TALENT Bill

A bill to Keep America Innovative "Through the Advancement of Legal and Educated New Talent"

H-1B and Nonimmigrant Visa System:

- Exempts U.S. Educated Knowledge (USEK) workers with advanced degrees from the H-1B cap. (§101)
- Restores H-1B1 visa numbers to the overall cap. (§201)
- Creates a market-based H-1B cap where unused visas fall forward annually. (§201)
- Establishes a "W" visa for professionals as a first step to permanent residence that permits entry or change of status to the new nonimmigrant category under the condition that the employer files a labor certification or immigrant petition within 18 months of initial admission. (§201)
- Eliminates 214(b) for certain non-immigrants. (§203)
- Extends foreign students' post curricular OPT to 24 months. (§203)

Employment-based Immigrant Visa System:

- Revises the current EB-1, EB-2, EB-3 and EB-4 worker preference categories, exempting an expanded EB-1 group from the EB cap, including USEK workers who have earned an advanced degree. Additionally, exempts the expanded EB-1 group from the requirement of labor attestation. (§102)
- Subjects the revised EB-2 and EB-3 group of workers to the annual cap and either labor attestation without recruitment or labor attestation with recruitment. (§102)
- Subjects the revised EB-4 group of workers to the annual cap and labor certification. (§102)

(OR in the alternative)

- Exempts USEK workers with advanced degrees from the EB cap. (§102)
- Exempts USEK workers with advanced degrees from the labor certification requirement. Recognizes that American employers need to hire the best-qualified personnel, and not just "minimally qualified" labor, to remain competitive. (§102)

(AND)

- Creates a market-based EB cap where unused visas fall forward annually, and exempts EB-1s, while eliminating per-country quotas. (§202)
- Includes reconciliation language that allows those pending in the EB backlogs to file for an immigrant petition, without regard to the EB cap. Such an adjustment of status application could not be approved until a visa became available. (§102)
- Exempts EB immigrant spouses and children from the cap. (§202)

Additional "Band-Aids":

- Requires a pre-certification processing system for petitions. (§301)
- Enforces AC21 30 day and six-month processing times. (§301)
- Extends L-1 status in one-year increments for those caught in the EB backlogs. (§302)
- Provides for continued work authorization and travel upon a timely filing of a renewal application to extend authorization for 240 days. (§303)
- Permits work authorization for spouses of specialty occupation (H-1B) professionals. (§201)