



Comprehensive Immigration Reform in the 113th Congress: Short Summary of Major Legislative Proposals

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Summary

For several years, some Members of Congress have favored “comprehensive immigration reform” (CIR), a label that commonly refers to omnibus legislation that includes increased border security and immigration enforcement, expanded employment eligibility verification, revision of nonimmigrant visas and legal permanent immigration, and legalization for some unauthorized aliens residing in the country.

Leaders in both chambers have identified immigration reform as a legislative priority in the 113th Congress. While Members of the House reportedly have considered several different approaches to immigration reform during the spring of 2013, debate in the Senate has focused mainly on a single CIR bill: the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744). This report summarizes major provisions of S. 744, as reported by the Senate Judiciary Committee. It also discusses H.R. 1417, as reported by the House Homeland Security Committee, a bill that focuses more narrowly on border security strategies and metrics.

CRS’s analysis focuses on eight major policy areas that encompass the U.S. immigration debate: comprehensive reform “triggers” and funding; border security; interior enforcement; employment eligibility verification and worksite enforcement; legalization of unauthorized aliens; immigrant visas; nonimmigrant visas; and humanitarian provisions.

This report provides a concise summary of major legislation related to each of these issues. An accompanying report, CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Legislative Proposals*, by Marc R. Rosenblum and Ruth Ellen Wasem, discusses these bills and policy areas in greater detail.

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For a number of years, some Members of Congress have favored “comprehensive immigration reform” (CIR), a label that commonly refers to omnibus legislation that includes increased border security and immigration enforcement, expanded employment eligibility verification, revision of nonimmigrant visas and legal permanent immigration, and legalization for some unauthorized aliens residing in the country. Other Members of Congress may favor addressing these issues sequentially (e.g., by implementing enforcement provisions prior to legalization), and/or may disagree with the legalization and increased legal immigration provisions that have been features of major CIR bills. Still others may be interested in legislating on some elements of CIR but not others.

Leaders in both chambers have identified immigration reform as a legislative priority in the 113th Congress. While Members of the House reportedly have considered several different approaches to immigration reform during the spring of 2013, debate in the Senate has focused mainly on a single CIR bill: the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744).

This report succinctly summarizes major provisions of S. 744, as reported by the Senate Judiciary Committee. It also discusses H.R. 1417, as reported by the House Homeland Security Committee, a bill that focuses more narrowly on border security strategies and metrics. This report will be updated to reflect additional major legislative developments as they occur. CRS’s analysis focuses on eight major policy areas that encompass the U.S. immigration debate: comprehensive reform “triggers” and funding; border security; interior enforcement; employment eligibility verification and worksite enforcement; legalization of unauthorized aliens; immigrant visas; nonimmigrant visas; and humanitarian provisions.

For a more comprehensive discussion of legislation relating to these issues see CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Legislative Proposals*, by Marc R. Rosenblum and Ruth Ellen Wasem.

Comprehensive Reform “Triggers” and Funding

Some Members of Congress have raised concerns about proposals for comprehensive immigration reform on the grounds that the “bargain” some people see at the heart of such reform—tougher enforcement on the one hand and legalization plus visa reforms on the other—may be difficult to enforce. To allay the concerns that legalization would go forward without increased enforcement, the first sections of S. 744 would make implementation of certain enforcement provisions pre-conditions for the bill’s legalization provisions. In addition, S. 744 would directly appropriate \$11.3 billion for certain enforcement measures and start-up costs associated with the bill.

At the time this report was published, no House committee had reported an omnibus immigration bill, and the question of CIR triggers and funding therefore had not been addressed in that chamber.

Border Security

Border enforcement is a core element of the Department of Homeland Security's (DHS's) effort to control unauthorized migration.¹ S. 744 includes a number of sections apparently designed to strengthen border security, including increased border security personnel, equipment, and infrastructure; DHS waiver authority and access to certain federal lands; provisions related to immigration-related crimes and prosecutions; and efforts to strengthen the entry-exit system. The bill also includes a number of provisions to strengthen oversight of border security activities. Both S. 744 and H.R. 1417 would include mandates for new border security strategies and the development of new border metrics.

Border Security Strategies and Metrics in S. 744

In the case of S. 744, DHS would be required to submit to Congress a "Comprehensive Southern Border Security Strategy" and to establish a "Southern Border Fencing Strategy," both within 180 days of enactment,² and to begin implementing the Comprehensive Security Strategy immediately upon its submission. The Comprehensive Security Strategy would describe plans to achieve and maintain "effective control" of all sectors along the Southern border. "Effective control" is defined to include "persistent surveillance" and at least a 90% "effectiveness rate"; and the effectiveness rate is defined as the sum of alien apprehensions and turn backs divided by total illegal entries.³

Border Security Strategies and Metrics in H.R. 1417

The Border Security Results Act of 2013 (H.R. 1417), as reported by the House Homeland Security Committee on May 20, 2013 (H.Rept. 113-87), also would direct DHS to submit to Congress within 180 days a comprehensive strategy and implementation plan for gaining and maintaining control of the border. The strategy under the House bill would aim to achieve "operational control," defined as in the Senate bill to include a 90% effectiveness rate. The strategy in H.R. 1417 initially would focus on "high traffic areas," defined to mean Border Patrol sectors with "the most illicit cross-border activity"; and would aim to achieve operational control of the entire Southwest border within five years. In contrast with S. 744, H.R. 1417 also would require DHS to develop new border security metrics for securing the border between ports of entry, at ports of entry, and in the maritime environment; and border metrics in H.R. 1417 would incorporate information about a wide range of border-related threats and issues, including illicit drug flows, alien recidivism rates, and border crossing wait times, among other issues.⁴

¹ For an overview of current efforts to prevent unauthorized migration at U.S. borders, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum.

² The Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744) §5.

³ S. 744 §3.

⁴ The Border Security Results Act of 2013 (H.R. 1417).

Interior Enforcement

The immigration rules established by the Immigration and Nationality Act (INA) are supplemented by an enforcement regime to deter and punish violations of those rules. Violations may be subject to criminal penalties, civil fines, and/or may be grounds for an alien to be removed from the country.

Reforms in S. 744 would amend the INA's interior enforcement provisions. The bill would provide additional resources to immigration courts, and would create additional grounds of inadmissibility and deportability, while also broadening judges' discretion to waive some of these grounds. In addition, S. 744 would encourage alternatives to detention and strengthen detention standards and congressional oversight of immigrant detention. Special provisions would be included to protect children who are affected by immigration enforcement.

At the time this report was published, no House committee had reported a bill addressing interior immigration enforcement.

Employment Eligibility Verification and Worksite Enforcement

Under current law, it is illegal for an employer to knowingly hire, recruit or refer for a fee, or continue to employ an alien who is not authorized to be so employed; but enforcement of these provisions has been problematic.⁵

S. 744 would strike and re-write the employment verification and worksite enforcement provisions of the INA, taking steps to strengthen document integrity and imposing a new requirement to be phased in over time that all employers use an electronic eligibility verification system similar to the current E-Verify system.⁶ The bill would increase civil and criminal penalties against employers who violated these provisions, and would include additional provisions designed to limit the burden on employers that would result from these changes, and to protect the rights of U.S. citizens and other lawful workers.

At the time this report was published, no House committee had reported a bill addressing employment eligibility verification and worksite enforcement.

Legalization of Unauthorized Aliens

How to address the unauthorized alien population in the United States is a key and controversial issue in comprehensive immigration reform.⁷

⁵ For an overview of existing employer sanctions provisions, see CRS Report R40002, *Immigration-Related Worksite Enforcement: Performance Measures*, by Andorra Bruno.

⁶ For an overview of the E-Verify program, see CRS Report R40446, *Electronic Employment Eligibility Verification*, by Andorra Bruno.

⁷ For a fuller discussion of these issues, see CRS Report R42958, *Unauthorized Aliens: Policy Options for Providing* (continued...)

S. 744 proposes to establish a general legalization program for most unauthorized aliens in the United States. The bill would establish a new multi-step, multi-year process that would enable eligible unauthorized aliens to transition into a provisional legal status and ultimately to lawful permanent residence. Special pathways would be created for certain aliens who entered the country as children⁸ and for agricultural workers.⁹ In general, aliens who qualify for the initial legalization program eventually could have an opportunity to apply to become legal permanent residents (LPRs).

At the time this report was published, no House committee had reported a bill addressing legalization of unauthorized aliens.

Immigrant Visas

Immigrants are persons admitted as legal permanent residents (LPRs)¹⁰ of the United States. Under current law, permanent admissions are subject to a complex set of numerical limits and preference categories that give priority for admission on the basis of family relationships, an offer or employment in the United States, and geographic diversity of sending countries.¹¹

S. 744 would substantially revise future flows of immigrant visas. Spouses and children of LPRs would be reclassified as immediate relatives, and not subject to numerical limits. Certain high skilled employment-based immigrants would be exempted from numerical limits, notably aliens with advanced degrees in science, technology, engineering, or mathematics (STEM) fields, as would the spouses and children of employment-based immigrants. Two new “merit-based” systems also would be established: one to admit workers based on their employment skills, and the other to admit persons in the existing visa backlog, adult siblings who apply before that visa is eliminated, and ultimately adjust those unauthorized aliens who would gain legal status under S. 744. The overall per-country limit would increase to 15% for family-based immigrants, and would be eliminated for employment-based immigrants. And S. 744 also would modify investor visas, establish new programs to promote immigrant integration, and make several other changes to immigrant visa policy. The current diversity visa lottery and family fourth preference visa (for adult siblings of U.S. citizens) would be phased out.

At the time this report was published, no House committee had reported a bill addressing LPR immigration.

(...continued)

Targeted Immigration Relief, by Andorra Bruno.

⁸ Such aliens previously have been the subject of similar stand-alone legislation known as the Development, Relief, and Education for Alien Minors (DREAM) Act; for a fuller discussion see CRS Report RL33863, *Unauthorized Alien Students: Issues and “DREAM Act” Legislation*, by Andorra Bruno.

⁹ Broadly similar provisions have been included in measures introduced regularly in recent Congresses, including in bills known as the Agricultural Job Opportunities, Benefits, and Security Act (AgJOBS Act)

¹⁰ Legal permanent residents (LPRs) are foreign nationals who come to live lawfully and permanent in the United States.

¹¹ For a fuller discussion, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*, by Ruth Ellen Wasem.

Nonimmigrant Visas

Nonimmigrants—such as tourists, foreign students, diplomats, temporary workers, cultural exchange participants, or intracompany business personnel—are admitted for a specific purpose and a temporary period of time.¹²

S. 744 would revise and expand nonimmigrant (i.e., temporary immigration) programs for high- and low-skilled workers, as well as for tourists, students, and other nonimmigrants. The bill would increase the cap on professional specialty workers (H-1B workers), while also imposing new requirements on businesses that employ H-1B workers, as well as those that employ intracompany transferees (L visas). Reforms would be made to the existing H-2B program for lower-skilled non-agricultural workers in temporary or seasonal employment, while the H-2A program for agricultural workers would be phased out. New nonimmigrant visa programs would be established for lower skilled agricultural and non-agricultural workers that would be more flexible for employers, while also expanding certain rights for workers. Additional nonimmigrant visa changes would facilitate temporary immigration by doctors, investors, and aliens from certain countries with U.S. trade agreements; encourage tourism within the United States; and strengthen oversight of foreign students, among other changes.

At the time this report was published, no House committee had reported a bill addressing nonimmigrant visas.

Humanitarian Provisions

The United States has long held to the principle that it will not return a foreign national to a country where his life or freedom would be threatened. This principle is embodied in several provisions of the INA, most notably in provisions defining refugees and asylees.¹³ Current law also includes provisions to protect certain other humanitarian populations.

S. 744 would increase the flexibility of asylum and refugee provisions several ways, including by expanding the time period for an alien to apply for asylum and expanding certain benefits to families of asylees. Other changes would tighten refugee and asylum laws and would be especially aimed at national security concerns. The bill also would include provisions to combat human trafficking, to protect trafficking victims, and to grant legal status to certain battered spouses and children.

At the time this report was published, no House committee had reported a bill addressing humanitarian immigration issues.

¹² For a fuller discussion of nonimmigrant visas, see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by Ruth Ellen Wasem.

¹³ For a fuller discussion, see For a fuller discussion, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno; and CRS Report R41753, *Asylum and “Credible Fear” Issues in U.S. Immigration Policy*, by Ruth Ellen Wasem.

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