

Policy Brief: New Immigration Reform Bill Supports America's Middle Class

*A Legislative Analysis of the **Comprehensive Immigration Reform for America's Security and Prosperity Act of 2009** (H.R. 4321) sponsored by Representative Solomon Ortiz (D-TX), Rep. Luis Gutierrez (D-IL) and 92 other co-sponsors*

Introduction

The Comprehensive Immigration Reform for America's Security and Prosperity Act sets the standard for an immigration policy which will boost our nation's economy and strengthen and expand its middle class.

- The bill's various legalization provisions will bring millions of undocumented immigrants out of the shadows, and empower them to more fully contribute to our economy, supporting the middle class.
- According to a Department of Labor study, workers who gained legal status under the Immigration Reform and Control Act of 1986 earned 15 percent more per hour within five years. A similar increase in wages today would increase the tax revenue, consumer power and economic contributions from currently undocumented residents.
- By bringing currently undocumented workers into the legal economy, the bill will also make them less vulnerable to exploitation in the workplace. Corrupt employers will no longer be able to use exploited immigrants to threaten the wages and working conditions of Americans aspiring to a middle-class standard of living.

The Drum Major Institute for Public Policy (DMI) offers a framework for evaluating immigration policy that centers on a two-part "middle-class test." Part One requires that: immigration policy should bolster—not undermine—the critical contribution that immigrants make to our economy as workers, entrepreneurs, taxpayers and consumers. Part Two holds that: immigration policy must strengthen the rights of immigrants in the workplace. To the extent that a proposed policy fulfills both parts of the test, we argue that it will help to strengthen and expand the American middle class, enhancing opportunities for all Americans to realize the American Dream. We assign legislation a letter grade based on how well it matches up to each of these objectives.

A complete explanation of the framework and rationale for each part of the test is fully laid out in "Principles for an Immigration Policy to Strengthen and Expand the American Middle Class: A Primer for Policymakers and Advocates," available at www.drummajorinstitute.org/immigration

Description

The Comprehensive Immigration Reform for America's Security and Prosperity Act reforms and expands the immigration visa system, includes measures to unify families and attract skilled workers and creates a process to allow currently undocumented immigrants to live and work legally in the United States. The Conditional Nonimmigrant program authorizes currently undocumented immigrants and their children and spouses to qualify for temporary legal residence in the United States, with a later opportunity to become permanent residents. To qualify for temporary legal status, an individual must stay in the United States from the enactment date of this bill; pass a criminal and security background check; pay a \$500 fine and other application fees; be employed or seeking employment, enrolled in school, a government civil service program or otherwise prove to

be a “volunteer or community member.” The visas will last for six years and are renewable in five-year increments. A Conditional Nonimmigrant visa holder can apply to be a legal permanent resident after six years or after existing visa backlogs have cleared, whichever date is earlier. Applicants for legal permanent resident status must demonstrate that they have met several requirements, including a sufficient mastery of English and payment of all federal income taxes. H.R. 4321 also enacts several measures of the DREAM Act, giving undocumented individuals who have entered the country before the age of 16 an accelerated path to legal permanent resident status and naturalization.

The new visa system eliminates large family and employment-based visas backlogs, expands the percentage of visas granted to sending countries and exempts several categories of migrants from family and employment-based visa caps. Further, H.R. 4321 sets up a new form of visa, named the “Prevent Unauthorized Migration Transitional Visa,” to admit 100,000 immigrants per year for three years from countries whose migrants make up at least five percent of total undocumented migrants to the United States; the idea is that providing an option for legal immigration will prevent unauthorized entry. After three years, migrants with transitional visas will be eligible for legal permanent resident status. Reforms to the employment-based visa system include stricter requirements to extend fair wages and working conditions to guest workers under the H1-B and H2-B visa program. Employers must also comply with requirements to prove that all employment opportunities are offered to native-born workers before extending employment visas to immigrant workers. The bill incorporates the AgJOBS Act of 2009, which gives work authorization—in the form of “Blue Cards”—to agricultural workers, creates a path for these individuals to gain legal permanent resident status and makes critical reforms to the H-2A temporary agricultural worker program. In addition, this legislation launches a new federal agency, the Commission on Immigration and Labor Markets, which will analyze the labor needs of employers along with the supply of skilled and unskilled labor, then recommend the appropriate number of employment visas to be granted each year.

The bill targets resources and improves inter-agency coordination to support the ability of federal, state and local law enforcement agencies to combat drug and firearms trafficking, human smuggling and other criminal activities along our borders. The bill further proposes significant improvements to the immigration detention system, including measures intended to ensure that all detainees receive humane treatment and are granted basic protections throughout the apprehension and transfer processes. H.R. 4321 makes it clear that the federal government has sole authority to identify, arrest, or detain individuals for violations of immigration law. A related item repeals Section 287(g) of the Immigration and Nationality Act, which authorizes Immigration and Customs Enforcement to cede immigration enforcement responsibilities to local law enforcement agencies. H.R. 4321 also bans employers from knowingly hiring or recruiting undocumented immigrants. The Electronic Verification System (EEVS), to be implemented in phases, is intended to enable employers to confirm that all workers are eligible to work in the United States. Employers who hire or continue to employ undocumented workers face stiff criminal penalties, while employers who misuse the EEVS system face civil penalties.

Middle-Class Test Part One: Immigration policy should bolster-not undermine-the critical contributions that immigrants make to our economy as workers, entrepreneurs, taxpayers and consumers.

Grade: A

The American middle class relies on the economic contributions of immigrants, both legal and undocumented. This legislation establishes various pathways to legal status for currently undocumented immigrants, enabling millions to continue working, paying taxes and supporting local economies. The bill also aims to increase legal avenues for both low and high skilled workers currently living abroad to enter the country and contribute to our economy. In particular, the expanded EB-5 visa program admits thousands of immigrants who agree to start new businesses, boost struggling businesses and create new jobs. What’s more, the bill gives several categories of conditional visa holders (for example, Conditional Nonimmigrant and Blue Card visa holders) the

opportunity to earn legal permanent resident status. With a permanent foothold in the country, these immigrants will have stronger incentives to advance their careers, buy homes and otherwise invest in their communities.

Middle-Class Test Part Two: Immigration policy must strengthen the rights of immigrants in the workplace.

Grade: A –

When immigrants lack rights in the workplace, labor standards are driven down and all working people have less opportunity to enter or remain part of the middle class. This bill improves the labor rights of currently undocumented immigrants who gain conditional or temporary legal status—bringing these workers out of the shadows means that they can more freely exercise their labor rights and organize for better working conditions without the constant threat of deportation. Allowing these workers to earn legal status brings their employment out into the open—a more regularized workplace that enables effective enforcement of U.S. wage and hour laws, workplace safety standards and other labor regulations, benefitting all working people who rely on these protections.

It is significant that the bill does not create the type of flawed guest worker program that limited the ability of previous immigration proposals to meaningfully strengthen immigrants' workplace rights. Establishing new guest worker programs would undermine the nation's current and aspiring middle class by institutionalizing a permanent two-tiered labor market. The more jobs that can be transformed into "guest worker jobs," the fewer domestic jobs will provide the wages and benefits capable of supporting a middle-class standard of living. Instead, this bill makes crucial reforms to the existing temporary visa structure, including the H-2A and H-2B temporary worker programs. The bill requires employers to guarantee temporary immigrant workers the same wages, benefits and working conditions as U.S. workers; H.R. 4321 also directs the Department of Labor to enforce stricter penalties for employers who violate these regulations. The bill establishes protections for immigrant workers who speak out against exploitive labor conditions; workers who are retaliated against by employers for reporting violations of their labor rights can receive temporary visas and work authorization. In addition, the bill expands the current U-visa program to add whistleblower protections for violations of civil and labor rights. The bill enacts stronger protections for foreign workers recruited abroad and mandates that these workers cannot be hired to replace U.S. workers involved in labor disputes.