

When the Senate was grappling last spring with a sweeping fix to the nation's immigration system, Sen. Dianne Feinstein pleaded with her colleagues to find a compromise and not let the perfect be the enemy of the good.

Feinstein – who has walked a middle road on the issue – was dubious from the outset that a comprehensive solution was politically palatable and the California Democrat was particularly intent on getting an overhaul of the agricultural worker program.

But in the end nothing happened.

That has meant that everything from the Ag Jobs bill that would legalize long time farm workers to a measure to allow local law enforcement to enforce immigration laws has been put on hold.

These issues all have some strong support and some intense opposition. So it is with an immigration matter that will be front and center in the next few days – the H-1B visas.

These visas were designed to let American companies hire foreign workers who have special skills that employers can't find in the United States.

Over the years, the program has given out as many as 195,000 in a year. Now the number is capped at 65,000. The high tech community has been complaining for years that it's just not enough.

Microsoft's Bill Gates testified on the Hill earlier this month and got into a tiff with Rep. Dana Rohrabacher over whether H-1Bs really take jobs away from American workers – which Rohrabacher believes – or are necessary and actually create more jobs for Americans, which Gates and his colleagues say.

Rohrabacher and other H-1B opponents say these foreign workers depress wages and if they weren't available, companies would find American workers and pay them more. High-tech executives say no way – these are high-paying jobs and they'd love not to have the hassle –and

expense – of applying for these visas.

Whatever the real answer, what will happen on April 1 is a bizarre way for government to hand out passes for people to come to the United States.

For the past several years the 65,000 cap has literally been reached on the first day applications are taken. That's April 1.

U.S. Citizens and Immigration Services, which processes these requests, won't look at an application before April 1 and now has decided to allow five days before it closes down the window and begins the random lottery to see who gets the coveted 65,000 visas. It also took steps this year to ensure that one company can't file many applications for one worker to get a better chance to win the lottery.

About half of these visas go to the high tech firms Gates talked to Congress about. But there are teachers, health care workers and other foreign nationals also brought to the U.S. under this program. And last year, 80 percent of the visas for the top 10 companies went to Indian outsourcing companies. That has gotten several senators up in arms and we may see some action on that front down the road.

Kevin McDonald is vice president of Alvaka Networks, a 31-worker IT firm in Irvine. He also is a board member of the American Electronics Association.

McDonald said his company spent 18 months looking for a qualified employee for his firm and it wasn't until he had an op ed published in the Register about his problem that someone who saw it applied and they filled the spot.

"We need higher end engineers," McDonald said. U.S. schools, he said. Are "developing our competition and then sending them home." In fact, he said, the majority of students in top masters and PHD programs in engineering and other technical fields are foreign students who can only stay in the U.S. for a year before having to go back to their home country – except for

those who may be lucky enough to win an H-1B in this crazy lottery. Rep. Zoe Lofgren, the San Jose Democrat who chairs the immigration subcommittee, believes it's nuts for us to send these young minds away.

Lofgren has been talking with her colleagues about giving permanent residency to these masters and PHD degree holders so we can keep their talent here.

But the political climate when it comes to immigration is so toxic, that she has little hope that anything can be done before the next election.

Interestingly, the way lawmakers feel about the H-1B problem doesn't always fall along partisan lines or even necessarily break the way they come down on illegal immigration in general.

Rep. John Campbell, for example, has opposed any amnesty effort and is considered a hard-liner on immigration. But he supports an increase in H-1Bs. These people, he said, would come here, pay taxes and not be a burden on society while helping the American economy.

And Rep. Lamar Smith, a Texas Republican who has staunchly opposed illegal immigration and used to have Lofgren's job, introduced a bill after Gates' House appearance to put the H-1B visa cap back to 195,000.

Congress has been arguing about these visas for a decade. Sen. Edward Kennedy, for example, agreed in 1998 to support raising the cap, but only if an additional fee was put on the H-1B application that would go to education and training for Americans. In his words, he wanted us to grow out of this problem.

That fee is now \$1,500. Since 2000, \$1.2 billion has gone to the Department of Labor and the National Science Foundation

But these dollars don't seem to have paid off.

I looked at a Congressional Research Service report that shows that between 2001 and 2006, 156 grants were awarded under a labor department program supposed to increase skills in high growth industries.

Of them, only three were in IT. None were in engineering. But 31 were in advanced manufacturing. Not exactly where the worker shortage is.

The Labor Department Inspector General is in the midst of doing a report on whether this money has been wisely spent and so is the General Accountability Office.

Labor Department officials say they while most of the grants aren't going to IT, that given that computers are everywhere they think they are helping the effort with grants in other fields, like biotech.

But whatever the process, the end result is that after a decade of concentration on this, American industry is still going overseas.