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Senate weighs H-1B visa changes

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There's a push in Congress to change guest visa programs, including a proposal to create a new exemption to the annual cap of 65,000 new H-1B visas.

Legislation under serious discussion in the Senate would exempt foreign students graduating from U.S. schools with master's and doctorate degrees--a change opposed by labor groups and [championed by businesses](#).

The package under consideration also calls for additional worker safeguards, including the ability for the Labor Department to conduct random audits of companies that may be violating the H-1B program, according to a Democratic senator's aide.

Sen. Saxby Chambliss, R-Ga., is the main proponent of the changes, and Democratic Sen. Edward Kennedy also is involved in the negotiations, said the aide, who spoke on condition of anonymity. The package could come through the Senate Judiciary Committee as standalone legislation or be tacked onto a larger bill, the aide said. The proposals also address the controversial L-1 visa program, which can bring in managers as well as skilled workers.

There's some urgency to act on the legislation soon, because Congress is expected to adjourn in October, possibly for the rest of the year.

In addition, H-1B visas for the year beginning Oct. 1 are likely to run out fast. As of Aug. 18, U.S. Citizenship and Immigrations Services, which handles applications for the H-1B program, had received petitions amounting to 71 percent of the annual cap. Exemptions to the cap already exist

for institutions of higher education, nonprofit research groups and governmental research organizations.

"We're hoping that we'll see some movement, particularly on the L visas, during this year," Annie Laurie Crane, press secretary for Sen. Chambliss, said Monday.

Labor groups strongly oppose expanding the number of H-1B visas, which allow technology professionals and other skilled workers to enter the country for up to six years.

Debating the need for foreign workers

Marcus Courtney, president of technology worker advocacy group WashTech, said the student exemption to H-1B visas makes no sense. He pointed to a [recent study](#) for WashTech finding significant job losses in the technology sector and high unemployment among tech workers. "There's not a shortage of skilled professional workers in the U.S.," Courtney said.

Critics also say guest worker visas accelerate the trend to send highly skilled work offshore to countries such as India or the Philippines. If the guest workers return to their native countries, "they're better equipped to compete with us," said Vin O'Neill, legislative representative for the U.S. wing of the Institute of Electrical and Electronics Engineers. IEEE-USA, which has [criticized offshoring](#), also opposes the student exemption proposal.

Business groups, though, welcome the idea of expanding the H-1B program through the student exemption. Jeff Lande, senior vice president at the Information Technology Association of America trade group, said the country invests a good deal of resources in foreign graduate students. "If they can't stay, we're wasting that investment, and we're losing access to some of the best and brightest around," Lande said.

There's concern that [fewer foreign students](#) have applied to U.S. graduate programs and that this could contribute to a decline in the numbers of science and engineering doctorates produced at U.S. schools.

U.S. employers do not have to attest that they sought U.S. workers to fill the job before applying for a visa, but they are supposed to pay the prevailing wage to the guest worker. Many H-1B visas go to technology professionals. One-third of the approved visa applications in 2002 were for system analysts or programmers, though that figure was down from half of all approved visa petitions in 2001, according to CIS.

In February, the government said it had received enough applications to reach the cap for this fiscal year, which ends Sept. 30.

Executive passes

L-1 visas allow companies to temporarily bring in employees from other countries for managerial or executive work, or for work that entails specialized knowledge.

There is no annual cap on L-1 visas, nor is there a required pay rate. The number of L-1 visas issued by the U.S. government has tripled during the past 20 years, to about 113,000 in 2002, according to Rep. Henry Hyde, who held a [hearing on guest worker visas](#) earlier this year.

Chambliss says he wants to prevent companies from bringing professional workers into the United States on the L-1, then using those workers to displace employees at a third-party company in an outsourcing arrangement. Among other things, he has proposed requiring that companies employing a worker in a foreign country have him or her on staff for at least one year before transferring the employee to a U.S. office on an L-1 visa.

According to the senator aide, legislation under discussion would raise the fee employers pay for H-1B visas, with the funds used to train U.S. workers and provide scholarships. A \$1,000 application fee for H-1B visas expired last October.

A source said at this point Kennedy has not committed to the legislation and that he aims to include labor protections.

She said it was difficult to predict the outcome of the deliberations, especially concerning the H-1B program. "It is controversial, period," she said. "H-1B has always been controversial in the Senate."