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High-Tech Titans Strike Out on Immigration Bill

By **ROBERT PEAR**

WASHINGTON, June 24 — Bill Gates and Steven A. Ballmer of Microsoft have led a parade of high-tech executives to Capitol Hill, urging lawmakers to provide more visas for temporary foreign workers and permanent immigrants who can fill critical jobs.

Google has reminded senators that one of its founders, Sergey Brin, came from the Soviet Union as a young boy. To stay competitive in a "knowledge-based economy," company officials have said, Google needs to hire many more immigrants as software engineers, mathematicians and computer scientists.

The top executives of these and other high-tech companies have been making a huge effort to reshape the Senate immigration bill to meet their demand for more foreign workers. But they have had only limited success, as is often the case when strong-willed corporate leaders confront powerful members of Congress.

The Senate plans to resume work on the bill this week. Much of the debate will focus on proposals for granting legal status to illegal immigrants. But the sections of the bill affecting high-tech industries could prove to be very important as well.

High-tech companies want to be able to hire larger numbers of well-educated, foreign-born professionals who, they say, can help them succeed in the global economy. For these scientists and engineers, they seek permanent-residence visas, known as green cards, and H-1B visas. The H-1B program provides temporary work visas for people who have university degrees or the equivalent to fill jobs in specialty occupations including health care and technology. The Senate bill would expand the number of work visas for skilled professionals, but high-tech companies say the proposed increase is not nearly enough. Several provisions of the Senate bill are meant to enhance protections for American workers and to prevent visa fraud and abuse.

High-tech companies were surprised and upset by the bill that emerged last month from secret Senate negotiations. E. John Krumholtz, director of federal affairs at Microsoft, said the bill was "worse than the status quo, and the status quo is a disaster."

In the last two weeks, these businesses have quietly negotiated for changes to meet some of their needs. But the bill still falls far short of what they want, an outcome suggesting that their political clout does not match their economic strength.

Stephen W. Yale-Loehr, a co-author of a treatise on immigration law, said: "High-tech companies are very organized. They have numerous lobby groups. When Bill Gates advocates more H-1B visas and green cards for tech workers, everyone listens.

"But that supposed influence has not translated into legislative results," Mr. Yale-Loehr, who teaches at

Cornell Law School, continued. "High-tech companies have been lobbying unsuccessfully since 2003 for more H-1B visas. It's hard to get anything through Congress these days. In addition, anti-immigrant groups are well organized. U.S. computer programmers are constantly arguing that H-1B workers undercut their wages."

The Republican architects of the Senate bill, like Senators Jon Kyl of Arizona and Lindsey Graham of South Carolina, thought they were doing a favor for high-tech companies when they proposed a "point system" to evaluate immigrants seeking green cards. The point system would reward people who have advanced degrees and job skills needed in the United States.

But the high-tech companies were upset because the bill would have stripped them of the ability to sponsor specific immigrants for particular jobs.

The companies flooded Senate offices with letters, telephone calls and e-mail messages seeking changes to the bill. Mr. Ballmer, the blunt-spoken chief executive of Microsoft, Craig R. Barrett, the chairman of Intel, and other executives pressed their concerns in person.

These advocates have made some gains, which are embodied in an amendment to be proposed by Mr. Kyl and Senator Maria Cantwell, Democrat of Washington.

Edward J. Sweeney, senior vice president of National Semiconductor, based in Santa Clara, Calif., said, "I've spent many hours in Washington talking with senators to get their support on this amendment."

Likewise, William D. Watkins, the chief executive of Seagate Technology, the world's largest maker of computer disk drives, said he met with five or six senators two weeks ago.

Under the Kyl-Cantwell proposal, 20,000 green cards would be set aside each year for immigrants of extraordinary ability, outstanding professors and researchers and certain managers and executives of multinational corporations. The original bill would have eliminated the existing preference for such workers.

In addition, the amendment would give employers five years to adjust their hiring practices to the new "merit-based" point system for obtaining green cards.

"For the first five years, employers would still have a say," Ms. Cantwell said in an interview. "They could recruit the best and the brightest."

The number of green cards for employer-sponsored immigrants would gradually decline, to 44,000 in the fifth year from 115,000 in each of the first two years. No green cards would be set aside for employer-sponsored immigrants after that.

Many high-tech companies bring in foreign professionals on temporary H-1B visas. The government is swamped with petitions. On the first two days of the application period in April, it received more than 123,000 petitions for 65,000 slots.

The Senate bill would raise the cap to 115,000 in 2008, with a possible increase to 180,000 in later years, based on labor market needs.

Many high-tech businesses want to hire foreign students who obtain advanced degrees from American universities, and many of the students want to work here, but cannot get visas.

Under current law, up to 20,000 foreigners who earn a master's degree or higher from an American university are generally exempt from the annual limit on new H-1B visas. The Kyl-Cantwell proposal would double the number.

The amendment would also establish a new exemption, providing 20,000 additional H-1B visas for people who have earned advanced degrees in science, technology, engineering or mathematics from a university outside the United States.

The technology companies face a serious challenge from a different direction, as lawmakers of both parties worry about possible abuses in the H-1B program.

Senator Richard J. Durbin of Illinois, the Democratic whip, and Senator Charles E. Grassley, Republican of Iowa, have a proposal that would overhaul the H-1 B program and give priority to American workers. Their proposal would also define, in great detail, the wages that must be paid to workers who have H-1B visas.

Mr. Durbin contended that some companies have used foreign workers to undercut the wages of American workers. And in some cases, he said, foreign workers come to this country for a few years of training, then return home "to populate businesses competing with the United States."

"The H-1B visa program is being abused by foreign companies to deprive qualified Americans of good jobs," Mr. Durbin said. "Some companies are so brazen, they say 'no Americans need apply' in their job advertisements."

High-tech companies said that the wage standards in the Durbin-Grassley proposal would, in effect, require them to pay some H-1B employees more than some equally qualified American workers who are performing the same duties.

The Government Accountability Office, an investigative arm of Congress, said that thousands of H-1B workers have been paid less than the prevailing wage.

One company, Patni Computer Systems, agreed this month to pay more than $2.4 million to 607 workers with visas after Labor Department investigators found that they had not been paid the wages required by federal law. The company's global headquarters are in Mumbai, India, and its American operations are based in Cambridge, Mass.

Laurie J. Flynn contributed reporting.