

COMPARING THE 2013 SENATE IMMIGRATION LEGISLATION TO PIECEMEAL BILLS IN THE HOUSE OF REPRESENTATIVES

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After years of aborted Congressional efforts to advance comprehensive immigration reform, the “Border Security, Economy Opportunity, and Immigration Modernization Act” passed the United States Senate on June 27, 2013. Fourteen Republicans joined all 54 members of the Democratic-led majority in supporting this landmark legislation.

Now the story continues in the House of Representatives, where Republicans hold the gavel. Under Speaker John Boehner, the majority shows no signs of allowing a vote on the Senate bill or any comprehensive alternative. Instead, House Republicans are taking a piecemeal approach. Prior to the August 2013 recess, four separate immigration bills were passed by the Judiciary Committee. These bills have not been scheduled for action by the full House, but they give us a good idea of what House Republicans are so far doing – and not doing – about immigration.

What the House Bills Address

Four House bills include provisions paralleling sections of the Senate legislation:

- The “Strengthen and Fortify Enforcement Act” requires stricter immigration enforcement inside the United States.
- The “Supplying Knowledge-based Immigrant & Lifting Levels of STEM Visas Act” aims to make it easier to admit highly skilled immigrants in scientific and technical fields.
- The “Legal Workforce Act” mandates that employers use an electronic employment verification system to confirm that their employees are legally authorized to work.
- The “Agricultural Guestworker Act” creates new visa categories for agricultural workers and, for the first time, non-seasonal guestworkers.

Even when they address similar issues, House proposals include specifics that reflect conservative Republican preferences – for example, by deferring to local enforcement, limiting immigrant rights, and more tightly regulating the admission of low-skilled migrants. Temporary workers would be, in fact, truly temporary under the House approach.

Big Gaps between the Senate and House

In major areas, the House has no proposals pending on key issues the Senate addresses.

- **Pathway to citizenship.** None of the House bills includes a pathway to citizenship for the estimated 11 million unauthorized immigrants currently in the United States. Under the Senate

bill, unauthorized immigrants can acquire legal status by registering for Registered Provisional Immigrant status, to be granted if they meet requirements such as having not been convicted of a serious crime, passing a background check and paying back taxes and a fine. Most immigrants granted this status must wait 10 years to apply for Legal Permanent Resident status, after which they will be eligible to naturalize in three years. Somewhat faster pathways are authorized for farmworkers and undocumented young people who were brought to the United States as children. The Senate path to citizenship is, however, not to be opened until after certain enforcement “triggers” have been met. The Department of Homeland Security must certify a 90% effectiveness rate in apprehensions of would-be illegal entrants along the southern border. In addition, 700 miles of border fencing must be in place; 38,405 additional border patrol agents must be deployed; and the E-Verify computerized system for employers to check the immigrant status of employees must be fully deployed.

- **Restructuring future immigration.** Although two of the House bills deal with agricultural guestworkers and highly skilled workers, the Senate bill fully overhauls current immigration rules and creates additional merit-based programs. A key Senate provision provides visas for low-skilled workers. Reflecting a compromise between business and labor, the actual number of additional visas would depend on unemployment and other economic conditions, and would be capped at 200,000 per year. These visas would be temporary, but workers could eventually apply for lawful permanent residence even without being sponsored by an employer.
- **Border security.** House bills do not deal with border security, even though one of them is about immigration enforcement inside the country. In contrast, the Senate toughens both border and interior enforcement. To meet the goals outlined as “triggers” for a path to citizenship (see above), the Senate calls for new technologies to allow manned or unmanned monitoring of the border. No fewer than 700 miles of border fencing are to be in place, plus electronic systems to collect visa and passport data at entry points. The Senate appropriates \$4.5 billion to toughen border security and \$30 billion to add Border Patrol agents.
- **Visa backlogs.** The Senate bill includes provisions to clear the employment and family backlogs that are clogging the current system for processing immigrant applications for legal residency, an issue that goes unaddressed in the House bills.
- **Immigrant rights.** The Senate (but not the House) reforms detention and removal, and gives new rights for some detainees plus opportunities for judges to make more case-by-case decisions. The Senate also supports programs to help them become engaged citizens.

What Will Happen to Immigration Reform?

Given the chasms between the Senate and House, prospects for final legislation are far from clear – and much depends on House Republicans resolving their own disagreements. Some favor a limited path to citizenship applying only to undocumented residents brought illegally as children, while others in the GOP House want to act only on enforcement issues. Most Democrats, however, will not agree to legislation that does not open a path to citizenship for all undocumented current residents. Total impasse is possible. But dynamics could shift after lawmakers hear from constituents during the August recess. The stakes are high, and advocates and everyday citizens on both sides of the debate are sure to make their voices heard.

Research and data from this brief were drawn from "Senate and House Immigration Reform Efforts in the 113th Congress: Side-by-Side Comparison," Scholars Strategy Network, August 2013.