

US Senate passes Bill to do away with country-caps on employment-based green cards; hurdles remain

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Synopsis

While the S386 Bill had earlier been cleared by the House of Representatives (Fairness for High-Skilled Workers Act HR 1044), the version passed by the Senate has is different from the earlier one. Immigration lawyers cautioned against taking the passage of this Bill to mean that it would soon become law.

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PUNE: The US Senate on Wednesday passed a Bill which aims to do away with the country caps on employment based greencards. At present, the US issues 140,000 of these green cards annually with a country cap of 7%. There are over 800,000 Indians in line for an employment based green card as of April 2020 as per US Citizenship and Immigration Services (USCIS) data.



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“Everyone needs to realize that the passage of the Senate bill is only the early steps in this process. It has to go back to the House who has to reconcile the Senate version with the version they passed and then have it sent to the President for signature. However, it seems unlikely that the House will accept the Senate version due to the exclusion of Chinese nationals with military affiliations,” said Nandini Nair, partner at law firm Greenspoon Marder.

The version passed by the Senate says that in years one-nine after implementation, no more than 70% of the green cards can go to H-1 visa holders and their dependents. This drops to 50% from year ten. The other change says that no Chinese national affiliated with the Chinese military or the Chinese Communist Party can enter the United States

or be eligible to adjust visa status under any category. This would impact almost all Chinese nationals as most Chinese students are part of a youth organisation affiliated to the CCP in some manner.

“As with all laws, it isn’t possible to predict what will happen next. The representatives of the two houses will have to resolve the differences and reconcile it, and only then will it be passed by both Houses. After that it goes to the President, and hopefully this will occur during the new administration when it might be easier to get it passed,” said Rajiv S Khanna, managing attorney at [immigration.com](https://www.immigration.com). Several large tech companies often sponsor permanent residency for employees on H-1B or L1 visas as a way to hold on to high-skilled talent in key roles.