

UPDATE ON 2013 CONGRESSIONAL COMPREHENSIVE IMMIGRATION REFORM

Senate bill S.744 “*Border Security, Economic Opportunity, and Immigration Modernization Act*” -- a bill to provide for comprehensive immigration reform was introduced in the Senate on April 16, 2013, by Senator Schumer of New York and was referred to the Committee on the Judiciary. A total of 301 amendments were proposed by committee members. A third of those were considered and 92 were incorporated into the bill by voice vote. On May 21st, S. 744 passed out of the Senate Judiciary Committee on a vote of 13-5. Debate on the Senate floor began on June 7, 2013. Senators filed more than 500 amendments, but very few actually were offered on the floor or voted upon due to filibusters. The primary exception, known as the “border surge” amendment, was introduced by Senators Bob Corker (R-TN) and John Hoeven (R-ND) and adopted by a vote of 67 to 27. S. 744 as amended passed the Senate on June 27, 2013 by a vote of 68-32.

After passage, S. 744, was sent to the House of Representatives for consideration. In the case of S. 744, which contains proposals to raise revenue, the House is unlikely to simply take up the Senate bill, but could introduce essentially the same bill on the floor. Members of the House may also introduce their own comprehensive package; however, the House has been introducing a number of separate immigration bills that are packaged together for consideration.

Summary

Among the bills reported out by the House Judiciary Committee are the Border Security Results Act of 2013 (H.R. 1417), the SKILLS Visa Act (H.R. 2131), the Legal Workforce Act (H.R. 1772), the Strengthen and Fortify Enforcement “SAFE” Act (H.R. 2278) and the Agricultural Guestworker “AG” Act (H.R. 1773). The following is a summary of the major provisions from these bills.

Border Security Results & SAFE Act

- Establishes and defines new border security goals for operational control and situational awareness.
- Establishes new border security metrics between ports of entry, at ports of entry, and in maritime environments that DHS must implement within 6 months.
- Requires Homeland Security Secretary to submit 2 plans
 - Within 6 months of bill enactment a comprehensive strategy for gaining and maintaining situational awareness and operational control of high-traffic areas within 2-year period and the entries Southwest border within 5 years.
 - Within 90 days of submission of the strategy, implementation plans to achieve these goals
- Homeland Security Secretary shall certify that 2 and 5 year goals have been met
- Comprehensive strategy and implementation plans require minimum considerations regarding personnel, technology and infrastructure enhancements.
- Various oversight requirements and consultation and collaboration requirements.

SKILLS Act

- Eliminates diversity visa program and the family visa category for siblings of US citizens who are 21 and older.
- Raises per-country limit for family-based immigrations from 7-15%
- Small increases in employment-based and remaining family based visa caps. The bill would allocate additional immigrant visas to foreign graduates of U.S. universities with advanced degrees in STEM fields; increase the standard H-1B cap to 155,000 (with 40,000 more numbers for advanced-degree STEM graduates); and repeal employment-based per-country limits. The bill would also make major changes to the way required wages are calculated, and impose new wage requirements on longer-term L-1s, F-1s on OPT, and TNs.
- Creates an entrepreneur visa.

For more information on S.744 and a list of amendments, visit <http://www.judiciary.house.gov/>. The Embassy of the Republic of Kenya does not engage in the practice of law. This information is subject to change according to United States Immigration and Nationality laws. As such, it may not apply to all persons or all situations, and should not be construed as legal advice. If you find yourself in a legal situation please consult with an attorney before taking action.

AG Act

- Allows currently resident unauthorized workers to apply for newly created temporary worker program with no path to permanent residence. Establishes new H-2C agricultural worker program to replace H-2A temporary agricultural program, permitting multi-year employment and portability for some workers.

Legal Workforce Act

- Requires use of Electronic Employment Verification System (EEVS) phased in over 24 months for most employers.
- Creation of new system that enables DHS and Social Security Administration (SSA) to lock a social security number if it has been deemed misused
- Mandates completion of biometric entry-exit system within 2 years of laws enactment
- Allows state and local law enforcement agencies greater leeway to enforce federal grants to states and local governments involved in immigration enforcement to purchase equipment and technology acquisition
- Adds additional deportation and detention officers
- Makes illegal presence in the United States a federal misdemeanor; expands list of aggravated felonies, increases criminal penalties for re-entry and alien smuggling; increases penalties for failure to depart
- Increases detention space and permits detention beyond removal period for certain non citizens

Note: There has been no discussion, in the House, on the elimination of the visa backlog or a pathway to citizenship for illegal immigrants currently residing in the US. If the House passes a bill(s) that differs from the Senate bill, the bills will need to be reconciled. This may happen via a conference committee of appointed Senators and Members of the House of Representatives who would draft a compromise bill to reconcile the Senate and House versions.

Updates will be provided as more information is made available.

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PREPARATION LIST

Congress has not passed a bill yet, however, it is important to prepare your documents necessary ahead of time. The following is a general list of documents the US government may likely require for any immigration petitions or applications. It is general in nature and is not intended to be an exhaustive list for each individual's case.

1. Proof of Identity
 - a. Birth Certificate
 - b. Valid/Current Passport(s)
 - c. National ID
 - d. Drivers License
 - e. School ID
 - f. Military ID
 - g. Any other US government issued identification

2. Proof of Entry into the United States
 - a. The Arrival-Departure Record (Form I-94)
 - b. Crewman Landing Permit (Form I-95)

3. Proof of Residency/Presence in the United States
 - a. Immigration Documents
 - b. Government Records
 - c. Medical Records
 - d. Employment Records (dates, names and addresses of places worked)
 - e. Tax Records
 - f. Military Records
 - g. School Records
 - h. Religious Records
 - i. Housing records (dates and addresses of rental, mortgage, utility bills, money order receipts)
 - j. Club Memberships

4. Proof of Tax Filings
 - a. Tax Records (Proof of filings is very important. If you do not have copies, call the IRS for a free transcript order at 1-800-908-9946. If you do not have a social security number, you can obtain an Individual Taxpayer Identification Number by calling 1-800-829-1040. It is never to late to file back taxes. Contact a tax professional if you need assistance in filing your taxes.)

5. Criminal Records
 - a. Certified copies of court docket records
 - b. FBI records with fingerprints (if necessary)

6. Cost of Filing
 - a. Application fees
 - b. Fines
 - c. Attorney's fees (if necessary)

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