



**ACT NOW TO VOICE YOUR COMPANY'S SUPPORT FOR H-1B CAP RELIEF
AND COMPREHENSIVE IMMIGRATION REFORM**

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As reported in a previous Tindall & Foster Email Bulletin, following record-breaking demand against the H-1B Nonimmigrant Visa Cap for Fiscal Year 2008, efforts are under way in the U.S. Senate to address the shortage of H-1B visa numbers available to serve a growing economy dependent on graduates of science and engineering programs.

The SKIL Act of 2007

On April 10, 2007, just one week after the CIS announced that the FY-2008 H-1B Cap was reached on the first day petitions were accepted, Senator John Cornyn (R-TX) introduced the Securing Knowledge, Innovation and Leadership (SKIL) Act of 2007 (S 1083). Senator Cornyn's bill would provide relief from the low effective H-1B cap of 58,200, and would allow for increased availability of immigrant visa numbers to reduce the extreme backlogs in immigrant visa availability under the annual quota system. Provisions of the SKIL Act would:

1. Broaden the exemption from the H-1B cap for nonprofit organizations;
2. Exempt all beneficiaries holding an advanced degree from a U.S. institution of higher education;
3. Exempt up to 20,000 beneficiaries holding an advanced degree from a foreign institution of higher education;
4. Increase the standard H-1B cap to 115,000 per fiscal year, with allowance for variation in response to demand fluctuation;
5. Provide for additional exemptions from numeric limitations under the annual immigrant visa quota system for beneficiaries holding U.S. Advanced Degrees and for beneficiaries holding foreign advanced degrees provided they have worked for three years in the United States;
6. Create new categories of immigrants not subject to direct numerical limitation under the annual quota system;
7. Increase the annual employment-based immigrant visa quota;
8. Exempt dependent beneficiaries from the immigrant visa quota system;
9. Recapture unused immigrant visa numbers from previous fiscal years (2001-2005) prior to the retrogression in the fall of 2005;

10. Provide for additional extensions of L-1 nonimmigrant eligibility beyond the 5th or 7th year limitation in cases of lengthy adjudication times (much the same as currently enjoyed by H-1B nonimmigrants);
11. Provide for filing an I-485 Application to Adjust Status to U.S. Lawful Permanent Resident in advance of immigrant visa availability under the annual quota system, upon payment of an additional \$500 fee, although such applications would not be approvable until a number is immediately available; and
12. Allow for “Visa Revalidation” in the United States for certain E, H, I, L, O, P nonimmigrants.

To support Senator Cornyn’s SKIL Act of 2007, employers are encouraged to visit the advocacy section of the Tindall & Foster, P.C. web site at <http://www.tindallfoster.com/ExportedSite/ImmigrationResources/Write%20Your%20Congressman.htm>. Employer representatives should take steps to voice their company’s support for additional H-1B numbers to meet the needs of a growing economy. *Please note:* Due to security concerns and the lengthy process of screening paper mail for anthrax prior to delivery to members of Congress, both the Senate and House prefer facsimiles or electronic correspondence, as made possible through the web site link.

The Immigrant Accountability Act of 2007

U.S. Senator Chuck Hagel (R-NE) also introduced a bill to alleviate the H-1B visa shortage; however, Senator Hagel’s bill would provide more limited H-1B relief and would do far less to alleviate extreme backlogs in immigrant visa availability. In a separate bill, Senator Hagel has also introduced a form of earned legalization that would institute a one-time point system of limited scope and duration and would increase the penalty payment for legalization via the Immigrant Accountability Act of 2007. The Act provides in part as follows:

1. Persons present in the United States in violation of status or without lawful nonimmigrant status since January 7, 2004 are eligible;
2. Qualified persons registered as conditional residents are to be issued an “orange card” following registration and background checks;
3. A point system is instituted for accumulating credits toward legalization during the 8-year period following registration and orange card issuance;
4. Applicants must pay a \$2,000 penalty; and
5. Applicants must pay back taxes (federal, state and local), and any applicable interest and penalties as a condition to Adjustment of Status to Lawful Permanent Resident.

The Security through Regularized Immigration and a Vibrant Economy (STRIVE) Act of 2007

On March 22, 2007, U.S. Representatives Jeff Flake (R-AZ) and Luis Gutierrez (D-IL) introduced H.R. 1645, a bipartisan comprehensive immigration reform bill.

Provisions of the bill are aimed at strengthening border and interior immigration enforcement while acknowledging the need and providing for an earned legalization program and a new, low-skilled employment-based nonimmigrant category with a path to permanent residency and citizenship, either with or without specific employer sponsorship. In addition, the bill would also:

1. Exempt immediate relatives of U.S. citizens from the annual immigrant visa quota;
2. Increase the number of employment-based immigrant visas available each fiscal year;
3. Increase the number of H-1B nonimmigrant visas available each year; and
4. Exempt certain highly-skilled employment-based applicants from the annual immigrant visa quota.

To support Senator Hagel's earned legalization proposal, Senator Cornyn's SKIL Act, and/or the STRIVE Act, employer representatives are encouraged to visit the advocacy section of the Tindall & Foster web site. Your Tindall & Foster attorney will also be happy to work with you to tailor an appropriate letter that expresses your company's position on issues of concern for the future of the company, such as the annual H-1B quota and ongoing backlogs in immigrant visa availability. As always, Tindall & Foster will continue to monitor the progress of legislative proposals and will make future updates available in Email Bulletins and on our web site at <http://www.tindallfoster.com/ExportedSite/ImmigrationResources/Immigration%20Resources.htm>.