



Comprehensive Immigration Reform, 2013 Edition

Robert W. Glover, University of Maine

As American states and communities struggle with immigration issues, the U.S. Congress has repeatedly failed to pass comprehensive reforms that include both improved entry enforcement and a path to citizenship for undocumented immigrants already in the country. Yet a promising new attempt is now making headway. On June 27, 2013 the Senate passed a comprehensive bill worked out by a bipartisan “Gang of Eight” and amended during debate to further tighten border security provisions. Now action moves to the House of Representatives. Before we learn more about the remaining legislative hurdles, let’s look at the key features of the pending legislation.

Tougher Border Security

The Senate compromise boosts resources for border security – and features “triggers” whereby its provisions about legalizing currently undocumented U.S. newcomers cannot go into effect until enforcement benchmarks are met. After GOP-sponsored amendments, the legislation devotes more than \$40 billion dollars over the next decade to vastly expand border patrol and surveillance and to fund the construction of additional barriers along the southwestern frontier. It also sets a goal of 90% effectiveness in apprehension and return of would-be border crossers.

Legalization and a “Pathway to Citizenship”

Hand in hand with tougher border measures to block new illegal entrants, the Senate bill addresses the status of the roughly 11 million undocumented immigrants presently in the United States. They could apply to become “Registered Provisional Immigrants.” Registration would be subject to background checks to weed out serious lawbreakers, and applicants would have to pay fines for originally breaking immigration laws and make up any back taxes they owe. To be approved, applicants would further have to show evidence that they are gainfully employed and are making efforts to learn English and integrate into local communities.

Undocumented residents who manage to win the new provisional status would still have a long wait to become full U.S. citizens. The Senate-passed legislation puts them on a 13-year pathway. Yet it also incorporates earlier proposals to speed the passage to citizenship for undocumented young adults originally brought to this country as children – provided they can now demonstrate higher-educational achievements or service in the U.S. military.

Key new provisions would also tweak rules for legal immigration to give a boost to would-be migrants with advanced educational credentials or skills deemed vital to the U.S. economy. Humanitarian considerations and attempts at family reunification would also remain relevant.

Enforcement Inside the Country

Significant aspects of the new legislation focus on how rules for immigrants are to be enforced across the United States, rather than simply at the borders. Right now, employers can voluntarily use the computerized U.S. “E-Verify” system to check the legal status of job applicants. The Senate legislation would make use of E-Verify mandatory for all U.S. employers within five years. In addition, the bill aims to improve the efficiency of immigration court proceedings and tightens grounds for denying admission to migrants who use fraudulent documents or have previous criminal convictions. Alongside tougher measures, the proposal would streamline the process of applying for refugee status and asylum for people who come to America in order to escape conflict, displacement, or persecution in their countries of origin.

New Visa Programs and Guest Worker Provisions

The Senate compromise includes significant future shifts in America’s ongoing non-immigrant visa programs,

as follows:

- Boosts from 65,000 to at least 110,000 annually the number special (“H1-B”) visas available to allow U.S. companies to bring in highly skilled technical and scientific workers.
- Creates a new “W-visa” to regularize and track the flow of lesser-skilled foreign workers, making 20,000 such visas available annually, rising to 75,000 annually within four years.
- Establishes a new kind of three-year visa to help attract foreign entrepreneurs and investors.
- Establishes an agricultural guest worker visa program, touted as a means to bring undocumented migrant agricultural workers “out of the shadows” – enabling government tracking but also ensuring protections for such vulnerable workers.

The Politically Perilous Road Ahead

The reform package surmounted its first major hurdle when it passed the Senate in late June by an overwhelming bipartisan majority vote of 68 to 32. Now legislative efforts focus on to the Republican-run House of Representatives, where ultra-conservative opponents of any path to legal citizenship for undocumented immigrants have much more leverage. Complicating matters, House Speaker John Boehner of Ohio has stated his intention to adhere to the “Hastert rule,” a customary practice in his party that would preclude introducing any legislation on the House floor that does not have support from a majority of Republican representatives.

Such a GOP majority is unlikely, because most Republicans oppose a path to citizenship for current undocumented immigrants. Democrats (who must provide many votes in the House) insist on including such a path. This impasse could spell doom for reform. As in earlier efforts, securing final passage will be a difficult balancing act – pitting those who frame immigration as a security issue against those who view it as an economic and humanitarian opportunity.

Nevertheless, the strong bipartisan support registered in the Senate leaves reason for cautious optimism that, in the end, President Obama will be able to sign landmark immigration reform into law. Many lawmakers in both political parties really want a deal, even if extremists do not. Failure to secure comprehensive immigration reform would be a significant setback for the Democratic Party, which has long promised reform. And key GOP leaders are trying to move away from the drubbing Republicans took with Latino and Asian-American voters in 2012. They hope to support some sort of immigration compromise that could at least clear the way for their party to attract new support in the future. To be sure, the current immigration reform compromise can still dissolve into deadlock – but maybe it will squeak through this time.