

# H-1B Regulatory & Legislative Tracker

Current as of August 26, 2026 | Key developments for H-1B employers and workers

|                                                       |                                               |                                                  |                                                            |
|-------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|------------------------------------------------------------|
| <b>IN EFFECT</b><br>Modernization + wage-weighted cap | <b>UPCOMING</b><br>9-11 fee expansion Sept. 9 | <b>PROPOSED</b><br>Wage overhaul + \$103,265 fee | <b>BLOCKED / PENDING</b><br>\$100,000 proclamation + bills |
|-------------------------------------------------------|-----------------------------------------------|--------------------------------------------------|------------------------------------------------------------|

## Key regulatory and executive developments

| Development                                | Status           | Key date                     | Client impact / takeaway                                                                                                                                                                                                                                                                         |
|--------------------------------------------|------------------|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>H-1B Modernization Final Rule</b>       | IN EFFECT        | Effective Jan. 17, 2025      | Current baseline for H-1B adjudications. Clarifies specialty occupation standards; codifies deference in qualifying extensions; expands certain cap exemptions; extends F-1 cap-gap protection through April 1; permits beneficiary-owner H-1Bs; strengthens site-visit and bona-fide-job rules. |
| <b>Weighted H-1B Cap Selection</b>         | IN EFFECT        | Effective Feb. 27, 2026      | Used for the FY2027 cap and governs future selections unless changed. Beneficiaries are weighted by highest applicable OEWS level (I=1, II=2, III=3, IV=4), giving higher wage levels better statistical odds while keeping all levels eligible.                                                 |
| <b>\$100,000 H-1B Proclamation Payment</b> | BLOCKED          | Litigation pending           | Implementing guidance was vacated June 8, 2026; the First Circuit denied a stay July 24. The payment is not currently being collected. The restriction is scheduled to end after Sept. 20, 2026 absent extension, but litigation or executive action could change the analysis.                  |
| <b>DOL Prevailing Wage Overhaul</b>        | PROPOSED         | Comments closed May 26, 2026 | Would raise OEWS wage-level percentiles to approximately 34th / 52nd / 70th / 88th and affect H-1B, H-1B1, E-3 and PERM. DOL estimates average prevailing-wage increases of roughly 21%–33%. No current wage requirement has changed.                                                            |
| <b>9-11 Biometric Fee Expansion</b>        | FINAL / UPCOMING | Effective Sept. 9, 2026      | Covered employers (50+ U.S. employees, more than 50% in H-1B/L-1 status) will owe the existing \$4,000 H-1B / \$4,500 L-1 fee on extension-of-stay petitions, including same-employer extensions. Amendments without an extension request are exempt.                                            |
| <b>\$103,265 Cap-Subject Petition Fee</b>  | PROPOSED         | Comments due Sept. 24, 2026  | Would impose a standalone \$103,265 fee on all cap-subject H-1B petitions, including advanced-degree cases, in addition to other applicable fees. It would not apply to cap-exempt filings or ordinary extensions, amendments, and transfers for workers already counted against the cap.        |
| <b>Broader H-1B Reform Rule</b>            | NOT YET PROPOSED | Unified Agenda item          | DHS has previewed possible changes to cap exemptions, violator scrutiny, and third-party-placement oversight. No proposed text has been published, so employer obligations have not changed.                                                                                                     |

## Dates and issues to watch

| Date                  | Development                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------|
| Sept. 9, 2026         | 9-11 Biometric Fee expansion becomes effective.                                                               |
| After Sept. 20, 2026  | Proclamation 10973 restriction is scheduled to expire absent extension; litigation could alter the landscape. |
| Sept. 24, 2026        | Comment deadline for proposed \$103,265 cap-subject petition fee.                                             |
| March 2027 (expected) | FY2028 cap registration under the wage-weighted selection framework.                                          |
| TBD                   | Any final DOL prevailing-wage rule or publication of DHS's broader H-1B reform NPRM.                          |

## Pending federal legislation

These bills are not law and do not change current H-1B requirements.

| Bill                                                          | Status                     | What it would do                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>End H-1B Visa Abuse Act of 2026</b><br>S. 5097 / H.R. 8443 | Committee; no chamber vote | Broadly: 3-year H-1B pause followed by major restrictions, including a 25,000 cap, \$200,000 wage floor, \$100,000 statutory fee, restrictions on third-party employment, end of dual intent, OPT elimination, and limits on adjustment/change of status. The House and Senate texts are not identical. |
| <b>American Tech Workforce Act of 2025</b><br>S. 2821         | Senate Judiciary Committee | Would substantially tighten H-1B hiring, including a proposed \$150,000 wage floor, wage-based prioritization, third-party-placement limits, and OPT elimination.                                                                                                                                       |
| <b>Visa Cap Enforcement Act</b><br>S. 2941                    | Senate Judiciary Committee | Would narrow existing H-1B cap exemptions and require additional workers to be counted against the annual numerical limit.                                                                                                                                                                              |

## Client planning takeaways

- For FY2028 cap planning, wage level now affects selection odds. Review role, worksite, SOC classification, and offered wage early; registration data should remain accurate and supportable.
- Employers potentially subject to the 9-11 Biometric Fee should identify H-1B/L-1 extension-of-stay petitions filed on or after September 9, 2026 and budget accordingly.
- The DOL wage overhaul and \$103,265 cap-petition fee remain proposals. Neither is a current legal requirement.
- Because the \$100,000 proclamation litigation and rulemaking landscape are moving quickly, confirm filing and travel strategy against the law and agency guidance in effect on the actual date of action.

## Primary authorities

89 FR 103054 (modernization); 90 FR 60864 (weighted selection); Proclamation 10973 / California v. Mullin; DOL RIN 1205-AC30 (wages); 91 FR 51360 (9-11 fee); 91 FR 54817 (proposed cap fee); Unified Agenda RIN 1615-AD00; GovInfo bill texts for S. 5097, H.R. 8443, S. 2821, and S. 2941.

*General informational purposes only; not legal advice. Status current as of August 26, 2026.*