To amend the Immigration and Nationality Act to authorize additional visas for well-educated aliens to live and work in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Hatch (for himself, Ms. Klobuchar, Mr. Rubio, Mr. Coons, Mr. Flake, and Mr. Blumenthal) introduced the following bill; which was read twice and referred to the Committee on ________

A BILL

To amend the Immigration and Nationality Act to authorize additional visas for well-educated aliens to live and work in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Immigration Innovation Act of 2015” or the “I-Squared Act of 2015”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—EMPLOYMENT-BASED NONIMMIGRANT VISAS

Sec. 102. Employment authorization for dependents of H–1B nonimmigrants.
Sec. 103. Eliminating impediments to worker mobility.

TITLE II—STUDENT VISAS

Sec. 201. Authorization of dual intent.

TITLE III—EMPLOYMENT-BASED IMMIGRANT VISAS

Sec. 301. Elimination of per-country numerical limitations.
Sec. 302. Ensuring all preference employment-based immigrant visas are issued.
Sec. 303. Aliens not subject to direct numerical limitation.

TITLE IV—STEM EDUCATION FUNDING

Sec. 401. Funding for STEM education and training.
Sec. 402. Promoting American Ingenuity Account.
Sec. 403. STEM education grant application process.
Sec. 404. Approved activities.
Sec. 405. National evaluation.
Sec. 406. Rule of construction.

1 TITLE I—EMPLOYMENT-BASED NONIMMIGRANT VISAS

2 SEC. 101. MARKET-BASED H–1B VISA LIMITS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “(beginning with fiscal year 1992)”; and

(B) by amending subparagraph (A) to read as follows:

“(A) under section 101(a)(15)(H)(i)(b)
may not exceed the sum of—
“(i) the base allocation calculated under paragraph (9)(A); and

“(ii) the allocation adjustment calculated under paragraph (9)(B); and”;

(2) in paragraph (5)—

(A) in subparagraph (B), by striking “or” at the end; and

(B) in subparagraph (C), by striking “, until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.” and inserting “; or”;

(3) in paragraph (8), by striking subparagraphs (B)(iv) and (D);

(4) by redesignating paragraph (10) as subparagraph (D) of paragraph (9);

(5) by redesignating paragraph (9) as paragraph (10); and

(6) by inserting after paragraph (8) the following:

“(9)(A) The base allocation of nonimmigrant visas under section 101(a)(15)(H)(i)(b) for each fiscal year shall be equal to—

“(i) the sum of—

“(I) the base allocation for the most recently completed fiscal year; and
“(II) the allocation adjustment for the most recently completed fiscal year;

“(ii) if the number calculated under clause (i) is less than 115,000, 115,000; or

“(iii) if the number calculated under clause (i) is more than 195,000, 195,000.

“(B)(i) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) during the first 45 days petitions may be filed for a fiscal year is equal to the base allocation for such fiscal year, an additional 20,000 such visas shall be made available beginning on the 46th day on which petitions may be filed for such fiscal year.

“(ii) If the base allocation of cap-subject non-immigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 15-day period ending on the 60th day on which petitions may be filed for such fiscal year, an additional 15,000 such visas shall be made available beginning on the 61st day on which petitions may be filed for such fiscal year.

“(iii) If the base allocation of cap-subject non-immigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 30-day period ending on the 90th day on which petitions may be filed for such fiscal year, an additional 10,000
such visas shall be made available beginning on the 91st day on which petitions may be filed for such fiscal year.

“(iv) If the base allocation of cap-subject non-immigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is reached during the 185-day period ending on the 275th day on which petitions may be filed for such fiscal year, an additional 5,000 such visas shall be made available beginning on the date on which such allocation is reached.

“(v) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 5,000 fewer than the base allocation, but is not more than 9,999 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -5,000.

“(vi) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 10,000 fewer than the base allocation, but not more than 14,999 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -10,000.

“(vii) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 15,000 fewer than the base allocation, but not more than 19,999 fewer than the base allocation,
tion, the allocation adjustment for the following fiscal year shall be -15,000.

“(viii) If the number of cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year is at least 20,000 fewer than the base allocation, the allocation adjustment for the following fiscal year shall be -20,000.’’.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall—

(1) timely upload to a public website data that summarizes the adjudication of nonimmigrant petitions under section 101(a)(15)(H)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(b)) during each fiscal year; and

(2) allow the timely adjustment of visa allocations under section 214(g)(9)(B) of such Act, as added by subsection (a).

SEC. 102. EMPLOYMENT AUTHORIZATION FOR DEPENDENTS OF H-1B NONIMMIGRANTS.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and
(2) in paragraph (2), by amending subparagraph (E) to read as follows:

“(E) The Secretary of Homeland Security shall—

“(i) authorize an alien spouse admitted under subparagraph (H)(i)(b) or (L) of section 101(a)(15) who is accompanying or following to join the principal alien to engage in employment in the United States; and

“(ii) provide the spouse with an ‘employment authorized’ endorsement or other appropriate work permit.”.

SEC. 103. ELIMINATING IMPEDIMENTS TO WORKER MOBILITY.

(a) DEFERENCE TO PRIOR APPROVALS.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

“(9) If the Secretary of Homeland Security or the Secretary of State approves a visa, petition, or application for admission on behalf of an alien described in subparagraph (H)(i)(b) or (L) of section 101(a)(15), the Secretary of Homeland Security or the Secretary of State may not deny a subsequent petition, visa, or application for admission involving the same employer and alien unless the applicant is provided with a written finding that...
explains the basis for the Government’s determination that—

“(A) there was a material error with regard to the approval of the previous petition, visa, or application for admission;

“(B) a substantial change in circumstances has taken place since the prior approval or admission that renders the nonimmigrant ineligible for such status under this Act; or

“(C) new material information has been discovered that adversely impacts the eligibility of the employer or the nonimmigrant.”.

(b) Effect of Ending Employment Relationship.—Section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)) is amended by adding at the end the following:

“(3) A nonimmigrant admitted under section 101(a)(15)(H)(i)(b) whose employment relationship ends (either voluntarily or involuntarily) before the expiration of the nonimmigrant’s period of authorized admission shall be deemed to have retained such legal status throughout the 60-day period beginning on such employment ending date if an employer files a petition to extend, change, or adjust the status of the nonimmigrant during such period.”.
(c) Visa Revalidation.—Section 222(e) of the Immigration and Nationality Act (8 U.S.C. 1202(e)) is amended by inserting “The Secretary of State shall authorize an alien admitted under subparagraph (E), (H), (L), (O), or (P) of section 101(a)(15) to renew his or her nonimmigrant visa in the United States if the alien has remained eligible for such status.”.

TITLE II—STUDENT VISAS

SEC. 201. AUTHORIZATION OF DUAL INTENT.

(a) Definition.—Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i)) is amended by striking “which he has no intention of abandoning”.

(b) Presumption of Status; Intention to Abandon Foreign Residence.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) in subsection (b), by striking “(L) or (V)” and inserting “(F), (L), or (V)”;

and

(2) in subsection (h), by striking “(H)(i)(b) or (c)” and inserting “(F), (H)(i)(b), (H)(i)(c)”.


TITLE III—EMPLOYMENT-BASED IMMIGRANT VISAS

SEC. 301. ELIMINATION OF PER-COUNTRY NUMERICAL LIMITATIONS.

(a) In General.—Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended to read as follows:

“(2) Per country levels for family-sponsored immigrants.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(a) in any fiscal year may not exceed 15 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such section in that fiscal year.”.

(b) Conforming Amendments.—Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking “both subsections (a) and (b) of section 203” and inserting “section 203(a)”;

and

(B) by striking paragraph (5); and
(2) by amending subsection (e) to read as follows:

“(e) Special Rules for Countries at Ceiling.—If the total number of immigrant visas made available under section 203(a) to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, the number of visas for natives of that state or area shall be allocated under section 203(a) so that, except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a).”.

(c) Country-Specific Offset.—Section 2 of the Chinese Student Protection Act of 1992 (8 U.S.C. 1255 note) is amended—

(1) in subsection (a), by striking “subsection (e))” and inserting “subsection (d))”; and

(2) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2015, and shall apply to fiscal years beginning with fiscal year 2016.
SEC. 302. ENSURING ALL PREFERENCE EMPLOYMENT-BASED IMMIGRANT VISAS ARE ISSUED.

(a) Backlog Reduction.—

(1) In General.—Notwithstanding any other provision of law, beginning in fiscal year 2016, the number of employment-based immigrant visas that shall be issued under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) shall be increased by the number computed under paragraph (2).

(2) Number Available.—

(A) In General.—The number computed under this paragraph is—

(i) the greater of—

(I) the number of preference immigrant visas computed under section 201(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(d)(1)) for fiscal years 1992 to 2013 that were not issued to any preference immigrant for any of those fiscal years; or

(II) 200,000; minus

(ii) the number described in subparagraph (B).
(B) REDUCTION.—The number described in subparagraph (A)(i) shall be reduced, for each fiscal year after fiscal year 2016, by the cumulative number of immigrant visas issued for previous fiscal years pursuant to the increase authorized under paragraph (1).

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph may be construed as affecting the application of section 201(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(3)(C)) with regard to immigrant visas other than the visas authorized by the increase computed under subparagraph (A).

(ii) LIMITATION.—The visas authorized by the increase computed under subparagraph (A) may only be issued to aliens seeking immigrant visas pursuant to paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)).

(b) PREFERENCE IMMIGRATION AS DIRECTED BY CONGRESS.—Section 201(c)(1)(B)(ii) of the Immigration
and Nationality Act (8 U.S.C. 1151(c)(1)(B)(ii)) is amended to read as follows:

“(ii) The number computed under subparagraph (A) shall not be less than the sum of—

“(I) 226,000; plus

“(II) the number computed under paragraph (3).”.

(c) Ensuring Full Implementation.—Section 203(g) of the Immigration and Nationality Act (8 U.S.C. 1153(g)) is amended by striking “(g) Lists.—For purposes of carrying out” and inserting the following:

“(g) Administration.—

“(1) Obligation to issue all authorized visas.—

“(A) In general.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall administer this section in a manner that ensures that all immigrant visas authorized by Congress to be issued under this section are issued to qualified applicants.

“(B) Notice.—Not later than June 1 of each fiscal year, the Secretary of State shall publish a notice in the Federal Register that
describes the steps that the Government is taking to comply with subparagraph (A).

“(2) Lists.—In order to carry out”.

(d) Facilitating Issuance of Visas.—Section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) is amended by adding at the end the following flush text:

“For purposes of paragraph (3), an immigrant visa is deemed to be immediately available if any visa number allocated under this Act to preference immigrants described in section 203(b) has not yet been issued for that fiscal year.”.

SEC. 303. ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATION.

(a) IN GENERAL.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

“(F) Aliens who are the spouse or a child of an alien admitted as an employment-based immigrant under section 203(b).

“(G) Aliens who have earned a master’s or higher degree in a field listed on the STEM Designated Degree Program List published by the Department of Homeland Security on the Student and Exchange Visitor Program website from an institu-
tion of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))).

“(H) Aliens for whom a petition for an employment-based immigrant visa under paragraph (A) or (B) of section 203(b)(1) has been approved.”.

(b) CONFORMING AMENDMENTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking “28.6 percent” and inserting “12 percent”;

(2) in paragraph (2)(A), by striking “28.6 percent” and inserting “36.9 percent”; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking “28.6 percent” and inserting “36.9 percent”;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

TITLE IV—STEM EDUCATION FUNDING

SEC. 401. FUNDING FOR STEM EDUCATION AND TRAINING.

(a) NONIMMIGRANT FEE ADJUSTMENT AND ALLOCA-

TION.—Section 214(c)(9) of the Immigration and Nation-

ality Act (8 U.S.C. 1184(c)(9)) is amended—
(1) by amending subparagraph (B) to read as follows:

“(B) The amount of the fee imposed under this paragraph shall be—

“(i) $1,250 for each such petition filed by an employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer); and

“(ii) $2,500 for each such petition filed by an employer with more than 25 such employees.”; and

(2) by amending subparagraph (C) to read as follows:

“(C) Fees collected under this paragraph shall be distributed as follows:

“(i) Of the amounts collected pursuant to subparagraph (B)(i)—

“(I) $750 shall be deposited in the Treasury in accordance with section 286(s); and

“(II) $500 shall be deposited in the Treasury in accordance with section 286(w).

“(ii) Of the amounts collected pursuant to subparagraph (B)(ii)—

“(I) $1,500 shall be deposited in the Treasury in accordance with section 286(s); and
“(II) $1,000 shall be deposited in the Treasury in accordance with section 286(w).”.

(b) CONFORMING AMENDMENT.—Section 286(s)(1) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(1)) is amended by striking the last sentence and inserting “There shall be deposited as offsetting receipts into the account a portion of the fees collected under paragraphs (9) and (11) of section 214(e).”.

(e) IMMIGRANT FEE.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended by adding at the end the following:

“(7) FUNDING FOR STEM EDUCATION AND TRAINING.—The Secretary of Homeland Security shall impose a fee of $1,000 on each I–140 immigrant visa petition filed under this subsection. Amounts collected under this paragraph shall be deposited into the Treasury in accordance with section 286(w).”.

SEC. 402. PROMOTING AMERICAN INGENUITY ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

“(w) PROMOTING AMERICAN INGENUITY ACCOUNT.—
“(1) IN GENERAL.—There is established in the
general fund of the Treasury a separate account,
which shall be known as the ‘Promoting American
Ingenuity Account’. There shall be deposited as off-
setting receipts into the account fees collected under
section 203(b)(7) and a portion of the fees collected
under section 214(c)(9). Amounts deposited into the
account shall remain available to the Secretary of
Education until expended.

“(2) PURPOSES.—The purposes of the Pro-
moting American Ingenuity Account are to enhance
the economic competitiveness of the United States
by—

“(A) strengthening STEM education, in-
cluding in computer science, at all levels;

“(B) ensuring that schools have access to
well-trained and effective STEM teachers;

“(C) supporting efforts to strengthen the
elementary and secondary curriculum, including
efforts to make courses in computer science
more broadly available; and

“(D) helping colleges and universities
produce more graduates in fields needed by
American employers.

“(3) ALLOCATION OF FUNDS.—
``(A) NATIONAL ACTIVITIES.—The Secretary of Education may reserve up to 2 percent of the amounts deposited into the Promoting American Ingenuity Account for national research, development, demonstration, evaluation, and dissemination activities carried out directly or through grants, contracts, or cooperative agreements, including—

"(i) activities undertaken jointly with other Federal agencies, such as STEM mission agencies; and

"(ii) grants to nonprofit organizations for nationally significant activities consistent with the purposes of the Immigration Innovation Act of 2015.

``(B) AMERICAN DREAM ACCOUNTS.—

"(i) GRANTS AUTHORIZED.—The Secretary of Education shall allocate 3 percent of the amounts deposited into the Promoting American Ingenuity Account to award grants, on a competitive basis, to eligible entities to enable such entities to establish and administer American Dream Accounts."
“(ii) PURPOSE OF ACCOUNTS.—American Dream Accounts shall be personal, online accounts for low-income students that include a college savings account, monitor progress toward higher education, and provide opportunities, including mentoring—

“(I) to gain financial literacy skills;

“(II) to learn about preparing for enrollment in an institution of higher education; and

“(III) to identify career interests.

“(iii) PRIORITY.—The Secretary shall give priority to applicants that demonstrate that they intend to focus on STEM education and careers.

“(iv) ELIGIBLE ENTITIES.—An eligible entity may be a partnership of 2 or more of the following entities:

“(I) A State educational agency.

“(II) A local educational agency.

“(III) A charter management organization.

“(IV) An institution of higher education.
“(V) A nonprofit organization.

“(VI) An organization with demonstrated experience in educational savings or in preparing low-income students for higher education.

“(C) ALLOCATIONS TO STATES.—

“(i) In general.—Subject to clause (ii), the Secretary of Education shall proportionately allocate the remaining amounts deposited into the account to the States each fiscal year in an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331 et seq.) for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year.

“(ii) Minimum allocations.—No State shall receive less than an amount equal to 0.5 percent of the total amount made available to all States from the Promoting American Ingenuity Account. If a State does not request an allocation from
the Account for a fiscal year, the Secretary shall reallocate the State’s allocation to the remaining States in accordance with this section.”.

SEC. 403. STEM EDUCATION GRANT APPLICATION PROCESS.

(a) APPLICATION.—Each State desiring to receive an allocation from the Promoting American Ingenuity Account established under section 286(w) of the Immigration and Nationality Act (8 U.S.C. 1356(w)) submit an application to the Secretary of Education that describes how the State plans to improve STEM education to meet the needs of employers in the State, at such time, in such form, and including such information as the Secretary may prescribe.

(b) APPROVAL.—The Secretary of Education shall approve any application submitted under subsection (a) that meets the requirements prescribed by the Secretary if the Secretary determines, after evaluating the recommendations of peer reviewers, that the State’s plan for the use of funds would be successful in making progress toward meeting the purposes set forth in section 286(w)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(w)(2)).
SEC. 404. APPROVED ACTIVITIES.

A State or other entity that receives funding from the Promoting American Ingenuity Account may use such funding—

(1) to strengthen the State’s academic achievement standards in science, technology, engineering, and mathematics (STEM);

(2) to implement strategies for the recruitment, training, placement, and retention of teachers in STEM fields, including computer science;

(3) to carry out initiatives designed to assist students in succeeding and graduating from postsecondary STEM programs;

(4) to improve the availability and access to STEM-related worker training programs, including community college courses and programs; and

(5) for other activities approved by the Secretary of Education to improve STEM education.

SEC. 405. NATIONAL EVALUATION.

(a) IN GENERAL.—Using amounts reserved under section 286(w)(3)(A) of the Immigration and Nationality Act, as added by section 402, the Secretary of Education shall conduct, directly or through a grant or contract, an annual evaluation of the implementation and impact of the activities funded by the Promoting American Ingenuity Account.
(b) ANNUAL REPORT.—The Secretary shall submit a report describing the results of each evaluation conducted under subsection (a) to—

(1) the President;

(2) the Committee on the Judiciary of the Senate

(3) the Committee on the Judiciary of the House of Representatives

(4) the Committee on Health, Education, Labor, and Pensions of the Senate; and

(5) the Committee on Education and the Workforce of the House of Representatives.

(c) DISSEMINATION.—The Secretary shall make the findings of the evaluation widely available to educators, the business community, and the public.

SEC. 406. RULE OF CONSTRUCTION.

Nothing in this title may be construed to permit the Secretary of Education or any other Federal official to approve the content or academic achievement standards of a State.