

Lieberman-Hagel Skilled Worker Immigration and Fairness Act

§ 1. Short title; table of contents.

§ 2. H-1B visas.

- (a) Creates exemptions from the H-1B cap for holders of:
 - i. US masters or higher degrees (currently, the exemption is capped at 20,000/year);
 - ii. medical specialty certification based on post-doctoral training and experience in the US; and
 - iii. non-US masters or higher degrees in science, technology, engineering, or math (STEM).
- (b) Increases the cap on H-1B visas to 115,000 in FY07. (Currently, the cap is 65,000/year, although the cap was at 195,000 at the beginning of this decade).
- (c) Beginning in FY08, creates a flexible market-based escalator with a base limit of 115,000 visas/year. If the cap is exhausted in a given fiscal year, then the subsequent fiscal year's base limit would increase by 20%, up to a ceiling of 180,000. (This is similar to a provision included in last year's Senate-passed immigration bill, S.2611.)

§ 3. Employment-based immigration.

- (a) Creates exemptions from the employment-based (EB) green card cap for:
 - i. holders of US masters or higher degrees, or non-US masters or higher degrees in STEM fields who have been working in a related field in the US for three years preceding their application;
 - ii. aliens of "extraordinary ability in the sciences, arts, education, business, or athletics";
 - iii. "outstanding professors and researchers";
 - iv. recipients of national interest waivers; and
 - v. immediate relatives of employment-based immigrants.
- (b) Enables employment-based immigrants and their dependents to file an application for adjustment of status, regardless of whether a visa is immediately available.

§ 4. H-1B visa fraud and abuse protections.

- (a) Prohibits employers from advertising a job as available only for, or as giving preference to, H-1B visa holders.
- (b) Prohibits employers with over 50 employees from having more than half of their workforce on H-1B visas.
- (c) Gives the Department of Labor (DOL) authority to review employers' H-1B labor certification applications for "clear indicators of fraud or misrepresentation of material fact." (DOL is currently restricted to screening applications for "completeness and obvious inaccuracies.")
- (d) Expands DOL's authority to conduct employer investigations and streamlines the investigative process by expanding DOL's authority to conduct investigations from 12 months to 24 months; eliminating the requirement that the DOL Secretary personally certify an investigation; and removing limits on types of information can be used to investigate unlawful activity.
- (e) Authorizes DOL to hire an additional 200 employees to administer, oversee, investigate and enforce the H-1B program.
- (f) Raises the petition fee by \$500, to fund compliance.
- (g) Authorizes reasonable improvements to coordination among DOL, DHS and DOS (as recommended by the US Government Accountability Office).
- (h) Gives DOL the ability to conduct random audits of any company that uses the H-1B program, and requires DOL to conduct annual audits of companies with more than 100 employees that have 15% or more of those workers on H-1B visas.
- (i) Doubles penalties for employers who violate any of the H-1B program's requirements and protections for U.S. workers.
- (j) Requires DOL to provide H-1B visa holders with information about their rights, including wage and labor protections.