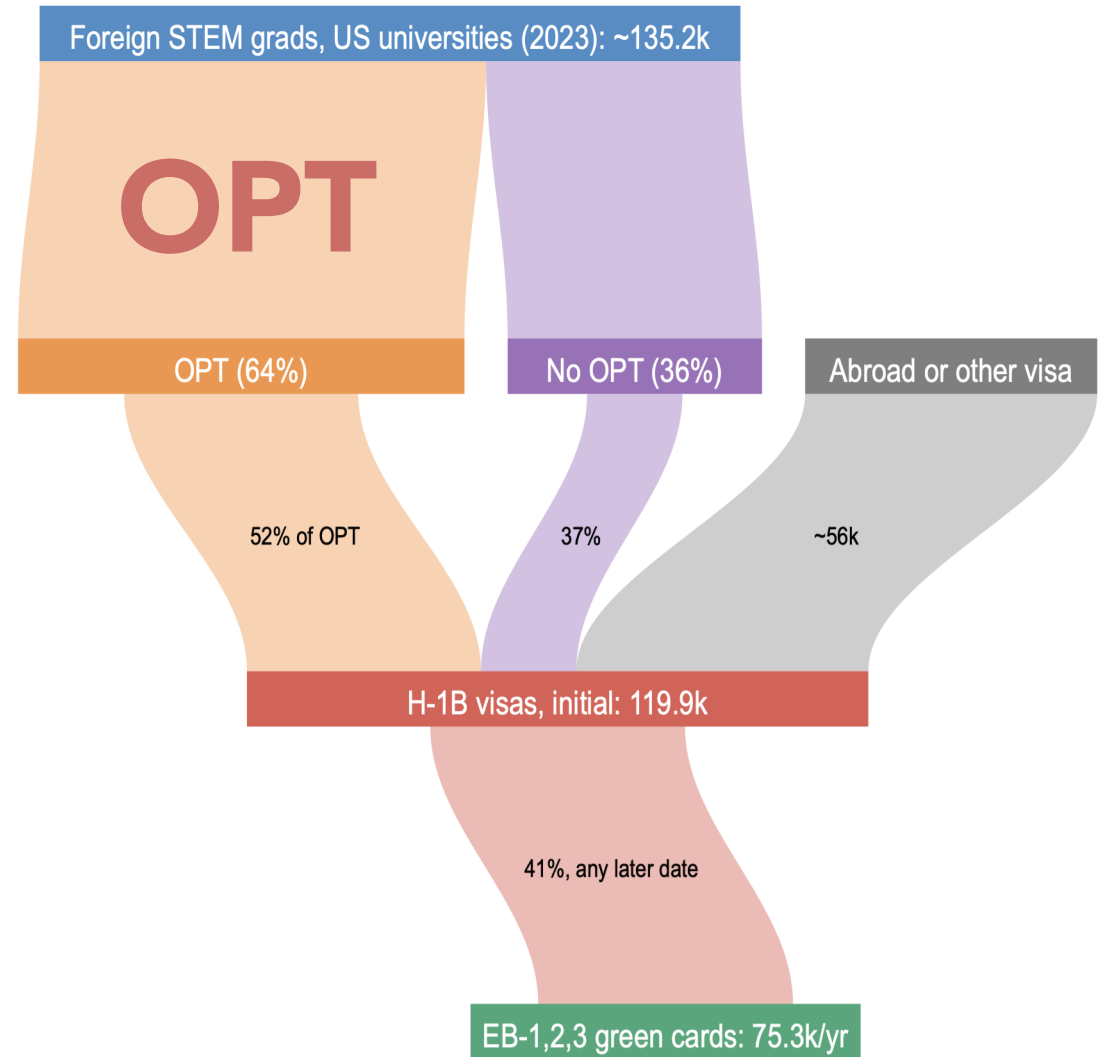


Six misconceptions about the proposed OPT tax

Optional Practical Training

Importance

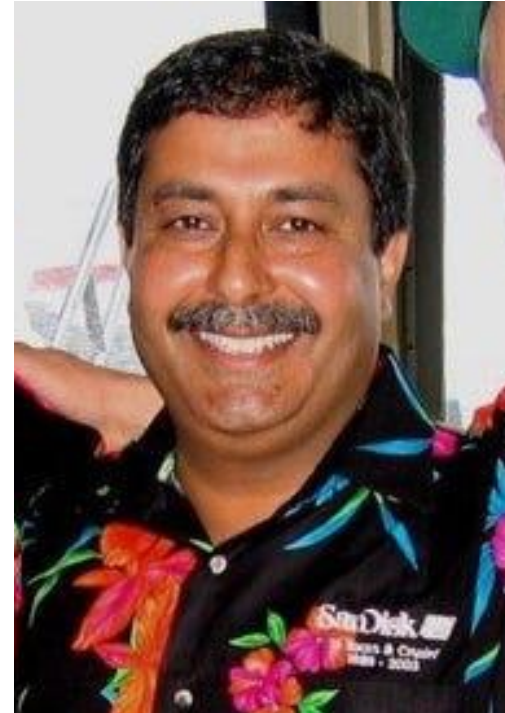
- Largest channel for global STEM talent



Optional Practical Training

Importance

- Largest channel for global STEM talent
- 24% of unicorn >\$1Bn startups = \$4 Tn value
- 1/3 of all STEM PhDs in the US



Sanjay Mehrotra



Maryam Mirzakhani

Optional Practical Training

Policy: USCIS Director Joseph Edlow

- “I want ... to remove the ability for employment authorizations for F-1 students beyond the time that they are in school.”
- “We’ve got to do everything we can to really make it abundantly difficult—only in certain situations—for [foreign] students to think that they are just going to continue to live and work in the United States beyond the expiration of their [F-1] visa.”

Optional Practical Training

Creation

- Congress: 1947/1952, 1961/1984, 4× since 2015
- Executive: 1992, 2008, 2016

Clemens "A new US rule to restrict student visas will hurt the US economy"

Optional Practical Training

Creation

- **Congress:** 1947/1952, 1961/1984, 4× since 2015
- **Executive:** 1992, 2008, 2016

DOJ: Aug. 7, 1947
12 *Fed. Reg.* 5357

(b) In cases where employment for practical training is required or recommended by the school, the district director may permit the student to engage in such employment for a six-month period subject to extension for not over two additional six-month periods, but any such extensions shall be granted only upon certification by the school and the training agency that the practical training cannot be accomplished in a shorter period of time.

Senate Judiciary Cmte: Apr. 20, 1950
S. Rep. 81-1515 at 503

will not interfere with their carrying a full course of study. Furthermore, since the issuance of the revised regulations in August 1947 more authority has been delegated to the field offices to act on determinations of the status of students and district directors may authorize students to work during vacations. Part-time work has also been permitted where it is required as part of a course and practical training has been authorized for 6 months after completion of the student's regular course of study. The delays in processing the applications for eligible students for permission to work is attributed to inefficiency.

Tax treatment: 26 U.S. Code § 3121, 7701

Optional Practical Training

Creation

- Congress: 1947/1952, 1961/1984, 4× since 2015
- **Executive:** 1992, 2008, 2016

(ii) *Optional practical training*—(A) *General.* An F-1 student may apply to the Service for authorization for temporary employment for practical training directly related to the student's major area of study. Temporary employment for practical training may be authorized:

(3) After completion of all course requirements for the degree (excluding

DOJ: July 20, 1992
57 *Fed. Reg.* 31956

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214 and 274a

[DHS No. ICEB-2008-0002; ICE No. 2124-08]

RIN 1653-AA56

Extending Period of Optional Practical Training by 17 Months for F-1 Nonimmigrant Students With STEM Degrees and Expanding Cap-Gap Relief for All F-1 Students With Pending H-1B Petitions

DHS: April 8, 2008
73 *Fed. Reg.* 18944

Effects of \$100K OPT tax on students

“DHS cannot confidently predict the extent of any reduction in participation due to these new requirements.” 91 Fed. Reg. 64582

Survey of 734 F-1 visa holders Sep.–Oct. 2026

- 61% graduate, 80% STEM, univ.'s large/small, public/private
- 31% would still have come under \$100K tax
- Stay rate 79 → 15% under \$100K tax

↓69% coming

↓82% staying

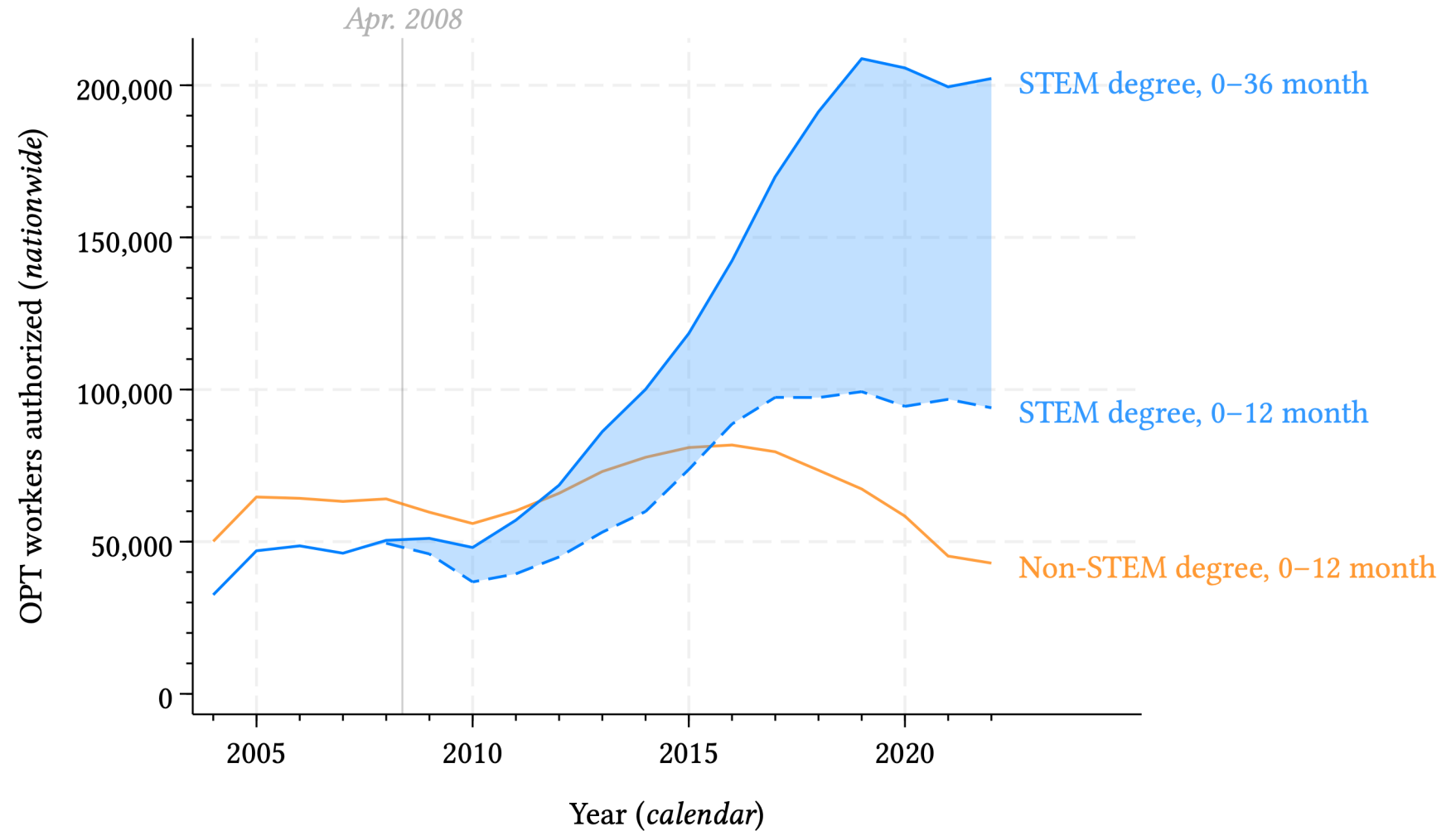
Effects of \$100K OPT tax on universities

“DHS cannot confidently predict the extent of any reduction in participation due to these new requirements.” 91 Fed. Reg. 64582

Paid by	OPT starts	Cost to univ./year
Universities	↓ 79%	−\$2.5 to −\$4.2 bn
Employers	↓ 84%	−\$2.4 to −\$4.3 bn
Students	>> ↓ 35%	>> −\$0.5 to −\$1.0 bn

Effects of OPT on the US economy

OPT STEM extension of 2008



Effects of OPT on the US economy

OPT STEM extension of 2008

- Caused 23% increase in patenting, avg. city
- Almost half *not their own patents* (1.9 multiplier)
- >\$1 Bn. per year in added market cap, avg. city
- +1 OPT STEM = +0.8 native high-skill STEM
- +20 OPT STEM = +3% VC-financed tech. startups

Taxes are not fees

- Fees are compulsory payments to just offset an agency's cost of providing a private good/service
- Taxes are compulsory payments that fund general provision of public goods, even earmarked

Edye v. Robertson, 112 U.S. 580 (1884)

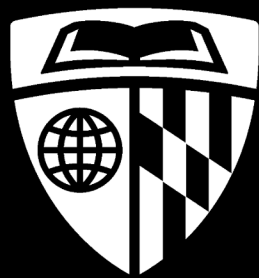
National Cable TV Ass'n v. United States, 415 U.S. 336 (1974)

Black's Law Dictionary

Congressional Budget Office, field of public finance

IRS rulings since 1970s

<http://mclem.org>



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