



How the Bipartisan Immigration Reform Bill Will Strengthen Labor

Background on Immigration Reform and Labor

Our broken immigration system contributes to the continued reliance on undocumented workers. As long as they remain in the shadows these undocumented workers will remain subject to wage exploitation and abuse, undercutting incomes and standards for all workers.

- In 2011 approximately 8 million undocumented workers made up a 5.2% share of the labor force. Nearly two-thirds of these workers are employed in three broad categories, compared to 31% of U.S.-born workers in the same occupations, including: [Pew Hispanic Center]
 - 33% as service workers;
 - 16% as construction workers;
 - 14% as production and installation workers.
- Undocumented immigrant workers are more likely to experience wage violations than their native-born counterparts. According to a recent survey, 76.3% of undocumented workers have worked off the clock without pay. Nearly 40% of undocumented immigrant workers reported routine minimum wage violations. [National Employment Law Project, [2/13](#); National Employment Law Project, [8/11](#); Center for Urban Development, [9/09](#)]
- Undocumented immigrant workers are at increased risk of retaliation from employers for raising concerns about abuse on the job. Only 20% of immigrant hotel workers filed workers' compensation claims for "fear or getting 'in trouble' or being fired." [National Employment Law Project, [2/13](#)]

Immigration Reform Would Strengthen Labor

The Border Security, Economic Opportunity, and Immigration Modernization Act would strengthen the labor force by bringing people into the legal system and ensuring that they have the same rights and protections as American workers. It would also provide the Department of Labor with enhanced tools to police abuses of the legal immigration system, safeguard American workers by making sure they have the first shot at any job opening, and ensure that employers can only rely on immigrant labor when they truly need it.

- **Immigration reform would bring people into the legal system and put them on an accountable path to citizenship.** The legislation would give unauthorized immigrants currently in the country one year to apply for Registered Provisional Immigrant (RPI) status if they have been in the country since before December 31st, 2011, pass criminal and security background checks showing they have not committed a felony, 3 or more misdemeanors leading to a prison sentence of longer than 90 days, or voter fraud, pay a \$1,000 penalty either in lump-sum or installments, pay back taxes, and pay fees to register for RPI status.

- Once an unauthorized immigrant has achieved RPI status he or she will be considered to be legally present in the United States, and will be able to organize and rely on labor protections to combat abuse and exploitation, just as other U.S. workers can. For example, the bill would give workers on the path to citizenship the right to get a pay stub, allowing them to prove employment and making it easier to crack down on wage theft and labor law violations.
- An individual in RPI status will be able to apply to become a Lawful Permanent Resident after 10 years if he or she stays in the country, pays taxes, pays a \$1,000 penalty in lump-sum or installments, works regularly, learns English, and waits for the backlog of applications for legal family and employment green cards to clear.
- After achieving LPR status individuals could apply for citizenship in three years.
- **Reform would make the immigration system responsive to changes in unemployment.** The legislation would adjust the levels for employment-based visas to ensure that employers are only able to hire foreign workers when they are truly needed, and not when large numbers of Americans are looking for work, by limiting or prohibiting the ability to hire foreign workers if unemployment is above 8.5% in the employer's metropolitan statistical area.
- **Immigration reform would guarantee data-driven determinations of employer needs.** The H-1B Visa allowance would be determined according to a High Skilled Jobs Demand Index that accounts for unemployment levels and visa demand. For the new, low-skill W Visa the legislation establishes an independent statistical agency called the Bureau of Immigration and Labor Market Research that will use data-driven monitoring of the labor market and worker shortages to determine the annual change in the W Visa cap based on changes in job openings, the number of Americans looking for work, the percentage change recommended by the Bureau, and data about the proportion of the cap used in the previous year.
- **Immigration reform would require employers to recruit American workers first.** The legislation includes several protections to ensure that companies must attempt to find an American worker for any job opening before attempting to fill the opening with a foreign worker. Employers would have to post detailed descriptions of job openings on a Department of Labor website for at least 30 days, engage in active recruitment of American workers through job fairs, advertising, and other means, and demonstrate that they are not displacing American workers and cannot find qualified American workers for the job. Employers must document good faith recruitment of U.S. workers and certify that their H-1B workers have not replaced and skilled U.S. workers. Agricultural employers would have to file job offers with their state workforce agencies and keep records of American applicants.
- **Reform would deter employer abuse of the immigration system.** Employers would have to pay extra fees and higher salaries in order to higher foreign workers, ensuring that they are truly needed and would not undercut opportunities for American labor. For example:
 - Employers with more than 50 employees that heavily rely on H-1B workers will be required to pay up to a \$10,000 fee per additional H-1B worker or L-1 employee as well as increased wages to deter abuse and ensure that workers are truly needed.
 - Employers who meet reliance thresholds on H-1B and L-1 workers are restricted from engaging in outplacement. An employer whose U.S. workforce consists of 15% or more L-1 workers may not outplace a worker to a third-party site, and any outplacement carries with it a \$500 fee.

- The Secretary of Labor would create a toll-free hotline and website so that employees can anonymously report violations of H1-B visas requirements.

Key Facts About Immigration Reform and Labor

Undocumented Immigrants in the Labor Force

- Undocumented immigrant workers represent a high proportion of employees in a number of occupations, including: [Pew Hispanic Center]
 - 22% of farmworkers, including over half of the seasonal workforce; [[Farmworker Justice](#)]
 - 26% of sewing machine operators;
 - 25% of maids and housekeeping cleaners;
 - 15% of construction workers;
 - 12% of food preparation workers.

Exploitation of Undocumented Immigrants

- The first nationwide study on day laborers indicated that three-fourths were undocumented immigrant workers, and that more than half said employers had cheated them on wages in the previous two months. [NYT, [2/22/06](#)]
- A Seton Hall University Law School report highlights that 26% of undocumented immigrant workers polled across New Jersey had been assaulted by their employer and only 14% reported the incident to the authorities. [Star-Ledger, [1/12/11](#)]
- Undocumented immigrant workers are vulnerable to sexual exploitation. A recent study of 150 female Mexican immigrant farm workers found that “sexual harassment and even brutal sexual assaults by male co-workers and supervisors are a constant threat for many of these workers” and 80% said they had experienced sexual harassment. In interview of 150 undocumented female agricultural workers, the Southern Poverty Law Center found that “virtually all women reported that sexual violence in the workplace is a serious problem.” [SPLC, [11/10](#)]
- For recent examples of exploitation in numerous states, including California, New York, Pennsylvania, Massachusetts, Alabama, Washington, Georgia, Wisconsin, New Jersey, Ohio, Texas, and Louisiana, click [here](#).

Benefits of Immigration Reform

- According to the Center for American Progress, under a plan that provides undocumented workers with legal status and eventually allows them to earn citizenship after at least 10 years, GDP would increase by \$832 billion, Americans’ incomes would increase by \$470 billion, and the economy would add an average of 121,000 more jobs per year over a decade. Additionally, income of unauthorized workers would be 15.1 % higher within 5 years, resulting in \$69 billion more in federal taxes and \$40 billion more to state and local governments. [CAP, [3/20/13](#)]
- The real wages of less-skilled newly legalized workers would increase by roughly \$4,405 per year, while higher-skilled workers would see their income increase \$6,185 per year. The wages of native-born high-skill and low-skill U.S. workers also increase modestly under comprehensive immigration reform because the “wage floor” rises for all workers. [CAP, [1/7/10](#)]
- The average median weekly earnings of full-time union members are nearly 18% higher than for non-union workers. [BLS, accessed [5/3/13](#)]