

What's on the Menu? Immigration Bills Pending in the House of Representatives in 2014

During the 113th Congress more than a dozen immigration bills have been introduced in the House of Representatives, but no major immigration reform legislation has made it to the House floor as of April 2014. Several bills related to immigration were also introduced, with some receiving votes on the floor.¹ The following discussion outlines some of the significant immigration bills introduced in 2013 and 2014 and provides analysis of their key points.

Overview of Significant Immigration Bills in the House of Representatives

Four bills voted out of the Judiciary Committee along party lines:		
<u>H.R. 2278</u> : the Strengthen and Fortify Enforcement Act (SAFE Act)	Introduced by Judiciary Chairman Goodlatte (R-VA), Immigration Subcommittee Chairman Gowdy (R-SC). Passed Committee with vote of 20 to 15 on June 18, 2013.	<u>Interior enforcement bill</u> that expands enforcement at state and local levels, criminalizes unlawful presence and imposes jail time, and significantly increases mandatory detention of immigrants. CBO estimate of implementation cost: \$22.9 billion for 2014-2018 period. ²
<u>H.R. 2131</u> , the Supplying Knowledge-based Immigrants and Lifting Levels of STEM Visas Act (SKILLS Visa Act)	Introduced by Darrell Issa (R-CA). Passed Committee on June 27, 2013 by a vote of 20 to 14.	Higher-skilled immigration bill that increases immigrant and non-immigrant employment-based visas for skilled immigrants, entrepreneurs, and STEM graduates, while decreasing family-based immigration and eliminating the diversity visa program. CBO cost estimate: the bill would increase revenues by \$118 billion over the 2014-2024 period. ³
<u>H.R. 1773</u> , the Agricultural Guestworker Act	Introduced by Judiciary Chairman Goodlatte (R-VA). Passed Committee with a vote of 20 to 16 on June 19, 2013.	Agricultural worker bill that simplifies and expands visa programs for agricultural employers while lowering worker wages and reducing worker protections.
<u>H.R. 1772</u> , the Legal Workforce Act	Introduced by Lamar Smith (R-TX). Voted out of Committee by a vote of 22 to 9 on June 26, 2013.	Establishes national electronic employment eligibility verification system that all employers would be required to use within two years.
One bill voted out of Homeland Security Committee unanimously:		
<u>H.R. 1417</u> , the Border Security Results Act	Introduced by Representative McCaul (R-TX). Passed by the Committee by unanimous voice vote on May 15, 2013.	Requires control of the southwestern border within 5 years and emphasizes measurable metrics and independent verification of results.

Independently introduced bills involving immigration reform:		
H.R. 15 , the Border Security, Economic Opportunity, and Immigration Modernization Act	Introduced on October 2, 2013 by Representative Garcia (D-FL). As of March 2014 H.R. 15 had 199 co-sponsors, including Republicans Jeff Denham (R-CA), Ileana Ros-Lehtinen (R-FL), and David Valadao (R-CA).	A modified version of S. 744 , a major immigration bill passed by the Senate on June 27, 2013, H.R. 15 is a comprehensive bill addressing border security, a path to citizenship for the undocumented, interior enforcement, visa backlogs, higher and lower skilled work visas, visa backlog reduction, family visas, and the immigration courts, among other issues. See Guide to H.R. 15 .
H.R. 3431 , the American Families United Act	Introduced on October 30, 2013, by Reps. Pearce (R-NM) and O'Rourke (D-TX). Co-sponsors include Reps. Costa (D-CA) and McGovern (D-MA).	Amends the current immigration system to allow legalization of some of the undocumented and address the separation of immigrants from U.S. family members. No new paths to legal status are created.
H.R. 3163 , the Comprehensive Immigration Reform for America's Security and Prosperity Act of 2013 (CIR ASAP)	Introduced by Reps. Grijalva (D-AZ) and Vela (D-TX) on September 20, 2013. 37 Democrats are co-sponsors.	A comprehensive bill addressing border security, enforcement, employment verification, visa backlog reduction, STEM visa increases, and citizenship for the undocumented, among other issues, with more generous benefits and fewer punitive proposals.
H.R. 435 , the Military Enlistment Opportunity Act of 2013	Introduced by Rep. Coffman (R-CO) on January 29, 2013, with 16 co-sponsors.	Would allow certain undocumented immigrants to obtain legal status through military service, including beneficiaries of the Deferred Action for Childhood Arrivals (DACA) program.
H.R. 714 , the Startup Act 3.0	Introduced by Rep. Grimm (R-NY) on February 14, 2013. 14 Republican and Democratic co-sponsors as of April 2014.	Provides additional green cards for immigrants with advanced degrees in STEM fields and certain immigrant entrepreneurs. Per-country quotas for employment-based visas are eliminated.
H.R. 2377 , the Encourage New Legalized Immigrants to Start Training Act (ENLIST Act)	Introduced by Rep. Denham (R-CA) on June 14, 2013. 48 Republican and Democratic co-sponsors as of April 2014.	Would allow certain undocumented immigrants who entered the U.S. as children to obtain legal status through military service.
H.R. 4178 , the American Entrepreneurship and Investment Act of 2014	Introduced by Reps. Polis (D-CO), Salmon (R-AZ), Garcia (D-FL), and Amodei (R-NV) on March 6, 2014.	Makes the EB-5 immigrant investor program permanent, streamlines procedures, tightens requirements and oversight, and includes the Commerce Department in the regulation of the program.
H.R. 4303 , the Border Enforcement	Introduced by Rep. O'Rourke (D-TX), co-sponsored by Pearce (R-NM) and Filemon	Establishes a border oversight commission and border ombudsman charged with overseeing border enforcement and protecting human

Accountability, Oversight, and Community Engagement Act of 2014	(D-TX) on March 26, 2014.	rights.
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Summaries of Significant Immigration Bills in the House of Representatives

H.R. 2278, the SAFE Act

The SAFE Act represents a wide-ranging effort to increase interior enforcement, expanding numerous punitive enforcement measures, shifting more immigration enforcement authority to states and localities, criminalizing unauthorized status, greatly increasing mandatory detention of immigrants, and generally relying on the enforcement philosophy known as “attrition through enforcement.”⁴ The Congressional Budget Office estimates that its implementation would cost \$22.9 billion over the 2014-2018 period.⁵ See fact sheet on the [SAFE Act](#). Key provisions include:

- **Expansion of local immigration bills like Arizona’s [SB 1070](#):** The bill attempts to overturn the Supreme Court decision in [Arizona v. U.S.](#), preventing states from legislating in certain areas of federal immigration law,⁶ by authorizing both state and local governments to enforce federal law and to create their own immigration enforcement laws. States and localities that decline to enforce federal immigration law would lose federal funds.
- **Criminal prosecution for unlawful presence:** Makes unlawful presence in the United States a criminal act for the first time and imposes jail time for the offense. Historically unlawful presence alone has been a civil violation, not a crime. Criminal penalties include fines and/or up to 6 months in jail for the first offense and up to 2 years in jail for the second offense.
- **Increased mandatory detention:** Imposes mandatory detention of persons arrested for suspected immigration violations at the state and local level, and precludes the use of secure alternatives to detention such as ankle bracelets or release on bond, even for individuals not considered a danger or a flight risk. Immigrants charged, but not convicted, of a crime could also be detained.
- **Expanded definition of “aggravated felony:”** Expands the definition of the most serious offense in immigration law, the “aggravated felony.” An “aggravated felony” is an arbitrary immigration concept which needn’t be aggravated or a felony. An “aggravated felony” triggers the automatic deportation and permanent exclusion of any non-citizen.⁷ The category would be expanded to include acts related to assisting unauthorized immigrants, improper entry and reentry, and two DUIs, regardless of whether they are misdemeanors or when they occurred.
- **Deportation of DREAMers and Decreased Prosecutorial Discretion:** Eliminates the administration’s discretion to temporarily stay deportation of young immigrants who were brought to the U.S. as children and meet other age and educational requirements under the Deferred Action for Childhood Arrivals program (DACA). The bill prohibits

implementation of memorandums that prioritize the deportation of serious criminals over those with clean criminal records, close U.S.-citizen family members, or relatives in the military, among other factors.

H.R. 2131, the SKILLS Visa Act

The SKILLS Visa Act increases immigrant and non-immigrant employment-based visas for skilled immigrants, entrepreneurs, and STEM graduates, while decreasing family-based immigration and eliminating the diversity visa program. Employment-based visa backlogs that disproportionately affect certain nationalities, such as Indians and the Chinese, are eliminated. Some provisions are similar to the higher-skilled provisions of the Senate bill, although the higher-skilled visa increases are offset by deeper cuts to family immigration. The CBO estimates the bill would increase revenues by \$118 billion over the 2014-2024 period, primarily due to increased tax income and expansion of the labor force.⁸ Key provisions include:

- **Increase in employment-based immigrant visas:** Raises the employment-based immigrant visa cap from 140,000 to 235,000 per year. Eliminates country-specific limits on employment-based visas, addressing severe backlogs for immigrants from certain countries. Specific allocations are made for graduates with advanced degrees in science, technology, engineering and mathematics (STEM) fields.
- **Higher-skilled temporary visas:** The cap for non-immigrant H-1B skilled worker visas is increased from 65,000 to 155,000. The required wage that H-1B workers must be paid is raised in most circumstances by reducing the prevailing wage system from a 4-tier system to a 3-tier wage level system (similar to that adopted in the [Senate bill](#)). Spouses of H-1B workers would be allowed to work.
- **Decreases in family visas and diversity visas:** family-based immigrant visas are reduced from 480,000 to 440,000 per year. The immigrant category for siblings of citizens is eliminated. The diversity visa program, which allocates visas to countries with low rates of immigration, is eliminated.
- **Entrepreneurs and investment visas:** the EB-5 immigrant investor pilot program is reformed and made permanent and a new EB-8 immigrant visa for venture-capital backed entrepreneurs is created.
- **Wages and working conditions:** L visa intracompany transferees, TN visa holders, and students working on OPT would have to be paid at least the prevailing wage and could not adversely affect US working conditions.
- **Fees and procedures:** New fraud-prevention fees would be imposed on applications, and certain procedures would be streamlined for companies who file multiple employment-based petitions.

H.R. 1773, the Agricultural Guest Worker Act

This bill creates an H-2C agricultural worker visa program to replace the H-2A program. The H-2C program would simplify and expand the program for agricultural employers, while reducing worker wages and protections. The bill streamlines the agricultural worker program, which is expensive and cumbersome for employers, according to the American Farm Bureau Federation.⁹

However, when compared to S.744's agricultural provisions, which were the product of agreement between agribusiness and the United Farmworkers, the bill lowers wages and weakens legal protections in ways that may harm working conditions for both guest workers and U.S. workers alike. The H-2C visa is temporary, would not lead to permanent residence, and would exclude workers' family members. The undocumented would be required leave after the visa's expiration and could not change to any other status. The bill provides no permanent solution for the experienced but undocumented workers upon which agricultural employers now depend. Key provisions include:

- **Attestation of recruitment of US workers:** Employers must attest that they have conducted adequate recruitment and have been unable to find qualified U.S. workers. The Department of Agriculture, as opposed to the Department of Labor, will be responsible for reviews, audits, and fines to ensure compliance.
- **Wages and working conditions:** H-2C workers must be paid the higher of the prevailing wage or the federal, state, or local minimum wages. These wages would generally be lower than current requirements under the H-2A program. Employers would be required to offer U.S. workers the same wages, benefits, and working conditions. Employers would no longer be required to provide guest workers with housing or transportation.
- **Longer-term positions:** The H-2C worker program could be used to fill longer-term positions, in addition to seasonal or short-term positions, and would be expanded to cover food processing such as dairy, meat, fish, and shellfish.
- **Withholding wages and foreign stay requirements:** 10% of worker wages would be withheld. These wages could only be recovered after the worker returns to their country of origin. H-2C workers would be required to remain outside the U.S. for a certain amount of time before returning.
- **Reduction of guarantee of anticipated employment:** H-2C workers would be guaranteed 50% of the employment they were initially offered in their contracts. Currently H-2A workers are guaranteed $\frac{3}{4}$ of the hours they were originally promised.
- **Workers' rights:** Workers would be subject to binding arbitration for work-related grievances and would be required to participate in mediation before any civil action could be brought against an employer.
- **Visa cap:** H-2C visas would be capped at 500,000 per year. The cap could be adjusted by the Department of Agriculture based on demand, unemployment rates, and other factors. The H-2A program is uncapped.

H.R. 1772, the Legal Workforce Act

The Legal Workforce Act establishes a national employment eligibility verification system that all employers would be required to use within two years of enactment to verify the employment eligibility of new hires and employees with expiring work authorization. This timeline is significantly shorter than [S.744](#)'s 5-year employment verification implementation plan, which is combined with work visa reforms and legalization programs designed to provide access to the legal workforce employers need. H.R. 1772 provides enforcement without broader reforms. Provisions of the bill include:

- **Employment eligibility verification system:** creates an employment eligibility verification system similar to the E-Verify program established in 1997. Inquiries may be made by phone and the internet or other toll-free electronic media. Government response time should be within 3 working days.
- **Two-year implementation requirement:** phases in mandatory implementation by requiring employers with 10,000 or more employees to use the system within 6 months of enactment. Those with 500 to 9,999 employees are given a year, those with 20 to 499 employees have 18 months, and employers with as few as 1 employee have two years. Agricultural employers would be given two years to comply.
- **Notification of multiple usage of social security numbers:** the Social Security administration would be required to notify employees annually who submit social security numbers that are used by multiple persons.
- **Fines and compliance:** Fines for non-compliance would be raised to up to \$25,000. Multiple violations could result in a fine of up to \$15,000 per unauthorized worker and from one to ten years in prison. Exceptions could be made for good faith attempts to comply.

H.R. 1417, the Border Security Results Act

The Border Security Results Act requires control of the southwestern border within 5 years and emphasizes measurable metrics and verification. Passed out of the House Homeland Security Committee before the Senate adopted S.744, it was conceived as a stand-alone border security bill that emphasizes analysis of security goals and independent verifiability. The broader policy implications of H.R. 1417 remain to be seen if it is adopted as part of a broader plan to fix the legal immigration system or in conjunction with legalization. Provisions include:

- **“Situational awareness” and “operational control” within 5 years:** requires certification of “situational awareness” and “operational control” of high traffic areas within two years and certification of “operational control” of the entire southwestern border within five years.
- **“Situational awareness” and “operational control” defined:** “Situational awareness” is an understanding of illicit border crossing activity using existing and new surveillance technology. “Operational control” is achieved when there is not lower than a 90% “illegal border crossing effectiveness rate.” The effectiveness rate is obtained by dividing the number of apprehensions of border crossers by the total estimated number of apprehended and un-apprehended border crossers.
- **Measuring results and allocating funding:** The bill requires the development of metrics to measure the achievement of goals, regular reports on progress, and independent reviews by the Government Accountability Office. Funds are not appropriated for implementation until the appropriate strategies and costs are determined.

H.R. 15, the Border Security, Economic Opportunity, and Immigration Modernization Act

H.R. 15 is a comprehensive immigration reform bill based on [S. 744](#), which was passed by the Senate in 2013. For the most part, the bill closely mirrors the Senate bill, but does not include the “border surge” provisions known as the Corker-Hoeven amendment or other amendments rolled into Corker-Hoeven as introduced on the Senate floor. Instead, the House bill includes the border provisions of H.R. 1417, the Border Security Results Act, as passed unanimously by the House Homeland Security Committee. H.R. 1417 was a stand-alone bill and its border security goals do not serve as “triggers” for H.R. 15’s legalization programs. Instead, H.R. 15 presents S. 744’s security triggers as alternative security goals that could be required before H.R. 15’s legalization programs can take effect, at the discretion of DHS.

A comprehensive reform bill, H.R. 15 addresses border security, a path to citizenship for the undocumented, paths to citizenship for undocumented childhood arrivals and agricultural workers, interior enforcement of immigration laws, employment eligibility verification, visa backlogs, family visas, agricultural worker visas, higher and lower skilled work visas, visas for investors and entrepreneurs, green cards for STEM workers, and the dysfunctional immigration court system, among other important issues. A detailed summary of this bill may be found in the [Guide to H.R. 15](#).

H.R. 3431, the American Families United Act

H.R. 3431 focuses on amendments to the current immigration system that address the separation of immigrants from their U.S. family members. The bill expands discretionary governmental authority to waive minor violations of the law, but in contrast to H.R. 15 does not create a discrete program for legalizing the undocumented. The bill focuses on a narrow group of individuals who might be eligible for legal status under current law but for certain legal obstacles. For example, the bill would allow young undocumented immigrants who entered the United States as children to obtain higher-skilled H-1B visas by waiving the [“3 and 10 year bars”](#).¹⁰ The currently-available waiver of the 3 and 10 year bars based on hardship to a family member is expanded to include parents of a citizen or permanent resident. Other bars are also limited in their scope. The authority of judges and immigration officials is expanded to waive other obstacles to legal status in the interest of family unity and the public welfare. There is no authority to waive serious crimes or threats to national security. See our [“Understanding H.R. 3431: The American Families United Act”](#) fact sheet.

H.R. 3163, Comprehensive Immigration Reform for America’s Security and Prosperity of 2013

Essentially the same as [H.R. 4321](#), the “CIR ASAP” bill introduced in 2009, H.R. 3163 is a comprehensive proposal addressing border security, enforcement, employment authorization verification, visa backlog reduction, STEM visa increases, and legalization and citizenship for the undocumented, with an emphasis on more generous benefits and fewer punitive enforcement proposals. CIR ASAP provides a more accelerated path to citizenship than S.744, creating a 6 year temporary legal status that leads to citizenship in about 11 years. The bill addresses preventing abuses by Customs and Border Protection, improving immigrant detention conditions, restricting state involvement in immigration enforcement by repealing the 287(g) program, and eliminating waits for visas for spouses and children of permanent residents. Like S. 774 and the American Families United Act, the bill allows judges and immigration officials to consider the individual circumstances of immigrants who may be eligible for immigration benefits. A

Commission on Immigration and Labor Markets is created to set immigration policy.

H.R. 435, the Military Enlistment Opportunity Act of 2013

H.R. 435 would allow certain undocumented immigrants to obtain legal status through military service, including beneficiaries of the Deferred Action for Childhood Arrivals (DACA) program. Undocumented enlistees in the armed forces are provided lawful permanent status under the expired registry provision of the INA.

H.R. 714, the Startup Act 3.0

H.R. 714 would provide 50,000 additional green cards for immigrants with advanced degrees in STEM fields and 75,000 green cards for certain entrepreneurs. The residency status for these visas would be conditional and would become permanent after certain conditions are met. Per-country quotas for employment-based visas would be eliminated. Country caps for family-based immigrant visas are increased from 7% to 15% per country. The bill also addresses tax and regulatory issues.

H.R. 2377, the ENLIST Act

The ENLIST Act would authorize the enlistment in the Armed Forces of undocumented immigrants who were younger than 15 years of age when they entered the United States. It would allow them to obtain lawful permanent residence through military service.

H.R. 4178, the American Entrepreneurship and Investment Act of 2014

H.R. 4178 would make the EB-5 immigrant investor program permanent, streamline EB-5 procedures, include the Commerce Department in the regulation of the EB-5 program, exclude persons liable for fraud or securities violations from participation in regional centers, allow for concurrent filing of EB-5 petitions and adjustment of status applications, and allow national interest waivers for entrepreneurs.

H.R. 4303, the Border Enforcement Accountability, Oversight, and Community Engagement Act of 2014

The bill is intended to increase accountability and community engagement within U.S. Customs and Border Protection. Like the [Senate bill](#), it establishes a border oversight commission charged with overseeing border enforcement, protecting human rights, and improving CBP officer training, among other duties. A border ombudsman office is created.

Endnotes

¹ The Senate passed S. 744, a major immigration reform bill, by a vote of 68 to 32 in June 2013. See [Guide to S. 744](#). In the House, minor immigration-related legislation that has been brought to a vote on the floor by leadership includes an appropriations bill amendment designed to defund the [Deferred Action for Childhood Arrivals](#) (DACA) program, a proposal denying child tax credits to the children of the undocumented, and [H.R. 4138](#), the Enforce the Law Act, authorizing Congress to sue the President or government agencies for failure to enforce the law, which was primarily motivated by opposition to the administration's DACA program.

² [Congressional Budget Office Cost Estimate](#), "H.R. 2278: Strengthen and Fortify Enforcement Act," December 5, 2013.

³ [Congressional Budget Office Cost Estimate](#), “H.R. 2131: the Supplying Knowledge-based Immigrants and Lifting Levels of STEM Visas Act,” March 12, 2014.

⁴ Immigration Policy Center, [Cracking the Safe Act: Understanding the Impact and Context of H.R. 2278, the “Strengthen and Fortify Enforcement Act”](#) (Washington, DC: American Immigration Council, September 16, 2013).

⁵ [Congressional Budget Office Cost Estimate](#), “H.R. 2278 Strengthen and Fortify Enforcement Act,” December 5, 2013.

⁶ [Arizona v. U.S.](#), 567 U.S. (2012).

⁷ Immigration Policy Center, [Aggravated Felonies: An Overview](#) (Washington DC: American Immigration Council, March 16, 2012).

⁸ [Congressional Budget Office Cost Estimate](#), “H.R. 2131 the Supplying Knowledge-based Immigrants and Lifting Levels of STEM Visas Act,” March 12, 2014.

⁹ Patrick O’Brien, John Kruse, and Darlene Kruse, [Gauging the Farm Sector’s Sensitivity to Immigration Reform via Changes in Labor Costs and Availability](#) (Washington, DC: World Agricultural Economic and Environmental Services, February 2014).

¹⁰ INA § 212(a)(9)(B). The “3 and 10 year bars” ban foreign nationals from re-entering the U.S. for 3 years if they had been unlawfully present in the U.S. for 180 days but less than a year, and bars them for 10 years if they were unlawfully present for a year or more. The bar also makes them inadmissible for purposes of becoming lawful permanent residents.