



U.S. CHAMBER OF COMMERCE

Fixing our Broken Immigration System

Senate Bill S. 744 Addresses Business Priorities

U.S. CHAMBER GOAL: Fixing our broken immigration system into one that drives job creation and economic growth by both better meeting the needs of employers and better utilizing the unique talents of people here and abroad.

SOLUTION: Immigration reform should include: 1) reforming our legal immigration system, including implementing workable guest worker programs for high-skilled and lesser-skilled workers as well as the agriculture industry; 2) A federal employment verification system that is workable for employers; 3) A legal status for the estimated eleven million undocumented people here that allows them to emerge from the shadows of our society and ends the awkward “don’t ask, don’t tell” situation faced by many employers; and 4) improving our borders to protect national security while facilitating the flow of trade and travel. **The U.S. Chamber supports the bipartisan Senate bill (S. 744) because it takes important steps to address all four critical immigration priorities.**

Legal Immigration – Green Card Reform

Issue: Our current immigration system hinders the ability of U.S. companies to compete for the talented workers they need to thrive. Of the approximately one million new lawful permanent residents each year, only about 59,000 were issued green cards most recently based on their skills.

Solution: Reform the legal immigration system so the workforce needs of employers are better met when sufficient numbers of qualified American workers are not located.

Increase and Rebalance Green Card Numbers: Senate bill S. 744 increases the number of green cards available for both high- and lesser-skilled workers sponsored by employers to fill jobs where qualified Americans are not available, and eliminates the per country caps that have discouraged talented immigrants from staying here because of long wait lines for nationals of certain countries. The Senate bill, while expanding numbers for employer sponsorship categories, also ensures no quotas for the spouses and minor children of green card holders (who currently are subject to wait lines and quotas) and better balances employment and family immigration categories. S. 744 creates a new merit-based classification facilitating the ability of both high- and lesser-skilled workers to immigrate from outside the country, without prior relationship with an employer here in the U.S., with credit given for family relationships to those in the U.S. The new merit-based program will go into effect five years after enactment and will fluctuate between 120,000 and 250,000 annually based upon economic indicators.

Legal Immigration – Temporary Work Visa Programs

Issue: Existing temporary worker programs are very limited, especially the H-1B for high-skilled workers and the H-2B for seasonal or temporary workers, and difficult to use, such as the H-2A for agriculture. Further, currently no temporary worker program exists for non-seasonal lesser-skilled jobs, even if an employer cannot find American workers.

Solution: Create workable guest worker programs that allow employers to hire immigrants for jobs in the U.S. in accordance with the demands of the economy if U.S. workers are unavailable.

High-skilled: The Senate legislation increases the number of H-1B visas from 65,000 and then establishes a cap of no more than 180,000 visas depending upon economic market conditions. In addition, the bill, makes needed reforms to the H-1B program such as allowing a visa holder’s spouse to work in the U.S., which will make the U.S. more attractive to highly-skilled workers without burdening American companies with unworkable requirements.

Lesser-skilled: S. 744 creates a workable construct for a new “W” visa for lesser-skilled occupations that reflects an agreement negotiated by the U.S. Chamber with the AFL-CIO. This new employer-led visa program will be administered by USCIS within the Department of Homeland Security. The W-visa has a long phase-in, beginning at 20,000 visas the first year and rising to 35,000, 55,000, and 75,000 the next three years before being determined by a formula with an overall cap of 200,000 visas per year. The W-visa construct provides flexibility for employers by allowing them to exceed the cap in certain circumstances, including uncapped registrations for authority to hire a W-visa holder already in the U.S. S. 744 also ensures the H-2B program for seasonal work will continue as a vital source for employers unable to find American workers.

Agriculture: The Senate bill establishes a new temporary worker program for Ag that includes a portable, at-will, employment-based visa (W-4) and a contract-based visa program (W-3) administered by the USDA (and not DOL). Visas are good for three years with a compounding cap beginning at 112,333 in year one and not exceeding 337,000 in a five year period. After five years, the Secretary of Agriculture will set the cap on an annual basis based upon established criterion. The unworkable H-2A program will sunset after one year.

Enhanced Employer Verification System (E-Verify)

Issue: Some states and locales have begun to establish their own employment verification schemes, creating a patchwork of inconsistent and unclear mandates for employers. This is burdensome for employers doing business in more than one state/locality and for small businesses that do not have the resources to monitor varying requirements.

Solution: S.744 creates one clear and consistent employment verification standard for employers to follow. Most importantly, the bill includes strong preemption language of state and local laws that mandate the use of E-Verify or establish state or local investigation or enforcement schemes. It also creates a clear safe harbor for good faith efforts by employers and requires private employers to only verify new hires (not reverify their entire workforce).

Legalization

Issue: Over 11 million undocumented are estimated to be residing in the U.S., of which more than seven million are working today. Neither deportation nor self-deportation of the undocumented is realistic, and ignoring this issue will not make it go away.

Solution: Upon meeting requirements for a new border security plan and border fence plan, S. 744 permits undocumented immigrants to apply to earn “Registered Provision Immigrant” (RPI) status allowing them to work and travel freely. This status is good for six years and can be renewed. RPI status requires an undocumented immigrant to come forward, be subjected to – and pass – a background check, be fingerprinted, pay fines and taxes, prove gainful employment, and prove he or she has been physically in the U.S. since at least the end of 2011. Upon meeting more border security and employment verification conditions, a person with RPI status could petition – after a minimum of 10 years – for a lawful permanent resident (“green card”) status. S.744 provides an expedited path for “Dreamers” (undocumented youth) and certain Ag workers committed to remaining in the industry.

Border Control

Issue: Consensus on how to control our nation’s borders and how to measure the achievement of sufficient border security has been elusive. In the past, some have advocated for an “enforcement only” approach or a tactic of using “enforcement first” as a trigger for any other immigration reforms.

Solution: The bipartisan Senate bill builds upon past improvements at the border by allocating more resources for fencing, surveillance, technology, and customs officers. S. 744 also requires completion of additional fencing, surveillance of 100 percent of the border, apprehension of 90 percent of undocumented border crossers in high traffic sectors, the creation of an exit system at air and sea ports, and mandatory E-Verify before the 11 million undocumented may apply for legal permanent residence.

