

### Senate Judiciary Committee Proposes H-1B and Immigrant Visa Relief - Supporting Action Required Now

In an encouraging effort to address both the unavailability of H-1B nonimmigrant visas and mounting backlogs for permanent residence preference categories, on October 20 the Senate Judiciary Committee passed a proposal that would make significant changes to both programs. The proposal approved by the Senate Judiciary Committee, which is part of the budget reconciliation process, includes the following elements:

- § Recapture of approximately 300,000 unused H-1B visas dating back to 1991, with a annual recapture limit of 30,000/year.
- § Immediate recapture of an estimated 90,000-100,000 unused employment based-visas from prior years.
- § Exemption of spouses and minor children from counting against the annual employment-based immigrant preference category numerical limits. Estimates are that this would increase the available employment-based immigrant visas by 80,000-90,000/year.
- § Permit individuals to file applications for adjustment of status before an immigrant visa is actually available to them. Among other things, this would eliminate the need to apply for continuing H-1B extensions, permit immediate family members to obtain employment authorization, and help to address the issue of children “aging out”.
- § In exchange for these benefits, the proposal would add certain new filing fees, including a \$500 fee on employment-based preference petitions, a \$500 fee on petitions for one of the “recaptured” H-1B visas, and a \$750 fee on L-1 petitions.

This Senate Judiciary Committee proposal will now go to a House-Senate Conference for reconciliation with a House budget proposal.

For employers that utilize the legal employment-based immigration system, this is an incredibly important piece of prospective legislation. It is imperative that interested employers take affirmative steps to support this legislation through their elected representatives in Washington. If you would like to participate in an organized program of support, please contact us as soon as possible.

If you have questions please feel free to contact a member of the Foley Hoag LLP Immigration Practice Group.

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