

CONGRESS MAY ADDRESS IMMIGRATION REFORM

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by

*Kristen A. Chang and David J. Long
Long, Chang & Associates, L.L.P.
4915 Piedmont Parkway, Suite 103
Jamestown, NC 27282
Phone: (336) 855-5700
www.longchangonline.com*

The 108th U.S. Congress is expected to begin a “lame duck” session of Congress on November 16, 2004. Congress will consider a number of different pieces of legislation, including proposals to provide relief for the H-1B visa cap.

As previously announced on www.longchangonline.com, the USCIS reached the annual H-1B cap of 65,000 visas on October 1, 2004 (the first day of the fiscal year). As a result, no more H-1Bs for new employment can be approved or issued by USCIS for employment start dates earlier than October 1, 2004. An explanation of the H-1B cap and what types of employment are exempted from the cap are discussed in our firm’s previous article on the H-1B cap.

While Congress is not expected to increase the H-1B cap above 65,000, the American Immigration Lawyers Association (AILA) has been asking Congress to consider exempting from the H-1B cap all H-1B foreign nationals who have graduated from a U.S. college or university with an advanced degree (e.g., Master’s or Ph.D). If passed by Congress, this proposal would allow such U.S. advanced degree holders to be exempt from the cap during the current fiscal year. In addition, this proposal would mean that all those U.S. advanced degree holders previously counted towards this fiscal year’s H-1B cap would not be counted towards the H-1B cap of 65,000. For example, if 5,000 U.S. advanced degree holders were already counted toward the cap, the cap would effectively be reduced to 60,000 and thus free up 5,000 H-1B numbers. These additional H-1B numbers could be filled by bachelor’s degree holders or advanced degree holders from foreign universities.

Stay tuned to www.longchangonline.com for the latest news on this topic!

Kristen A. Chang and David J. Long are attorneys in the immigration law firm of Long, Chang & Associates, L.L.P. Ms. Chang and Mr. Long are members of the North Carolina State Bar and the American Immigration Lawyers Association (AILA). Mr. Long has been certified by the North Carolina State Bar as a Specialist in Immigration Law. They

may be reached via telephone at (336) 855-5700 or via e-mail at info@longchangonline.com

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