

All-in-One Comprehensive Immigration Reform

IF YOU COULD MAKE A WISH and enact one major reform of U.S. immigration law, what would it be? Undoubtedly, from your perspective, it would be a worthwhile reform even if no other parts of the law were changed. The problem is that many organizations, individuals, and members of Congress would like to make one major reform, but it is unlikely a consensus could be reached on which reform it should be.

For several years, the crux of the problem has been that many people agree reforms must be made to the U.S. immigration system but disagree on the specific reforms and whether to make them piecemeal or all at once.

For several years, the crux of the problem has been that many people agree reforms must be made to the U.S. immigration system but disagree on the specific reforms and whether to make them piecemeal or all at once. A review of legislative activity on immigration from 2006 through 2012 illustrates why, despite the challenges, a larger, comprehensive reform bill, such as the Gang of Eight (S. 744) bill, remains the best approach to reforming U.S. immigration law.¹

A Lack of Success in 2006 and 2007

The story of 2006 and 2007 really began in 2001. President George W. Bush, a former Texas governor, took office determined to forge closer ties with Mexico, including a negotiated agreement immigration and a legalized flow of workers. However, the terrorist attacks of September 11, 2001, focused the country's attention on national security and gaps in our immigration system. Moreover, the temporary downturn in the economy increased anxieties about unemployment. In 2004 and 2005 President Bush expressed his support for immigration reform but did not propose legislation.

In 2006 President Bush continued to urge Congress to legalize those here illegally but also put more emphasis on border security and a temporary worker program to fill lesser-skilled jobs. The White House worked with Senator Ted Kennedy (D-MA) and Senator John McCain (R-AZ) on legislation that encompassed legalization, border security, and temporary work visas. However, as the bill moved forward in the legislative process the provisions on temporary visas were whittled back by amendments. It became

unclear whether the numbers would be too low and the process too cumbersome for the temporary visas to be effective in reducing illegal immigration. But in the end, the bill passed the U.S. Senate.

In the U.S. House of Representatives, a completely different effort took place. Led by Judiciary Committee Chair Representative Jim Sensenbrenner (R-WI), House Republicans opposed any effort at legalizing those in the country and instead filled their bill with many restrictive measures on illegal immigration. While the Senate bill contained a variety of pro-immigration measures on family and high-skill immigration, the House legislation contained no provisions on legal immigration.

In the end, House Republican leaders, buoyed by faxes and phone calls opposing the legislation, and spurred on by talk radio hosts, refused to meet with the Senate to reconcile differences between the two bills. That effectively killed immigration efforts in 2006.

In 2007 in exchange for support for legalization, Senator Jon Kyl (R-AZ) and some Senate Republican allies asked for the elimination of most family immigration categories and even employment-based preference categories. In their place would be a legislatively mandated point system to select legal immigrants. The point system in the Senate bill was poorly conceived and would have almost eviscerated the legal immigration system.

In the end, the immigration reform effort in 2007 fell of its own weight in the Senate, primarily over how to address the situation of those in the country without legal status. No bill even proceeded in

A sizeable portion of those advocating for immigration reform are motivated primarily by a desire that all or most of the undocumented immigrants in the country be granted permanent residence (a green card), which would then afford them the opportunity to apply for naturalization five years later.



the House. In short, there simply was not enough political support in Congress to make major changes to U.S. immigration law in 2007. From 2008 through 2012, no serious effort was made at a comprehensive reform of our immigration system.

Why Comprehensive Is Still the Way

Given the history of 2006 and 2007, it may be reasonable to ask if lawmakers should abandon the idea of large-scale legislation and instead focus on passing only smaller bills that deal with discrete parts of the immigration system.

There are two primary reasons why immigration reform legislation needs to be comprehensive: (1) current immigration problems are systemic and cut across many groups of interests, including economic, humanitarian, and security; and (2) a narrow piece of legislation focused on one aspect of the United States's immigration problems is unlikely to garner the political support needed to pass the U.S. Congress.

The problems in our current immigration system can be divided into three general issues. First, our legal immigration system for temporary visas and green cards does not work, particularly for international students educated at U.S. universities. The supply of H-1B temporary visas has been exhausted every fiscal year for the past decade (except for universities and nonprofit research institutes exempt from the annual quota). In practice, this has meant an international student or a foreign national from abroad might have to wait several months before knowing if an H-1B visa would be available to hire him or her.

The difficulties in obtaining H-1B status are exacerbated by the long waits for employment-based green cards. Under current law, skilled immigrants are limited by both an overall annual employment-based quota of 140,000, which includes dependents, and per country limits. That means in the employment-based second preference, a foreign national from India or China might wait six years or more for a green card. In the employment-based third preference, the wait is potentially a decade or much

longer for an Indian or Chinese national, and at least six years for those from other countries. These wait times discourage promising young people from choosing to make their careers in the United States. The wait times for family-sponsored immigrants are also long in some categories.

A second major immigration problem is that U.S. immigration law does not provide for lower skilled workers to enter legally and fill jobs in construction, restaurants, and other occupations where the work is year-long. Current temporary visa categories for lower skilled workers are only seasonal—H-2A for agriculture and H-2B for nonagricultural—and considered bureaucratic. The lack of a legal visa category has contributed to more than 5,000 deaths at the border since 1998 for those attempting to enter the country illegally.² It also has resulted in a large increase in illegal immigration.

The United States has seen the undocumented immigration population in the country rise from 3.5 million in 1990 to approximately 11 million today.³ How did this happen? Starting in the Clinton administration, the United States saw a significant increase in the number of Border Patrol agents deployed along our borders, from 4,208 in FY 1993 to 21,394 by the close of FY 2012.⁴ This made it more difficult to enter, but once individuals made it across, a large number decided to stay rather than attempt to go back and forth between the United States and Mexico or Central America. Even though illegal entry to the United States has declined significantly in recent years, as measured by apprehensions at the border, without legal avenues to enter and work there is no guarantee that trend will continue.

The third major problem with current immigration policy is the existence of a large undocumented immigrant population. Many have been here for years and are not going away. According to the Department of Homeland Security, most undocumented immigrants have been in the country for 10 years or more, firmly establishing roots.

A sizeable portion of those advocating for immigration reform are motivated primarily by a desire that all or most of the undocumented immigrants in the country be granted permanent residence (a green card), which would then afford them the opportunity to apply for naturalization five years later.

Political Reality

Solving even one of the three major issues cited above would be considered a victory for at least a segment of those who think immigration is a positive force in the country. But enacting legislation on just one such element does not seem politically possible. "Some policymakers are calling for piecemeal changes—such as issuing visas for high-skilled workers and investors, or conferring legal status on immigrants who were illegally brought into the country as children," wrote former Florida Governor Jeb Bush and Clint Bolick in the *Wall Street Journal*. "Congress should avoid such quick fixes and commit itself instead to comprehensive immigration reform."⁵ Others have echoed this sentiment. "The odds of high-skilled [legislation] passing without comprehensive is close to zero, and the odds of comprehensive passing without high-skilled passing is close to zero," said Robert D. Atkinson, president of the Information Technology and Innovation Foundation.

Following the 2012 election and the significant support President Obama received from Latino voters, the White House wanted to send a message that only comprehensive reform legislation should pass Congress. For the president, that means a bill that, at minimum, legalizes the status of many undocumented immigrants in the country. In November 2012 the U.S. House of Representatives passed H.R. 6429, the STEM Jobs Act. That bill would have increased green cards available for highly skilled immigrants but also have eliminated the Diversity Visa program. President Obama threatened to veto the legislation because “the administration does not support narrowly tailored proposals that do not meet the President’s long-term objectives with respect to comprehensive immigration reform.”⁶ The Senate did not take up the bill.

That brings us to 2013 and the effort to forge a bipartisan compromise on an immigration bill that can pass Congress and become law. Vic Johnson, senior adviser

of public policy at NAFSA explained the situation well: “Will an agreement prove possible? Despite all the reasons for skepticism, the driver is that both parties need a solution. International educators have a big stake in this, because embedded in any bill that passes will be important provisions that facilitate access to the United States for international students and scholars. If the package goes down, these provisions go down, and experience does not provide a basis for optimism that they can be separated out and passed on their own.”⁷ S. 744, the Gang of Eight bill, represents the best opportunity in the past 20 years to pass meaningful, pro-immigration reform. To succeed, those who believe immigration is beneficial to the United States will need to work together, heeding the words of Patrick Henry: United we stand, divided we fall. **IE**

STUART ANDERSON, former staff director of the Senate Immigration Subcommittee, is executive director of the National Foundation for American

Policy, an Arlington, Virginia-based policy research organization. He is the author of the book *Immigration* (Greenwood, 2010).

ENDNOTES

- ¹ The Gang of Eight is a common colloquial term used to describe the bipartisan group of eight senators who authored S. 744.
- ² U.S. Border Patrol.
- ³ Michael Hoefer, Nancy Rytina, and Bryan Baker, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011*, Office of Immigration Statistics, Department of Homeland Security, March 2012.
- ⁴ U.S. Border Patrol.
- ⁵ Jeb Bush and Clint Bolick, “Solving the Immigration Puzzle,” *The Wall Street Journal*, January 24, 2013.
- ⁶ Executive Office of the President, Office of Management and Budget, Statement of Administration Policy, H.R. 6429, November 28, 2012.
- ⁷ NAFSA BLOG: Victor C. Johnson, “For Immigration Reform to Work, We Need More Green Cards and Clear Path to Citizenship,” NAFSA Blog, February 4, 2013.


ASCENSION®
 Benefits & Insurance Solutions
 STUDENT HEALTH
 (800) 537-1777
www.4studenthealth.com

Your students are going places.
We'll be right here.

DOMESTIC & INTERNATIONAL • STUDY ABROAD • TRAVEL ASSISTANCE • REPATRIATION & MEDICAL EVACUATION