New visas would add jobs, spark investment in startups, tech firms
Written by Vinh Duong
July 18, 2013

As the push for immigration reform hits a fever pitch on Capitol Hill, much of the debate has centered on securing our borders and finding a pathway to citizenship for the 11 million undocumented immigrants in the U.S.

Emerging with equal force in this debate are pro-business groups and entrepreneurs pushing for sensible and meaningful immigration legislation, including creating a visa and “green card” program that encourages foreign investors to come to the U.S. and work alongside investors and venture capitalists to create and invest in new startups in the scientific, high-tech and engineering fields.

On June 27, the Senate successfully passed the Border Security, Economic Opportunity and Immigration Modernization Act, which proposes several exciting changes to U.S. immigration laws that would help stimulate the economy through job creation and capital investment in new ventures, startups and technologies.

The bill proposes to create a new “Invest” non-immigrant visa category known the X visa for “qualified entrepreneurs” who, in the three years preceding the submission of a visa petition for “X” status, have had venture capitalists or other investors devote a minimum of $100,000 to the foreign national’s U.S. business; or the foreign national’s business has resulted in the creation of a minimum of three jobs and generated a minimum of $250,000 in annual revenue.

Additionally, the bill proposes to create a new EB-6 immigrant investor visa that is numerically capped at 10,000 per year for qualified entrepreneur aliens who: 1) have a significant ownership interest in a U.S. business entity (but need not be a majority interest); 2) are employed in a senior executive position with the U.S. business entity; 3) have submitted a business plan to U.S. Citizenship and Immigration Services; 4) have a substantial role in founding the U.S. business or facilitating the early stage growth and development of the U.S. business.

According to the bill, a qualified investment may include an equity purchase, a secured loan, a convertible debt note, a public securities offering, a research and development award from a qualifies government entity or any combination thereof.

To be eligible to apply for an EB-6, the foreign national must have maintained valid non-immigrant status in the U.S. for two years. In the three years preceding the filing of the visa application, the foreign national must have had a significant ownership interest in a business that created a minimum of five jobs and received a minimum of $500,000 in venture capital or other qualifying investments; or had a significant ownership interest in a business that created a minimum of five jobs and generated a minimum of $750,000 in annual revenues.

In Tennessee, a strong correlation exists between foreign investment and economic growth. According to a report by the state Department of Economic and Community Development, over 830 foreign entities had invested in Tennessee through April 2012. Total foreign investment in the state was over $23 billion, and the total number of jobs created through foreign investment was over 106,000.
By allowing foreign investment, we gain a competitive edge over other countries, improve the quality of products and processes, create jobs, reduce unemployment and stimulate economic development. To achieve continued, sustainable economic growth in Tennessee specifically, attracting new foreign investors and entrepreneurs will be imperative.

Creating a visa and “green card” program that attracts and retains entrepreneurial talent is a win-win for the U.S. Although previous attempts have failed, the Senate bill has received broad support from business and labor and from both political parties. As a framework, it brings us closer to meaningful immigration reform that will help reinvigorate the U.S. economy.

Vinh Duong is a partner at Waller Lansden Dortch & Davis LLP who specializes in immigration law.

ORIGINALLY POSTED AT:
http://www.tennessean.com/article/20130718/OPINION03/307180054