CREEPING PROTECTIONISM

AN ANALYSIS OF STATE AND FEDERAL GLOBAL SOURCING LEGISLATION

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EXECUTIVE SUMMARY

State and federal legislation to restrict global sourcing is a growing threat to American competitiveness and U.S. taxpayers. This new form of protectionism threatens to interfere with the technological revolution and international division of labor that have led to new products and services to improve the lives of Americans and others throughout the world.

A state government effort to prevent a call center for unemployment services from re-locating to India resulted in New Jersey taxpayers paying, on top of the original contract cost, an additional $900,000 for 12 jobs. "Saving" 1,400 such jobs in the future would cost the state an extra $100 million. A similar cancellation of a state contract by Indiana Governor Joe Kernan will likely cost Indiana taxpayers more than $8 million and result in fewer services provided for the unemployed.

Global sourcing allows U.S. companies to remain competitive by concentrating on core functions, innovating and developing new products, lowering costs, and limiting risks. In addition, outsourcing globally enables an American company in information technology or financial services to operate 24 hours a day to meet the needs of a worldwide customer base, something that wage rates and work practices generally make prohibitive with U.S.-based employees alone.

Legislation against global sourcing (also known as overseas outsourcing or offshoring) has taken three forms.

First, restrictive state legislation has emerged in North Carolina, Indiana, New Jersey, and Michigan. In North Carolina and New Jersey, state legislators have sought to restrict overseas call centers by regulating calls that involve residents of their states. A patchwork of state laws would make employing overseas call centers prohibitively burdensome and expensive, which appears to be the aim of the legislators. Claiming it will save American jobs, Democratic Presidential candidate John Kerry has introduced federal call center legislation. Surprisingly, the bill's premise appears to be that American jobs will be saved when intolerance (or prejudice) results in Americans hanging up or protesting after an operator at an international call center discloses he or she is a foreigner. Such disclosure is required under the bill. Ironically, the "Do Not Call" legislation passed by a near unanimous vote of the U.S. Congress may eliminate up to two million U.S. call center jobs, according to the telemarketing industry.

Another avenue of restriction at the state level in Indiana and Michigan is to allow only U.S.-based employees to work on any outside contract from

a state agency, effectively preventing an American company from fulfilling a contract even in part with work done overseas.

Second, at the federal level, legislation has sought to require that federal contractors perform work exclusively, or almost exclusively, in the United States. For example, the Thomas-Voinovich amendment to H.R. 2673 would prohibit any private company awarded a federal contract under Office of Management and Budget Circular A-76 to perform any of the work outside the United States.

Third, bills have emerged in Congress to restrict U.S. companies from using L-1 (intracompany transfer) visas under the belief that some L visa holders have been involved in outsourcing that affected U.S. jobs.

The bills introduced to date share the same false assumptions: free trade in services is bad and protectionism is good and without cost. In fact, restrictive global sourcing legislation stifles innovation, reduces the competitiveness of U.S. firms, and costs taxpayers money. Putting an end to such forms of protectionism would benefit Americans and the U.S. economy overall. □

State and federal legislation to restrict global sourcing (outsourcing overseas or offshoring) is a growing threat to American competitiveness and U.S. taxpayers. This new form of protectionism threatens to interfere with the technological revolution and international division of labor that have led to new products and services to improve the lives of Americans and others throughout the world.

Today, every small company that uses an outside payroll firm, rather than continue to write paychecks in-house, engages in outsourcing. For larger companies, the same benefits accrue from outsourcing services such as call centers or information technology (IT) to overseas locations. Global sourcing allows U.S. companies to concentrate on core functions, innovate and develop new products, lower costs, and limit risks. In addition, outsourcing globally enables an American company in information technology or financial services to operate 24 hours a day to meet the needs of a worldwide customer base, something that wage rates and work practices generally make prohibitive with U.S.-based employees alone.

When U.S. companies seize the advantages of the global marketplace it also benefits the American economy. "Offshoring creates wealth for U.S. companies and consumers and therefore for the United States as a whole," concludes a recent report by the McKinsey Global Institute. Offshoring saves U.S. companies, on average, 58 cents for every dollar spent overseas, thereby increasing productivity, profitability and competitiveness. For every dollar spent offshoring, U.S. service providers purchase an additional five cents worth of U.S. goods and services, which create U.S. jobs. Moreover, many offshore service providers are incorporated in the U.S. and repatriate those earning in America. Finally, global sourcing frees up U.S. labor to engage in work the market determines is more productively performed in America. "Far from being bad for the United States, offshoring creates net additional value for the U.S. economy that did not exist before, a full 12-14 cents on every dollar offshored," according to the McKinsey Global Institute.[1]

Legislation against global sourcing to date has taken three forms. First, state legislators have sought to restrict overseas call centers by regulating calls that involve residents of their states. A patchwork of state laws would make employing overseas call centers prohibitively burdensome and expensive, which appears to be the aim of the legislators. Another avenue of restriction at the state level is to allow only U.S.-based employees to work on any outside contract from a state agency, effectively preventing an American company from fulfilling a contract even in part with work done overseas.

Second, at the federal level, legislation has sought to require that federal contractors perform work exclusively, or almost exclusively, in the United States. For example, the Thomas-Voinovich amendment to H.R. 2673 (for FY 2004 appropriations for Departments of Transportation and Treasury and other agencies) would prohibit any private company awarded a federal contract under Office of Management and Budget (OMB) Circular A-76 to perform any of the work outside the United States.

Third, bills have emerged in Congress to restrict U.S. companies from using L-1 (intracompany transfer) visas under the belief that some L visa holders have been involved in outsourcing that affected U.S. jobs. (Summaries of the legislation addressed in this study are available in the Appendix and complete legislative texts are available at www.nfap.net.)

COSTING TAXPAYERS

In New Jersey, criticism erupted after it became known that a subcontractor for a call center contract for state unemployment services used workers in India. In response, the state government re-worked the contract to place more individuals in New Jersey. As a result, New Jersey taxpayers paid, on top of the original contract cost, an additional $900,000 for 12 jobs. "Saving" 1,400 such jobs in the future would cost the state an extra $100 million.

A similar episode took place in Indiana when Gov. Joe Kernan (D) canceled a $15.2 million contract with an India-based company only weeks after it was awarded. Utilizing money from an economic development grant, the state of Indiana received proposals from three internationally-recognized companies to install a new, sophisticated unemployment insurance claims system, aiming to speed claims and reduce bureaucracy. Tata America International Corp., a New York-based subsidiary of Tata Consultancy Services, headquartered in Bombay, India, came in with a lower bid than Accenture and Deloitte Consulting. All three firms are global companies that employ tens of thousands of individuals outside the United States and thousands more inside the country.

No company from Indiana bid on the contract. Despite this, Governor Kernan claimed it was not political pressure for hiring a foreign firm that led to canceling the contract. He asserted instead: "While we want the best product at the lowest price, we also want to make sure Hoosier companies have every chance to be a part of what we do at the state level."[2]

The Tata proposal was "$8.1 million less than the next-most-competitive bid," the *Indianapolis*

Star reported.[3] Out of 65 contract employees, Tata would have employed a number of Hoosiers through an Indiana-based subcontractor, but would also have used Indians currently employed by the firm, working both in the United States and India. To put these figures in perspective, let's assume that the Governor's action leads to hiring an extra 50 people from Indiana at the cost of at least $8.1 million for taxpayers (the difference between Tata's bid and its nearest competitor). That would translate into Indiana taxpayers spending an extra $162,000 per worker on top of what the other Tata workers would have made. One might ask: If paying inflated costs for 50 workers helps the state, why not spend $81 million to employ 500 more or $810 million for 5,000 additional in-state hires? The costs of restrictive outsourcing rules eventually add up for state governments.

It makes no more sense for the state government to seek U.S.-only or Indiana-only computer services, than it would for the Governor's office to buy only pens made in Indianapolis or parts for state vehicles made only in Bloomington. It's fine if the pens or car parts are priced competitively, but under the widely-accepted economic theory of "comparative advantage" it is better to have some goods or services produced abroad and consumed here, rather than seeking to produce all goods or services only in the United States (or in Indiana for that matter).

Both Democrats and Republicans in Indiana played a role in this episode. Democratic House members complained and the Governor succumbed to the pressure, while the Indiana GOP reprinted an anti-outsourcing article on its website and Republican State Senator Jeff Drozda introduced a bill that permits work in service contracts with the state to be performed only by U.S. citizens or individuals authorized to work in the United States.

To pay for the Governor's decision the state will either have to raise taxes a corresponding amount or likely reduce other services for the unemployed. And for those who favor entrenching this action as new state policy, the Indiana General Assembly's Legislative Services Agency warned of State Senator Drozda's restrictive bill: "To the extent that this provision could potentially diminish the pool of eligible service providers that can bid for state service contracts, state contracting costs could increase."[4]

Drozda's legislation proved controversial at a state Senate hearing. "Republicans and Democrats alike worried a ban on all foreign workers would go too far and have unintended consequences," reported the *Indianapolis Star.* "They also said they fear recommending the bill's passage would send the wrong message as Indiana tries to lure overseas investment."[5] At the present time, according to legislators, the opposition means that the bill is unlikely to move in its present form.

The fate of Indiana's legislation is relevant to a similar bill introduced in Michigan. Legislation in Michigan introduced by Democratic State Representative Steve Bieda, who attracted 38 cosponsors, would impose a buy Michigan and buy services on American soil-only policy on the state's purchases. According to House bill no. 4940, Michigan state government agencies should give preference to Michigan entities in procurement and prohibit all state agencies from entering "into a contract for the purchase of services . . . unless that contract provides that only citizens of the United States, legal resident aliens, and individuals with valid visas shall perform the services under that contract or any subcontract under that contract."[6]

Bieda says his bill is necessary. "This represents a huge drain of American jobs. Our tax dollars shouldn't be sent to companies that distribute corporate revenues overseas. State contracts should support Michigan jobs and put more money into the Michigan economy."[7] The Michigan legislature has not acted on the legislation to date.

The actions in New Jersey, Indiana, and Michigan raise important policy questions. Increasing costs for taxpayers simply to award contracts to a firm that employs only residents of their state would mean either higher taxes or cuts in services. If mandating that work be done only in the United States prevails as a policy, then taxpayers in Michigan, for example, might be paying higher costs for services only to help workers in Florida or California or wherever the work would be performed. And if every state adhered to a strict "home state" policy, then would states with small populations, such as Wyoming or Delaware, have to develop large, home-grown IT companies simply to service state government contracts? For complicated information technology projects there are only so many companies with the knowledge, capacity, and employee base to perform them.

CALL CENTER RESTRICTIONS

Another form of restrictive state legislation has focused on telephone call centers. In New Jersey, State Assemblywoman Linda R. Greenstein and Assemblyman Gary L. Guear, Sr. (both Democratic legislators from District 14, Mercer and Middlesex) introduced legislation that would make it difficult for U.S. companies to maintain call centers in foreign countries.[8]

The level of micromanagement of private business entities in the original version of the bill is striking. The bill states that "Within the first 30 seconds of answering a telephone call made by a person to an inbound call center, an employee at the call center shall identify: himself, by stating his name; the name of his employer; the location of the municipality, state and country in which he is located; and, if applicable, the name and telephone number of a customer service representative of the entity utilizing the services of his employer."[9]

In addition, in a provision that would likely make it prohibitively expensive and duplicative for companies, the legislation requires that "Any telephone call to an inbound call center located in a foreign country shall be rerouted to a call center located in the United States, if such a request is made by the caller."[10]

Violations carry penalties of up to $10,000 for a first offense and $20,000 for second and subsequent offenses under New Jersey's consumer fraud laws. One would think that this type of violation stretches the definition of "consumer fraud" beyond its traditional meaning.

The legislation attracted opposition. While the bill passed the Assembly State Government Committee on June 5, 2003, it moved only with amendments that limited the bill's scope. The amendments "delete the provisions applicable only to inbound call centers located in a foreign country," "provide that a call center employee, as an alternative to stating a name may state an official company registration or alias and need not state the location of the municipality in which the employee is located," and clarify other provisions, according to the Assembly State Government Committee.[11]

New Jersey legislators expressed concerns that the bill in its original form raised constitutional questions, since it appeared to allow the state of New Jersey to regulate interstate commerce on behalf of the entire nation. To date, the legislation has not moved since passing the committee with the amendments and may not move in the Senate prior to the start of the next legislative session, when the bill would need to be re-introduced.

Legislation to restrict foreign-based call centers may enjoy better prospects in North Carolina. A bill introduced by Democratic State Senator Jon Reeves passed the State Senate with only minor amendments and awaits House action. The bill would prohibit the state from contracting with a vendor that uses foreign-based labor to fulfill a call center contract with the state. It also would require that any call center operator (regardless of whether on a state contract) disclose their location upon request and would prohibit any financial information from being sent overseas for processing without the express written permission of the North Carolina resident.

Democratic Presidential candidate John Kerry recently introduced legislation to restrict foreign-based call centers that he believes would save American jobs. The bill states, "A United States corporation or its subsidiaries that utilizes a call center . . . shall require each employee in the call center to disclose the physical location of such employee at the beginning of each telephone call so initiated or received." At the risk of civil penalties and in a significant expansion of regulation of private companies, the bill also would require that a U.S. company "annually certify to the Federal Trade Commission (FTC) whether or not

the corporation or subsidiary, and the employees of the corporation or subsidiary at its call centers, have complied with that subsection."[12] It empowers the FTC to enforce the measure.

Senator Kerry's legislation appears to carry with it an ugly premise: It assumes that if Americans discovered they were speaking to foreigners they would either hang up the telephone or protest in another manner. The press release announcing the bill states that requiring operators to disclose they are foreigners "will go a long way to preserve U.S. jobs." Other than relying on intolerance it is not clear how this would be achieved.

The press release also states, "There are more than 50,000 call centers in the United States and an estimated 6 million employees work in these centers. As companies move these operations abroad, many of these jobs are needlessly threatened at a time when we seek economic growth and job creation."[13] This concern about call center jobs is ironic, however, since Senator Kerry and other members of Congress voted for the "Do Not Call" legislation that, according to telemarketing industry estimates, could eliminate as many as *two million* U.S. call center jobs.[14]

IMMIGRATION RESTRICTIONS

Members of Congress have introduced four bills to date that would restrict U.S. companies' ability to bring their own foreign-born employees into the United States on L-1 or L-1B visas. L-1Bs are intracompany transfers, current employees of a firm who possess "specialized knowledge" and enter to work for companies in the United States for a temporary period of time. The bills are in response to press articles citing cases where Americans are alleged to have been laid off — or an existing consulting company's contract canceled — and an Indian company with employees on L-1B visas perform duties related to a new outsourcing contract. There have been no documented cases of illegal behavior or a specific enforcement action based on these types of cases.

There is a question whether any of these bills are necessary to deal with the issue, since current L-1B regulations already contain protections against the incidents reported in the press. Stephen Yale-Loehr, Adjunct Professor of Law at Cornell Law School testified, "Current law prohibits using an L visa to send a foreign national to the United States to work alongside the workforce of a third party, under the control of the third party, performing the same kind of work done by the third entity's employees and displacing U.S. employees."[15]

The area of intracompany transfers is complex and covers many situations, making it important for Congress to tread lightly in this area. In testimony before the Senate Immigration Subcommittee, attorney Daryl Buffenstein, representing the Global Personnel Alliance, stressed the need for any legislative solution to be targeted, arguing

that this calls for "a surgical instrument," not a sledgehammer. As Buffenstein points out, "It will hurt employment in the United States if we impede the ability of legitimate users to transfer managers and specialists between different affiliates of international organizations."[16]

The bills introduced on this subject are generally quite broad and their sponsors may not realize how many beneficial situations, including those that involve job creation in the United States, would be prohibited in an attempt to address a narrow issue. Unlike the other bills, Senator Saxby Chambliss' legislation at least carries the virtue of being specifically targeted at the issue its sponsor seeks to address.

OTHER FEDERAL LEGISLATION

Two recent amendments to broader legislation have sought to restrict global sourcing in the context of federal procurement policy. In the version of H.R. 1588 (the National Defense Authorization Act) that passed the House of Representatives the bill required information technology and other Department of Defense procurement to be made under the restrictive requirements of the Buy American Act. The measure, sponsored by Rep. Duncan Hunter (R-CA), would also have expanded the current domestic content minimum from 50 percent to 65 percent. The Administration and high technology firms argued these measures would be economically harmful and fiscally counterproductive and the provisions were removed from the bill prior to final Congressional passage.

An amendment by Senators Craig Thomas (R-WY) and George Voinovich (R-OH) is slated to become law as part of the appropriations for several government agencies (H.R. 2673). The Administration, fighting to preserve the core features of a new policy (OMB Circular A-76) to encourage greater competition and outsourcing of federal functions to private contractors, reportedly failed to remove the Thomas-Voinovich amendment from the bill in conference. The amendment states that "An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A-76 may not be performed by the contractor at a location outside the United States except to the extent that such activity or function was previously been performed by Federal Government employees outside the United States."[17] Since the impact of OMB Circular A-76 remains uncertain it is not possible to determine the effect of the restriction imposed by the Thomas-Voinovich amendment. The amendment itself was an effort to save and institutionalize the Administration's plan to modernize potential outsourcing of existing functions performed by federal government employees, with the ban on overseas outsourcing only a part of the overall amendment.

Members have also introduced measures unlikely to move forward in the legislative process. H.R. 3134, the American Manufacturing Retention Act, introduced by Rep. James Walsh (R-NY), would require that any prospective contractor with U.S. government agencies "employ at least 50 percent of its employees in the United States."[18] Representative Ted Strickland (D-OH) has introduced the Genuine American Flag Act, which would prohibit the importation for sale of any U.S. flag made in a foreign country.

CONCLUSION

In the months and years ahead, American companies must explain how free market policies on global sourcing benefit competitiveness and help U.S. consumers. The biggest threat remains misguided policies. "The best way to destroy jobs is for the government to try and 'protect' them," argues Deloitte Research chief economist Carl Steidtmann. He notes that restrictive employment laws explain why unemployment rates in most of Europe are higher than in the U.S. or Britain, and he expects those laws to be extended to restrict outsourcing, which will harm European companies. If tariffs on goods are bad, then restrictions on services are no better. "The benefit of importing services is the same benefit that comes from importing goods," notes Steidtmann.[19]

Protectionism harms the efficiency of the global economy. As Federal Reserve Board Chairman Alan Greenspan cautioned in a recent speech, "Over the years, protected interests have often endeavored to stop in its tracks the process of unsettling economic change. Pitted against the powerful forces of market competition, virtually all such efforts have failed. The costs of any new such protectionist initiatives . . . could significantly erode the flexibility of the global economy. Consequently, it is imperative that creeping protectionism be thwarted and reversed."[20]

The bills introduced to date share the same false assumptions: free trade in services is bad and protectionism is good and without cost. In fact, restrictive global sourcing legislation stifles innovation, reduces the competitiveness of U.S. firms, and costs taxpayers money. Putting an end to such forms of protectionism would benefit Americans and the U.S. economy overall. □

APPENDIX

STATE LEGISLATION ON GLOBAL SOURCING

BILL NUMBER AND DESCRIPTION OF LEGISLATION	CHIEF SPONSORS
INDIANA — Senate Bill 4 (introduced November 18, 2003). The bill would permit work in service contracts with the state to be performed only by U.S. citizens or individuals authorized to work in the United States.	Sen. Jeff Drozda (R)
MICHIGAN — House bill No. 4940 (introduced July 2, 2003). According to the bill Michigan state agencies should give preference to Michigan entities in procurement and prohibit all state agencies from entering "into a contract for the purchase of services . . . unless that contract provides that only citizens of the United States, legal resident aliens, and individuals with valid visas shall perform the services under that contract or any subcontract under that contract."	Reps. Bieda (D), Law (D), Spade (D), Wojno (D), Lipsey (D), Gleason (D), Rocca (R). Plakas (D), Sak (D), Gieleghem (D), Elkins (D), Meisner (D), Gillard (D), Hardman (D), Stallworth (D), Clack (D), Zelenko (D), Anderson (D), Waters (D), Accavitti (R), Byrum (D), Smith (D), Steil (R), Adamini (D), Brown (D), Rivet (D), Murphy (D), Condino (D), Farrah (D), Minore (D), Farhat (R), Dennis (D), Woodward (D), Whitmer (D), Howell (R), Vagnozzi (D), Wenke (R), Jamnick (D), and Sheltrown (D).
NEW JERSEY — Bill No. 3529 (introduced May 3, 2003). Provides for state agency regulation of call centers and places restrictions on overseas call centers that receive calls from New Jersey residents. Restrictions include identifying the location of call center to individuals, transferring individuals to a call center in the U.S. if requested, and prohibiting call center operators in foreign countries to "solicit any personal information" without affirmative consent of the N.J. resident. Violations carry penalties of up to $10,000 for a first offense and $20,000 for second and subsequent offenses.	Assemblywoman Linda R. Greenstein (D) and Assemblyman Gary L. Guear, Sr. (D).

LEGISLATIVE ACTION TO DATE AND PROSPECTS
Indiana Senate hearing held at which opposition from committee members aired. No further legislative action to date. Indiana General Assembly's Legislative Services Agency wrote of the bill: "To the extent that this provision could potentially diminish the pool of eligible service providers that can bid for state service contracts, state contracting costs could increase."
Bill referred to Committee on Government Operations; no legislative activity to date.
The bill passed, with amendment, the Assembly State Government Committee on June 5, 2003. It has not moved legislatively since then. The amendments "delete the provisions applicable only to inbound call centers located in a foreign country," "provide that a call center employee, as an alternative to stating a name many state an official company registration or alias and need not state the location of the municipality in which the employee is located," and clarify other provisions, according to the New Jersey Assembly State Government Committee. No further action is anticipated prior to adjournment of session.

STATE LEGISLATION ON GLOBAL SOURCING (CONT.)

BILL NUMBER AND DESCRIPTION OF LEGISLATION	CHIEF SPONSORS
NORTH CAROLINA — Senate bill 991, (introduced April 3, 2003). Prohibits state government contracts for telemarketing or call service centers with any company that does not perform the work in the U.S. and only with individuals authorized to be employed in the U.S. Also requires a call center operator to disclose the employee's location upon request and written permission for a call center to send a person's financial, credit or other information to a foreign country.	Senator Reeves (D)

FEDERAL LEGISLATION ON GLOBAL SOURCING

BILL NUMBER AND DESCRIPTION OF LEGISLATION	CHIEF SPONSORS
S.1873, Call Center Consumer's Right to Know Act (introduced November 17, 2003). Would require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees.	Sen. John Kerry (D-MA)
HR.2989, Appropriations for the Departments of Transportation and Treasury, and independent agencies for FY 2004. Senate version of bill includes a Thomas-Voinovich amendment that states "An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A-76 may not be performed by the contractor at a location outside the United States except to the extent that such activity or function was previously been performed by Federal Government employees outside the United States."	Sen. Craig Thomas (R-WY) and Sen. George Voinovich (R-OH).

LEGISLATIVE ACTION TO DATE AND PROSPECTS

Bill passed the N.C. Senate 49-0 with only clarifying amendments; bill awaiting House action.

LEGISLATIVE ACTION TO DATE AND PROSPECTS

Referred to the Committee on Commerce, Science, and Transportation. No legislative action to date.

Thomas-Voinovich amendment passed 95-1; Senate version of H.R. 2989 passed on October 23, 2003. The measure has been expected to become law as part of the appropriations bill H.R. 2673.

FEDERAL LEGISLATION ON GLOBAL SOURCING (CONT.)

BILL NUMBER AND DESCRIPTION OF LEGISLATION	CHIEF SPONSORS
HR.1588, National Defense Authorization Act. The House version (but not the Senate's) contained provisions that would require commercial information technology and other DOD procurement to be under the Buy American Act; would increase reporting requirements, expand current domestic content minimum from 50% to 65%, and attempt industrial policy through authorizing a $100 million fund to fund new domestic industry or capacity.	Rep. Duncan Hunter (R-CA)
S.1635, L-1 Visa Reform Act of 2003 (introduced September 17, 2003). More narrowly crafted legislation to clarify that individuals shall not be eligible for L-1 visas if "the alien will be controlled and supervised principally by an unaffiliated employer."	Sen. Chambliss (R-GA)
HR.3134, American Manufacturing Retention Act (introduced September 17, 2003.) The bill amends title 10 of the U.S. code and title III of the Federal Property and Administrative Services Act to require that any prospective contractor with U.S. government agencies "employ at least 50 percent of its employees in the United States."	Reps. Walsh (R-NY), Jones (R-NC), Lipinski (D-IL), Gillmor (R-OH), Latourette (R-OH), Upton (R-MI), Quinn (R-NY), Goode (R-VA), Kaptur (D-OH), and Carson (D-OK).
S.1452, and its companion bill HR.2849 (introduced July 21, 2003). Places a series of restrictive measures against employers using L (intracompany transfer) visas.	Sen. Dodd (D-CT) and Rep. Nancy Johnson (R-CT).
HR.2702, (introduced July 10, 2003). Places a series of restrictive measures against employers using L (intracompany transfer) visas.	Reps. DeLauro (R-CT), Shays (R-CT), Miller (D-CA), Tierney(D-MA), McGovern (D-MA), Sanders (I-VT), Owens (D-NY), Frank (D-MA), and Green (D-TX).

LEGISLATIVE ACTION TO DATE AND PROSPECTS
During House-Senate conference, objectionable provisions related to "Buy American Act" and expanding the current domestic content minimum were removed.
Bill referred to Senate Judiciary Committee. No legislative activity to date, however, Sen. Chambliss is the Chairman of the Senate Immigration Subcommittee, which makes the legislation more likely to move than other bills on this topic.
Bill referred to House Committee on Government Reform and House Committee on Armed Services; to date no legislative activity.
Both bills referred to respective Judiciary Committees; no legislative activity to date.
Bill referred to House Judiciary Committee; no legislative activity to date.

FEDERAL LEGISLATION ON GLOBAL SOURCING (CONT.)

BILL NUMBER AND DESCRIPTION OF LEGISLATION	CHIEF SPONSORS
HR.2410, The Genuine American Flag Act (introduced June 10, 2003). Bill states after 6 months of enactment "no flag of the U.S.A. . . . that is the product or manufacture of any foreign country or instrumentality may be imported for sale."	Rep. Strickland (D-OH)
HR.2154, (introduced May 19, 2003). Requires all employers who petition for employees on L visas to file applications with the Secretary of Labor stating they will not place the employee with another employer where the individual's duties are controlled by the 3rd party.	Rep. Mica (R-FL)

LEGISLATIVE ACTION TO DATE AND PROSPECTS
Bill referred to the House Committee on Ways and Means; to date no legislative activity.
Bill referred to House Judiciary Committee; no legislative activity to date.

ABOUT THE AUTHOR

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ENDNOTES

[1]*Offshoring: Is It a Win-Win Game?,* McKinsey Global Institute, San Francisco, August 2003.

[2]Kevin Corcoran, "State ends deal with Indian firm," *Indianapolis Star*, November 21, 2003.

[3]Ibid.

[4]Legislative Services Agency, Indiana General Assembly, on Senate Bill 4.

[5]Kevin Corcoran, "Proposal to ban foreign pacts draws fire," *Indianapolis Star,* December 1, 2003.

[6]Text of House bill no. 4940, Michigan.

[7]"Bill Proposed in Michigan to Ban Outsourcing of Tech Jobs," INDOlink, http://www.indolink.com/News/NRI/news_081203-105019.php.

[8]The bill defines an inbound call center as "a physical or electronic operation that utilizes telecommunication services or electronic mail in one or more of the following activities: customer services; soliciting sales; reactivating dormant accounts; conducting surveys or research; collection of receivables; receiving reservations; receiving orders; or taking orders." It defines personal information as "any personally identifiable information that is provided by a person to an inbound call center, which shall include, but not be limited to, financial and credit information, or a name, address, telephone number or Social Security number."

[9]Text of Bill No. 3529 in the New Jersey General Assembly.

[10]Ibid.

[11]Assembly State Government Committee.

[12]"Text of S. 1873.

[13]"Kerry Aims to Protect U.S. Jobs With Call Center Consumer's Right To Know Act," Press Release from the Office of Senator John Kerry, November 14, 2003.

[14]Paul Davidson, "FTC's Do Not Call Registry puts telemarketing jobs on the line," *USA Today*, September 10, 2003. "The telemarketing industry says it also will wipe out as much as half of its $100 billion in annual sales, send ripples through the fragile U.S. economy and put 2 million of its 6.5 million employees out of work. Industry officials say many of those workers are tough to employ: About 5% are disabled, 26% are single mothers and 95% are not college graduates. Average hourly wage: $9.67," according to *USA Today.*

[15]Testimony of Stephen Yale-Loehr, "The L-1 Visa and American Interests in the 21st Century Global Economy," Senate Committee on the Judiciary Subcommittee on Immigration and Border Security, July 29, 2003. See also Stuart Anderson, *The Global*

Battle for Talent and People, Immigration Policy Center, American Immigration Law Foundation, September 2003.

[16] Katie Hafner and Daniel Preysman, "Special Visa's Use for Tech Workers Is Challenged," *The New York Times*, May 30, 2003.

[17]Text of Thomas-Voinovich amendment to H.R. 2989.

[18]Text of H.R. 3134.

[19]Carl Steidtmann, "The Macro-Economic Case for Outsourcing," Deloitte Research, 2003.

[20]Remarks by Chairman Alan Greenspan at the 21st Annual Monetary Conference, Cosponsored by the Cato Institute and *The Economist*, Washington, D.C., November 20, 2003.

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