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## House Adds ‘Game-Changing’ Visas For Immigrant Startups And Ph.D.s

Stuart Anderson

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The House Rules Committee has added a significant element missing from a Senate innovation bill—visas for people who will produce innovations. House Democrats addressed that oversight by adding two potentially game-changing measures for immigrant entrepreneurs and immigrants with Ph.D.s in STEM (science, technology, engineering and math) fields. If these measures become law, their impact could be far-reaching. (See sections 80301 to 80305 in the bill.)

**Immigrant Startup Visa:** The lack of a startup visa costs America talent, according to the National Security Commission on Artificial Intelligence. In its final report, the commission members said the absence of a startup visa places the United States at a disadvantage compared to other nations like Canada in retaining and attracting foreign-born entrepreneurs. Many innovations are realized through entrepreneurship, and, according to a 2018 National Foundation for American Policy (NFAP) analysis, more than half of the billion-dollar startups in the United States had at least one immigrant founder. The list included some of America’s most innovative companies, such as SpaceX, Stripe and Moderna.

On January 25, 2022, the House Rules Committee added Rep. Zoe Lofgren’s (D-CA) LIKE Act to the nearly 3,000-page America COMPETES Act (H.R. 4521). The bill creates a temporary visa for foreign-born entrepreneurs who qualify and, according to a summary, “Allows the founder to apply for and receive lawful permanent residence if the start-up entity meets certain additional benchmarks.”

An individual qualifies for a new temporary W visa for an initial three years if:

- “(1) the alien possesses an ownership interest of not less than 10% in a start-up entity;
- “(2) the alien will play a central and active role in the management or operations of the start-up entity;
- “(3) the alien possesses the knowledge, skills, or experience to substantially assist the start-up entity with the growth and success of its business; and

“(4) during the 18-month period preceding the filing of the petition, the start-up entity received at least \$250,000 in qualifying investments from one or more qualified investors; or at least \$100,000 in qualifying government awards or grants.”

The bill allows for an extension of the W (temporary) status for an additional three years if the individual possesses at least a 5% ownership stake, will continue to play a “central and active role” in management or operations, has received at least \$500,000 in “additional qualifying investments,” created “at least 5 qualified jobs” or “generated not less than \$500,000 in annual revenue in the United States and averaged 20% in annual revenue growth.”

An entrepreneur in W status may adjust status to lawful permanent residence without being placed in a green card backlog (i.e., they are exempt from the numerical limit) if the individual has maintained W status, ownership interest in the startup and an active and central role in the company, and the startup has “created at least 10 qualified jobs and . . . has received not less than \$1.25 million in qualifying investments . . . or generated not less than \$1 million in annual revenue in the U.S. in the two-year period preceding the filing of the petition.”

The startup visa’s impact could be significant. The measure could create approximately 1 to 3 million jobs over a decade, depending on factors that include how government agencies administer the provision, according to an NFAP estimate of an earlier Lofgren startup visa bill.

“The National Venture Capital Association (NVCA) is excited to see the America COMPETES Act include a startup visa,” said Jeff Farrah of NVCA. “Immigrant entrepreneurs have created some of the most iconic American companies. But our immigration laws make it too hard for foreign-born entrepreneurs to launch new, high-growth companies in the U.S. A startup visa would provide a dedicated visa category that will allow the world’s best entrepreneurs to create the next generation of great companies that will ensure the United States remains the global leader in technology and innovation.” (See a startup visa coalition letter [here](#).)

**A Green Card Exemption For Ph.D.s:** Another significant provision added to the House bill would exempt from annual green card limits individuals with Ph.D.s in STEM fields. That would allow U.S. employers to gain a significant competitive edge by offering the chance at permanent residence to outstanding researchers from around the world, including those early in their careers and engaging in cutting-edge work.

Under the bill, individuals can gain permanent residence without being placed in a green card backlog (or be subject to per-country limits) if they “have earned a doctoral degree in a program of study involving science, technology, engineering, or mathematics—from a qualified United States research institution; or from a foreign institution if such degree is the equivalent to a degree issued by a qualified United States research institution; and are seeking admission to engage in work in the United States in a field related to such degree.”

Analyzing a similar provision, an estimated 10,000 people a year could benefit from a measure limited to Ph.D.s in STEM fields from U.S. universities. However, since this new provision also allows for Ph.D.s from foreign universities, the annual number of potential beneficiaries could be higher. Moreover, the bill uses a broader definition of STEM.

The bill states, “The term ‘program of study involving science, technology, engineering, or mathematics’ means a field included in the Department of Education’s Classification of Instructional Programs taxonomy within the summary groups of agricultural sciences, natural resources and conservation, computer and information sciences and support services, engineering, biological and biomedical sciences, mathematics and statistics, military technologies, physical sciences, or medical residency and fellowship programs, or the summary group subsets of accounting and related services and taxation.”

The broader definition of STEM will carry several benefits. “The bill also expands the definition of STEM in sensible directions that include highly skilled and productive individuals in important industries,” noted Alex Nowrasteh of the Cato Institute. Attorney Greg Siskind said, “Including physicians who do residency and fellowships in the U.S. also has the added benefit of dramatically helping health care in the U.S. since MDs are one of the most backlogged occupations for green cards.”

An indirect benefit of the provision will be to help individuals waiting many years in employment-based green card backlogs even if they do not have a Ph.D. That is because individuals with Ph.D.s who previously would have used a green card number would now be exempt from the numerical limits.

“It is increasingly important that the U.S. be able to recruit foreign-trained Ph.D.s,” said Mark Regets, a senior fellow at the National Foundation for American Policy. “Not only do they link us to research being done abroad, but they are an increasing proportion of the total doctorate-level STEM talent in the world. It is not just China that has increased Ph.D. production, but many European and other developed countries as well.”

Postdoctoral researchers work at U.S. universities after completing their Ph.D.s and play a significant role in research in the United States. Approximately 56% of postdocs at U.S. universities are on temporary visas, with many in biological sciences, medical sciences and engineering. A large number of Ph.D.s with foreign degrees assist in research and development. The new measure would allow many more an opportunity to stay and contribute in the United States.

A great example of someone who could have benefited from a special green card provision for Ph.D.s is Katalin Karikó. She is credited with producing the underlying research breakthrough that made messenger RNA possible for vaccine use. That discovery likely already has saved hundreds of thousands of lives. Karikó earned her Ph.D. in Hungary and toiled for years in the United States, first as a postdoctoral researcher, before her work became recognized as life-saving.

The House is expected to vote on the bill as soon as next week. The legislation, including the new immigration provisions, would need to be reconciled with (and pass) the Senate and signed by the president to become law.

Helping America and its companies better compete for talent through startup visas and a clear path to U.S. permanent residence for the world's top researchers might help a bill on innovation live up to its name.