

July 10, 2013

### Immigration Legislation Overview

On June 27, the Senate passed its bipartisan immigration bill by a vote of 68-32. If enacted, the bill is estimated to increase the national net-population by 9.6 million people and reduce the federal deficit by \$158 billion over the next ten years. Much of the criticism of the Senate bill pertains to border security, despite a bipartisan amendment that strengthened it considerably.

Speaker of the House John Boehner, who has indicated in the past that he would not hold a vote on any bill that is not supported by the majority of Republicans in the House, has announced that he will roll out his legislative strategy sometime after a July 10 meeting. Thus far in the House, several single-issue immigration bills have passed the Judiciary Committee. Additionally, a small, bipartisan group of congressmen are drafting a comprehensive immigration bill that is yet to be released. "Path to citizenship" provisions are the most politically divisive, especially in the House and among Republicans.

We think that it is more likely than not that the House passes an immigration bill this year, and we think that in the end additional border security funding will give enough House Republicans the cover to accept the path to citizenship.

The following is a brief synopsis of the major proposals of the Senate bill:

**Increased high-skilled immigration:** The proposal allows H-1B visas, those for high-skilled immigrants, to increase from 65,000 to at least 115,000 but as high as 180,000, depending on an employer-demand trigger. Provisions are included to restrict the proportion of H-1B immigrants in a company's workforce to discourage replacing current employees and U.S. citizens, including increasing fees for employers petitioning for H-1B workers. The House Judiciary Committee has approved its own H-1B bill that would permit up to 155,000 visas for high-skilled workers.

**New guest-worker program:** A new W-visa program would be created for low-skilled guest workers, not to exceed 20,000 in 2015 and 75,000 in 2017. Provisions are included to prevent W-visa workers from working in cities with high unemployment, and to prevent employers from firing current employees to hire guest workers. W-1 visas would be administered for temporary nonagricultural workers, and W-2 visas would be administered for their dependents.

**Agricultural worker program:** Replacing the current agricultural worker H-2A visas, the bill creates W-3 visas for workers with a written contract for employment and W-4 visas for workers with an offer of employment. Agricultural workers who have worked at least 100 days over the past two years can apply for a "blue card" that would allow them to live legally in the US and apply for legal permanent residency after five years. As many as 112,333 blue cards may be

issued in the first year, not to exceed 337,000 in any future year. The House Judiciary Committee has advanced a bill that would create a new H-2C visa that would allow as many as 500,000 visas for agricultural workers annually, but would not fast track them to a green card status.

**Employer-side enforcement:** E-Verify, the Internet-based government system to check employment status, would be phased out by the Senate proposal and replaced with a new, mandatory identity-authentication system that utilizes biometric work cards or green cards. An estimated \$1.4 billion will be authorized to implement the new system. The House Judiciary Committee has approved its bill to phase in a mandatory E-Verify program incrementally based on employer size over the next two years.

**Merit-based visas:** The Senate proposal replaces a current diversity lottery system that provides 55,000 visas per annum with a new, criteria- or merit-based program of 120,000 visas, increasing up to 5% each year to 250,000 visas depending on unemployment levels. The aforementioned House H-1B bill would also eliminate the diversity visa program.

**Border security:** The proposal instructs the Secretary of the Department of Homeland Security (DHS) to create and implement a “Comprehensive Southern Border Security Strategy,” including plans for 700 miles of complete fencing along the southern border, an additional 20,000 border agents, new bases, and various surveillance systems. The proposal directs over \$30 billion for the implementation of the border security provisions. The House is expected to push for strict border security measures with more congressional oversight of DHS.

**Path to citizenship:** Those who have lived in the country illegally since December 31, 2011, are employed, are not convicted felons, and are not guilty of three misdemeanors can pay back taxes and a fine to gain registered provisional status to live in the United States legally and without the prospect of deportation. Ten years and several fines after, registered provisional immigrants can apply for legal permanent residency. Those who have lived in the United States for at least five years since the age of sixteen and have graduated from high school can apply for permanent residency after five years and citizenship thereafter if they complete two years of higher education or serve two years in the armed services.