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Senators unveil bipartisan H-1B, L-1 visa reforms bill: US educated STEM individuals to get priority in selection

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Senators Chuck Grassley (Republican) and Dick Durbin (Democrat) who last week had sent letters to ten major American companies including Amazon, Google, and Meta, 'scrutinizing their heavy use of H-1B visas while simultaneously laying off American workers' have announced a bipartisan legislation to overhaul the H-1B and L-1 visa programs. The proposed 'H-1B and L-1 Visa Reform Act' has drawn support from a cross-party group of lawmakers, including Bernie Sanders.

The bill would replace the H-1B lottery with a merit-based priority system that favours US-educated advanced degree holders, especially from the Science, Technology, Engineering and Mathematics (STEM) field and also high-wage applicants.

It also proposes tighter wage and recruitment rules for American employers, mandatory posting of H-1B jobs on a publicly accessible Department of Labor (DOL) website, stronger whistle-blower protections for H-1B and L-1 visa-holding employees, and higher penalties for wage violations.

An H-1B visa is for skilled workers hired by US-based companies in "specialty occupations" requiring a degree, while an L1 visa is for managers, executives, and specialised knowledge employees transferred from overseas offices of a multinational company to a US office. Historically, Indians have bagged around 58 percent of the new H-1B visa allotments that are subject to a lottery selection and an annual quota of 85,000.

Under the bill, the random H-1B lottery would be replaced by a priority system. The highest priority will be given to applicants with a US STEM master's or Ph.D. degrees. Next priority tiers include holders of other US advanced degrees - US bachelor's in STEM, and then other US bachelor's degrees. Applications offering higher wages (skill-wage level 4 or above) are also to be given preferential treatment under the bill's provisions.

It may be recalled that the Department of Homeland Security (DHS) has recently issued a draft proposal and invited public comments. Its proposal seeks to change the H-1B cap lottery process to give greater odds of selection to beneficiaries (those sponsored for the H-1B visa) with the highest wages. On the other hand, the bill seeks to prioritize US-educated individuals and also gives preferential treatment to applications that offer higher wages to H-1B beneficiaries.

The proposed 'H-1B and L-1 Visa Reform Act' explicitly prohibits replacing US workers with H-1B employees. Under the legislation, employers would have to advertise all H-1B positions publicly for at least 30 days, including the salary range and qualifications.

American employers must certify that hiring an H-1B will not adversely affect working conditions (wages, hours) of similarly employed US workers. Companies that have more than 50 employees and where a large share are H-1Bs or L-1s may face restrictions on hiring additional foreign nationals.

"Congress created the H-1B and L-1 visa programs as limited pathways for businesses to acquire top talent when it can't be found at home. But over the years, many employers have used them to cut out American workers in favor of cheap foreign labor," Grassley said. "Congress must step in again to bring integrity back to these programs and restore dignity for American and foreign workers."

Durbin added: "Major companies are laying off thousands of American workers while filing thousands of visa petitions for foreign workers at depressed wages and poor working conditions. Congress must step in to protect American workers and fix our broken immigration system."

Rajiv S Khanna, managing attorney at Immigration.com, said: "If you are a student, particularly in a STEM field, graduating from a US university will give you a major competitive advantage in securing an H-1B visa over

applicants with foreign degrees.” The absolute first priority for H-1B visas will go to graduates who have earned a master’s degree or Ph.D. in a STEM field from a US institution,” he added.

The bill includes whistle-blower protections to shield H-1B and L-1 workers who report underpayment or other violations. According to Khanna, for young professionals on a visa, this is a critical protection. It gives them the security to report violations, such as not being paid the promised wage, without the fear of being fired and losing their immigration status.

As regards L-1 visas, the bill aims to close loopholes that allow companies to treat L-1 workers as essentially outsourced labor rather than genuine intracompany transfers. It increases scrutiny on L-1 usage, giving the Department of Labor (DOL) and DHS more authority to audit, investigate, or ask for records linked to L-1 applications. It enhances penalties for wage violations, misrepresentation, or misuse of L-1 status.

The bill tightens the rules for L-1 petitions for ‘new offices’ (when a company is opening or establishing a new US affiliate/branch) – documentary evidence will need to be shown that the new office has the financial, managerial, and physical capacity to support the transferred employee. It also introduces time limits on how long an employee may remain under a new-office L-visa.