

Gutierrez Proposal Sets a Marker for Reform

On December 15, Representative Luis Gutierrez (D-IL) introduced legislation to reform our immigration laws. The Comprehensive Immigration Reform for America's Security and Prosperity Act (CIR ASAP) represents an important step in getting Congress to act to fix our broken immigration system next year. Below is a thumbnail sketch of the contents of the bill.

Legalization: The bill would legalize undocumented immigrants, provided they register with the government, pass a criminal background check, pay a fine, show they've paid their taxes, and learn English and U.S. civics. They would be allowed to adjust to permanent status after the current immigration visa backlog clears (estimated to be six years). Immigrants who would be covered by the DREAM Act and AgJOBS would be covered.

Admissions Reforms: Spouses and children of Legal Permanent Residents would be treated the same as the spouses and children of citizens, exempting them from the annual immigration cap. Unused visas from previous years would be "re-captured" to reduce backlogs, and per-country ceilings would be increased. The Affidavit of Support would be revised to require a sponsor to promise support at a level of 100% of the poverty level or more, not 125% as is currently the case.

Employment-based visas would be increased, and for certain categories of highly-skilled immigrants, there would be no cap. Skilled temporary immigrants for whom an employer has petitioned for a permanent employment-based visa will be able to adjust regardless of visa availability. The investor visa category, now set to expire in three years, would be made permanent. A Commission on Labor Markets and Immigration would be created to set employment-based immigration policies and study immigration impacts.

Low-skilled immigrants for whom there have been no legal visas available (and who therefore have come primarily without authorization) would get up to 100,000 visas per year (allocated by lottery) for the first three years. After that time, the labor commission will make its recommendations regarding employment-based immigration admissions. There would be greater protections for H1B and H2B workers.

Border Security: The bill would focus more resources at border ports of entry to combat drug, arms and people smuggling, and it contains provisions to increase the accountability of border enforcement.

Detention: The bill includes standards for detention, governing access to medical care and telephones, a complaint process, and transfers. It promotes greater use of alternatives to detention and offers more protection for asylum seekers and other vulnerable populations including families.

Enforcement: Among other things, the bill repeals INA section 287(g), a provision of immigration law relating to cooperation between state and local enforcement agencies and ICE (and misused by some agencies bent on harassing immigrants or Latinos). It makes clear that the federal government is responsible for enforcing immigration laws, and the federal responsibility pre-empts state and local laws that have been passed to enforce immigration laws. An Ombudsman's office would be established within ICE. The bill would end the one-year deadline for applying for asylum.

Judicial Review: The bill would restore provisions providing for judicial review of immigration proceedings that were stripped from the law by 1996 legislation.

Electronic Employment Verification: The bill will make an Electronic Employment Verification System mandatory, but it would be rolled out over three years, conditioned upon the system's accuracy and ability to protect the privacy of individuals. Employers would face stiffer penalties for evading or misusing the system, and there would be due process protections for workers denied work due to erroneous records. It prohibits the creation of a national ID card.

Integration and Citizenship: Among other things, the bill provides for a grants program for organizations that help immigrants apply for immigration benefits and prepare for citizenship. It waives the English and civics naturalization requirements for permanent residents who have graduated from a U.S. high school, and for certain older persons. It provides incentives for employers and others who help immigrants learn English.