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DEAL ON BACKLOG FOR WORKERS' GREEN CARDS COULD CLEAR WAY FOR SENATE VOTE

Under a compromise, the per-country cap system would be phased out and new restrictions placed on the H-1B high-skilled visa program

By Michelle Hackman
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WASHINGTON – Legislation to speed up the process for employment-based green cards for some Indian immigrants caught in a yearslong backlog could receive a vote in the Senate as early as this week, after the bill's sponsor and a key objector reached a bipartisan compromise.

The bill would lift per-country caps on permanent residency for immigrants who have job offers in the U.S. That would allow people who have waited in the backlog the longest – primarily Indian and some Chinese immigrants on H-1B high-skill visas – to receive green cards first under a new system.

A version of the bill passed with a wide bipartisan majority in the House in July, and Sen. Mike Lee (R., Utah) has brought up his version in the Senate multiple times through a process known as unanimous consent, which allows bills to bypass roll-call votes. But Mr. Lee's bill has drawn objections from one or more senators each time it was introduced.

Mr. Lee reached a compromise with one of the bill's longest holdouts, Sen. Dick Durbin (D., Ill.), Senate aides said Tuesday night, reviving its chances of receiving a vote.

Under current U.S. law, no more than 7 percent of employment-based green cards can be issued to any one country. Critics of that approach in both parties say allotting the same number of green cards to each country gives an advantage to those applying from smaller nations while penalizing Indian and Chinese applicants who qualify but must wait years for their turn because they are in larger pools of applicants.

The problem stems in part from the fact that U.S. approvals of green-card applicants vastly exceed the number of available employment-based green cards that are actually distributed, which total about 140,000 annually. While there are no limits to how many applicants can be approved, there is a fixed overall number of green cards issued by the State Department.

Mr. Lee's bill wouldn't change the overall number of green cards allocated each year, but would allow people who have waited longest in the queue for permanent residency to get green cards first.

Mr. Durbin has previously called for allowing immigrants waiting in the backlog to have greater freedom to travel and switch jobs. He has also previously worried that the bill's immediate switch to a system without any per-country caps would harm applicants who are not Indian.

Under the agreement he struck with Mr. Lee, the per-country cap system would phase out over a decade, allowing a small percentage to be set aside for applicants who aren't from India and China, Senate aides said. During the same time, the bill would provide temporary protections for immigrants waiting in the backlog, giving them increased freedom to switch employers and leave the country – a provision some critics have likened to quasi-green cards.

The latest version of the bill also attaches several new restrictions to the H-1B high-skilled visa program.

Companies whose workforce is at 50 percent on H-1B or L1 visas – which are for intracompany transfers – wouldn't be permitted to hire any more foreign workers, effectively setting the domestic foreign workforce cap at 50 percent. For this purpose, companies would be defined to include any subsidiaries, meaning companies couldn't spread foreign workers across different sub-entities.

The provision is designed primarily to target Indian outsourcing firms, whose U.S. workforces routinely exceed 50 percent foreign workers.

It isn't clear whether the newly added provisions could raise objections from other senators, any one of whom could prevent the bill from passing.