

Pieces of Immigration Reform Relevant to Employers, H-1B visa Holders & Seekers, Entrepreneurs, and Students

It has become very popular to release an immigration bill this session. First, the “Gang of Eight” senators released a “Bipartisan Framework for Comprehensive Immigration Reform” at the end of January. That framework included:

- Creating a path to U.S. Citizenship for unauthorized immigrants already in the U.S.
- Improving the legal immigration system and attracting the world’s best and brightest
- Strong employment verification
- Admitting new workers and protecting workers’ rights

The framework does not provide specific details outlining how to improve the legal immigration system or how to attract the best and the brightest. That is where the Immigration Innovation Act of 2013 comes in.

Released by Senators Hatch (R-UT), Klobuchar (D-MN), Rubio (R-FL), and Coons (D-DE), the Immigration Innovation Act of 2013 (S. 169) or “I-Squared” provides a detailed plan to reform certain areas of importance to highly-skilled immigrants. The proposed law addresses areas related to employment-based nonimmigrant H-1B visas, dual intent for students, and immigrant visas and green cards. Below is a summary of some of the proposed changes:

Present Day	Under the Proposed Immigration Innovation Act of 2013
H-1 visa cap is fixed at 65,000	H-1 visa cap to be fixed at 115,000 but that number may increase up to 300,000 based on demand
There are an additional 20,000 H-1 visas for those with U.S. Master’s degrees	Unlimited number of H-1 visas available for U.S. Master’s or higher degree holders

Spouses of H-1 visa holders are NOT authorized to work	Spouses of H-1B holders will be authorized to work
Certain U.S. STEM advanced degree holders with approved EB-2 PERM applications continue to wait for priority dates to become current before they may apply for their green cards	U.S. STEM advance degree holders with approved EB-2 PERM applications will be immediately able to file green card applications
Annual per-country limits apply for employment-based and family-based immigrant visa (green card) applicants	Eliminate the per-country caps that often create backlogs for citizens of India and China seeking employment-based immigrant visas
Students must maintain non-immigrant intent while in F-1 student status	Permit dual intent for foreign students at U.S. colleges and universities

Then, February 13, 2013, U.S. Senators Roy Blunt (Mo.), Jerry Moran (Kan.), Mark Warner (Va.) and Chris Coons (Del.) introduced Startup Act 3.0 – the updated version of their bipartisan jobs and high-skilled immigration plan to jumpstart the economy through the creation and growth of new businesses. This bill offers conditional green cards to two groups of people:

- 50,000 Foreign nationals with U.S. advanced degrees in a STEM field who are actively engaged in a STEM field
 - To obtain permanent resident status, the foreign national will have to maintain lawful status (by engaging in a STEM field) for five years.

- 75,000 Foreign national entrepreneurs lawfully present in the U.S. in F-1 or H-1 status who in the first year:
 - Register at least 1 new business entity
 - Invest or raise a capital investment of at least \$100,000 in the entity and employ two full time employees (not relatives)
 - Three years later they have to show that they employ at least 5 full time employees (not relatives) in order to

remove the conditions on their green cards.