

CRS Report for Congress

Received through the CRS Web

Immigration: Nonimmigrant H-1B Specialty Worker Issues and Legislation

Updated August 4, 1998

Ruth Ellen Wasem
Specialist in Social Legislation
Education and Public Welfare Division

ABSTRACT

The largest category of temporary alien workers are the H-1B nonimmigrants — professionals who work in specialty occupations. This report describes the H-1B program and how it differs from permanent immigrant admissions that are employment based. It discusses concerns over past abuses of the H-1B program as well as why employers in “high tech” industries now are pressuring Congress to eliminate or raise the annual admissions ceiling of 65,000. Efforts to protect the interests of U.S. workers are described. Legislation addressing these various concerns is tracked by this report, which will be updated as action occurs.

Immigration: Nonimmigrant H-1B Specialty Worker Issues and Legislation

Summary

The 105th Congress is once again considering legislation pertaining to temporary alien workers, striving to balance the needs of U.S. employers with opportunities for U.S. workers. The largest category of these temporary alien workers are the H-1B nonimmigrants — professionals who work in specialty occupations. For the first time the numerical limits on H-1B visas were reached prior to the end of FY1997, and the FY1998 ceiling was reached in May. Employers in “high tech” industries especially are urging Congress to eliminate the ceiling of 65,000, and legislation raising the H-1B ceiling as well as addressing other reforms has passed the Senate (S.1723). The House Judiciary Committee has reported a bill (H.R. 3736) that would temporarily raise the ceiling and address perceived abuses.

Both the Senate passed bill (S.1723) and the House-reported bill (H.R. 3736) would raise the ceiling for the next few years, though each bill approaches the increase differently. Each bill would add whistle blower protections for individuals who report violations of the H-1B program and would increase the penalties for willful violations of the H-1B program. H.R. 3736 limits the number of H-1B visas given to aliens who are health care workers to 5,000 annually, and S. 1723 creates a new visas category of H-1C with a ceiling of 10,000 annually.

Many consider the provisions aimed at protecting U.S. workers as the most controversial portions of S. 1723 and H.R. 3736. While S. 1723 does add provisions penalizing firms that lay-off U.S. workers and replace them with H-1B workers if the firms have violated other attestation requirements, amendments that would have required prospective H-1B employers to attest that they were not laying off U.S. workers and that they tried to recruit U.S. workers failed on the Senate floor. H.R. 3736 includes lay-off protection provisions and recruiting requirement provisions similar to those that the Senate rejected. On the other hand, S. 1723 has language that would expand the education and training of U.S. students and workers in the math, science, engineering and information technology fields.

Pre-conference discussions between Senate and House Republicans late in July yielded a compromise on key points of difference. Foremost, the agreement would add new attestation requirements for recruitment and lay-off protections, but would only require them of firms that are “H-1B dependent” (at least 15% of workforce are H-1Bs workers). Education and training for U.S. workers would be funded by a \$250 fee paid by the employer for each H-1B worker that is hired. The ceiling set by the compromise would be 85,000 in FY1998, 95,000 in FY1999, 105,000 in FY2000, and 115,000 in both FY2001 and FY2002. This compromise addresses some — but not all — of the concerns of the Clinton Administration, so a presidential veto threat of the Republican compromise was announced late last week. House Democrats plan to offer H.R. 3736 as reported by the Judiciary Committee (with a provision for education and training) when the issue comes to the floor. Supporters of raising the H-1B cap had hoped the legislation would be passed and signed before the August recess. The legislation is on the House floor calendar for the first week of August.

Contents

Introduction	1
Current Law	1
Controversies and Concerns	3
Legislative Issues	5
104 th Congress	5
105 th Congress	5

List of Tables

Table 1. Major Features of Bills Revising H-1B Provisions	8
---	---

Immigration: Nonimmigrant H-1B Specialty Worker Issues and Legislation

Introduction

The 105th Congress is once again considering legislation pertaining to temporary alien workers, striving to balance the needs of U.S. employers with protection and opportunities for U.S. workers. The largest category of temporary alien workers is the H-1B nonimmigrants — professionals who work in specialty occupations. For the first time the numerical limits on H-1B visas were reached prior to the end of FY1997, and the FY1998 ceiling was reached in May. Employers in “high tech” industries especially are urging Congress to eliminate the ceiling of 65,000, since many information technology firms reportedly rely on temporary foreign workers who have specialized training. Legislation raising the H-1B ceiling as well as addressing other reforms has passed the Senate (S.1723). The House Judiciary Committee has reported a bill (H.R. 3736) that would temporarily raise the ceiling and address perceived abuses.

This report provides a brief explanation of current law and discusses the concerns and controversies that surround this issue. In addition to a legislative history of action during the 104th Congress, this report provides a table comparing the main features of S. 1723 as passed by the Senate with H.R. 3736 as reported by the House Judiciary Committee. Features of the compromise reached late last week and finalized on July 29, 1998, are included in the table.

Current Law

Temporary Foreign Workers. A nonimmigrant is an alien legally in the United States for a **specific purpose** and a **temporary period of time**. There are over 20 major nonimmigrant visa categories specified in the Immigration and Nationality Act, and they are commonly referred to by the letter that denotes their section in the statute. The major nonimmigrant category for temporary workers is the H visas. The statutory limit for H-1B visas issued is 65,000 annually. The largest classification of H visas is the H-1B workers in specialty occupations who may stay for a maximum of 6 years.¹

¹ The regulations define “specialty occupation” as requiring theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, law, accounting, business specialties, theology and the arts, and requiring the attainment of a bachelor’s degree or its equivalent as a minimum. Law and regulations also specify that fashion models deemed “prominent” (continued...)

Any employer wishing to bring in an H-1B nonimmigrant must attest in an application to the Department of Labor (DOL) that: the employer will pay the nonimmigrant the greater of the actual wages paid other employees in the same job or the prevailing wage for that occupation; the employer will provide working conditions for the nonimmigrant that do not cause the working conditions of the other employees to be adversely affected; and, there is no strike or lockout. The employer also must post at the workplace the application to hire nonimmigrants. DOL reviews the application for completeness and obvious inaccuracies. Only if a complaint subsequently is raised challenging the employer's application will DOL investigate. If DOL finds the employer failed to comply, the employer may be fined, denied the right to apply for additional H-1Bs, and may be subject to other penalties. The prospective H-1B nonimmigrants must demonstrate that they have the requisite education and work experience for the posted positions. Petitions are approved for periods up to 3 years, and an alien can stay a maximum of 6 years on an H-1B visa.

The demand for H-1B workers is increasing, as the number of attestations filed — often for more than one job opening — has grown from 53,485 in FY1992 to 180,739 in FY1997. DOL certified 398,324 job openings in FY1997. In FY1996 computer-related occupations became the largest category and continues to lead in petitions approved for H-1Bs, going from 25.6% in FY1995, to 41.5% in FY1996, to 44.4% of the openings approved in FY1997. Therapists — mostly physical therapists, but also some occupational therapists, speech therapists and related occupations — fell from over half (53.5%) of those approved in FY1995 to one-quarter (25.9%) in FY1997. The other notable occupational categories in FY1997 were electrical engineers (3.1%), auditors and accountants (2.4%), university faculty (2.0%), and physicians and surgeons (1.8%).²

Permanent Employment-Based Immigration. Many people confuse H-1B nonimmigrants with permanent immigration that is employment-based. If an employer wishes to hire an alien to work on a permanent basis in the United States, the alien may petition to immigrate to the United States through one of the employment-based categories. The employer “sponsors” the prospective immigrant, and if the petition is successful, the alien becomes a legal permanent resident.³ Many H-1B nonimmigrants may have education, skills, and experience that are similar to the requirements for three of the five preference categories for employment-based immigration: priority workers — i.e., persons of extraordinary ability in the arts, sciences, education, business, or athletics, outstanding professors and researchers; and, certain multinational executives and managers (first preference); members of the professions holding advanced degrees or persons of exceptional ability (second

¹ (...continued)
may enter on H-1B visas.

² For further analysis of these DOL data, see: CRS Report 98-462, *Immigration and Information Technology Jobs: The Issue of Temporary Foreign Workers*, by Ruth Ellen Wasem and Linda Levine.

³ There are also per-country numerical limits. For more information, see: CRS Report 94-146, *Numerical Limits on Permanent Admissions*, by Joyce C. Violet and Molly Forman.

preference); and, skilled workers with at least 2 years training and professionals with baccalaureate degrees (third preference).⁴

Employment-based immigrants applying through the second and third preferences must have job offers for positions in which the employers have obtained labor certification. The labor certification is intended to demonstrate that the immigrant is not taking jobs away from qualified U.S. workers, and many consider the labor certification process far more arduous than the attestation process used for H-1B nonimmigrants.⁵ More specifically, the employer who seeks to hire a prospective immigrant worker petitions with the INS and the Department of Labor (DOL) on behalf of the alien. The prospective immigrant must demonstrate that he or she meets the qualifications for the particular job as well as the preference category. If the DOL determines that a labor shortage exists in the occupation for which the petition is filed, labor certification will be issued.⁶ If there is not a labor shortage in the given occupation, the employer must submit evidence of extensive recruitment efforts in order to obtain certification.

While the demand for H-1B workers has been exceeding the limit, the number of immigrants who were admitted or adjusted under one of the employment-based preferences in FY1996 — 117,499 — was considerably fewer than the statutory limit of 140,000. The first and second preferences fell far short of the almost 40,040 available to each category, with 27,501 and 18,462 respectively. The third preference drew on some of the unused numbers of the first and second preferences to exceed the admissions numbers allocated to it, reaching 62,756 in FY1996. Those H-1B workers who are from India (reportedly about 44% of H-1Bs in FY1998) do face a backlog of several years if they petition for a second or third preference visa.

Controversies and Concerns

Over the past few years, the media aired several stories of U.S. workers who have been laid off and replaced by nonimmigrant workers, notably in the information technology industry (often through subcontractors with fewer benefits). In some of these accounts, the U.S. workers have been asked to train their foreign replacements. In addition, some have asserted that employers are bringing in H-1Bs rather than sponsoring legal permanent aliens because it is much more difficult for an H-1B to change jobs (as any new employer would also have to qualify to bring in the H-1B). In 1995, the DOL Inspector General found widespread abuses of the H-1B program, and former Secretary of Labor Robert Reich argued for changes in the H-1B

⁴ Third preference also includes 10,000 “other workers” i.e., unskilled workers, with occupations in which U.S. workers are in short supply.

⁵ Certain second preference immigrants who are deemed to be “in the national interest” are exempt from labor certification.

⁶ Through regulation, DOL has established the “Schedule A” listing of occupations for which shortages have already been determined; these occupations are physical therapists, professional nurses, and those of exceptional ability in the sciences or the arts. “Schedule B” conversely lists the occupations for which shortages do not exist and for which the hiring of immigrants would adversely affect U.S. workers; these 49 occupations range from assembler to yard workers.

provisions so DOL could take action against employers who displace U.S. workers with nonimmigrants. The final 1996 DOL Inspector General investigation was critical of the finding that most labor certifications for legal permanent immigrants were filed on behalf of foreign workers who were already working for the sponsoring employer, fueling complaints that H-1B workers were used to “leap-frog” the more stringent permanent labor certification process.

Some, however, think DOL had already gone too far in regulations effective in January 1995, maintaining that they burden firms who hire only a few nonimmigrants with requirements aimed at large scale hiring abuses. Last year, DOL also made changes in how it processes permanent labor certification petitions, aimed at discouraging “restrictive requirements” that enable an employer to build a job offer around a particular foreign worker already on the job. These new procedures, however, do expedite the processing of those petitions that do not have restrictive requirements.

Most recently, employers in the information technology industry maintain that they are unable to find qualified U.S. workers and are urging Congress to eliminate the 65,000 cap on H-1B workers. They assert that despite increasing salaries and offering education and retraining programs, they are experiencing a shortage. They point out that enrollment in computer science and engineering degrees declined by 42% from 1986 to 1995 and that many of those who major in computer science and engineering are foreign students. Some argue that they will not be able to stay in business without expedient access to nonimmigrant workers with the requisite skills. Others express fear the cap on H-1B visas may prevent firms from hiring the caliber of workers necessary to stay competitive.⁷

While few are opposed to ensuring that the information technology industries have access to needed foreign workers if a shortage exists, many are concerned that simply raising the cap on the H-1Bs will not deal with the long term problems of the perceived labor shortage. Many maintain that any increase in temporary foreign workers should be viewed as a short-term measure and that some type of incentives to increase U.S. enrollments in computer science and engineering programs as well as continuing education and training for U.S. workers should be the core of the long-term policy response. Some argue that the natural market forces should be allowed to operate so that wages go up when shortages occur and that the resulting higher salaries encourage more people to pursue computer science and engineering careers.

Others counter that this scenario does not deal with the immediate need for skilled workers and that these higher wages will push firms to relocate abroad — where the sought-after foreign workers now reside. Whether these foreign governments can guarantee adequate protection of intellectual property rights and prevent copyright infringements remains a question that others raise in this debate over the possible relocation of information technology firms.

⁷ See, for example, CRS Report 98-462, *Immigration and Information Technology Jobs: The Issue of Temporary Foreign Workers*, by Ruth Ellen Wasem and Linda Levine.

Legislative Issues

104th Congress. During the previous Congress, the major immigration bill reported by the Senate Committee on the Judiciary Subcommittee on Immigration (then S. 1394) had rather strong language regarding the employment of H-1Bs which was deleted by the full committee. It would have required employers to: attest that they tried to recruit U.S. workers; offer prevailing **compensation** (i.e., not just prevailing wages); contribute to a training fund for U.S. workers; and, to take “timely, significant, and effective steps” to end dependence on nonimmigrant workers.

S. 1665 as reported by the Senate Judiciary Committee and the House-passed H.R. 2202 were quite similar in that they tried to strike a balance between protecting U.S. workers and serving U.S. business interests. Both would have added provisions that would have required employers who lay off U.S. workers 6 months prior to filing the application or within 90 days after filing the application to pay H-1B replacement workers 110% of prevailing wages. They also would have 1) defined employers who have at least 15% to 20% (depending on firm size) of their employees who are H-1B nonimmigrants as “H-1B dependent;” 2) waived “non H-1B dependent employers” from certain regulations regarding the determination of prevailing wages and the posting of notices of intent to hire nonimmigrants; and 3) required “H-1B dependent employers” to take specified steps to reduce dependency. They would have furthermore discouraged job contractors who recruit H-1B nonimmigrants from placing a nonimmigrant with another employer who had recently laid off U.S. workers. The Senate-passed H.R. 2202, however, did not include the H-1B provisions, and the conferees deleted the H-1B provisions. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, enacted as Division C of the Omnibus Consolidated Appropriations Act, 1997, (P.L. 104-208), was silent on the H-1B question.

105th Congress. The Senate Judiciary Immigration Subcommittee held a hearing February 25, 1998, on “the high-tech worker shortage and U.S. immigration policy,” and in response Chairman Spencer Abraham, introduced the “American Competitiveness Act” (S. 1723) aimed at the perceived shortage of information technology workers. The Senate Judiciary Immigration Subcommittee marked up S. 1723 on April 1, 1998, and the Senate passed the legislation on May 18, 1998.

In terms of the H-1B category, the FY1998 ceiling would be 95,000 in the Abraham bill. In order to free up more H-1B visas, S. 1723 would establish a separate category (H-1C) for health care workers (other than physicians) with a limit of 10,000, beginning in FY1999. The total number of H-1Bs admitted in FY1999-FY2002 would be based upon a formula that deducts 10,000 from the previous year’s total admissions but adds any unused H-1C visas from the previous year. Up to 20,000 unused visas allocated the previous year to the H-2B category for unskilled (nonagricultural) workers would also be available for H-1Bs during FY1999-FY2002. S. 1723 would also provide, under specified circumstances, exemptions from the legal permanent resident admissions ceilings set for each country for H-1Bs adjusting as employment-based immigrants.

S. 1723 would increase penalties for violations of the H-1B and H-1C programs and would allow DOL to conduct spot inspections of employers on a random basis during the first 5 years after they have been found to *willfully* violate the program. As reported, S. 1723 provides additional fines and penalties for firms who have laid off or replaced U.S. workers if they also have willfully failed to meet requirements for working conditions, prevailing wages, or strike protections. The bill would add a definition of “prevailing wages” to the statute as well as a requirement that the prevailing wages for occupations at institutions of higher education or nonprofit and federal research institutions be calculated separately. Additionally, the bill would transfer certain authorities for approving attestations from the Secretary of Labor to the Attorney General. A whistle blower protection provision for persons reporting violations of the H-1B program is included.

As passed, S.1723 amends the Higher Education Act of 1965 to enable states to use federal higher education funds to award scholarships in math, science and engineering. It also authorizes demonstration projects for worker training to provide technical skills through the Job Training Partnership Act.

Senators Kennedy and Feinstein, also members of the Senate Judiciary Immigration Subcommittee, introduced legislation, “High-Tech Immigration and the United States Worker Protection Act” (S. 1878). The Kennedy-Feinstein bill would, among other things, provide for a temporary increase (FY1998-FY2000) in H-1Bs, up to 90,000 each fiscal year. S. 1878 would establish training programs for U.S. workers that would be funded by a \$250 application fee paid by employers seeking to hire H-1B nonimmigrants. As well as including provisions for lay-off protections, it would add recruitment requirements. Senator Kennedy offered amendments for lay-off protections and recruiting requirements to S. 1723 on the Senate floor, but the amendments did not pass.

The Chair of the House Judiciary Immigration Subcommittee, Lamar Smith, introduced his legislation addressing H-1B (H.R. 3736) after holding hearings April 21, 1998, on “immigration and America’s workforce for the 21st century.” On April 30, the House Judiciary Immigration Subcommittee ordered reported H.R. 3736, the “Workforce Improvement and Protection Act of 1998.” The House Judiciary Committee marked up the bill on May 20, reporting it with several amendments.

The Smith bill would provide increases in the H-1B ceilings over 3 years, yielding totals of 95,000 in FY1998, 105,000 in FY1999 and 115,000 in FY2000. H.R. 3736 addresses the concerns of U.S. workers in various ways, most notably by adding provisions that would require employers to attest that they have not laid off U.S. workers within 6 months prior to filing the application or within 90 days after filing the application and that they have taken significant and timely steps to recruit U.S. workers. H.R. 3736 broadens DOL’s authority to initiate complaints and investigate employers who are “H-1B dependent.” It also increases the enforcement (e.g. spot investigations during probationary period) and penalties of employers

found to have *willfully* violated the H-1B provisions. It includes a whistle blower protection provision for those who report violations of the H-1B program.⁸

Pre-conference discussions between Senate and House Republicans yielded a compromise on key points of difference between S. 1723 and H.R. 3736. Foremost, the agreement would add the attestation requirements for recruitment and lay-off protections, but would only require them of firms that are “H-1B dependent.” The penalties provisions would be drawn from H.R. 3736. Education and training for U.S. workers would be funded by a \$250 fee paid by the employer for each H-1B worker that is hired. Health care workers would be limited to 7,500 annually. The ceiling set by the compromise would be 85,000 in FY1998, 95,000 in FY1999, 105,000 in FY2000, and 115,000 in both FY2001 and FY2002, and there would be no offset by reducing admissions in other visa categories.⁹

This compromise addresses some — but not all — of the concerns of the Clinton Administration. A presidential veto threat of the Republican compromise was announced at the end of July, reportedly because the compromise language would include only a \$250 fee for education and training and the recruitment and lay-off protections would be limited to H-1B dependent employers. When the legislation comes to the floor, House Democrats, notably Representatives Mel Watt, Howard Berman, and Ron Klink, plan to offer H.R. 3736 as reported by the Judiciary Committee, except that they have added a \$500 fee (paid by the employer for each H-1B worker that is hired) for the education and training of U.S. students and workers.¹⁰

Supporters of raising the H-1B cap had hoped the legislation would be passed and signed before the August recess. The legislation was scheduled to go to the House floor at the end of July but was pulled. It is now on the House floor calendar for this first week of August.

⁸ For a detailed side-by-side comparison of S. 1723, H.R. 3736, and current law, see: CRS Congressional Distribution Memorandum, *Side-by-Side Comparison of H-1B Immigration Legislation: S. 1723, H.R. 3736, and Current Law*, by Joyce Vialet and Ruth Ellen Wasem, June 16, 1998.

⁹ This discussion of the pre-conference agreement is based upon legislative language that is Representative Lamar Smith’s amendment to H.R. 3736, dated July 29, 1998.

¹⁰ This discussion of the House Democratic alternative is based upon legislative language that is Representative Melvin Watt’s amendment to H.R. 3736 as reported, dated July 30, 1998.

Table 1. Major Features of Bills Revising H-1B Provisions

Comparing S. 1723, H.R. 3736, and Current Law				
Major features	Current law	S. 1723 (Senate-passed)	H.R. 3736 (House-reported)	July 29, 1998 amendment to H.R. 3736
Ceiling for H-1B specialty workers	65,000 annually for H-1B nonimmigrants	FY1998 is 95,000; total number FY1999-FY2002 is based upon a formula that deducts 10,000 from the previous year's total admissions but adds any unused visas from another category (S. 1723 would create H-1C for health care workers) from the previous year	FY1998 is 95,000 FY1999 is 105,000 FY2000 is 115,000 FY2001 and thereafter is 65,000	FY1998 is 85,000 FY1999 is 95,000, FY2000 is 105,000, FY2001 and FY2002 are 115,000; thereafter is 65,000
Offset or reductions in other categories	None	None	H-2B (unskilled nonagricultural workers) are limited to 36,000 in FY1998, 26,000 in FY1999, 16,000 in FY2000 and then restored to 66,000 in FY2001	None
Wage requirements	Actual wages paid to other employees in the job classification or prevailing wages — whichever is higher	Prevailing wages for occupations at institutions of higher education and nonprofit or federal research institutes are calculated separately from all other firms	Current law	Prevailing wages for occupations at institutions of higher education and nonprofit or federal research institutes are calculated separately from all other firms
Effect on working conditions	No adverse effects on U.S. workers	Current law	Current law	Current law
Strike or lock out protections	H-1B workers cannot be used as striker replacements	Current law	Current law	Current law

Comparing S. 1723, H.R. 3736, and Current Law				
Major features	Current law	S. 1723 (Senate-passed)	H.R. 3736 (House-reported)	July 29, 1998 amendment to H.R. 3736
Lay-off protections	None	Provides additional fines and penalties for firms who have laid off or replaced U.S. workers if <i>they also have willfully failed to meet working conditions or strike protections</i>	Adds requirement for employers to attest that they have not laid off U.S. workers within 6 months prior to filing the application or within 90 days after filing the application (with exemptions for certain higher education employers)	Adds requirement for <i>H-1B dependent employers</i> (defined as firms having at least 51 employees, 15% of whom are H-1Bs, excluding those earning at least \$60,000 or having masters degrees) to attest that they have not laid off U.S. workers within 90 days prior to filing the application or within 90 days after filing the application; sunsets after FY2002
Recruitment requirements	None	None	Employers must attest they have taken significant and timely steps to recruit U.S. workers	<i>H-1B dependent employers</i> must attest they have taken good faith steps to recruit U.S. workers; sunsets after FY2002
Enforcement authority	Department of Labor (DOL) can only investigate complaints	DOL may perform random inspections of firms who are on probation for past violations	DOL may initiate complaints and investigate those employers who are "H-1B dependent"; DOL may perform random inspections of firms who are on probation for past violations	DOL may perform random inspections of firms who are on probation for past violations; an arbitrator from the Federal Mediation and Conciliation Service will handle claims of U.S. workers who argue displacement.

Comparing S. 1723, H.R. 3736, and Current Law				
Major features	Current law	S. 1723 (Senate-passed)	H.R. 3736 (House-reported)	July 29, 1998 amendment to H.R. 3736
Fines for violating H-1B program	Fines are \$1,000	Replaces \$1,000 fine with \$5,000 fine for <i>willful</i> violations; civil monetary penalties not to exceed \$25,000	Adds \$5,000 fine for willful violations; civil monetary penalties not to exceed \$25,000	Adds \$5,000 fine for willful violations; civil monetary penalties not to exceed \$25,000
Whistle blower protection	No	Yes	Yes	Yes
Processing and approval of employer attestations	Department of Labor	Department of Justice	Department of Labor	Department of Justice
Labor market studies	None	National Science Foundation study of high technology labor market needs	U.S. General Accounting Office study of high technology labor market needs and age discrimination in the information technology field	National Science Foundation study of high technology labor market needs and Congressional Research Service study of age discrimination in the information technology field
Education and training of U.S. workers	None	Enables states to use federal higher education funds to award scholarships in math, science and engineering; also authorizes demonstration projects for worker training to provide technical skills	None [The Watt amendment is H.R. 3736 as reported, except it would add a \$500 fee paid by employers for each H-1B they hire; funds equally divided between Departments of Education (math, engineering and computer science scholarships) and Labor (job Training); sunsets after FY2002]	Add a \$250 fee paid by employers for each H-1B they hire; funds equally divided between Departments of Education (math, engineering and computer science scholarships) and Labor (job Training); sunsets after FY2002.
Duration of visa	3 years per visa, 6 years total per nonimmigrant	Current law	Those issued above the 65,000 are limited for a total of up to 4 years	Current law

Comparing S. 1723, H.R. 3736, and Current Law				
Major features	Current law	S. 1723 (Senate-passed)	H.R. 3736 (House-reported)	July 29, 1998 amendment to H.R. 3736
Health care workers	No special provisions	Creates H-1C visa for health care workers (other than physicians) which is limited to 10,000 annually	Limits health care workers entering under H-1B to 5,000 annually	Limits health care workers entering under H-1B to 7,500 annually, FY2000-FY2002

In addition to these bills, the ranking minority member of the Judiciary Committee, Representative John Conyers, has introduced the "Protecting American Workers Act of 1997" (H.R. 119) which would bar employers from hiring H-1B nonimmigrants if they had laid off U.S. workers either 6 months prior to or 90 days after filing the application. H.R. 119 would require employers to: attest that they tried to recruit U.S. workers; offer prevailing compensation; contribute to a training fund for U.S. workers; and, take steps to end dependence on nonimmigrant workers. It also would tighten up the requirements for job contractors and would increase the criminal penalties for misrepresentation. Additionally, H.R. 119 would reduce the maximum stay from 6 to 3 years and would make it more difficult for H-1Bs to subsequently adjust to legal permanent resident status by reinstating the foreign residence requirement that was removed by the Immigration Act of 1990.

Concern that aliens meet the work experience requirements of both H-1B and the employment-based preferences for legal permanent residence by working in the United States illegally prompted Representative Elton Gallegley to introduce H.R. 471, the "Illegal Alien Employment Disincentive Act of 1997." H.R. 471 would prevent aliens seeking an H-1B visa from counting work experience during periods that the alien was not authorized to work in the United States. During the 104th Congress, similar language was in H.R. 2202 as reported.