

Summary of Border Security and Immigration Reform Act

Border Authorization and Funding

- Authorizes funding for construction of the border wall, border technology, border personnel, and modernization of ports of entry
- Authorizes use of the National Guard along the southern border to construct physical barriers and provide other support on the border
- Combats visa overstays through full deployment of the Biometric Entry-Exit System at all air, land, and sea ports of entry
- Provides advanced appropriations of the President's \$25 billion request, including funding for the wall, border technology, and border access roads and mobility
- Requires that advanced appropriations must not have been rescinded or transferred to another account in order for any visas to be issued under the new merit based category created by the bill

Closing Enforcement Loopholes and Ending Catch and Release

- Combats asylum fraud:
 - Increases the credible fear standard to require a determination that it is “more probable than not” that the asylum seeker’s statements are true
 - Repeals the requirement that asylum officers have initial jurisdiction over UAC asylum applications
- Provides equal treatment of all unaccompanied minors apprehended at the border by ensuring the safe and expeditious return to their home country of children from both contiguous and noncontiguous countries (unless the child has a legitimate asylum claim)
- Clarifies the Flores Settlement by ensuring accompanied alien minors apprehended at the border must not be separated from their parent or legal guardian while in DHS custody
- Ensures that dangerous criminal aliens who are subject to final orders of removal remain in detention until they are physically removed from the United States
- Clarifies ICE authority to issue detainers, provides indemnification for law enforcement entities that are sued for complying with DHS detainers, allows victims of murder, rape, and sexual abuse of a minor committed by an alien to bring suit against the sanctuary jurisdiction
- Ensures that alien gang members, alien gang associates, and aliens who participate in gang-related activities can be detained and removed by DHS
- Ends abuse of the Special Immigrant Juvenile (SIJ) visa by requiring applicants to prove that reunification with both parents, rather than only a single parent, is not viable due to abuse, neglect, or abandonment
- Clarifies the definition of “conviction” to address aliens who receive post-conviction relief or sentence modifications for the sole purpose of evading immigration consequences
- Bars terrorist aliens from entry and receiving immigration benefits

Legal Immigration Reforms

- Eliminates the visa lottery and reallocates 55,000 visas to a merit-based green card program as described below
- Moves to a Merit-Based System – eliminates the following family preference visa categories:
 - F-3, Married Children of U.S. Citizens - 23,400 visas

- F-4, Siblings of Adult U.S. Citizens - 65,000 visas
- Reallocates 23,400 F-3 visas to a merit-based green card program as described below
- Reallocates 65,000 F-4 visas to employment-based visa categories
- Shifts to a “First-In-Line” Visa System
 - Eliminates the per-country numerical limitation for employment-based immigrants
 - Increases the per-country numerical limitation for family-based immigrants from 7% to 15% of the total number of family-sponsored visas
 - The overall number of visas issued will not change

DACA

- Permits the DACA population to apply for a 6-year indefinitely renewable contingent nonimmigrant legal status
- Eligibility Requirements:
 - Entry prior to June 15, 2007 and continuous presence since that date
 - Under 16 years of age at time of entry into the United States
 - Under 31 years of age on June 15, 2012
 - Enrolled in an educational institute in the U.S. or has acquired a high school diploma or GED
 - Not disqualified for criminal convictions or failure to meet other requirements

New Merit-Based Visa Program

- Eligibility:
 - Children of E1, E2, H1B, and L workers who were brought by their parents lawfully into the U.S. as minors and have been continuously in the U.S. for 10 years before the date of enactment
 - Any individual granted a “contingent non-immigrant status” due to DACA eligibility
- Visa Allocation - the following visas will be stored in escrow annually for the five years following enactment:
 - 55,000 green cards from the diversity visa lottery and
 - 23,400 green cards from the F-3 family based immigration category
- Visa Availability - beginning in the sixth year of the program, the first green cards would be awarded under the new program *only if* the advanced appropriated funds for border security for that fiscal year have been made available for obligation, have not been transferred or reprogrammed for other non-border security purposes, and have not been rescinded
 - Each year, the green cards will be awarded by selecting one candidate with the most points in each of the four categories (E, H1B, L, and “contingent non-immigrant status”)
 - The process will repeat, selecting a candidate from each category, if one is eligible, until all the available green cards for that year are allocated or until no eligible applicants remain
 - Unused green cards will roll over to the next year and new green cards become available at a steady rate of 78,400 per year until all the applications are processed and all approved applicants have received green cards
 - When no eligible applicants remain the 78,400 green cards made available annually for this program will be eliminated and not reallocated
- Prioritization of Green Cards

- The new program will establish a point system through which applicants can garner prioritization based on qualifications such as education level, English language proficiency, military service and continuous employment
- Individuals would earn more points for achieving higher levels of education
- The program will establish a threshold number of points that will be required for eligibility, but applicants will have the opportunity under this program to earn the necessary points to meet the threshold in future years