Congressional Research Service
Informing the legislative debate since 1914

Comprehensive Immigration Reform in the 113th Congress: Short Summary of Senate-Passed S. 744

Updated July 10, 2013

Congressional Research Service
https://crsreports.congress.gov
R43099

CRS REPORT
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

SUMMARY

R43099

July 10, 2013

William A. Kandel
Analyst in Immigration Policy

Comprehensive Immigration Reform in the 113th Congress: Short Summary of Senate-Passed S. 744

[This report was authored by Ruth Ellen Wasem, Specialist in Immigration Policy, who has retired from CRS. Congressional clients with questions about the content may contact William Kandel.]

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. The omnibus legislative approach contrasts with incremental revisions of the Immigration and Nationality Act (INA) and other immigration laws that would address some but not all of these elements, and with sequential reforms that would tackle border security and interior enforcement provisions prior to revising legal immigration or enacting legalization pathways.

Leaders in both chambers have identified immigration as a legislative priority in the 113th Congress. While the House Committee on the Judiciary has ordered reported several distinct pieces of legislation that aim to reform immigration law thus far in the 113th Congress, the debate in the Senate has focused on a single CIR bill: the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744). This report briefly summarizes major provisions of S. 744, which the Senate amended and passed by a yea-nay vote of 68-32 on June 27, 2013.

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 S. 744 related to each of these issues. An accompanying report, CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*, by Marc R. Rosenblum and Ruth Ellen Wasem, discusses the bill and policy areas in greater detail.

Contents

Comprehensive Reform "Triggers" and Funding 1
Border Security 2
Interior Enforcement 2
Employment Eligibility Verification and Worksite Enforcement 3
Legalization of Unauthorized Aliens 3
Immigrant Visas 3
Nonimmigrant Visas 4
Humanitarian Provisions 4
Congressional Budget Office Analysis of S. 744 5

Contacts

Author Information 5

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 as a legislative priority in the 113th Congress. While the House Committee on the Judiciary has ordered reported several distinct pieces of legislation that aim to reform immigration law thus far in the 113th Congress, the debate in the Senate has focused on a single CIR bill: the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744), which was reported by the Senate Judiciary Committee May 28, 2013, and was amended during three weeks of floor debate before being passed by the Senate on a yea-nay vote of 68-32 on June 27, 2013.

This report succinctly summarizes major provisions of S. 744, as passed by the Senate. 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.

[Note: This report was authored by Ruth Ellen Wasem, Specialist in Immigration Policy, who has retired from CRS. Congressional clients with questions about the content may contact William Kandel.]

For a more comprehensive discussion of legislation relating to these issues see CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*, 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 Senate-passed S. 744 would make implementation of certain enforcement provisions pre-conditions (or "triggers") for the bill's legalization provisions. These legalization triggers were substantially broadened during the Senate floor debate in an effort to strengthen the bill's enforcement provisions. In addition, as passed by the Senate, S. 744 would authorize $51.8 billion in direct spending (i.e., spending that would go into effect without further congressional action) for certain border security and immigration enforcement expenses, for initial administrative and startup costs related to the bill, and for workforce training.[1]

[1] This figure includes $46.8 billion out of the Comprehensive Immigration Reform (CIR) Trust Fund pursuant to section 6(a) of the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744); $3 billion out of the CIR Startup Account pursuant to S. 744 §6(b); $500 million out of the Interior Enforcement Account pursuant to S. 744 §3304(f); $20 million pursuant to §4701(j) to establish a Bureau of Immigration and Labor Market Research and $1.5 billion pursuant to §5102 for a Youth Jobs Fund. S. 744 also would authorize additional discretionary spending in

Border Security

Border security is a core element of the Department of Homeland Security's (DHS's) effort to control unauthorized migration,[2] and S. 744 includes a number of sections designed to better secure the Southern border. 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, and to begin implementing the Comprehensive Security Strategy immediately upon its submission. As amended during the Senate floor debate, the bill includes a detailed sector-by-sector list of technological assets to be included as minimum requirements in the Comprehensive Security Strategy; and it requires that the Fencing Strategy identify where 700 miles of fencing should be deployed along the Southern border. The bill would direct DHS to hire 3,500 additional CBP officers at ports of entry and, as amended on the Senate floor, would require CBP to deploy 19,200 additional Border Patrol agents to the Southern border.

In addition to these increases in border security personnel, equipment, and infrastructure, S. 744 would provide DHS with authority to waive certain restrictions on fencing and border infrastructure; give DHS access to certain federal lands; modify certain immigration-related crimes and increase border prosecutions; and strengthen the existing electronic entry-exit system. Of the direct spending authorized by the bill, about $45 billion would be designated for border enforcement activities, and $500 million would be designated to reimburse air and sea carriers for the collection of electronic exit data. The bill also includes a number of provisions to strengthen oversight of border security activities.

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.

Senate-passed S. 744 would amend the INA to create additional grounds of inadmissibility and deportability, while broadening judges' discretion to waive some of these grounds. For certain immigration offenses, the bill would increase civil and misdemeanor penalties for first-time offenses and impose felony penalties when aggravating circumstances exist. The bill would amend INA provisions on unlawful reentry to increase criminal penalties. S. 744 would provide additional resources to immigration courts and 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.

various places throughout the bill. For a fuller discussion, see William A. Kandel and Marc R. Rosenblum, "Funding Accounts, Direct and Discretionary Spending, Fees, and Penalties in S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act," CRS congressional distribution memorandum available from the authors to congressional clients upon request.

[2] 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.

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.[3]

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.[4] The bill would increase civil and criminal penalties against employers who violate 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. Of the direct spending authorized by the bill, $750 million would be designated for DHS to implement the mandatory electronic employment verification system to be used by all employers.

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.[5]

Senate-passed S. 744 would 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—after DHS certifies that the enforcement triggers have been satisfied—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 children[6] and for agricultural workers.[7] In general, aliens who qualify for the initial legalization program eventually could have an opportunity to apply to become legal permanent residents (LPRs).

Immigrant Visas

Immigrants are persons admitted as legal permanent residents (LPRs)[8] of the United States. Under current law, permanent admissions are subject to a complex set of numerical limits and

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

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

[5] For a fuller discussion of these issues, see CRS Report R42958, *Unauthorized Aliens: Policy Options for Providing Targeted Immigration Relief*, by Andorra Bruno.

[6] 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.

[7] 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)

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

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.[9]

Senate-passed 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, along with 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 unauthorized aliens adjusting to legal permanent 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.

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.[10]

Senate-passed 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 intra-company 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.[11] 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.

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

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

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

[11] For a fuller discussion of the H-2A and H-2B programs, see CRS Report R42434, *Immigration of Temporary Lower-Skilled Workers: Current Policy and Related Issues*, by Andorra Bruno.

provisions of the INA, most notably in provisions defining refugees and asylees.[12] Current law also includes provisions to protect certain other humanitarian populations.

Senate-passed 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.

Congressional Budget Office Analysis of S. 744

The Congressional Budget Office (CBO) projects that the changes to immigration resulting from S. 744 as passed by the Senate would result in a net increase of 9.6 million LPRs in the first decade after enactment. Although CBO has observed the long-standing convention of not incorporating macroeconomic effects in cost estimates, CBO and the Joint Committee on Taxation "relaxed that assumption by incorporating in this cost estimate their projections of the direct effects of the act on the U.S. population, employment, and taxable compensation." The increase in the number of legal residents would boost federal revenues, according to CBO, mostly because of the larger size of the labor force. CBO further estimates that the number of legal residents would boost direct spending for federal benefit programs and notes that under S. 744 direct spending for enforcement and other purposes also would increase. As a consequence, CBO estimates that enacting S. 744 as passed by the Senate would "lead to a net savings of about $135 billion over the 2014-2023 period."[13]

Author Information

William A. Kandel
Analyst in Immigration Policy

[12] 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.

[13] Congressional Budget Office, *S. 744, Border Security, Economic Opportunity, and Immigration Modernization Act*, As passed by the Senate on June 27, 2013, July 3, 2013, http://cbo.gov/publication/44397/.

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.