

Alice M. Yardum-Hunter, A Law Corporation

Certified Specialist in Immigration and Nationality Law
California Board of Legal Specialization

15915 Ventura Blvd., Penthouse #1
Encino, California 91436 USA

Phone: 818 609-1953

Email: alice@yardum-hunter.com

Fax: 818 609-1964

Website: www.yardum-hunter.com



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HISTORIC IMMIGRATION DEBATE: **WILL PROFESSIONALS, SKILLED AND UNSKILLED WORKERS** **CONTINUE TO BE UNABLE TO ENTER THE U.S.** **LEGALLY?**

THE ISSUE:

Employers with bachelor educated professionals cannot legally hire new people from abroad temporarily until October 1, 2006, at the earliest. **At the same time in history,** permanent visas simultaneously completely unavailable for these people, others already in the U.S. like them, as well as skilled and unskilled labor, except for those who filed before March 2001, more than 5½ years ago!

THE RESULT: There is a complete ban on bachelor educated professionals, as well as skilled and unskilled workers on entering the U.S. LEGALLY in the short and long term. Employers with foreign workers need to review their positions (as those who are legal could become illegal because of this problem) and those contemplating hiring people from overseas must explore other avenues or forego their plans. To address these issues, there are two approaches before Congress.

THE PROPOSED LEGISLATION:

The Senate bill (S. 1932) provides relief from the H-1B (bachelor degreed temporary, nonimmigrant professionals) blackout and employment based immigrant (permanent, green cards) visa retrogression in exchange for increased fees on some petitions. Specifically, the Senate's package would:

- Impose a new \$500 fee on employment based immigrant visa petition categories.
- Recapture unused employment-based visas from prior years for immediate allocation of up to 90,000/year.
- Exempt spouses and minor children from counting against the annual cap on employment-based immigrant visas.
- Allow individuals to apply for adjustment of status (last step of green card) before an immigrant visa is deemed currently available rather than requiring a visa number to be available before filing, thereby avoiding the situation where a legal

temporary nonimmigrant is forced to depart the U.S. indefinitely only because visa numbers are not available.

- Recapture approximately 300,000 unused H-1B numbers dating back to FY 1991. As a result of an amendment by Senator Feinstein, 30,000 rather than 60,000 would be available annually.
- Impose a new fee on the recaptured H-1B visas so that the fees on the original 65,000 H-1B allotment remain unchanged but the additional 30,000 available annually carry an additional \$500 fee.
- Impose a new \$750 fee on L-1 (intra-company transfer) visas.

The House (HR 4241) version merely imposes a \$1,500 fee increase on L visas without any attendant relief either for H-1 nonimmigrants or applicants for permanent resident green cards. It leaves the problem to grow over time.

WHAT YOUR COMPANY CAN DO:

If your company is affected by these systemic problems, you can voice your concerns to your congressmen and senators, like 750 other employers and educational institutions have. You can find your representatives here:

THE DRAFT LETTER:

[COMPANY LETTERHEAD]

[DATE]

Dear Senator/Representative _____:

[NAME OF COMPANY] has signed on to a letter with more than 750 other companies and universities asking Congress to immediately address an escalating crisis: multi-year immigrant visa backlogs and an H-1B visa “blackout.” The Senate Judiciary Committee’s bipartisan budget reconciliation package offers a viable solution to both of these problems and was affirmed by an overwhelming 85-14 vote on the Senate floor. We urge you to give the Senate proposal your strong support and oppose any attempts to weaken the relief it provides to U.S. businesses and educational institutions during House and Senate Conference negotiations.

Enabling U.S. employers to access the best and brightest global talent is a policy that cannot wait. While other nations have stepped up their efforts to develop and attract global talent, the United States has started to lag behind. For the second straight year, U.S. employers are confronted with a year-long blackout on access to this talent pool. As other countries start to win the battle for these individuals, the talent will migrate to companies abroad, and the work will be performed largely outside the United States, to the detriment of our economy.

We strongly believe that the United States must do more to cultivate domestic talent, but that is a long-term effort. To remain competitive today, American companies need access to highly educated individuals in the fields of science, technology, engineering and mathematics. If the U.S. fails to provide adequate visas for individuals who create additional jobs in the United States, it severely undermines our ability to compete on the global stage.

The Senate's budget reconciliation package provides relief from this crisis by mitigating the impact of the visa backlogs and H-1B blackout. It would provide for expanded access to employment-based immigrant visas and H-1B visas through the recapture and reallocation of unused numbers from prior years. In exchange for the expanded access, the proposal would impose new fees on employment-based immigrant visas, on the recaptured H-1B nonimmigrant visa numbers, and on L-1 visas. Although escalating fees remain a serious concern, we understand that this proposal represents a compromise that serves the demands of budget reconciliation and the needs of U.S. employers.

We urge your strong commitment to preserving the Senate Judiciary's provisions in the final budget reconciliation package.

Sincerely,

[NAME]
[COMPANY]