



Immigration Innovation Act of 2015, S. 153

Senators Hatch (R-UT), Klobuchar (D-MN), Rubio (R-FL), Coons (D-DE), Flake (R-AZ) and Blumenthal (D-CT) introduced bipartisan high skilled immigration reform legislation on January 13, 2015 – the Immigration Innovation Act of 2015 (I-Squared), S. 153.

I-Squared proposes to reset the entire construct of high skilled immigration. The bill revises which immigrants are subject to numerical caps set by Congress for both H-1B status and green card status, promotes the portability of H-1B workers, addresses consistency in decision-making for employer-sponsored temporary workers in both the H-1B and L-1 visa classifications, and advances the growth of the pipeline of American students in STEM fields by new employer fees for education funding to the states along with a small amount of fee use for national activities to promote STEM education.

H-1B Reform

- H-1B base cap increased by 50,000 from 65,000 to 115,000.
- U.S. Masters and Doctorates (regardless of field) are exempt from H-1B cap, meaning that U.S. companies could offer employment to both American and foreign students they select through competitive on-campus recruitment at U.S. graduate schools where a professional job is offered and the degree earned relates to the offered job.
- Market regulator for H-1Bs so that limits for cap-subject cases goes up within FY if early filings exceed cap (but not above 195,000) and cap goes down in a following FY (but not below 115,000) if end of year FY usage is below cap.

Green Card Reform

- EB green card quotas do not apply to spouses and minor children.
- EB green card quotas do not apply to first preference immigrants in either the extraordinary ability or outstanding researcher categories.
- This would leave EB2 and EB3 at 51,660 each for workers (and dependents not subject to a numerical limit).
- Address EB backlogs by recapturing unused EB FY92 to FY13, setting aside those numbers (at least 200,000 pursuant to the legislative text of S. 153) for use by EB1, 2, 3.
- Permit EB immigrants to file for adjustment as long as all visa numbers in the immigrant's preference category have not yet been issued for the FY.
- Provide that any unused EB in a future FY do become available for possible use by EB thereafter, and, if remain unused, become available again for EB thereafter.
- Elimination of per country caps for EB (and raise to 15% for EB).
- EB green card quotas do not apply to immigrants earning US Masters or Doctorate in STEM field, with STEM definition per DHS OPT.

Reforms Promoting Consistent Decisions, Worker Mobility and Travel

- DHS and DOS must defer to its prior decisions regarding petitions for H-1B specialty occupation workers and L-1 intracompany transfer staff and may not deny an extension



petition for the same foreign national with the same employer absent a determination of material error, substantial change, or new material information adversely impacting eligibility.

- 60 day grace period for H-1Bs between jobs, increasing the ability of foreign professionals to be portable in the economy, which is the best protection of a worker's rights.
- Visa revalidation is returned for Es, Hs, Ls, Os, Ps (temporary worker programs requiring an individual to work in order to maintain status), facilitating travel.
- Dual intent for F-1 students, allowing foreign students to study in the U.S. without being barred from taking steps indicating an interest to remain in the U.S. long term.
- Spousal work authorization for H-4 spouses of H1B workers.

Fees

- H-1B training fee increased from \$1,500 to \$2,500 (\$750 to \$1250 for businesses with 25 or less employees) and a new green card fee (for EB1, EB2, and EB3) of \$1,000 levied, with the new training fee funds and green card fees going to the states for improved K-12 STEM education, where any state can apply for a per capita portion of the money to be used to supplement, not supplant, state education funding for the purpose of pursuing state STEM-related education activities.
- Up to five percent of the monies from fee increases could go to national activities, with three percent of the monies from fee increases going to competitive grants to provide personal accounts for low income students to save for college and receive mentoring.

Market regulator for the H-1B cap, as measured by demand for H-1Bs

- While all graduates of U.S. Masters or Doctoral programs are exempt from the H-1B cap under I-Squared, a cap with market regulator is in place for all other cap-subject petitions.
- If early demand in a particular FY is high, then the cap for that FY will be increased when the cap is met before December 31st in any FY, but not above 195,000. The cap for that FY and the immediately following FY would increase, based on the extent to which there was early demand, with demand being measured from the first day petitions can be filed (currently April 1st, six months prior to the beginning of the FY). Under I-Squared, the cap can:
 - Increase up to 20,000 if the cap is met within 45 days,
 - Increase up to 15,000 if the cap is met within 46-60 days,
 - Increase up to 10,000 if the cap is met within 61-90 days,
 - Increase up to 5,000 if the cap is met within 91-275 days (if cap is met prior to December 31st).
- If annual demand in a particular FY is low, then the cap for the following FY will be decreased, but not lower than 115,000. Under I-Squared, the cap can:
 - Decrease in 20,000 increments if the total H1B petitions approved by the end of an FY was 20,000 or more below that year's cap.
 - Decrease by 15,000 if H1B petition approvals were 15,000-19,999 below the cap.
 - Decrease by 10,000 if H1B petition approvals were 10,000-14,999 below the cap.
 - Decrease by 5,000 if H1B petition approvals were 5,000-9,999 below the cap.

Abbreviations:

EB – Employment Based; **FB** – Family Based; **FY** – Government's Fiscal Year; **STEM** – Science, Technology, Engineering and Mathematics; **OPT** – Optional Practical Training for F-1 foreign students

