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## Science's Next Wave

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# EDITORIAL

## Keep Borders Open for U.S. Science

The scientific community has a great deal at stake in the outcome of congressional proposals to overhaul the immigration system. Throughout our history, U.S. leadership in science and education has been built on a commitment to the international character of science. Current immigration proposals challenge the value of academic exchange and the principles by which we, as scientists and academics, engage in our enterprise.

The U.S. Senate and House will soon consider major changes in immigration policy. S. 1394, authored by Senator Alan Simpson (R-WY), was approved by the Senate Judiciary Subcommittee on Immigration and is currently before the full Judiciary Committee. As passed by the subcommittee and originally reported to the committee, the bill would have sharply reduced the number of foreign nationals who can enter the country legally and imposed a number of disincentives for employers to sponsor foreign workers for temporary and permanent visas. It also would have limited the national interest waiver and the waiver granted to outstanding professors and researchers.

As *Science* goes to press, Simpson has announced that he will withdraw these employment provisions from his bill in committee. However, he simultaneously indicated that such provisions could be introduced later on the floor of the Senate. Because proposals in the original Simpson bill would adversely affect the employment of non-U.S. scientists, the scientific community should resist their reintroduction.

Under present law, individuals with advanced degrees whose immigration benefits the national interest can, at the discretion of the Immigration and Naturalization Service, obtain employment-based visas without labor certification. Labor certification can add 1 to 2 years to the overall process of application for permanent residence, and a U.S. employer must prove that there are no U.S. workers qualified and willing to take a particular job. Elimination of this waiver, as originally proposed by Simpson, could effectively deny academic institutions and companies access to a small but important pool of talent. Similarly, the original Simpson bill would have eliminated the "outstanding professor and researcher" waiver of labor certification provided for under current law. As amended in the Senate Judiciary Subcommittee, the outstanding professor and researcher visa category would require labor market screening (a new, undefined form of labor certification), English language proficiency, and 2-year conditional residency. In 1994, only 1809 petitions for outstanding professor or researcher visas were approved. Given this small number, any effort to impose restrictions hardly seems warranted.

Ensuring the preservation of these two waivers is key. It is also important to be vigilant about other provisions originally proposed by Simpson and passed by the Senate subcommittee. These include the following: (i) Reducing temporary worker H-1B visas to 3 years from the current 6-year limit. This could discourage the hiring of non-U.S. students and researchers or substantially delay or hinder research projects. The situation is aggravated by a new 3-year work requirement that must be fulfilled before an individual can begin to obtain a permanent visa. Although this requirement could be satisfied while an individual is working on an H-1B visa, delaying application for permanent residency until a 3-year requirement is met would typically interrupt employment during the processing of the permanent visa. (ii) Requiring employers to pay salaries to temporary aliens that exceed the prevailing wage. Colleges and universities would have to pay foreign researchers and scholars 105% of the salaries of comparably employed U.S. citizens. This is a built-in wage disparity based solely on nationality. (iii) Assessing fees on employers who use the labor certification process for permanent visas. Employers would be required to pay 10% of the alien's annual compensation or \$10,000 (whichever is greater) to a private fund dedicated to increasing the competitiveness of U.S. workers. Increasing competitiveness is a laudable goal, but \$10,000 per case is a heavy burden to place on institutions that are already investing in education and training or are advancing scientific productivity through the inclusion of immigrant scientists.

The strength of U.S. science depends on international openness in knowledge and expertise. Congress has been engaging in rhetoric and "reform" that threaten this principle. As bills move to the House and Senate floors, the situation is fluid. Scientists and scientific associations should watch and speak out.

Felice J. Levine

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