,775	5,527
Mechanical Engineering	58%	11,215	8,130
Agricultural Economics	58%	766	561
Mathematics and Applied Math	56%	9,902	7,876
Chemical Engineering	54%	4,590	3,975
Metallurgical/Materials Engineering	53%	2,981	2,671
Materials Sciences	52%	713	660
Pharmaceutical Sciences	50%	1,790	1,827

Source: National Science Foundation Survey of Graduate Students and Postdoctorates in Science and Engineering, Public Use Microdata files. U.S. students include lawful permanent residents.

Between 2010 and 2020, there was a 135 percent increase in international students in Canada, according to the Canadian Bureau for International Education (CBIE). “At the end of 2021, Canada saw a return to pre-pandemic numbers of international students,” reported CBIE.¹⁶

In the United States, the number of international students in the United States rose 31 percent between 2010 and 2020. Before the start of the COVID-19 pandemic, Canadian universities were setting records for their enrollment of international students, even as new U.S. enrollment of foreign students declined by approximately 10 percent in the 2018–2019 academic year when compared to the 2015–2016 academic year, according to the Institute of International Education.¹⁷ In the 2020–2021 academic year, new international student enrollment in the United States remained below pre-pandemic levels.¹⁸

In the Business Roundtable *State of Immigration* country rankings, both Canada and Australia scored higher than the United States on “Retention of International Students Postgraduation.” The 2015 report noted that while OPT was a positive aspect of U.S. immigration policy, “the lack of H-1B visas and the long waits for employment-based green cards limit the opportunities for international students to make their careers in the United States.”¹⁹

The 2015 Business Roundtable report noted: “Canada provides ‘open’ work permits allowing international students to work postgraduation for up to three years. Many students can transition to permanent residence during this time period without leaving the country. ... Australia gives an advantage to international students who apply for temporary visas. The lack of quotas on temporary visas provides opportunities for international students sought by employers.”²⁰

Since the issuance of that report, the situation has remained essentially the same for international students in Canada and Australia. Both countries make it relatively easy for foreign students to stay and work after graduation, including gaining permanent residence to keep their skills in the country. “In Canada we have a program for graduating international students similar to but more generous than the U.S. Optional Practical Training category,” said Peter Rekai, an attorney with Rekai LLP in Toronto. “Graduation from a public college or university course of at least two-years’ duration allows for a three-year post-graduation work permit. During that period, a student who completes a minimum of one year of skilled employment in Canada will be significantly rewarded under the Express Entry system. The student will gain further ‘points’ for having completed a Canadian post-secondary course of studies. In addition, some of the provinces have numerically capped programmes that offer a direct path to permanent resident status for master’s and Ph.D. graduates of Canadian universities, often without the need for Canadian job offers.”²¹

Australia provides two types of visas for foreign graduates of Australian colleges. “The Graduate Work stream is for international students who graduate with skills and qualifications that relate to an occupation considered in demand in the Australian labour market, as indicated in the list of eligible skilled occupations. A visa in this stream is generally granted for 18 months,” according to the Department of Home Affairs.²²

Both Canada and Australia make it relatively easy for foreign students to stay and work after graduation, including gaining permanent residence to keep their skills in the country.

Australia also offers a Post-Study Work stream for graduates. According to the Department of Home Affairs, “[t]he Post-Study Work stream offers extended options for working in Australia to eligible graduates of a higher education degree. Under this stream, successful applicants are granted a visa with a visa period of two, three or four years’ duration, depending on the highest educational qualification they have obtained.”²³

In order to support Australia’s recovery from the pandemic, a range of measures were introduced for foreign graduates, including a temporary increase in the visa period under the Graduate Work Stream to 24 months and for those who graduate with a master’s degree by coursework, an increase in the visa period from two to three years under the Post-Study Work stream. In addition, following the Jobs and Skills Summit held by the new Labor government in September 2022, an announcement was made that the duration of stay for those with degrees in verified skilled shortages (to be determined by a working group) would be increased by an additional two years.²⁴

“Australia has traditionally had a very open policy towards international students,” according to Polina Oussova, formerly an immigration attorney with Berry, Appleman & Leiden in Australia. “Depending on the course completed, the subsequent work visa would allow them to stay on in Australia for one to four years.”²⁵

Robert Walsh, Asia Pacific counsel at the Fragomen law firm in Sydney, noted that working after graduation facilitates an eventual path to permanent residence in Australia. “While the pathway for international students to move to temporary employment-based visas and subsequently to permanent employment-based visas is geared towards highly skilled (or shortage) occupations, it nevertheless does provide a clear path to permanent residence for certain international students who complete their course of study in Australia.”²⁶

Permitting the Spouses of Visa Holders to Work

Countries around the world understand that allowing the spouses of visa holders to work is vital to attracting and retaining talent. U.S. companies know hiring high-skilled individuals from abroad may be difficult if their spouses are unable to work in the United States. This issue is particularly important given the long wait times — often many years — for high-skilled foreign nationals to gain permanent residence in the United States. Spouses must remain in temporary status for a long period while waiting for a green card, during which a spouse might not be able to work.²⁷

Table 4: Spousal Work Rights for Visa Holders

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	The United States provides work authorization for certain spouses of H-1B visa holders.	The spouses and dependent children (under age 22) of all high-skilled and most low-skilled temporary workers are eligible for open work permits.	The spouses of high-skilled professionals are allowed to work.

Source: Business Roundtable analysis.

Under current U.S. immigration regulations, the spouses of E, L and certain H-1B visa holders are eligible to work in the United States.²⁸

The Obama Administration implemented a rule on Employment Authorization for Certain H-4 Dependent Spouses on May 26, 2015.²⁹ The rule permits individuals to work if their H-1B spouse has been approved for an Immigrant Petition for Alien Worker or has been waiting for an extended period for an employment-based immigrant visa. During the Trump Administration, the Department of Homeland Security (DHS) announced a proposed regulation to rescind the current rule that allows the spouses of certain H-1B visa holders to work.³⁰ However, the current rule remained in place without change.

Business Roundtable supports a regulation to expand H-4 work authorization to all spouses of H-1B visa holders, not just those whose spouse is waiting for a green card.³¹ Such a regulation would place the United States on close-to-equal footing with Canada and Australia in providing work authorization to spouses of temporary visa holders.

The final rule published during the Obama Administration on H-4 spousal work authorization specifically mentioned policies in Canada and Australia as a reason the United States should allow the spouses of H-1B visa holders to work. "In addition, these regulatory amendments will bring U.S. immigration policies more in line with the policies of other countries that seek to attract skilled foreign workers," DHS stated in the H-4 rule published in 2015. "For instance, in Canada spouses of temporary workers may obtain an 'open' work permit allowing them to accept employment if the temporary worker meets certain criteria. As another example, in Australia, certain temporary work visas allow spousal employment."³²

In Canada, the spouses of most work permit holders can obtain work authorization with little difficulty. Spouses are "guaranteed an open spousal work permit," noted one Canadian immigration attorney,³³ and working-age dependent children of the work permit holder may also obtain an "open" work permit in Canada.

"My personal view is that a decision by a foreign worker to accept a position in Canada will very often be determined by issues other than their job, including whether their life partner can enter the labor market," said David Crawford, a partner with the Fragomen law firm in Toronto.³⁴

Australian policymakers and businesses agree with their Canadian counterparts about the importance of spouses of visa holders being allowed to work. "Spouse work rights and the broad definition of spouse are viewed by many employers, including both local and multinational companies, as major draw cards in attracting highly skilled individuals to take up employment or an assignment in Australia," said immigration attorney Robert Walsh. "Spouse work rights are automatic on the grant of the visa and are without limitation; for example, unlike the principal visa holder, the spouse can change employers without reference to the immigration authorities."³⁵

To address workforce shortages during the pandemic, the Australian government implemented a temporary relaxation of work restrictions imposed on certain visas and included secondary visa holders in these arrangements. For example, student visa holders who are normally restricted to working 40 hours a fortnight have been given permission to work full time until mid-2023. This not only includes the main student visa holder, but also any dependent visa holders.³⁶ Similarly, dependents of Training visa holders who are normally subject to a work restriction have also been given temporary permission to work full time for the same period.³⁷

Allowing the spouses of visa holders to work does not mean fewer jobs will be available for U.S. workers since there is no such thing as a fixed number of jobs. Tens of thousands of spouses of H-1B visa holders have received work authorization under the 2015 rule, and it has allowed many to become employed or even start businesses.³⁸

“A decision by a foreign worker to accept a position in Canada will very often be determined by issues other than their job, including whether their life partner can enter the labor market.”

— David Crawford, partner, Fragomen Worldwide in Toronto

Today, it is common for someone to marry a person with a similar level of educational attainment, meaning the spouses of high-skilled foreign nationals are often well educated.³⁹ Allowing spouses to work increases America’s overall economic output and provides an additional source of high-skilled labor for U.S. employers.

No Per-Country Limits for Permanent Residence

The U.S. employment-based immigration system is plagued by the dual problems of low annual limits and per-country caps. The annual limit on employment-based green cards (for permanent residence) is 140,000, which includes dependents (spouses and minor children), who typically fill about half of the quota. That level was set in 1990, before the demand for high-skilled labor exploded due to the World Wide Web, social media and smartphones.

Table 5: Per-Country Limits for Permanent Residence

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	Per-country limits in the U.S. green card system cause employer-sponsored immigrants from India and China to wait many additional years for permanent residence.	There is no per-country limit; wait times for permanent residence are returning to the standard 6 to 12 months, which is much shorter than in the United States.	There is no per-country limit; wait times for permanent residence are typically 4 to 12 months, which is much shorter than in the United States.

Source: Business Roundtable analysis.

But the low annual level is only one reason for the long wait for green cards in the United States. The other reason is per-country limits, which lead to much longer waits for employer-sponsored immigrants from larger countries with many educated professionals, including India, China and the

Philippines. “The [Immigration and Nationality Act] also specifies per-country limits equal to 7 percent of the combined total number of visas allotted to family-and employment-based preferences,” explains DHS. “In 2015, these limits amounted to 25,956 immigrants from any single country.”⁴⁰

Because of India’s large population and technical base, Indian nationals represent the largest number of high-skilled foreign nationals working in the United States in H-1B status.⁴¹ Due to the per-country limits (and low annual limits), the wait times for Indians in the two most common employment-based green card categories are exceedingly long, potentially beyond the lifespan of many workers.⁴²

“For nationals from large migrant-sending countries ... the numerical limit and per-country ceiling have created inordinately long waits for employment-based green cards,” writes the Congressional Research Service (CRS). “New prospective immigrants entering the backlog (beneficiaries) outnumber available green cards by more than two to one. Many Indian nationals will have to wait decades to receive a green card. The backlog can impose significant hardship on these prospective immigrants, many of whom already reside in the United States. It can also disadvantage U.S. employers, relative to other countries’ employers, for attracting highly trained workers.”⁴³

According to CRS:

- Without changes to the law, it would take an estimated 195 years to eliminate the current backlog of Indian nationals waiting for employment-based green cards.⁴⁴
- The backlog in the employment-based second preference (EB2) will rise to nearly 1.5 million by 2030 and to over 450,000 in the employment-based third preference (EB3).⁴⁵
- Without action by Congress, “[t]he total backlog for all three employment-based categories would increase ... to an estimated 2,195,795 by FY 2030.”⁴⁶ Australia has no per-country caps, which helps limit wait times. “In broad terms it takes between 4 and 12 months for a highly skilled individual to transition to permanent residence depending on the visa stream being utilized under Australia’s employer-sponsored permanent residence program,” according to attorney Robert Walsh in Sydney. “There has been some tightening of this process in recent times, which has contributed to longer processing times, but it is still an important pathway for a wide range of highly skilled individuals to take up permanent residence in Australia.”⁴⁷

As reported in *State of Immigration*: “Canada does not impose per-country limits, as the United States does. That means international students from India or China can envision a shorter path to permanent residence than the potential decade-long (or longer) wait in the United States.”⁴⁸

Under the federal Express Entry program in Canada, the processing time once an individual completes an online profile and submits a completed application is generally 6 to 12 months, according to attorneys, while processing takes more time for economic immigration processed outside of the Express Entry system. Processing in Canada is still recovering from backlogs that have accumulated since 2020.

“ Canada does not impose per-country limits, as the United States does. That means international students from India or China can envision a shorter path to permanent residence than the potential decade-long (or longer) wait in the United States.”

— *State of Immigration, Business Roundtable, 2015*

Recent data from Canada indicate that more Indian nationals are gaining permanent residence under the country's Express Entry system.⁴⁹ The number of new lawful permanent residents from India more than doubled in Canada from 2016 to 2019 in Canada (from 39,710 to 85,590), making India the number one source for immigrants in the country. After a decline to 42,865 in 2020 due to the pandemic, Indian permanent residents rose to 127,795 in 2021 and 113,490 in 2022.⁵⁰

Experts interpret the increase in Indian immigration to Canada since 2016 as evidence that more Indian-born professionals have become frustrated with the long waits for green cards and other immigration issues in the United States and prefer the smoother Canadian path from student to temporary status and then permanent residence.

“At U.S. universities, Indian graduate students in science and engineering, a key source of U.S. talent, fell dramatically, by nearly 40%, between 2016 and 2019 (before the pandemic),” according to an analysis of international student data. “During the same period (2016 to 2019), Indian students attending Canadian colleges and universities increased 182%. The difference in enrollment trends is largely a result of it being much easier for Indian students to work after graduation and become permanent residents in Canada compared to the United States.”⁵¹

“The Government of Canada does not limit access to permanent resident status for foreign nationals determined by country of birth or of citizenship,” according to attorney David Crawford.⁵² Australia also does not impose per-country limits, and as a result, attracting and retaining talented individuals without regard to nationality is easier.

No Annual Limits, Quicker Processing and Greater Transparency for High-Skilled Temporary Work Visas

Being able to petition and receive approval for a visa for a high-skilled foreign-born professional in a timely and predictable manner can allow companies to innovate, better serve customers and invest reliably in a specific geographic location. The lack of timeliness and predictability for visa availability and case decisions are major problems in the U.S. immigration system. Not so in Canada and Australia.

“Both Canada and Australia have no annual limit on high-skilled temporary visas. The system for temporary visas for skilled workers in Australia is demand driven based on employer needs and without numerical caps,” notes Charles Johanes, a special counsel and regional practice leader in Fragomen’s Sydney office.⁵³

“ We do have quite a few U.S. corporate clients, and there is growing realization they will be unable to get U.S. work permits for many of their high-skilled temporary workers. In response, a number of these clients are... increasing the size of their Canadian affiliates.”

— Peter Rekai, attorney, Rekai LLP in Toronto

“There is no numerical limit or quota on high-skilled visas in Canada,” said attorney David Crawford.⁵⁴ “A higher degree of certainty of outcomes assists business planning.” Peter Rekai agreed with Crawford and, importantly, many U.S. companies agree also. “We do have quite a few U.S. corporate clients, and there is growing realization they will be unable to get U.S. work permits for many of their high-skilled temporary workers,” said Rekai. “In response, a number of these clients are either increasing the size of their Canadian affiliates or creating Canadian affiliates and placing key foreign staff there.”⁵⁵

In the United States, processing times for H-1B petitions used to take a year — as compared to just two weeks on average in Canada before the pandemic and three to six weeks in Australia — and petitions often elicited many Requests for Evidence leading to even longer delays. During the Trump Administration, denial rates at USCIS for new H-1B petitions rose from 6 percent in FY 2015 to 24 percent in FY 2018, and the Requests for Evidence rate reached as high as 60 percent.⁵⁶ After successful lawsuits, a legal settlement and changes to USCIS policies, H-1B denial rates are at historically low levels.⁵⁷

The annual 85,000 cap on H-1B petitions (65,000 plus 20,000 visas reserved for graduate degree holders from U.S. universities) has been exhausted every fiscal year for the past two decades, leaving many companies with no way to employ new high-skilled foreign nationals in the United States. USCIS announced in April 2022 that it received nearly 484,000 H-1B registrations for FY 2023, which meant close to 400,000 registrations would not result in an employer gaining an approved H-1B petition for a high-skilled professional due to the 85,000 annual limit.⁵⁸

Table 6: Annual Limits, Processing and Transparency for High-Skilled Temporary Visas

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	The low annual limit on H-1B visas means that every year U.S. companies are thwarted in hiring or retaining key foreign-born personnel. Although denial rates have improved since a 2020 legal settlement, U.S. companies and their attorneys have complained of long processing delays and remain concerned about a lack of accountability for case decisions.	Canada has no annual limit on high-skilled work visas and established two-week processing times for many high-skilled visa applications, focusing on positions in information technology.	Australia has no annual limit on high-skilled temporary work visas. The name of the individual deciding about an immigration application appears on documents, increasing accountability. Many applications for high-skilled workers are completed within three to six weeks.

Source: Business Roundtable analysis.

Processing times at the California Service Center for an H-1B visa are mostly in the 2 to 5 months range, compared to 9 to 12 months in 2019. Lynden Melmed, a partner with Berry, Appleman & Leiden in Washington, DC, noted that the exception would be if an employer paid up to \$2,500 in premium processing fees to the federal government to expedite case processing.⁵⁹

In contrast, Canada launched the Global Skills Strategy to “provide a two-week processing time for 80 percent of work permit applications; work permit exemptions for highly-skilled workers on short-term work assignments and for researchers involved in a short-duration research project in Canada; and a dedicated service channel for companies looking to make large, job-creating investments in

Canada.”⁶⁰ This strategy shows the willingness of the Canadian government to make retaining or bringing in talent easier, rather than more difficult, for employers in Canada.⁶¹

“This program came from the business community,” said Canada’s previous Immigration Minister Ahmed Hussen. “They identified a challenge and said, ‘You need to fix it.’” Bloomberg reported that “ [t]hose who are fast-tracked can apply to stay as long as three years and also for permanent residency. Computer programmers, systems analysts and software engineers are the top three categories of workers to benefit so far.”⁶²

In the United States, adjudicators are anonymous, which may contribute to excessive Requests for Evidence and questionable decisions. Not so in Australia.

A major complaint of U.S. employers is a lack of transparency and accountability in immigration decisions by USCIS. In the United States, adjudicators are anonymous, which may contribute to excessive Requests for Evidence and questionable decisions. Not so in Australia.

The name of the case officer approving or denying an immigration petition has generally appeared on documents, according to immigration attorneys with experience in Australia. In contrast, the United States does not even list an officer number in most cases. “Having a name on an application in the United States would be great,” said Noah Klug with Klug Law Firm, an American who has practiced in both countries, including for six years in Australia. “It would help increase accountability. If we could contact the officer directly, that would be even better and was a huge help when I practiced Australian immigration law and was able to do so with complex cases that benefited from such dialogue.”⁶³

U.S. adjudicators putting their names on decisions and Requests for Evidence would lead to greater transparency and could result in quicker and more defensible case decisions.

“The current practice in Australia is to provide the official’s first name, their official position number and generic contact information,” said Robert Walsh. “This approach does ensure that the official can be identified and held ultimately accountable for their actions either through a complaints process or when the decision is appealed through review processes. Their identity will generally not be known to the visa applicant or their representative, but nevertheless there is an ultimate accountability for the official’s actions.”⁶⁴

"In general, I would say the processing model [in Australia] does encourage accountability by case officers," said attorney Polina Oussova. "The Department of Home Affairs undertakes spontaneous audits to review the requests for further information that have been issued by case officers to ensure that they are justifiable. This helps to ensure consistency from case officers in their assessments."⁶⁵

Oussova said it takes only about one to two weeks for approval of most work visas for skilled workers in Australia. For companies that are "nonaccredited" — meaning they do not meet certain thresholds on size, past successful application and other criteria — the process is 4 to 10 weeks (or longer in some cases).⁶⁶

In Australia, the Minister for Immigration is also able to issue Ministerial Directions which dictate the order in which applications are to be processed by officials to ensure that government policy priorities are being met. This mechanism was used during the pandemic to prioritize applications for individuals working in critical sectors or occupations in demand. The current Ministerial Direction gives priority to occupations in health and education sectors, those nominated by accredited sponsors as well as roles that are located in regional areas.⁶⁷

A smooth transition from temporary work status to permanent residence is an important feature of the Australian immigration system for employers and skilled foreign-born professionals and researchers. "The Temporary Residence Transition stream is especially handy because it allows foreign nationals in Australia on temporary work visas to obtain permanent residence in a streamlined fashion based primarily on the fact that they had qualified previously for a temporary work visa," noted Noah Klug.⁶⁸

Temporary visas also play a key role in the Canadian immigration system, specifically the federal Express Entry system. "Generous 'points' are accorded to those with skilled work experience in Canada and to holders of Canadian post-secondary diplomas and degrees," according to Peter Reka. "This effectively establishes a path to permanent residence for currently employed skilled temporary foreign workers, ensuring that most of Canada's new economic immigrants are already gainfully employed by the time they become permanent residents. This 'path' to permanent residence also underlines the significant role played by Canadian employers, who initially choose the temporary foreign workers."⁶⁹

The Canadian government has made efforts to minimize delays for employers seeking temporary visas. "The Government of Canada is conscious of the impact of delays for employers seeking skilled workers, particularly in certain occupations," said David Crawford with Fragomen. "The incidence of

a Request for Evidence equivalent is very low in our experience. It is true, however, that assessments at some diplomatic missions abroad can be lengthy because of application rates.” Crawford noted that Canada’s Global Skills Strategy, with the two-week processing time, “was accompanied by other changes designed to facilitate the entry of highly skilled workers.”⁷⁰

Canada has continued in its efforts to attract foreign workers, including those experiencing problems with the U.S. immigration system. Its “Tech Talent Strategy” announced in June 2023 will provide up to 10,000 three-year, open work permits to H-1B visa holders to make their careers in Canada, among other promised incentives to attract highly skilled professionals.⁷¹

Providing a Role for States, Provinces or Regional Areas

It is beneficial for employers to possess a variety of options for hiring or retaining workers identified as important to growing their companies. A state or local entity often has a better idea of business needs for workers than an agency of the federal government located hundreds, or even thousands, of miles away.

Under U.S. law, states have no role in immigration admissions policy. That is not the case in Canada and Australia. Giving nonfederal governmental entities a role in Canada and Australia allows diverse economic needs to be met, something difficult to achieve with a single overarching national policy.

Governor Eric Holcomb (R-IN) and Governor Spencer Cox (R-UT) advocate Congress change the law to give a role to the U.S. states. "Rapidly declining birthrates and accelerating retirements across the United States mean that our states' already wide job gaps will grow to crisis proportions. ... Many of these jobs require high-level skills and entrepreneurship," they wrote in the *Washington Post*. "But states are also awash in unfilled entry-level, low-skill roles — essential in agriculture, health care and the service industries. So, count us as supporters of immigration sponsorship by the states."

The governors note that "[u]nder such authority, similar to what employers and universities have already, each state could make its own decisions. They could sponsor no visas or many visas each year, up to a limit set by Congress, for the specific sorts of jobs they need to fill. Immigration sponsorship would give states a dynamic means to attract new residents, both from a pool of new applicants from abroad and from the ranks of current asylum seekers. The policy would also expand the states' responsibility for the contributions and success of these folks in American life."⁷²

Under U.S. law, states have no role in immigration admissions policy. That is not the case in Canada and Australia.

As discussed in *State of Immigration*, the Regional Sponsored Migration Scheme visa in Australia allows an individual to receive permanent residence if "nominated by an approved Australian employer for a job in regional Australia."⁷³

In 2019, new Skilled Regional Visas were introduced in Australia, and an individual can apply for a provisional temporary visa valid for five years either nominated by a State/Territory government or regional-based employer and transition to permanent residence after three years. Additionally, there

is also an independent skilled visa category where, if an individual is supported by a State/Territory government, they will automatically be issued an invitation to apply for a permanent visa.⁷⁴

Similarly, the Provincial Nominee Program in Canada permits provinces to sponsor individuals or to work within the federal Express Entry point system by giving a high number of points to those nominated by a province. These programs have grown in recent decades, according to attorney Peter Rekai.⁷⁵

Table 7: Role for States, Provinces or Regional Areas

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	States have no role in the admission of immigrants or temporary visa holders.	Canada's Provincial Nominee Program allows sponsorship of immigrants or additional points for federal Express Entry, enabling differences in economic needs within provinces to be addressed.	New temporary visas were introduced in 2019 for working in states or regions, supported by a State/Territory government or regional zzbased employer. There is also a category of skilled visa where an individual can be supported by a State/Territory government which entitles them to an invitation to apply for a permanent visa.

Source: Business Roundtable analysis.

"The provinces have their own economic and social priorities, and the provincial programs enable them to design criteria for their immigration programs to meet their own objectives," said David Crawford. "An example relates to the various entrepreneur programs that exist to encourage business people to enter provinces and run a business. Another example relates to senior and experienced business people who, because of their age, may find it difficult to qualify for one of the federal skilled worker programs for permanent resident status."⁷⁶

Crawford noted that provinces attempt to attract suitable applicants: "Candidates entering through the provincial programs make up a proportionally large number of immigrants in some provinces. These programs thus empower the provinces to play an important role in building their skills base."⁷⁷

The Canadian government has established the Atlantic Immigration Program, which previously was a pilot program. "The Atlantic Immigration Program is a pathway to permanent residence for

skilled foreign workers and international graduates from a Canadian institution who want to work and live in 1 of Canada's 4 Atlantic provinces — New Brunswick, Nova Scotia, Prince Edward Island or Newfoundland and Labrador," according to the Government of Canada. "The program helps employers hire qualified candidates for jobs they haven't been able to fill locally."⁷⁸

Australia has seen similar benefits from its own policies. "Allowing individual states of Australia to play a role in the immigration system is a benefit for individual states and territories and also for people seeking to take up employment-based temporary or permanent residence in Australia," said Robert Walsh of Fragomen. "Constitutional responsibility for immigration matters rests with the national or federal government, but state and territory governments have played a role in the immigration system for many years."⁷⁹

This situation has allowed states in Australia to participate in immigration decisions in a way that does not exist in the United States. "For the individual states, Australian immigration policy allows the state government to address skill shortages within its jurisdiction based on economic conditions and give priority to different types of economic activity," according to Walsh. "It also allows individual states to encourage people seeking to migrate to Australia to take up residence in their state. Through state-sponsored skilled and employment visas, individual states can give priority to certain occupations where there are identified shortages in the state."⁸⁰

Walsh gave the example of the investment upturn in the oil and gas sectors in the states of Western Australia and Queensland. He said people from overseas in oil and gas engineering occupations were given additional support to take up residence in those states. "Once the investment and construction phase finished, this support at the state level was withdrawn," he said. "The state government is able to be more responsive to changing circumstances in its own jurisdiction. Individuals are encouraged to take up residence in an individual state [that] has identified a need for people with skills in critical shortage occupations."⁸¹

Polina Oussova agreed that states are in the best position to identify their needs. The autonomy states are given, including allowing them to advise on required occupations, makes immigration policy more likely to meet the needs of Australian businesses.

The autonomy states are given, including allowing them to advise on required occupations, makes immigration policy more likely to meet the needs of Australian businesses.

As part of its plan to encourage foreign nationals to settle outside of major cities, Australia introduced two new temporary visas in 2019. “The Skilled Employer Sponsored Regional (Provisional) visa [is] for people sponsored by an employer in regional Australia [and the] Skilled Work Regional (Provisional) visa [is] for people who are nominated by a State or Territory government or sponsored by an eligible family member to live and work in regional Australia,” according to a government announcement. “Holders of the new skilled regional provisional visas will need to live and work in regional Australia. Visas will be granted with a validity period of up to five years.”⁸²

Dealing With an Unfavorable Demographic Future

Both companies and economies need an increasing supply of workers to grow. If a restaurant owner cannot find enough workers, then he or she will not open a second restaurant. A manufacturer will start or expand a factory only if a reasonable chance exists that workers will be available to fill those new jobs. High-tech employers will locate or expand research and development where they have access to talent.

The retirement of the baby boom generation and slowing U.S. population growth mean that immigrants are a primary source of new workers. Demographers note that the number of people of working age in the United States would decline by several million in the coming decades without immigrants to prevent the potential shortfall.⁸³

“Sensible immigration policies would increase the pace of overall population and workforce growth,” explained the Business Roundtable report *Contributing to American Growth: The Economic Case for Immigration Reform*. “By improving the efficiency with which immigrants are able to enter the United States and providing legal status to currently unauthorized U.S. residents, immigration reform would expand the U.S. labor force and, as a direct consequence, overall economic output. Reform would have this impact because at the broadest level, an economy’s output growth is defined as the sum of two factors: the increase in the productivity of its capital and the increase in its labor input.”⁸⁴

“The path of immigration policy will have a substantial bearing on the nation’s supply of workers, which has been expanding more slowly as native-born workers have fewer children,” according to the *New York Times*.⁸⁵ The Congressional Budget Office concluded: “After 2033, population growth is increasingly driven by net immigration, which accounts for all population growth beginning in 2042.”⁸⁶ That means immigration also likely will become America’s only source of labor force growth, a key ingredient of economic growth and an improving standard of living.

By 2025, Canada will admit about four times the number of immigrants as the United States as a percentage of population.⁸⁷ That strategy will help Canada address the demographic problems presented by an aging populace and workforce.

Table 8: Future Demographic Needs

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	Labor force growth is a key element of economic growth, and by 2042 all U.S. population growth will come from net immigration, according to the Congressional Budget Office.	Canada admits four times as many immigrants as the United States as a percentage of its population and is increasing its level of immigration.	Australia admits about two times as many immigrants as the United States as a percentage of its population.

Source: Business Roundtable analysis.

Canada has moved to support economic growth with increased immigration. In November 2022, Canadian Minister of Immigration, Refugees and Citizenship Sean Fraser noted the country has welcomed over 400,000 immigrants in 2021 and said in a statement: “The Government is continuing that ambition by setting targets in the new levels plan of 465,000 permanent residents in 2023, 485,000 in 2024 and 500,000 in 2025 This plan helps cement Canada’s place among the world’s top destinations for talent, creating a strong foundation for continued economic growth, while also reuniting family members with their loved ones and fulfilling Canada’s humanitarian commitments.”⁸⁸

The announcement that Canada will increase its immigration levels did not surprise Lily Jamali, an American journalist who reported from Canada. “Canadians see immigration as an economic imperative to help the country for years to come,” she said. “The aging demographics issue concerns people, and whether it’s welcoming high-tech professionals or refugees, there’s a sense here that immigration will help [Canada] position [itself] for the challenges that will hit in the next 10 to 20 years.”⁸⁹

Australia also maintains a higher level of immigration relative to its population size when compared to the United States. “Since 1945, Australia, on a per capita basis, has maintained high levels of immigrants taking up residence in the country,” noted Walsh. “These relatively high levels of migration have been considered to be an important driver of economic growth in Australia over many years.”⁹⁰

After many years of steady or increasing immigration levels, the Australian government set a lower level in 2019, declining from 190,000 in 2018–2019 to 160,000 for 2019–2020.⁹¹

However, in response to the economic impacts of the pandemic and severe skill shortages being experienced across all industry sectors, the Australian government increased the number of permanent migration visas available from 160,000 to 195,000 for the 2022–2023 program year. This resulted in a significant increase in the Skill Stream, in particular those which are State/Territory nominated, and regional based visas.

“ Canadians see immigration as an economic imperative to help the country for years to come.”
— Lily Jamali, American journalist who reported from Canada

In addition, in August 2019, the Australian government made permanent the Global Talent – Independent (GTI) and Global Talent – Employer Sponsored (GTES) programs as part of the government’s innovation agenda. The GTI program is a direct permanent residence visa for those who can demonstrate exceptional and “outstanding achievements” in a priority sector.⁹² The GTES program enables businesses in a tech or STEM-based field to sponsor highly skilled individuals with niche skills for a temporary visa, with a permanent residence pathway after three years and two-week processing to fill vacancies.⁹³

Issuing a Startup Visa

Entrepreneurs are the lifeblood of a market economy. Startup companies provide competition for existing firms, which benefits consumers, and experiment with new ideas, goods and services that can benefit the entire economy. In the United States, “[i]mmigrants are almost twice as likely as the native-born to become entrepreneurs,” according to the Ewing Marion Kauffman Foundation, which is remarkable because U.S. law makes gaining permanent residence directly from starting a new company in the United States difficult for an individual.⁹⁴ Approximately 55 percent of billion-dollar startup companies have at least one immigrant founder, a number that rises to almost two-thirds if one includes the children of immigrants.⁹⁵

There is no reliable visa category for a foreign entrepreneur to come to America, start a business and gain permanent residence from that venture.

There is no reliable visa category for a foreign entrepreneur to come to America, start a business and gain permanent residence from that venture. As a result, the vast majority of immigrant entrepreneurial success stories come from people who were sponsored by family members or employers. The U.S. venture capital community believes a startup visa would unleash an even greater wave of immigrant entrepreneurship.

Table 9: Startup Visa

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	There is no reliable category in the U.S. immigration system for a foreign-born entrepreneur to gain permanent residence.	Canada has developed options at the federal and provincial levels for immigrant entrepreneurs.	Australia provides ways for international entrepreneurs to transfer into Australia or attract investment for a new business and gain eventual permanent residence.

Source: Business Roundtable analysis.

Both Canada and Australia have found ways to support the entry of foreign-born entrepreneurs. “Many provinces have programs to attract business people to immigrate,” said David Crawford with the Fragomen law firm in Toronto. “In most instances the successful applicants will first be granted a [temporary] work permit and can apply for permanent resident status after they have entered their business and run it for a prescribed period. The qualifying factors and criteria vary, depending upon the province, and there can also be a difference in criteria depending upon whether the applicant wishes to live in a metropolitan or rural area. The criteria include the employment of local people.”⁹⁶

Crawford noted that Canada’s federal government also has the Start-up Visa program, which has been in operation for several years. “This category requires support from an angel investor, hedge fund or accredited incubator to succeed,” he said. “The take-up rate for that category has not resulted in large numbers of immigrants.”⁹⁷

Australia has a temporary and permanent Business Innovation and Investment Visa, noted Polina Oussova. “One of the pathways included in this visa is for entrepreneurs who have been able to secure at least AUD200,000 in funding towards a complying entrepreneur activity,” said Oussova. “Individuals seeking to apply for this visa must be nominated by a state or territory government. Additionally, this visa provides pathways for those with business skills seeking to establish a business in Australia, provided that they are also able to secure state or territory government sponsorship.”⁹⁸

“ This visa provides pathways for those with business skills seeking to establish a business in Australia, provided that they are also able to secure state or territory government sponsorship.”

— **Polina Oussova, attorney, Berry, Appleman & Leiden in Australia**

Robert Walsh pointed to another option in Australia that is designed to support U.S.-based entrepreneurs wishing to establish a startup in Australia — the “Global Talent Employer Sponsored” program — which has a startup stream that allows employers to sponsor workers with cutting-edge skills to contribute to Australia’s developing startup ecosystem.⁹⁹ It includes a pathway to permanent residence after three years.¹⁰⁰

IV. An Assessment of the Applicability of Canadian and Australian Point Systems to the United States

Canada and Australia feature point-based criteria as part of their immigration systems. In point-based categories, admission is determined by awarding points for factors that include age, education and language ability. Individuals who receive a sufficient number of points are admitted as permanent residents in that year or quarter within predetermined numerical limits.

In January 2015, Canada launched a new version of a point-based system, called Express Entry, which permitted people to apply online to immigrate to Canada. Individuals who receive a sufficient number of points are invited to apply for permanent residence. Business groups in Canada see the system as a work in progress and perceive among its limitations the difficulty in gaining permanent residence for workers in jobs that do not require a college degree.

Table 10: Point-Based System

Immigration Policy Area	 Policies in the United States	 Policies in Canada	 Policies in Australia
Current Policy	The United States does not use a point-based system.	The Canadian system awards points based on age, education, language ability and, most significantly, work experience in Canada. The broad scope of the laws in Canada and the power given to immigration ministers to make discretionary changes to a point-based system — without the need to pass new legislation — significantly differ from the current U.S. immigration system.	Australia uses a point system only for people seeking permanent residence without employer sponsorship. Employer sponsorship in Australia works similarly to the U.S. system, although with much shorter wait times.

Source: Business Roundtable analysis.

In Australia, as discussed in more detail in this section, employers do not use a point system to identify and sponsor talented employees. In fact, the Australian system of directly sponsoring individuals, who are usually existing employees working in a temporary status, is similar to the U.S. system but without the long waits and per-country limits in the U.S. system.

To evaluate whether an idea from another country would work well in the United States, it is useful for policymakers and stakeholders to consider four questions:

- 1** Are the laws in the other country or countries easily transferable to the United States?
- 2** Is the U.S. system compatible with the new law or policy?
- 3** Do American policymakers hold misperceptions about the other country's policies?
- 4** Are there legacy issues in the United States that warrant serious examination before implementing a new law?

1 Wide-Open Immigration Laws in Canada and Australia Contrast Significantly With Those of the United States

Immigration laws in Canada and Australia are completely different from those in America — a key fact U.S. lawmakers should consider while evaluating whether or to what extent a point-based system should become a central feature of the U.S. immigration system. As incredible as it may sound to an American, Canadian and Australian laws allow the Prime Minister (and Cabinet) in each country, via the authorities assigned to heads of immigration, in effect to set any level of immigration they want to each year. In Canada, the authority is granted to the executive branch, specifically the Minister of Immigration, Refugees and Citizenship, who is appointed by the Prime Minister. To use a tax policy analogy, it would be as if the Secretary of the Treasury in the United States had the power to set tax rates at whatever level he or she wanted each year.

"If the United States followed the Canadian model, the President, with the Secretary of Homeland Security, would set the number of immigrants admitted next year and could set the number at 0, at 500,000 or at 5 million and determine the immigration categories and the number of admissions per category," said Peter Rekai. "The President would then present the annual plan to Congress, essentially as a fait accompli."¹⁰¹

This extraordinary latitude is confirmed by a reading of Canada's Immigration and Refugee Protection Act: "The Minister must, on or before November 1 of each year ... table in each House of Parliament a report on the operation of this Act. ...(2) The report shall include a description of ... (b) in respect

of Canada, the number of foreign nationals who became permanent residents, and the number projected to become permanent residents in the following year.¹⁰² The “Minister” is the Minister of Immigration, Refugees and Citizenship, who serves in the Cabinet under the leadership of Canada’s Prime Minister.

Similarly, a key part of Australia’s immigration law operates as follows: “Under section 85 of the Migration Act 1958 (the Act), the Minister [for Immigration, Citizenship and Multicultural Affairs] has the power to ‘cap’ or limit the number of visas which can be granted each year in a particular visa subclass.”¹⁰³ In addition, Australia’s Prime Minister, Cabinet and Immigration Minister can, under section 39 of the Act, “set the maximum number of visas of a class that may be granted in a particular financial year.”¹⁰⁴

In both Canada and Australia, the Immigration Minister can choose what characteristics immigrants should possess, how many points to assess for those attributes and what point level would allow for admission in that year.

In its description of the migration program planning levels, the Australian Government Department of Home Affairs states: “The size and composition of the Migration program is set each year through the Australian Government’s Budget process.”¹⁰⁵

In both countries, the Immigration Minister can choose what characteristics immigrants should possess, how many points to assess for those attributes and what point level would allow for admission in that year.

Given America’s Constitution, political culture and traditions, it is extremely unlikely that a U.S. Congress would grant a U.S. President (or subordinates) the type of authority over immigration admissions wielded by the Prime Ministers and Cabinets in Canada and Australia. However, both supporters and opponents of introducing a point-based system into the United States need to be aware that this wide-ranging authority is an integral part of the immigration systems in those countries.

2**Quick Fixes Are Less Likely in the United States Compared to Canada and Australia**

The ability to make quick corrections using the wide latitude granted under Canadian and Australian immigration laws and their systems allows the point-based systems to function in a way that would be unlikely in the United States. In fact, recent history shows that the far slower pace of the regulatory process and separation of powers in the U.S. system of government might have prevented reasonable operation of Canada's Express Entry system.

When Express Entry began in January 2015, it mistakenly allotted too many points for having "arranged employment" (a valid job offer) in Canada. This mistake pre-empted other factors under Express Entry such as age, education, language and experience. Most important, those points were restricted to offers of employment based on Labour Market Impact Assessments (LMIAs), which were often awarded to lower- and mid-skilled occupations. No points at all were initially awarded for job offers made to work permit holders such as North American Free Trade Agreement (NAFTA) professionals, intra-company transferees and other high-skilled workers who were exempt from the LMIAs.

The ability to make quick corrections using the wide latitude granted under Canadian and Australian immigration laws and their systems allows the point-based systems to function in a way that would be unlikely in the United States.

The Canadian government did not recognize the problem until businesses became alarmed. The exclusive reliance on the labor assessments did not work for employers that wanted to keep their current (transferred) high-profile CEO or their star (NAFTA-based) scientific researcher without having to advertise those positions on local job sites to prove a skills shortage.¹⁰⁶ The Canadian Chamber of Commerce complained that "[t]he employer's role in selecting the most qualified and skilled talent ... has been thwarted."¹⁰⁷

Only later did the Canadian government address these problems by reducing the overall points allotted to "arranged employment" and offering such points for future arranged employment to those foreign workers exempt from the LMIAs.

In short, Express Entry was rewarding employers of only one segment of foreign workers and thus effectively penalizing others. Had these criteria been locked into statute, without the ability to change

for many years, then the impact could have been extremely serious for the ability of both the business community and the country as a whole to attract and retain valuable talent.

From a business perspective, whether a point-based system supports the ability of employers to gain permanent residence for their workers depends on the responsiveness of government officials. U.S. businesses hoping to “fix” major problems that would inevitably arise in a point system would need to rely on Congress to achieve a consensus and pass new legislation. Even smaller administrative changes to a U.S. point system would take a long time to go through the rule-making process and would be subject to litigation by those who believed they would be harmed by the changes.

The experience in the United States is that immigration regulators can often be, at best, indifferent to specific business needs, and that, even when there is agreement with the business community, a policy change could take years. In recent years, U.S. businesses have expressed concern about regulatory and administrative actions that make recruiting and retaining high-skilled foreign nationals more difficult.¹⁰⁸

“The viability of a point-based system depends on having a government willing to listen to business and other stakeholders so it can respond when situations occur,” said Patrick Snider, director of skills and immigration policy at the Canadian Chamber of Commerce. “But the process of business being able to influence the Express Entry criteria is ad hoc. It can take a couple of months for a fix, or the concerns could be completely ignored and never addressed at all.”¹⁰⁹

“ If the U.S. Congress were to eliminate employer-sponsored permanent immigration and replace it with solely a point-based option, then it would be ‘hard-wired’ into the Immigration and Nationality Act and very difficult for Congress to alter in the future, especially given how difficult passing new immigration legislation is.”

— **Noah Klug, founder, Klug Law Firm**

Snider noted that a current example of frustration with the Canadian system is that older executives with years of experience possess great leadership skills but can lose out in the point system to people who are younger and have more formal education.

“It’s important to note there is not just a federal point system,” said Snider. “In Canada, there is a significant role for provinces. It would be as if California, New York, Texas and other states were given

an immigration allotment each year and allowed to set criteria for admissions that would align with their state's economic needs."¹¹⁰ As noted earlier, there is no role for states in U.S. immigration policy.

In the United States, Congress establishes the law that sets the number of immigrants per category, and the executive branch implements the law. In general, the only exception is the process for deciding on the number of refugees admitted each year, which the President proposes in consultation with Congress. (In some past years, the refugee process was controversial.)¹¹¹

U.S. executive branch agencies rarely make quick changes in policy because such agencies are not allowed to "make" law. How slow can the U.S. system be? In 1998 and 2000, Congress passed two bills that included provisions to make changing jobs easier for an H-1B visa holder when the wait for an employment-based green card lasted years. DHS did not issue final regulations on these provisions until November 2016, nearly two decades after the bills became law.¹¹²

Trying to adopt wholesale the Australian point system may offer similar difficulties. "First, the point-based permanent visa program in Australia did not replace the employer-sponsored program," said Noah Klug. "Rather, its purpose was to supplement the employer-sponsored program and actually increase levels of permanent migration to Australia for individuals who do not have a company willing to sponsor them."¹¹³

Klug noted that depriving U.S. companies of the ability to sponsor for permanent residence employees who are vital to their business makes no economic sense. "What better way to determine who are the most valuable professionals than by the competitive method of who is chosen for sponsorship by an American company? It is very costly and difficult. Therefore, American companies only sponsor the most valuable professionals for permanent residence."¹¹⁴

Klug has looked at both systems and noted that the system in Australia is very different from the system in the United States. "Changes to the immigration program in Australia take place through ministerial action and do not require hard-wired legislative, statutory changes as they do in the United States," said Klug. "This makes Australia's immigration system much more nimble and changes not as serious, permanent or difficult to change as they are in the United States." He explained that if the U.S. Congress were to eliminate employer-sponsored permanent immigration and replace it with solely a point-based option, then it would be "hard-wired" into the Immigration and Nationality Act and very difficult for Congress to alter in the future, especially given how difficult passing new immigration legislation is. "This would not be the case in Australia," he noted.¹¹⁵

3

System in Australia Is Not What Americans Perceive: Australia Retains Employer Sponsorships and Uses Point System for Those Without Employers

Many U.S. policymakers may assume immigrants to Australia enter the country primarily through a point-based system. That is not the case. The reality is best summed up by Tim Denney, an immigration professional in Australia, who noted in the Business Roundtable *State of Immigration* report: “The points system is not at all important for corporate immigration in Australia. The points system comes into play when an individual seeks to migrate to Australia and does not have a business operating in Australia willing to sponsor him or her up front for either a temporary work visa or permanent residence.”¹¹⁶



The points system is not at all important for corporate immigration in Australia.”

— Tim Denney, attorney

Typically, an employer in Australia would petition for a worker on a temporary visa and later sponsor the worker for permanent residence. In fact, close to 90 percent of those sponsored by employers for permanent residence in Australia are already working in the country in a temporary status, which is similar to the United States.¹¹⁷ Australian employers also can use the Skilled Employer Sponsored Regional visa, which is designed for “regional employers to address identified labour shortages within their region.”¹¹⁸

In recent years, only about 39 percent of immigrants in Australia have become permanent residents through the point system.¹¹⁹ Such individuals submit an online Expression of Interest through SkillSelect. “The points-tested skilled migration visa categories target skilled migrants who are not sponsored by an employer and who have skills in specific occupations required to meet medium-to long-term need in Australia,” according to the Australian Department of Home Affairs.¹²⁰

4 Legacy Issues Within the U.S. Immigration System Need to Be Addressed

Any transition to a different legal immigration system in the United States would need to grapple with legacy issues for family-and employment-based immigrants waiting in immigration backlogs.

As of November 1, 2022, approximately 3.9 million people were waiting in family preference backlogs for U.S. citizens sponsoring adult children and siblings and for lawful permanent residents sponsoring spouses and children.¹²¹

Any transition to a different legal immigration system in the United States would need to grapple with legacy issues for family-and employment-based immigrants waiting in immigration backlogs.

On the employment side, the Congressional Research Service expects the employment-based green card backlog to exceed 2 million by 2030.¹²²

If the United States does not “grandfather in” all of those who have been waiting years in family- and employment-based immigrant backlogs, it would have to cancel their applications, raising questions of fairness for those who “played by the rules.” Giving such individuals additional points to compete for spots under a new point system would not guarantee that anyone currently waiting in immigrant backlogs would gain permanent residence under the new system since potentially millions of people could apply under a point system in a given year. It is possible that employees who had been waiting for their green cards would be forced to leave the country, if not immediately, at least when their H-1B status expired, causing major disruption to employers and the lives of many people.

V. Policy Recommendations

In the quest for best practices, examining policies in other countries can yield worthwhile results. However, it is best to accompany such examinations with an appreciation of the differences in the laws and political structure of other nations.

Business Roundtable makes the following policy recommendations:

- The United States should **retain or expand work authorization for spouses of high-skilled professionals**, as in Canada and Australia.
- The United States should also **retain or expand the ability of international students to work after graduation** from U.S. universities.
- The United States should **significantly increase the availability of H-1B temporary visas for high-skilled professionals**. The United States should also improve processing by adopting the two-week processing standard in Canada's Global Skills Strategy, as well as Australia's transparency, which includes case deciders being identifiable to increase accountability.
- The United States should **eliminate the per-country limit for employment-based immigration and increase the number of temporary visas and green cards for employer-sponsored immigrants, including through cap exemptions for graduates of U.S. universities in STEM fields with a Ph.D. or master's degree**. Making these changes would be a major benefit to the U.S. economy and American businesses competing in global markets.
- U.S. policymakers should **consider a role for states in the immigration process** similar to that of Canada and Australia, which helps those countries meet labor needs identified locally by employers.
- The United States should **establish a visa for year-round jobs that do not require a college education**, including jobs in restaurants, hotels, construction and other sectors.
- The United States should **establish a permanent residence category for immigrant entrepreneurs** and make other changes to encourage startup activity in America.
- The U.S. government should **recognize that** increasing legal immigration would strengthen economic growth and make addressing the aging of America's workforce and population easier. **Reducing legal immigration would harm economic growth, reduce national output and leave**

U.S. employers, both large and small, **with fewer workers to expand and grow their businesses** inside the United States.

- U.S. policymakers should **move with caution and with significant input from the U.S. business community**, and should thoroughly understand all of the implications, before attempting to adopt a Canadian or Australian point-based system to replace the U.S. employment-based immigration system. The differences in immigration laws are substantial enough to recognize the risk that such a system may not yield the desired results for American employers and the U.S. economy.

VI. Conclusion

While point-based systems, such as those operating in Canada and Australia, raise many cautions as to whether they would be a good fit for the United States, U.S. immigration policies toward business without question would be improved significantly by adopting other reforms from those two nations. Both Canada and Australia have no annual limit on high-skilled temporary visas and much faster processing times for employers. Both countries make it easier than the United States for international students to work after graduation and for the spouses of high-skilled professionals to obtain work authorization.

Canada and Australia avoid the use of per-country limits that contribute to long waits for permanent residence in the United States. And both Canada and Australia allow their respective states and provinces to play a role in immigration policy, including in providing opportunities for immigrant entrepreneurs, which helps makes those immigration systems more responsive to labor market needs. Finally, both countries have attempted to address the pressing demographic challenges facing all advanced economies by maintaining generous levels of legal immigration — two to four times the level of the United States as a percentage of population.

America can learn from other advanced economies about how to improve its immigration policies and build on its successful tradition of welcoming the talents and ideas immigrants add to the nation. A thorough examination, as offered in this report, can help ensure that the correct lessons are learned from studying the experiences of Canada and Australia.

Endnotes

1. Citi-Oxford Martin School GPS. (2018, September). Migration and the economy: Economic realities, social impacts and political choices.
2. National Science Foundation. *Survey of graduate students and postdoctorates*. U.S. students include lawful permanent residents.
3. Congressional Research Service. (2020, March 26). The Employment-Based Immigration Backlog.
4. Society for Human Resource Management, Fragomen Worldwide & Council for Global Immigration (2016).
5. Ibid.
6. Congressional Budget Office. (2023 January). The Demographic Outlook: 2023 to 2053.
7. Paquette, D. (2017, December 28). 2018's challenge: Too many jobs, not enough workers. The Washington Post.
8. Society for Human Resource Management. (2019). A world-class workforce, employment-based immigration: Reducing barriers and recognizing global talent.
9. The Conference Board. (2022, May 5). Difficulty Finding and Retaining Office Workers Skyrockets [Media release].
10. U.S. Bureau of Labor Statistics. (2023, April 4). Job Openings and Labor Turnover Summary [Media release].
11. The National Academies of Sciences, Engineering, and Medicine. (2016). The economic and fiscal consequences of immigration. Washington, DC: The National Academies Press.
12. Passel, J. S., & Cohn, D. (2017, March 8). Immigration projected to drive growth in U.S. working-age population through at least 2035. Pew Research Center.
13. National Science Foundation. *Survey of graduate students and postdoctorates*. U.S. students include lawful permanent residents.
14. Shih, K. (2017, September 25). Do international students crowd out or cross-subsidize Americans in higher education?.
15. Improving and Expanding Training Opportunities for F-1 Nonimmigrant Students with STEM Degrees and Cap-Gap Relief for All Eligible F-1 Students, 8 C.F.R. § 214 and 274a (2016).
16. Canadian Bureau for International Education. (2022). 807,750 international students in Canada at all levels of study at the end of 2022, Infographic. <https://cbie.ca/infographic/>.
17. Institute of International Education. (2019). Open doors.
18. Institute of International Education. (2022). Open doors.
19. Business Roundtable. (2015, March). State of immigration.
20. Ibid.
21. Interview with Peter Reikai.
22. Australian Government, Department of Home Affairs, Immigration and Citizenship. Temporary graduate visa. <http://www.homeaffairs.gov.au/Trav/Stud/Post>.
23. Ibid.
24. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2022, December 8). Temporary Graduate visa. <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485>.
25. Interview with Polina Oussova.
26. Interview with Robert Walsh.
27. When a sponsored immigrant receives permanent residence, his or her spouse would also become a permanent resident and gain the ability to work without restriction.
28. E visas are for treaty traders and investors; L visas are for intracompany transferees, including managers, executives and individuals with "specialized knowledge"; and H-1B visas are for individuals who qualify in specialty occupations, typically for jobs requiring at least the equivalent of a bachelor's degree or higher.
29. Employment Authorization for Certain H-4 Dependent Spouses, 80 Fed. Reg. 10283 (May 26, 2015). https://www.federalregister.gov/documents/2015/02/25/2015-04042/employment-authorization-for-certain-h-4-dependent-spouses?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.
30. Office of Information and Regulatory Affairs, Office of Management and Budget. Removing H-4 dependent spouses from the classes of aliens eligible for employment authorization. <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201904&RIN=1615-AC15>.

Endnotes

31. Business Roundtable.
32. Employment Authorization for Certain H-4 Dependent Spouses, 80 Fed. Reg. 10283 (May 26, 2015).
33. Vomiero, J. (2017, December 23). Canadian tech could benefit if Trump ends work permits for visa holder spouses: Experts. Globalnews.ca.
34. Interview with David Crawford.
35. Interview with Robert Walsh.
36. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2023, February 21). Work restrictions for student visa holders. <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing>.
37. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2023, April 13). Training visa. <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/training-407>.
38. Rampell, C. (2017, March 30). Trump may force thousands of legal immigrants to stop working or head home. The Washington Post.
39. Zavodny, M. (2022 November). H-4 Visa Holders: An Underutilized Source of Skilled Workers (NFAP Policy Brief). National Foundation for American Policy.
40. Baugh, R., & Witsman, K. U.S. lawful permanent residents: 2015 (Annual Flow Report). Office of Immigration Statistics, U.S. Department of Homeland Security.
41. U.S. Citizenship and Immigration Services. (2017, May 5). Characteristics of H-1B specialty occupation workers (Fiscal Year Annual Report to Congress), Table 4A.
42. Analysis of State Department Visa Bulletin and Department of Homeland Security data.
43. Congressional Research Service. (2020, March 26). The Employment-Based Immigration Backlog.
44. Ibid.
45. Ibid.
46. Ibid.
47. Interview with Robert Walsh.
48. Business Roundtable. (2015, March). State of immigration.
49. The Economic Times. (2017, December 30). How more and more Indian students and professionals are choosing Canada over the U.S.
50. Government of Canada. <https://open.canada.ca/data/en/dataset/f7e5498e-0ad8-4417-85c9-9b8aff9b9eda>.
51. National Foundation for American Policy. Analysis of U.S. and Canadian International Student Data (NFAP Policy Brief).
52. Interview with David Crawford. "Note that the Government of Quebec, which runs the Quebec Immigrant Investor Program, has a total program quota, and within that quota there is a maximum number of mainland Chinese nationals who may apply (which is roughly 66 percent of the total)," said Crawford.
53. Interview with Charles Johanes.
54. Interview with David Crawford.
55. Interview with Peter Reikai.
56. U.S. Citizenship and Immigration Services. (2019, October). H-1B denial rates: Analysis of H-1B data for the first three quarters of FY 2019 (NFAP Policy Brief). National Foundation for American Policy.
57. National Foundation for American Policy. (2023, February 2). H-1B Petitions and Denial Rates in FY 2022 (NFAP Policy Brief).
58. U.S. Citizenship and Immigration Services. (2022, April 25). H-1B Electronic Registration Process.
59. U.S. Citizenship and Immigration Services, California Service Center; interview with Lynden Melmed. The long waits in the United States are not caused by security checks, which also take place in Canada and Australia.
60. Government of Canada. Global Skills Strategy: About the process. <https://www.canada.ca/en/immigration-refugees-citizenship/services/work-canada/hire-temporary-foreign/global-skills-strategy.html>.
61. Canada has an International Mobility Program and a Temporary Foreign Worker Program; both allow employers to seek temporary visas for workers.
62. Jamali, L. (2017, December 18). As Trump snubs high-tech visas, Trudeau's program takes off. Bloomberg.
63. Interview with Noah Klug.

Endnotes

64. Interview with Robert Walsh.
65. Interview with Polina Oussova.
66. Ibid.
67. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2022, November 4). Skilled visa processing priorities [Media release]. <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=973#:~:text=Ministerial%20Direction%20No.,visas%20since%201%20June%202022>.
68. Interview with Noah Klug. See also <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/employer-nomination-scheme-186>.
69. Anderson, S. (2019, April 22). Why immigrants, students and U.S. companies are going to Canada. Forbes.
70. Interview with David Crawford.
71. Government of Canada. Minister Fraser launches Canada's first-ever Tech Talent Strategy at Collision 2023. <https://www.canada.ca/en/immigration-refugees-citizenship/news/2023/06/minister-fraser-launches-canadas-first-ever-tech-talent-strategy-at-collision-2023.html>.
72. Cox, S., & Holcomb, E. (2023, February 23). To solve our national immigration crisis, let states sponsor immigrants. The Washington Post.
73. Australian Government, Department of Immigration and Border Protection. The Department of Immigration and Border Protection has been incorporated into the Department of Home Affairs.
74. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2023, April 27). Skilled Nominated visa. <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-nominated-190#Eligibility>.
75. Interview with Peter Rekal.
76. Interview with David Crawford.
77. Ibid.
78. Government of Canada. (2022, April 5). Atlantic Immigration Program. <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/atlantic-immigration.html>.
79. Interview with Robert Walsh.
80. Ibid.
81. Ibid.
82. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2019, March 22). New regional visas.
83. Passel, J. S., & Cohn, D. (2017, March 8). Immigration projected to drive growth in U.S. working-age population through at least 2035. Pew Research Center.
84. Business Roundtable. (2014, June). Contributing to American growth: The economic case for immigration reform.
85. DePillis, L. (2023, February 6). Immigration Rebound Eases Shortage of Workers, Up to a Point. The New York Times.
86. Congressional Budget Office. (2023 January). The Demographic Outlook: 2023 to 2053.
87. Analysis of U.S., Canadian and Australian immigration data and country population sizes.
88. Government of Canada. (2022, November 1). An Immigration Plan to Grow the Economy. <https://www.canada.ca/en/immigration-refugees-citizenship/news/2022/11/an-immigration-plan-to-grow-the-economy.html>.
89. Interview with Lily Jamali.
90. Interview with Robert Walsh.
91. Australian Government, Department of Home Affairs, Immigration and Citizenship.
92. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2023, January 30). Visas for innovation. <https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-independent-program>.
93. Coleman, D., & Andrews, K. (2019, August 8). Government makes Global Talent program permanent to attract the world's best and brightest [Media release].
94. Ewing Marion Kauffman Foundation. (2017, May). 2017 Kauffman index of startup activity.
95. Anderson, S. (2022 July). Immigrant Entrepreneurs and U.S. Billion Dollar Companies (NFAP Policy Brief). National Foundation for American Policy.
96. Interview with David Crawford.

Endnotes

97. Ibid.
98. Interview with Polina Oussova.
99. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2023, January 30). Visas for innovation. <https://immi.homeaffairs.gov.au/visas/working-in-australia/visas-for-innovation/global-talent-scheme>.
100. Interview with Robert Walsh.
101. Interview with Peter Reкаи.
102. Immigration and Refugee Protection Act, Section 94. Emphasis added.
103. Australia Government, Department of Immigration and Border Protection. Fact sheet — Managing the migration programme. "Capping ensures the planning levels for various migration categories, decided by the government for each Migration Programme year, are not exceeded."
104. Ibid.
105. Australian Government, Department of Home Affairs, Immigration and Citizenship. Migration program planning levels. <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>.
106. Interview with Peter Reкаи.
107. Canadian Chamber of Commerce. (2016). Immigration for a competitive Canada: Why highly skilled international talent is at risk.
108. Business Roundtable. (2018, August 22). Letter to Kirstjen Nielsen, Secretary, Department of Homeland Security.
109. Interview with Patrick Snider.
110. Ibid.
111. Blitzer, J. (2017, October 13). How Stephen Miller single-handedly got the U.S. to accept fewer refugees. The New Yorker.
112. Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers, 81 Fed. Reg. 82398 (Nov. 18, 2016). <https://www.federalregister.gov/documents/2016/11/18/2016-27540/retention-of-eb-1-eb-2-and-eb-3-immigrant-workers-and-programimprovements-affecting-high-skilled>. The bills were the American Competitiveness and Workforce Improvement Act and the American Competitiveness in the Twenty-first Century Act of 2000.
113. Interview with Noah Klug.
114. Ibid.
115. Ibid.
116. Business Roundtable. (2015, March). State of immigration.
117. Australian Government, Department of Immigration and Border Protection. 2015–16 migration programme report.
118. Australian Government, Department of Home Affairs, Immigration and Citizenship. (2021, July 1). Skilled Employer Sponsored Regional (Provisional) visa. <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/skilled-employer-sponsored-regional-494>.
119. Australian Government, Department of Immigration and Border Protection. 2015–16 migration programme report.
120. Australian Government, Department of Immigration and Border Protection. Fact sheet — Managing the migration programme. "To select migrants with the skills and attributes considered to be in need in Australia, section 93 of the Act contains the power for the Minister to attribute points for a range of factors. Applicants must score sufficient points to reach the pass mark applicable to be eligible for grant of a points tested skilled migration visa. ... The pass mark is a tool that allows for management of the skilled migration programme and section 96 of the Act allows the Minister to adjust the pass mark in response to Australian labour market needs."
121. U.S. Department of State. Annual report of immigrant visa applicants in the family-sponsored and employment-based preferences registered at the National Visa Center as of November 1, 2022.
122. Congressional Research Service. (2020, March 26). The Employment-Based Immigration Backlog.