

## SIDE-BY-SIDE COMPARISON OF 2013 SENATE IMMIGRATION BILL WITH INDIVIDUAL 2013 HOUSE BILLS

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees (The Agricultural Guestworker Act, the Border Security Results Act, the Legal Workforce Act, the SAFE Act, and the SKILLS Visa Act)
<b>TITLE I. BORDER SECURITY</b>		
<p><b>Summary</b></p>	<ul style="list-style-type: none"> <li>▪ Establishes new border security goals regarding surveillance and Border Patrol effectiveness.</li> <li>▪ Requires the Homeland Security Secretary to submit 2 plans to Congress within 6 months of bill enactment: A Comprehensive Southern Border Security Strategy and a Southern Border Fencing Strategy. Provides \$12.5 billion to accomplish both strategies.</li> <li>▪ Establishes 2 border security triggers that must be met to allow for legalization process stages to begin:               <ul style="list-style-type: none"> <li>o Both border strategies must be submitted to Congress and initiated before the Department of Homeland Security (DHS) can begin processing applications for Registered Provisional Immigrant (RPI) status.</li> <li>o Those with RPI status cannot be eligible to adjust to lawful permanent residence until the Homeland Security Secretary certifies 5 requirements have been met:                   <ol style="list-style-type: none"> <li>1. The Comprehensive Southern Border Security Strategy is deployed and operational.</li> <li>2. The Southern Border Fencing Strategy is implemented.</li> <li>3. A mandatory employer verification system has been implemented.</li> <li>4. An electronic exit system at air and sea ports is in use.</li> <li>5. There are no fewer than 38,405 Border Patrol agents stationed on the Southern border.</li> </ol> </li> </ul> </li> <li>▪ Authorizes \$30 billion to add at least 19,200 Border Patrol agents, mandates a total of 700 miles of fencing, requires DHS to deploy an array of monitoring and surveillance devices and technology along the Southern border.</li> <li>▪ Mandates creation of a border commission of appointees that will issue recommendations to be implemented if border security goals are not met, providing \$2 billion for implementation.</li> <li>▪ Provides for use of the National Guard at the border for a number of purposes, including construction of fencing and deployment of unmanned aerial systems.</li> <li>▪ Authorizes funding for new Border Patrol stations and forward operating bases, additional border crossing prosecutions and technology, and reimbursement to state and local law enforcement for detaining unauthorized noncitizens who are criminals.</li> <li>▪ Establishes a visa overstay initiative to resolve the cases of 90% of identified overstays.</li> </ul>	<p><u>House provisions drawn from the Border Security Results Act and the SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Establishes and defines new border security goals for operational control and situational awareness.</li> <li>▪ Establishes new border security metrics between ports of entry, at ports of entry, and in maritime environments, that DHS must implement within 6 months.</li> <li>▪ Requires Homeland Security Secretary to submit 2 plans:               <ul style="list-style-type: none"> <li>o Within 6 months of bill enactment a comprehensive strategy for gaining and maintaining situational awareness and operational control of high-traffic areas within 2-year period and of the entire Southwest border within 5 years.</li> <li>o Within 90 days of submission of the strategy, implementation plans to achieve these goals.</li> </ul> </li> <li>▪ Homeland Security Secretary shall certify that 2- and 5-year goals have been met.</li> <li>▪ Comprehensive strategy and implementation plans require minimum considerations regarding personnel, technology, and infrastructure enhancements.</li> <li>▪ Various oversight requirements and consultation and collaboration requirements.</li> </ul>

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<p><b>Border Security Metrics and Goals</b></p>	<ul style="list-style-type: none"> <li>▪ Establishes border security goal of achieving and maintaining “effective control” in all Border Patrol sectors, defined as:               <ul style="list-style-type: none"> <li>o Persistent surveillance.</li> <li>o An effectiveness rate of 90% or higher (measured by adding apprehensions and turnbacks divided by total number of illegal entries for each sector).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Establishes border security goal of "operational control," defined as:               <ul style="list-style-type: none"> <li>o An effectiveness rate not lower than 90% (apprehensions + turnbacks divided by apprehensions, turnbacks, and gotaways).</li> <li>o Achievement of a significant reduction in the movement of drugs.</li> </ul> </li> <li>▪ Establishes border security goal of situational awareness, defined as: knowledge and understanding of current illicit cross-border activity, and the ability to forecast future shifts in threats and trends.</li> <li>▪ Establishes new metrics that DHS must implement within 6 months:               <ul style="list-style-type: none"> <li><u>Between ports of entry:</u> <ul style="list-style-type: none"> <li>o An illegal border crossing effectiveness rate.</li> <li>o An illicit drugs seizure rate.</li> <li>o A cocaine seizure effectiveness rate.</li> <li>o Estimated total attempted border crossings, deaths and injuries, apprehension rate, and flow of illegal entries using recidivism data, survey data, known-flow data, and technologically measured data.</li> <li>o Estimates of consequence delivery system effects on the recidivism rate of border crossers.</li> </ul> </li> <li><u>At ports of entry:</u> <ul style="list-style-type: none"> <li>o Inadmissible border crossing rate.</li> <li>o Illicit drug seizure rate.</li> <li>o Cocaine seizure effectiveness rate.</li> <li>o Estimation of total attempted inadmissible border crossers, apprehension rate, and port of entry (POE) illegal inflow.</li> <li>o Recorded and estimated undetected infractions related to personnel and cargo.</li> <li>o Measurement of how border security operations affect crossing times.</li> </ul> </li> <li><u>Maritime:</u> <ul style="list-style-type: none"> <li>o Estimate of unauthorized migrants that maritime security components fail to interdict.</li> <li>o Maritime migrant interdiction rate.</li> <li>o Illicit drugs removal rates inside transit zones and outside transit zones.</li> <li>o Cocaine removal rates inside transit zones and outside transit zones.</li> <li>o Response rate measuring DHS ability to respond to and resolve maritime threats.</li> </ul> </li> </ul> </li> </ul>

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<b>Border Security Plans</b>	<ul style="list-style-type: none"> <li>▪ Requires the Homeland Security Secretary to submit 2 border security strategy plans within 6 months of bill enactment:               <ul style="list-style-type: none"> <li>o The Comprehensive Southern Border Security Strategy to achieve and maintain “effective control” between and at ports of entry in all Border Patrol sectors. The plan must require deployment of a specified array of monitoring and surveillance equipment and devices assigned to each Border Patrol sector, with \$4.5 billion for implementation.</li> <li>o The Southern Border Fencing Strategy to identify where 700 miles of fencing, infrastructure, and technology should be deployed, with \$8 billion for implementation.</li> </ul> </li> <li>▪ Establishes the Southern Border Security Commission, composed of 11 appointees. If the Homeland Security Secretary cannot certify that effective control has been achieved in each sector for 5 years, it will issue a report with recommendations on the further steps necessary to achieve surveillance and effectiveness goals. If the report is issued, \$2 billion will be authorized to implement its recommendations.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Requires Homeland Security Secretary to submit, within 6 months, a comprehensive strategy for gaining and maintaining situational awareness and operational control of high traffic areas within 2 years, and for gaining and maintaining operational control along the whole Southwest border within 5 years. The plan must include assessments of existing and projected technology, staffing, and other border security capabilities, impacts of border security operations, and metrics.</li> <li>▪ 90 days after submission of the strategy, the Homeland Security Secretary is required to submit an implementation plan consisting of a comprehensive surveillance technology plan, an integrated master schedule and cost estimates for activities in the implementation plan, and protections that ensure POE staffing and resources are not diverted to operations between ports to the detriment of POEs.</li> <li>▪ Two years after submission of the implementation plan, the Homeland Security Secretary shall certify that situational awareness and operational control of high-traffic areas has been achieved. Five years after submission of the implementation plan, the Homeland Security Secretary shall certify that operational control along the whole Southwest border has been achieved. Certifications are required in subsequent years.</li> </ul>
<b>Triggers</b>	<ul style="list-style-type: none"> <li>▪ Processing of applications for RPI status cannot begin until the Homeland Security Secretary has submitted to Congress and certified initiation of the border and fencing strategies.</li> <li>▪ DHS cannot grant lawful permanent residence (LPR status, or a green card) to RPI individuals until 6 months after the Homeland Security Secretary certifies that:               <ul style="list-style-type: none"> <li>o The border security plan has been submitted and is deployed and operational, meaning that the congressionally mandated and any other necessary technology, infrastructure, and personnel are in use.</li> <li>o The fencing plan has been submitted and is implemented, meaning that 700 miles of pedestrian fencing is in place.</li> <li>o A mandatory employer verification system has been implemented.</li> <li>o An electronic exit system at air and sea ports is operating.</li> <li>o There are no fewer than 38,405 Border Patrol agents stationed on the Southern border.</li> </ul> </li> </ul>	
<b>Staffing and Use of National Guard</b>	<ul style="list-style-type: none"> <li>▪ Increases Border Patrol to 38,405 agents by 2021, with \$30 billion funding over 10 years.</li> <li>▪ Provides for an increase of 3,500 Customs and Border Protection (CBP) officers by 2017—those stationed at land and high-volume airports will work toward reducing wait times.</li> <li>▪ Authorizes National Guard deployment to assist with security; construct fencing; increase mobile surveillance systems; deploy unmanned aerial vehicles (UAVs) and aircraft surveillance systems; deploy radio capabilities between CBP and state, local, and tribal agencies; construct checkpoints; and provide assistance in rural high-traffic areas.</li> <li>▪ Increases by 160 CBP’s Air and Marine Division unmanned aircraft systems personnel by 2015, and requires 130,000 annual flight hours.</li> <li>▪ DHS and the Defense Department (DOD) are required to establish a program to recruit former members of the armed forces and army reserves for jobs as CBP and Immigration and Customs Enforcement (ICE) agents.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Requires comprehensive plan to include staffing requirements for all border security functions.</li> </ul>

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<b>Infrastructure Improvements</b>	<ul style="list-style-type: none"> <li>▪ Provides for the construction of new Border Patrol stations; and for consideration of creating additional Border Patrol sectors.</li> <li>▪ Provides for construction of additional “Forward Operating Bases” and upgrades to existing ones.</li> <li>▪ Provides for the establishment of a grant program to construct transportation and infrastructure improvements at southern and northern border ports of entry to facilitate safe, secure, and efficient cross-border movement of people, vehicles, and cargo.</li> </ul>	
<b>Fencing</b>	<ul style="list-style-type: none"> <li>▪ Requires no fewer than 700 miles of pedestrian fencing on the Southern border, including the replacement of all existing vehicle fencing with pedestrian fencing, per the Southern Border Fencing Strategy.</li> </ul>	
<b>Technology and Equipment Enhancements, and Emergency Communications</b>	<ul style="list-style-type: none"> <li>▪ Per the Comprehensive Southern Border Security Strategy, DHS is required to install in each Border Patrol sector a specific number of surveillance and monitoring devices—predominantly fixed integrated towers, fixed and mobile camera systems, mobile surveillance systems, thermal imaging and night-vision equipment, ground sensors, and vehicle inspection systems—designated for areas between ports and at ports of entry.</li> <li>▪ Mandates the operation of UAVs along the Southern border 24 hours per day, 7 days per week.</li> <li>▪ Provides for deployment of additional mobile, video, portable surveillance systems, and UAVs in order to achieve 24-hour surveillance.</li> <li>▪ Provides for the deployment of fixed-wing aircraft and helicopters along border and strengthens helicopter fleet.</li> <li>▪ Increases patrols on horseback.</li> <li>▪ Provides for new watercraft and equipment for maritime anti-crime activities on the border.</li> <li>▪ Authorizes procurement of new systems and network upgrades to facilitate communication between federal law enforcement agencies.</li> <li>▪ Establishes 2-year grant program to improve emergency communication capabilities for individuals and business owners in remote border regions.</li> <li>▪ Requires CBP to deploy up to 1,000 self-powering, re-locatable distress beacons in areas prone to migrant deaths on the Southern and Northern borders.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Comprehensive strategy must address efforts to increase situational awareness using DOD surveillance capabilities, manned and unmanned aircraft systems, technology for POEs such as including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology.</li> <li>▪ Implementation plan requires a comprehensive border technology plan.</li> </ul>
<b>Federal Lands Provisions</b>	<ul style="list-style-type: none"> <li>▪ Permits DHS to patrol and install equipment on federal lands (owned by Agriculture and Interior departments) in Arizona.</li> <li>▪ Requires the Homeland Security Secretary to report on environmental impact on federal lands.</li> </ul>	<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Waives federal lands laws on the border.</li> </ul>

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<b>State and Local</b>	<ul style="list-style-type: none"> <li>▪ Increases prosecutions for unlawful border crossing to 210 per day in Tucson sector; authorizes extra funding for the Tucson US Attorney, Court Clerk, Public Defender, and US Marshals offices; reimburses state, local, and tribal agencies for detention costs related to border crossing prosecutions.</li> <li>▪ Adds magistrate judges to assist with increased caseload.</li> <li>▪ Through new Southwest Border Region Prosecution Initiative, the Justice Department (DOJ) reimburses state and local governments for prosecution, pre-trial services and detention, clerical support, and public defenders' services costs associated with cases that are federally initiated but declined by US Attorneys (jurisdictions that have engaged in unlawful immigration-related apprehensions are not eligible).</li> <li>▪ Reauthorizes and expands the State Criminal Alien Assistance Program (SCAAP) to reimburse state and local law enforcement for the cost of detaining unauthorized noncitizens charged with or convicted of certain crimes, and noncitizens whose immigration status cannot be verified by DHS.</li> <li>▪ Provides more funding for Operation Stonegarden, a federal grant program to enhance cooperation and coordination with state and local law enforcement agencies along the Southwest border.</li> <li>▪ Increases permanent federal judgeships in Southwest border states.</li> <li>▪ Authorizes procurement of federal radio system that may include access for state and local law enforcement on the border, and gives state and local agencies access to the federal spectrum in emergency situations.</li> </ul>	<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Expands SCAAP to cover costs associated with noncitizens charged with crimes (currently covers costs for convicted).</li> </ul> <p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Comprehensive strategy shall include cooperative agreements and information sharing with state, local, and tribal law enforcement agencies in border jurisdictions.</li> <li>▪ Comprehensive strategy must include input from consultations with state and local law enforcement agencies and border community stakeholders.</li> <li>▪ DHS shall collaborate with DHS laboratory network and border security Centers of Excellence networks, the Homeland Security Secretary, border governors, and Border Patrol and CBP representatives to develop border security metrics.</li> </ul>
<b>Interagency Collaboration</b>	<ul style="list-style-type: none"> <li>▪ Establishes collaboration between DOD and DHS to identify tools to detect border tunnels and use of ultra-light aircraft, enhance aerial surveillance, and other border security missions.</li> </ul>	
<b>Training</b>	<ul style="list-style-type: none"> <li>▪ Establishes new training for border enforcement officials, including use of force, environmental impacts, screening for vulnerable populations, identifying fraudulent documents, and rights.</li> <li>▪ Requires Border Community Liaison Officers in CBP to receive training to foster sustained relationship and consultation with border communities.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Comprehensive strategy must include assessment of training programs regarding detection of fraudulent documents; protecting constitutional, civil, privacy, and human rights; the scope of enforcement authority; vulnerable populations; and social and cultural sensitivities of border communities.</li> </ul>
<b>Use of Force</b>	<ul style="list-style-type: none"> <li>▪ Within 6 months, DHS and DOJ Civil Rights Division must issue policies governing the use of force by personnel: personnel must report all use of force, complaints procedure must be established as well as guidelines for discipline, and review process for all use of force.</li> </ul>	
<b>Immigration Ombudsman</b>	<ul style="list-style-type: none"> <li>▪ Establishes an Ombudsman for Immigration Related Concerns that will be responsible for a range of functions concerning all of DHS's immigration-related components, can request inspector general (IG) investigations, and shall submit annual reports.</li> </ul>	

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<p><b>Detention and Apprehension Practices</b></p>	<ul style="list-style-type: none"> <li>▪ Establishes standards for detention of children in CBP custody, with regard to medical care, nutrition, hygiene, and phone calls to family.</li> <li>▪ Requires CBP to screen noncitizens apprehended at the border and subject to repatriation or prosecution programs to ascertain if they are a parent or caretaker of a child, traveling with a spouse or child, or other humanitarian concerns; and requires such family-related concerns to be factored into repatriation or prosecution decision.</li> <li>▪ Requires Homeland Security Secretary to certify that removals of noncitizens through Southern border ports occurred during daylight hours, with some exceptions, including for removals that occur in the same sector as the apprehension, or if the noncitizen consents.</li> <li>▪ Requires officials to return to migrants upon repatriation all confiscated lawful, nonperishable belongings.</li> </ul>	
<p><b>Overstays</b></p>	<ul style="list-style-type: none"> <li>▪ Requires DHS to initiate removal proceedings, confirm that relief has been granted or is pending, or otherwise close 90% of cases for nonimmigrants who entered US after bill enactment and who overstayed their period of authorization by 180 days or more. DHS required to report on progress to Congress.</li> <li>▪ Establishes a pilot program to explore the feasibility and effectiveness of notifying individuals via email or phone that their visa is about to expire.</li> </ul>	
<p><b>Other</b></p>	<ul style="list-style-type: none"> <li>▪ Prohibits any new land-border crossing fees.</li> <li>▪ With regard to Northern border, limits to 25-mile border zone area within which CBP and ICE agents may conduct vehicle stops, and to 10 miles of border zone within which searches of private land can occur without warrant.</li> <li>▪ Requires DHS to devise and carry out strategy to reduce unauthorized entries of migrants who transit through Mexico.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Prohibits Homeland Security Secretary from conducting study on imposition of border crossing fees at land ports.</li> </ul>
<p><b>Oversight</b></p>	<ul style="list-style-type: none"> <li>▪ Establishes the Homeland Security Border Oversight Task Force, a group of 33 appointed members to review and recommend immigration and border enforcement strategies; can hold hearings, request data, and will issue a final report within 2 years of first meeting.</li> <li>▪ Requires DHS to report to Congress on the effectiveness rate, wait times, resources, and staffing at ports of entry (POEs), and number of migrant deaths in Northern and Southern Border Patrol sectors, and the number of miles along the Southern border under persistent surveillance.</li> <li>▪ Requires offices of technology in DOD and DHS to report to Congress on success of interagency collaboration.</li> <li>▪ Reclassifies human-trafficking crimes to be included in Federal Bureau of Investigation's Uniform Crime Report.</li> <li>▪ Requires Homeland Security Secretary to submit a study on administration and effectiveness of the Alien Transfer Exit Program.</li> <li>▪ Homeland Security Secretary is required produce semiannual reports on the status of the Comprehensive Southern Border Security Strategy and annual reports on sector-by-sector deployment of infrastructure and technology required in the plan.</li> <li>▪ Homeland Security Secretary must submit annual reports to Congress that describe the impact of migration deterrence programs on families and individuals who present humanitarian concerns.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ If Homeland Security Secretary cannot certify that situational awareness or operational control have been achieved by applicable dates, or have not been annually maintained, the Secretary shall submit a report to Congress describing why.</li> <li>▪ The Comptroller General will review and report on border security plan certifications.</li> <li>▪ DHS is required to submit annual reports on the state of situational awareness and operational control, including identification of high-risk traffic areas and illegal border crossing effectiveness rate for each Northern and Southern sector, with a Government Accountability Office (GAO) report verifying the data and methods used.</li> <li>▪ GAO will analyze cost effectiveness of border security strategies, deployment of personnel and technology, and construction of virtual and physical barriers.</li> <li>▪ GAO will assess and report on the data and methodology used to develop metrics.</li> <li>▪ DHS Inspector General shall carry out border security covert testing at POEs.</li> </ul>

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<b>TITLE II. REFORMS TO IMMIGRANT VISA PROGRAMS AND IMMIGRANT INTEGRATION PROVISIONS</b>		
<b>Summary</b>	<ul style="list-style-type: none"> <li>▪ Creates registered provisional immigrant status (RPI) for qualified unauthorized immigrants present before 12/31/2011, with visa valid for 6 years and renewable.</li> <li>▪ Border security triggers must be met before noncitizens can apply; must do so within 1-year period, though Homeland Security Secretary can extend for up to 18 months more.</li> <li>▪ Most individuals granted RPI status will have to wait 10 years to apply for LPR status; eligible to naturalize after 3 years. (Faster track for DREAM Act beneficiaries and agricultural workers.)</li> <li>▪ Total size of penalties and fees uncertain, since application fees not defined.</li> <li>▪ Demonstrates English skills and knowledge of US history/civics or pursuing course of study to learn English and US history/civics prior to adjustment to LPR status; satisfaction of any tax liability.</li> <li>▪ Includes DREAM Act legalization.</li> <li>▪ Establishes blue card visa for agricultural workers, with possibility to adjust to LPR status.</li> <li>▪ Creates new visas for backlog reduction and RPI visa holders.</li> <li>▪ Expands family- and employment-based visas for backlog reduction and in the future; creates a new merit-based visa with selection through points system.</li> <li>▪ Eliminates diversity visa program.</li> <li>▪ Exempts certain relatives of citizens and LPRs from numeric caps.</li> <li>▪ Establishes Office of Citizenship and New Americans to address integration policy and program needs and promote citizenship efforts.</li> <li>▪ Authorizes funds to assist immigration benefit applicants and state and local integration programs.</li> <li>▪ Reduces barriers to naturalization.</li> </ul>	<p><u>SKILLS Act:</u></p> <ul style="list-style-type: none"> <li>▪ Eliminates diversity visa program and 4th preference family visa category.</li> <li>▪ Small increases in employment-based and remaining family-based visa caps.</li> <li>▪ No backlog reduction or merit-based/points-tested visa.</li> </ul>
<b>Registration and Adjustment of Status for Unauthorized Immigrants</b>		
<b>Application Period</b>	<ul style="list-style-type: none"> <li>▪ Once trigger requirements met, immigrants must apply for RPI status within a 1-year period; Homeland Security Secretary may extend for up to 18 months.</li> </ul>	

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<p><b>General Requirements</b></p>	<ul style="list-style-type: none"> <li>▪ Physically present in the United States on/before 12/31/2011.</li> <li>▪ Continuous physical presence in US from 12/31/2011 until date granted RPI status. Brief, casual, and innocent absences allowed. Status revoked if absence from US is more than 180 days.</li> <li>▪ Relatively clean criminal record—ineligible if convicted of:               <ul style="list-style-type: none"> <li>o Felony (under state/local law).</li> <li>o Aggravated felony (under Immigration and Nationality Act).</li> <li>o 3 or more misdemeanors, other than minor traffic offenses.</li> <li>o Offense under foreign law (other than a purely political offense).</li> <li>o Unlawful voting.</li> </ul> </li> <li>▪ Dependent spouses/children qualify if they meet the criminal record qualifications and were present in US on/before 12/30/2012.</li> <li>▪ Applicant has satisfied “any applicable federal tax liability.”</li> <li>▪ Applicant clears national security and law enforcement reviews.</li> <li>▪ Applicant is not inadmissible under an applicable ground of inadmissibility that cannot be waived.<sup>1</sup></li> </ul>	
<p><b>Terms of Conditional Status</b></p>	<ul style="list-style-type: none"> <li>▪ RPI status is granted for 6 years; can be renewed.</li> <li>▪ Extension may be granted if:               <ul style="list-style-type: none"> <li>o Noncitizen remains eligible.</li> <li>o Noncitizen establishes that he/she was regularly employed (unemployment okay for periods lasting no more than 60 days) and is not likely to become a public charge or that he/she has income or resources above 100% of federal poverty level. Exceptions for noncitizens 60 or older, under 21, those enrolled in higher ed or certain education, literacy, or career training programs, and those who are primary caretakers of children, on medical leave, or disabled. Waiver also permitted for any individual who demonstrates extreme hardship to himself or to a spouse, parent, or child who is a US citizen or LPR.</li> </ul> </li> <li>▪ No federal tax liability.</li> </ul>	

<sup>1</sup> **Grounds of Exclusion that do not apply:** public charge; labor certification; documentary requirements (e.g. valid visa); unlawful presence. **Grounds for exclusion that do not apply unless based on act of entering the United States after the date of the bill’s enactment:** present without admission or parole, misrepresentation, stowaways, subject to a final order for forging, counterfeiting documents, violation of student visa provisions. **Grounds for exclusion that do not apply unless the relevant conduct began on/after the date that the noncitizen files an application for RPI Status:** failure to attend removal proceeding; previously ordered removed. **Grounds for exclusion, waiver permitted:** For all grounds of inadmissibility other than those listed below, waiver permitted for humanitarian purposes, to ensure family unity, or if such a waiver is otherwise in the public interest. **Grounds for exclusion, waiver not permitted:** 2 or more criminal offenses for which the aggregate sentence of confinement is 5 years; controlled-substance traffickers; procurement of prostitution; noncitizens who asserted immunity in criminal prosecutions; foreign government officers; traffickers; money launderers; practicing polygamists; international child abduction; unlawful voters; former citizens who renounced citizenship to avoid tax fraud; fraud or misrepresentation in the RPI process; grounds of inadmissibility related to terrorism.

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<b>Treatment for Individuals Apprehended, in Removal Proceedings, Ordered Removed, or Outside the Country</b>	<ul style="list-style-type: none"> <li>▪ Individuals apprehended by DHS after date of enactment who appear prima facie eligible may apply; DHS may not remove such persons until final determination made.</li> <li>▪ Those in removal proceedings who are prima facie eligible may apply; if accepted by DHS, their removal proceedings shall be terminated.</li> <li>▪ Individuals ordered removed but still in US may apply and if granted status, motion to reopen removal proceedings shall be granted.</li> <li>▪ Individuals who departed from US while subject to an order of exclusion, deportation, or removal, or pursuant to an order of voluntary departure and who are outside US or who returned illegally after December 31, 2011 generally not eligible to apply. However: Waiver authorized for some spouses, children, parents of US citizens, and LPRs and DREAM ACT-eligible individuals.</li> </ul>	
<b>Fees and Fines</b>	<ul style="list-style-type: none"> <li>▪ Processing fee for noncitizens 16 and older to be determined by Homeland Security Secretary.</li> <li>▪ \$1,000 penalty for noncitizens 21 and older.               <ul style="list-style-type: none"> <li>o Does not apply to DREAMers.</li> <li>o \$500 paid up front; remaining \$500 may be paid later under plan to be articulated by DHS.</li> </ul> </li> </ul>	
<b>Eligibility for Public Benefits</b>	<ul style="list-style-type: none"> <li>▪ Not eligible.</li> </ul>	
<b>Extension of Conditional Status</b>	<ul style="list-style-type: none"> <li>▪ RPI extension may be granted if:               <ul style="list-style-type: none"> <li>o Noncitizen remains eligible.</li> <li>o Noncitizen was regularly employed (cannot be unemployed for &gt; 60 days) and is not likely to become a public charge or has income above 100% of federal poverty level. Exceptions given for those over 60, under 21, enrolled in higher education or certain education, literacy, or career training programs, and those who are the primary caretakers of children, on medical leave, or disabled.</li> <li>o Waiver permitted for extreme hardship to RPI holder, spouse, parent, or child who is a US citizen LPR.</li> <li>o No federal tax liability.</li> </ul> </li> </ul>	
<b><i>Adjustment of Status to Lawful Permanent Residence for Immigrants in Conditional Legal Status</i></b>		
<b>Application Period</b>	<ul style="list-style-type: none"> <li>▪ No adjustment from RPI to LPR status until certain border and interior immigration enforcement triggers have been met and legal immigration backlogs have been cleared.</li> </ul>	
<b>General Qualifications</b>	<ul style="list-style-type: none"> <li>▪ Granted RPI status and remains eligible.</li> <li>▪ No absences from US for more than 180 days in any calendar year during time in RPI status.</li> <li>▪ Satisfaction of any federal tax liability.</li> <li>▪ Demonstrates English skills and knowledge of US history/civics sufficient to meet language requirement for naturalization, or pursuing course of study to learn English and US history/civics. Exceptions for individuals with disabilities and those ages 70 and older.</li> <li>▪ Registers for the Selective Service (if eligible).</li> <li>▪ Completion of national security/law enforcement background check.</li> </ul>	

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<b>Fees and Fines</b>	<ul style="list-style-type: none"> <li>▪ Processing fee for adjudication costs to be set by Homeland Security Secretary.</li> <li>▪ \$1,000 penalty for applicants 21 or older as of 4/17/2013 (date of bill introduction), with exception for certain individuals brought to US as children.</li> </ul>	
<b>Limitation on Methods for Adjustment to LPR Status</b>	<ul style="list-style-type: none"> <li>▪ Must adjust under the new “merit-based Track 2” visa system (see Future Flows section for more on merit-based visa tracks).</li> </ul>	
<b>Limitations on Disclosures of Application Information</b>	<ul style="list-style-type: none"> <li>▪ Confidentiality of information included in applications for RPI or LPR status. May be disclosed to law enforcement, intelligence, national security components of DHS, or grand jury in connection with a criminal investigation not related to the applicant’s immigration status or a national security investigation.</li> <li>▪ Employment information shall not be used to prosecute employers for hiring unauthorized immigrants.</li> </ul>	
<b>Time Required to Naturalize After Gain LPR Status</b>	<ul style="list-style-type: none"> <li>▪ Individuals granted LPR status after 10 years in RPI status eligible to naturalize after 3 years.</li> </ul>	
<b><i>Adjustment to Lawful Permanent Residence for DREAM Act-Eligible Immigrants</i></b>		
<b>General Qualifications</b>	<ul style="list-style-type: none"> <li>▪ For an RPI to adjust to LPR status under the DREAM Act, he or she must:               <ul style="list-style-type: none"> <li>o Have held RPI status for 5 or more years.</li> <li>o Have arrived in US at age 15 or younger.</li> <li>o Possess a US high school diploma or GED certificate.</li> <li>o Meet 1 of the following educational or military requirements: Possess postsecondary degree, have finished “in good standing” a minimum of 2 years of US bachelor’s or higher degree, or have served 4 or more years in uniformed service, with honorable discharge for those discharged. Hardship exemption available for certain individuals.</li> <li>o Demonstrate English-language understanding and basic knowledge of US history and civics (exception for individuals who cannot meet this requirement due to certain disabilities or impairments).</li> <li>o Provide “biometric and biographic data” and pass background checks.</li> </ul> </li> <li>▪ “Streamlined procedures” may be adopted for the adjustment of Deferred Action for Childhood Arrivals (DACA) recipients.</li> </ul>	
<b>Fees and Fines</b>	<ul style="list-style-type: none"> <li>▪ Exempt from fine.</li> </ul>	
<b>Back of the Line</b>	<ul style="list-style-type: none"> <li>▪ Exempt from numerical limits on immigrant visas.</li> </ul>	
<b>Naturalization</b>	<ul style="list-style-type: none"> <li>▪ Not permitted to apply for citizenship while in RPI status, but time spent in RPI status counts as time spent in LPR status for the purpose of naturalization.</li> </ul>	
<b>Other</b>	<ul style="list-style-type: none"> <li>▪ Restores to states the option to determine residency for higher education benefits purposes by repealing Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<i>Conditional and Lawful Permanent Residence Status for Agricultural Workers</i>		
<b>General Requirements</b>	<ul style="list-style-type: none"> <li>▪ Application period of 1 year, with option for Homeland Security Secretary to extend for 18 months.</li> <li>▪ To be granted blue card status, which is temporary, an individual must:               <ul style="list-style-type: none"> <li>o Have worked in US agriculture for not fewer than 575 hours or 100 work days during the 2-year period ending on 12/31/ 2012 or be the spouse or child of such an individual.</li> <li>o Have a relatively clean criminal record (grounds for ineligibility are same as those for RPI status).</li> <li>o Provide “biometric and biographic data” and pass background checks.</li> </ul> </li> <li>▪ Grounds for exclusion and waivers are same as for RPI status.</li> <li>▪ Blue card can be revoked if the holder:               <ul style="list-style-type: none"> <li>o “[K]nowingly used blue card for unlawful or fraudulent purpose.</li> <li>o Is absent from US for &gt; 180 days in a year.</li> </ul> </li> </ul>	<p><u>AG Act:</u></p> <ul style="list-style-type: none"> <li>▪ Allows currently resident unauthorized workers to apply for newly created temporary worker program with no path to permanent residence (for more detail, see Title IV. Reforms to Nonimmigrant Visa Programs).</li> </ul>
<b>Length of Term</b>	<ul style="list-style-type: none"> <li>▪ Blue card status shall no longer be available after the 8th anniversary of publication of the regulations.</li> </ul>	
<b>Fees and Fines</b>	<ul style="list-style-type: none"> <li>▪ Persons ages 16 and older filing initial and renewal applications must pay a fee, determined by the Homeland Security Secretary, to cover application processing.</li> <li>▪ Penalty of \$100 for applicants age 21 and older.</li> </ul>	
<b>Conditions of Status</b>	<ul style="list-style-type: none"> <li>▪ Work authorization.</li> <li>▪ Travel authorization, with certain guidelines.</li> <li>▪ Cannot be removed unless blue card status is revoked.</li> <li>▪ May adjust to RPI status at discretion of Homeland Security Secretary if individual is unable to complete agricultural work required for adjustment program.</li> <li>▪ Not eligible for public benefits, including health insurance subsidies.</li> </ul>	
<b>Application for LPR Status</b>	<ul style="list-style-type: none"> <li>▪ Applications for adjustment to LPR status must be filed during 5-8 year window after enactment.</li> <li>▪ No numerical limit on blue card adjustments to LPR status.</li> </ul>	
<b>General Qualifications</b>	<ul style="list-style-type: none"> <li>▪ To adjust from a blue card to LPR status, an individual must:               <ul style="list-style-type: none"> <li>o Meet work requirements of at least 100 days/year in 5 years or 150 days/year in 3 years (in “extraordinary circumstances” Homeland Security Secretary can credit a maximum of 12 additional months of work).</li> <li>o Satisfy any federal tax liability.</li> </ul> </li> <li>▪ Dependents (spouse or child) are to apply and be included in the principal application for adjustment.</li> </ul>	
<b>Fees and Fines</b>	<ul style="list-style-type: none"> <li>▪ Processing fee to cover application adjudication cost.</li> <li>▪ Penalty of \$400.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<i>Future Immigration Flows</i>		
<b>Summary</b>	<ul style="list-style-type: none"> <li>▪ Creates new merit-based visa with 2 tracks (Track 1 based on points, Track 2 for backlog reduction and individuals lawfully residing in the United States for 10 years or more).</li> <li>▪ Eliminates diversity visa program and 4th preference family visa category.</li> <li>▪ Spouses and minor children of LPRs reclassified as immediate relatives.</li> <li>▪ Substantial new exemptions from employment-based cap, including: noncitizens of extraordinary ability, outstanding professors and researchers, multinational executives, US advanced STEM degree graduates, noncitizens with PhDs, and spouses/children of principal applicants.</li> <li>▪ V visa expanded for beneficiaries with pending visa petitions.</li> </ul>	<p><u>SKILLS Visa Act</u></p> <ul style="list-style-type: none"> <li>▪ Eliminates diversity visa program and 4th preference family visa category.</li> <li>▪ Adds 25,000 visas to spouses/children of LPRs and 95,000 visas for employment-based immigrants.</li> </ul>
<b>Backlog and Adjustment of Status for RPIs</b>	<ul style="list-style-type: none"> <li>▪ Uncapped visas for applicants waiting in backlogs and RPIs applying for permanent residence.               <ul style="list-style-type: none"> <li>o Beginning 10/1/2014, visas allocated to noncitizens with approved employment- and family-based petitions pending for at least 5 years.</li> <li>o Between 2015-2021, visas allocated to noncitizens with employment- and family-based petitions filed prior to bill enactment.</li> <li>o “Long-term alien workers” not admitted pursuant to W visa, and who have been lawfully present in US &gt; for 10 years may apply.</li> <li>o RPI holders may apply in this category but only after they have held RPI status for 10 years.</li> </ul> </li> </ul>	
<b>Diversity Visa Program</b>	<ul style="list-style-type: none"> <li>▪ Repeals diversity visa program.</li> <li>▪ Applicants notified by Secretary of State of selection for visa in FY 2013 and FY 2014 still eligible for permanent residence.</li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ Repeals diversity visa program.</li> </ul>
<b>Spouses and Minor (under 21) Children of LPRs</b>	<ul style="list-style-type: none"> <li>▪ Reclassified as immediate relatives, not subject to cap.</li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ Remain capped but receive 25,000 additional visas annually.</li> </ul>
<b>Other Family Preference Categories</b>	<ul style="list-style-type: none"> <li>▪ Raises per-country limit for family-based immigrants from 7% to 15%.</li> <li>▪ Eliminates 4th preference (siblings of US citizens), and removes eligibility for married sons and daughters over age of 31; changes take effect 18 months after enactment.</li> <li>▪ Raises caps for other family preferences:               <ul style="list-style-type: none"> <li>o Unmarried sons and daughters (21 or over) of US citizens (from 23,400 to 56,350).</li> <li>o Married sons and daughters (21 or over, under age 31 at time of filing) of US citizens (from 23,400 to 40,250).</li> <li>o Unmarried sons and daughters of LPRs (from 26,266 to 64,400).</li> </ul> </li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ Raises per-country limit for family-based immigrants from 7% to 15%.</li> <li>▪ Eliminates 4th preference (siblings of US citizens), beginning in FY2013; those who applied in that category prior to 2013 would be eligible to receive 65,000 visas per year until FY 2023 (this would reduce the 4th preference backlog but does not guarantee that the entire applicant pool would receive visas).</li> </ul>
<b>Employment-Based Immigrants Newly Exempted from Caps</b>	<ul style="list-style-type: none"> <li>▪ Derivative beneficiaries (spouses and children) of employment-based immigrants.</li> <li>▪ US advanced STEM degree holders.</li> <li>▪ Noncitizens of extraordinary ability in sciences, arts, education, business, or athletics.</li> <li>▪ Outstanding professors and researchers.</li> <li>▪ Multinational executives and managers.</li> <li>▪ Noncitizens who have earned a doctoral degree.</li> <li>▪ Certain noncitizen physicians.</li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ No exemptions.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Other Preference Categories (Employment and Skills-Based Immigration)</b>	<ul style="list-style-type: none"> <li>▪ Eliminates per-country limits.</li> <li>▪ Maintains 140,000 worldwide employment-based cap, raising limits for remaining categories:               <ul style="list-style-type: none"> <li>o Advanced degree holders (40%)</li> <li>o Skilled workers, professionals, and other workers (40% of employment-based total). Cap on “other workers” sub-category repealed.</li> <li>o Special Immigrants (10% of employment-based total).</li> <li>o Immigrant investors (10% of employment-based total).</li> </ul> </li> <li>▪ Permits self-petition for uncapped principal applicants (except US advanced STEM-degree holders).</li> <li>▪ Introduces points-tested “merit-based” visa with cap of 120,000-250,000 per year:               <ul style="list-style-type: none"> <li>o Points allocated based on education, job skills, employment in certain fields, and family ties.</li> <li>o RPIs and individuals with pending or approved petitions in other immigration categories may not apply.</li> </ul> </li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ Raises cap to 235,000 but provides no cap exemptions, leading to smaller increase in employment-based green cards than Senate bill. Additional 95,000 visas allocated to:               <ul style="list-style-type: none"> <li>o US STEM advanced degree graduates (new category; 55,000 visas).</li> <li>o Entrepreneurs (new category; 10,000 visas).</li> <li>o Advanced degree holders (15,000 visas) and skilled workers, professionals, and other workers (15,000 visas).</li> </ul> </li> <li>▪ No additional points-tested visas.</li> <li>▪ 4,000 EB-3 visas reserved for certain health-care workers.</li> <li>▪ Allows early filing period for adjustment of status applications for H-1B, L, O, and student visa holders with filed or pending employment-based immigrant visa petitions.</li> </ul>
<b>V Visa</b>	<ul style="list-style-type: none"> <li>▪ Applicants with pending family petitions can apply for V visa while waiting for green card; sons/daughters receive work authorization; siblings of US citizens receive 60-day visit authorization and no work rights.</li> <li>▪ Holders not eligible for public benefits.</li> </ul>	
<b>Discretion for Immigration Judges/DHS</b>	<ul style="list-style-type: none"> <li>▪ Immigration judges may exercise discretion not to remove a noncitizen if they determine that removal is against the public interest or would result in hardship to the individual’s US citizen or LPR parent, spouse, or child.</li> <li>▪ Homeland Security Secretary may exercise discretion to waive various grounds of inadmissibility where determination made that refusal of admission is against the public interest or would result in hardship to the applicant’s US citizen or LPR parent, spouse, or child.</li> </ul>	
<b>Immigrant Integration</b>		
<b>Immigrant Integration Summary</b>	<ul style="list-style-type: none"> <li>▪ Establishes Office of Citizenship and New Americans to address integration policy and program needs and promote citizenship efforts.</li> <li>▪ Establishes federal interagency Task Force on New Americans headed by Homeland Security Secretary.</li> <li>▪ Creates US Citizenship Foundation.</li> <li>▪ Authorizes funds to assist immigration benefit applicants + state and local integration programs.</li> <li>▪ Reduces barriers to naturalization.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Integration Policy and Program Coordination</b>	<ul style="list-style-type: none"> <li>▪ Establishes Office of Citizenship and New Americans (OCNA) within USCIS to promote citizenship training and coordinate integration efforts across federal government + with state and local entities. The new office will:               <ul style="list-style-type: none"> <li>o Establish integration goals; provide advice on linguistic, economic, and civic integration of immigrants and their children, and on integration considerations for federal budgets.</li> <li>o Evaluate the scale, quality, and effectiveness of federal integration efforts; identify integration implications of proposed immigration policies; and provide recommendations for addressing them.</li> </ul> </li> <li>▪ \$10 million authorized for first 5 years of OCNA and sums as necessary to sustain in subsequent years.</li> <li>▪ Establishes Task Force on New Americans (TFNA) chaired by Homeland Security Secretary to identify, foster, and better coordinate federal integration program and policy.               <ul style="list-style-type: none"> <li>o Agency liaisons shall ensure: the quality and timeliness of their agency’s creation of integration goals and indicators; implementation of a biannual consultation process with state and local counterparts; and data collection and reporting on agency efforts to achieve goals and indicators</li> <li>o TFNA will provide recommendations on effects of pending legislation and policy and on policies + programs w/ distinct impact on integration success; it will also assist in developing legislative or policy proposals of special importance to new immigrants and receiving communities.</li> </ul> </li> </ul>	
<b>Public Private Partnership to Support Citizenship</b>	<ul style="list-style-type: none"> <li>▪ Creates a United States Citizenship Foundation to solicit, accept, and grant funds to citizenship promotion.</li> </ul>	
<b>Grant Programs</b>	<ul style="list-style-type: none"> <li>▪ Authorizes \$100 million over 5 years and sums as necessary in subsequent years for application assistance, state and local integration programs, and federal strategy for improved naturalization ceremony awareness.</li> <li>▪ Creates Initial Entry, Adjustment, and Citizenship Assistance Grants (IEACA).</li> <li>▪ Grants support application assistance and English/civics education for RPI status and further steps to citizenship.</li> <li>▪ Pilot program to promote state and local immigrant integration.</li> <li>▪ Creates competitive grant program for state and local governments to carry out integration programs or establish local Councils to do so.</li> </ul>	
<b>Naturalization Process</b>	<ul style="list-style-type: none"> <li>▪ Reduces barriers to naturalization by expanding exemptions for older applicants and preserving nonelectronic application filing options.</li> </ul>	
<b>Promoting Naturalization</b>	<ul style="list-style-type: none"> <li>▪ In addition to other OCNA efforts, create strategy to enhance public awareness of naturalization ceremonies.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>TITLE III. INTERIOR ENFORCEMENT</b>		
<b>Summary</b>	<ul style="list-style-type: none"> <li>▪ Requires mandatory use of electronic employment verification system (EEVS), phased in over 4 years.</li> <li>▪ Expansion of EEVS photo-sharing tool to include state driver’s licenses. Authorizes \$250 million for initiative.</li> <li>▪ Creation of new system that enables individuals to “lock” their social security numbers (SSNs) and check their own EEVS history.</li> <li>▪ Expansion of USCIS investigatory authority to check whether SSNs are being improperly used multiple times.</li> <li>▪ Mandates completion of entry-exit system, with exit component in place at air and sea ports by end of 2015; authorizes \$500 million to reimburse carriers; and establishes gradual rollout of biometric exit system.</li> <li>▪ Increases criminal penalties and establishes grounds of inadmissibility/deportability for a variety of crimes.</li> <li>▪ Provides for detention system reforms, increases resources to immigration courts.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Requires use of EEVS, phased in over 24 months for most employers.</li> <li>▪ Creation of new system that enables DHS and Social Security Administration (SSA) to “lock” a social security number if it has been deemed misused.</li> <li>▪ Mandates completion of biometric entry-exit system within 2 years of law’s enactment.</li> <li>▪ Allows state and local law enforcement agencies greater leeway to enforce federal immigration laws and sign up for the 287(g) program if they choose; requires DHS to give grants to states and local governments involved in immigration enforcement to purchase equipment and technology acquisition.</li> <li>▪ Adds 5,000 deportation officers, 2,500 ICE detention officers, and additional staff.</li> <li>▪ Makes illegal presence in the United States a federal misdemeanor; expands list of aggravated felonies; increases criminal penalties for re-entry and alien smuggling; increases penalties for failure to depart.</li> <li>▪ Increases detention space and permits detention beyond removal period for certain noncitizens.</li> </ul>
<b>Employment Verification, Identity Documentation, Hiring Unauthorized Workers</b>		
<b>Employment Verification and Use of EEVS</b>	<ul style="list-style-type: none"> <li>▪ All employers required to use EEVS to confirm that newly hired employees are authorized to work (in addition to complying with physical document verification requirements).               <ul style="list-style-type: none"> <li>o Employers must use EEVS within 3 days of start of worker’s employment.</li> <li>o All agencies and departments within the executive, legislative, and judicial branches shall participate in EEVS within 90 days of law’s enactment.</li> <li>o All federal contractors must participate in EEVS upon issuance of implementing regulations (regulations must be issued by DHS within 1 year of law’s enactment).</li> <li>o Employers with access to critical infrastructure sector shall participate within 1 year of regulations issuance.</li> <li>o Employers with &gt; 5,000 employees shall participate within 2 years.</li> <li>o Employers with &gt; 500 employees shall participate within 3 years.</li> <li>o All other employers and all employers in the agricultural sector shall participate within 4 years.</li> <li>o Employers owned by or entities of governments of a federally recognized Indian tribe not required to participate within 5 years after issuance of regulations.</li> </ul> </li> </ul>	<p><u>Legal Workforce Act:</u></p> <ul style="list-style-type: none"> <li>▪ Establishes a “verification period” (between the time an offer of employment is extended and 3 days after date of hire), during which the employer must attest that the new hire is not an unauthorized individual by examining documentation of identity and work authorization, and the employee must attest that he/she is authorized to work in the United States. Verification forms shall be retained for 3 years.</li> <li>▪ Employment offer may be conditional on final verification of identity and work authorization through the verification system.</li> </ul> <p><u>For new hires:</u></p> <ul style="list-style-type: none"> <li>o Employers who employ &gt; 10,000 employees in the United States (as of date of enactment) must begin participating in EEVS within 6 months of law’s enactment.</li> <li>o Employers who employ &gt; 5,000 but &lt; 10,000 employees must participate within 12 months.</li> <li>o Employers who employ &gt; than 20 and &lt; 500 employees must participate within 18 months.</li> <li>o Employers who employ &gt; 1 and &lt; 20 employees must participate within 24 months.</li> <li>o For employees performing agricultural labor or services, EEVS use is not mandated until 24 months after law’s enactment.</li> <li>o A person or entity recruiting or referring an individual for employment must participate within 12 months.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<p><b>Employment Verification and Use of EEVS (continued)</b></p>	<ul style="list-style-type: none"> <li>▪ Employers shall use EEVS “photo tool” to verify that the picture on a document presented by an employee matches picture in the EEVS system.               <ul style="list-style-type: none"> <li>o For individuals presenting documents that cannot be verified through the photo tool, Homeland Security Secretary to develop additional security measures to verify identity.</li> </ul> </li> <li>▪ Homeland Security Secretary to allow employers and employees otherwise unable to access EEVS to use electronic and telephonic formats (including video conferencing and scanning technology) at federal facilities.</li> <li>▪ Employers found violating employment verification provisions can be mandated to use system for current employees.</li> </ul>	<p><u>For previously hired employees:</u></p> <ul style="list-style-type: none"> <li>o Employers using the EEVS photo-matching tool shall verify that the system’s photo matches both the employee’s face and the picture on the identity or work authorization document presented.</li> <li>o Verification must occur within 6 months for any federal, state, or local government employees. Employees who require federal security clearance working in a federal building, and federal contractors, must also be verified within 6 months.</li> <li>o For employees who have limited time EAD cards, re-verification must be done within 3 days before the expiration of the authorized employment period (the timeline for complying with this requirement is the same as the above timeline for participation in the verification system with respect to new hires).</li> </ul> <ul style="list-style-type: none"> <li>▪ If the Homeland Security Secretary certifies to Congress that the system is not operational within 6 months of enactment, each deadline above can be extended by 6 months.</li> <li>▪ If it is determined that an SSN is misused, SSA and DHS will lock the number for employment verification purposes.</li> <li>▪ If an employer receives a notice of multiple use of an employee’s social security number (SSN), it must verify the employee’s work eligibility status within 10 days of such notice.</li> <li>▪ An employer can voluntarily access the verification system within 30 days of enactment for new or current hires, but cannot selectively use it and must use it for all employees.</li> <li>▪ DHS may designate a nongovernmental entity to perform functions of the verification system.</li> </ul>
<p><b>Worker Protections</b></p>	<ul style="list-style-type: none"> <li>▪ Homeland Security Secretary to develop process that enables individuals to access their own EEVS histories and determine the identities of all persons who have queried their information through EEVS, query dates, and DHS response.</li> <li>▪ Homeland Security Secretary to directly notify an individual of a confirmation, nonconfirmation, or further action notice in EEVS and procedures to review and appeal.</li> <li>▪ Homeland Security Secretary shall establish a secure self-verification procedure to permit an individual who seeks to verify his/her own employment to contact the appropriate agency and, in a timely manner, correct or update information in the system.</li> <li>▪ Allows parents to access records of minor children.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Requires DHS to establish a program enabling parents to limit use of their minor child’s SSN.</li> <li>▪ SSNs can be locked for employment eligibility verification purposes.</li> </ul>
<p><b>Acceptable Identity and Work Authorization Documents</b></p>	<ul style="list-style-type: none"> <li>▪ Identity and work authorization: US passports, passport cards, LPR cards, employment authorization document (EAD) cards, foreign passports (with attached documentation specifying authorized period of stay and work authorization in United States) and enhanced driver’s licenses or similar state/outlying territory/Indian tribe card.</li> <li>▪ Identity only: driver’s licenses and voter registration cards, Indian tribe cards, and in certain cases other forms of ID with security features.</li> <li>▪ Employment authorization: social security cards and other documentation determined by Homeland Security Secretary.</li> <li>▪ Nothing in the law can be construed to authorize the issuance of national identification card.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Identity and work authorization: US passport, LPR card, EAD cards, foreign passport with documents establishing work eligibility, documents from outlying US territories or Native American tribes, and other documents that have photographic and biographic data and security features plus evidence of employment authorization.</li> <li>▪ For ID only: state driver’s licenses or ID cards, US military ID cards, Native American tribal ID.</li> <li>▪ Work authorization only: Non-restricted social security card.</li> <li>▪ Nothing in the law can be construed to authorize the issuance of a national ID card.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Review of Nonconfirmations</b>	<ul style="list-style-type: none"> <li>▪ The system must provide confirmation or further action notice (tentative nonconfirmation, or TNC) within 3 business days of receipt of inquiry.</li> <li>▪ An individual who receives a Further Action Notification may, within 10 business days, contact appropriate federal agency to verify employment authorization and identity. If the notice is not contested, it will lead to nonconfirmation and the employee should be terminated.</li> <li>▪ An individual who receives a nonconfirmation notice may within 10 business days file an administrative appeal with either SSA or DHS.</li> <li>▪ An individual who receives a final determination may, within 30 days, file a complaint with an administrative law judge (ALJ), who may allow remedies to a worker including lost wages.</li> <li>▪ An ALJ decision can within 45 days be taken up for review to the appropriate US Circuit Court of Appeals.</li> <li>▪ If an ALJ reverses DHS's final determination over a finding of employer negligence or misconduct or DHS/SSA negligence, the ALJ may order the employer or DHS/SSA to pay lost wages and costs associated with the appeal and review process.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The verification system must provide confirmation or TNC within 3 working days of initial inquiry. If confirmation is received, employers to record it in the system.</li> <li>▪ If a TNC is received, the employer must inform the individual. If the individual does not contest the TNC within 10 days, nonconfirmation is considered final. If the individual contests, nonconfirmation remains tentative until the final determination is made. DHS and SSA must specify a process for secondary verification, but they must provide a final determination within 10 days of the receipt of the TNC notice. That period can be extended by 10 days.</li> <li>▪ If an individual alleges that dismissal would not have occurred but for an error of the verification system, he/she can seek compensation only through the mechanism of the Federal Tort Claims Act; no class action can be brought.</li> </ul>
<b>Protection Against Identity Fraud and Information Sharing</b>	<ul style="list-style-type: none"> <li>▪ Homeland Security Secretary and Social Security Commissioner to establish procedure for identifying and handling a situation in which an SSN has been identified to be subject to unusual multiple use.</li> <li>▪ Homeland Security Secretary shall provide a reliable, secure method for an individual to suspend or limit the use of his or her SSN in EEVS.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The system should be designed and operated to maximize reliability and ease of use while protecting privacy; ability to respond to all inquiries, with security safeguards to prevent disclosure of personal information; safeguards to prevent unlawful discrimination, prevention of identity theft, and to maintain the scope of employees subject to verification.</li> <li>▪ DHS may, or can allow individuals to, suspend or block social security account numbers that are misused.</li> </ul>
<b>Use of State Driver's License Information</b>	<ul style="list-style-type: none"> <li>▪ Grant program to be developed by Homeland Security Secretary to assist states in providing DHS access to state driver's license information; \$250 million authorized to meet this requirement.</li> </ul>	
<b>Penalties for Hiring Unauthorized Workers</b>	<ul style="list-style-type: none"> <li>▪ Civil penalties for those who knowingly hire, recruit, or refer an unauthorized worker:               <ul style="list-style-type: none"> <li>o First violation: \$3,500 - \$7,500 per worker.</li> <li>o Second violation: \$5,000 - \$15,000 per worker.</li> <li>o Third violation: \$10,000 - \$25,000 per worker.</li> </ul> </li> <li>▪ Pattern-and-practice violations: Up to \$10,000 per worker and/or not more than 2 years in prison.</li> <li>▪ Enhanced penalties when an employer fails to access the system and is found to have violated either labor standards or occupation health and safety standards.</li> <li>▪ Employers who knowingly hire 10 or more unauthorized workers while violating certain provisions of the Occupational Safety and Health Act and Fair Labor Standards Act subject to fines or imprisonment for not more than 10 years.</li> <li>▪ Good-faith compliance is a defense; employer must establish good-faith compliance.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Civil penalties for employers who knowingly hire, recruit, or refer an unauthorized worker:               <ul style="list-style-type: none"> <li>o First violation: more than \$2,500, less than \$5,000 per worker.</li> <li>o Second violation: more than \$5,000, less than \$10,000 per worker.</li> <li>o Third violation: more than \$10,000, less than \$25,000 per worker.</li> </ul> </li> <li>▪ Fines also apply to referrals made for fee by entities, including union hiring halls.</li> <li>▪ Pattern-and-practice violations: up to \$5,000 per worker and/or jail term of not more than 18 months.</li> <li>▪ Anyone convicted of a crime under this provision may be barred by DHS from receipt of any federal grants, contracts, or cooperative agreements.</li> <li>▪ Good-faith reliance on verification system is a defense against noncompliance; good-faith exception also provided for reducing levied penalties.</li> </ul>
<b>Penalties for Noncompliance with Verification Procedures</b>	<ul style="list-style-type: none"> <li>▪ Increases penalties for violations of verification procedures; provides for establishment of penalties for failure to query employer verification system.</li> <li>▪ If TNC error rate is above 0.3%, no employer can be fined in excess of \$1,000 for a first-time violation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Establishes penalties for violations of verification procedures that equal penalties for hiring, recruiting, or referring an unauthorized worker.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Fraud-Resistant Social Security Cards and Enhanced Penalties for Social Security Fraud</b>	<ul style="list-style-type: none"> <li>▪ Within 180 days of bill enactment, Social Security Commissioner shall begin work to administer and issue fraud-resistant, tamper-resistant, wear-resistant, and identity theft-resistant social security cards.</li> <li>▪ 5 years post-enactment, only such cards will be issued.</li> <li>▪ Increased penalties for knowingly and fraudulently using a false SSN or another person’s SSN—penalty of up to 5 years in prison.</li> </ul>	
<b>Preemption</b>	<ul style="list-style-type: none"> <li>▪ Law preempts state and local laws, regulations, or ordinances (other than those related to business licensing) relating to hiring, continued employment, or status verification for employment eligibility of workers.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Law preempts state and locals laws, ordinances, policies, or regulations (other than those related to business licensing) relating to the hiring, continued employment, or status verification of workers.</li> <li>▪ States can at their own cost enforce sanctions against employers if they follow the federal regulations, guidelines, and fee structure. An employer cannot be subject to actions by both federal and state governments. Whichever entity—state or federal—brings initial action has right of first refusal to proceed with enforcement action.</li> <li>▪ DHS must establish an Office of State and Local Government Complaints to which local and state governments can submit employer sanction complaints. The office must inform the state within 5 days whether DHS will investigate the matter. The office must submit annual progress report to congressional committees.</li> </ul>
<b>Worksite Enforcement Personnel and Protections</b>		
<b>Personnel and Enhancements</b>	<ul style="list-style-type: none"> <li>▪ Provides for addition of 5,000 new employees to USCIS and ICE over 5 years to administer, monitor, and ensure compliance with EEVS.</li> <li>▪ Provides for interoperability between USCIS, ICE, and DOJ on EEVS.</li> </ul>	
<b>Worksite Enforcement Protections</b>	<ul style="list-style-type: none"> <li>▪ Workplace rights and remedies provided under state and local laws, including back pay, available to all employees, including unauthorized immigrants.</li> <li>▪ Removal proceedings of an individual to be reviewed if their presence is needed in a workplace claim/action.</li> </ul>	
<b>Profiling</b>	<ul style="list-style-type: none"> <li>▪ Clarifies profiling rules and requires DHS to collect and analyze data on individualized immigration enforcement actions taken by DHS officers to improve profiling regulations.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Implementation of Exit Component of Entry-Exit System</b>		
<b>Exit System</b>	<ul style="list-style-type: none"> <li>▪ Mandates DHS to establish a mandatory exit data system by December 31, 2015 that requires airline and vessel carriers to collect information from departing foreign passengers’ machine-readable visas, passports, and other travel and entry documents in a secure and timely manner. Authorizes \$500 million to reimburse carriers.</li> <li>▪ Mandates DHS to establish a mandatory biometric exit data system at 10 highest-volume international airports within 2 years of bill’s enactment, and at 30 core international airports within 6 years. DHS also must submit a plan to Congress for the expansion of the biometric exit system to major land and sea ports within 6 years.</li> <li>▪ Requires information sharing of exit information to track departures of lawfully admitted noncitizens—those who have not departed when required to do so will be enforcement targets.</li> <li>▪ Requires DHS to integrate all databases that process and contain data on noncitizens maintained by USCIS, CBP, ICE, Executive Office of Immigration Review (EOIR), and the Bureau of Consular Affairs to be used for visa issuance, admissions, and removal decisions.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>▪ Within 6 months, Homeland Security Secretary is required to submit a plan to implement immediately a biometric exit capability at POEs through the US-VISIT program. If it is determined to be unfeasible, the Secretary is required to propose a commensurate alternative to implement within 2 years.</li> </ul> <p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Requires DHS to establish a biometric entry and exit data system within 2 years of the law’s enactment.</li> </ul>
<b>State, Local, and Federal Cooperation to Enforce Immigration Laws</b>		
<b>Authority of State and Local Law Enforcement Agencies</b>		<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Allows state and local law enforcement agencies to investigate, identify, apprehend, arrest, detain, or transfer to federal custody noncitizens for the purpose of enforcing federal immigration laws to the same extent as federal authorities can. They can also enforce state and local immigration laws (provided they are permissible). State and local officials may not remove noncitizens.</li> <li>▪ Allows states and localities to enact, implement, and enforce criminal and civil penalties that penalize violations of federal immigration law so long as the penalties do not exceed federal ones.</li> <li>▪ Requires DHS to make training materials on immigration law enforcement available for state and local law enforcement officials (with emphasis on web-based training); provides no requirements concerning training or carrying guidance materials. Training costs paid for by DHS.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<p><b>State/Local/Federal Cooperation</b></p>		<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Would give states access to federal programs or technology directed at identifying inadmissible or removable noncitizens.</li> <li>▪ Requires DHS to give grants to states and localities to obtain equipment, technology, and facilities that facilitate the investigation, apprehension, arrest, detention, and transportation of removable noncitizens. Eligible jurisdictions must have authority to assist in enforcement of immigration laws; those with policies preventing law enforcement from inquiring about immigration status are barred from receiving such grants.</li> <li>▪ Requires DHS to enter into 287(g) agreements at the request of any state or locality if it is determined that personnel are qualified. No request can be denied without good cause; there is no limit to the number of agreements; and DHS has 90 days to approve requests. Expenses fall on state/locality. State/localities can implement any combination of models—jail, patrol, or task-force. Federal programs or technology directed broadly at identifying deportable noncitizens (i.e. Secure Communities) can't substitute and will operate in addition to 287(g) programs. DHS cannot terminate agreements without good cause, and states/localities have protections against agreement termination.</li> </ul>
<p><b>Immigration Enforcement Personnel Enhancements</b></p>		<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Authorizes hiring of 2,500 ICE detention enforcement officers responsible for taking and maintaining custody of, transporting, guarding, and processing detainees, and securing DHS detention facilities.</li> <li>▪ Adds 5,000 deportation officers and 700 support staff for them, and adds 60 trial attorneys.</li> <li>▪ Expands arrest authority to all DHS immigration enforcement agents and deportation officers; permits them to be armed if they are qualified and trained.</li> <li>▪ Requires DHS to buy body armor for each ICE deportation officer and immigration enforcement agent in the field; equips them with weapons that at a minimum should include standard handguns, M-4 rifles, and tasers.</li> <li>▪ Establishes ICE Advisory Council made up of appointees to inform Congress about the status of agency efforts, personnel matters, and effectiveness of DHS policies.</li> <li>▪ Establishes pilot program for electronic field processing of removal caseload.</li> <li>▪ Makes state and local officials acting within scope of duties immune to personal liability as federal officials are.</li> <li>▪ Requires a plan to increase use of Border Patrol mobile rapid response teams.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
Information Sharing		<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>Requires states and localities to provide to DHS the information (name, address, physical description, time, date, and location of encounter and reason for stopping, detaining, apprehending, or arresting alien; driver’s license information, any ID documents, license plate and car registered to them, and photo and fingerprints if possible) on all apprehended noncitizens who are believed to be deportable. DHS is required to reimburse for costs associated with provision of the information. There are protections for crime victims or witnesses.</li> <li>Requires DHS to provide information for inclusion in DOJ’s National Crime Information Center database on noncitizens who have a final removal order, have entered into a voluntary departure agreement, overstayed a visa, or whose visa has been revoked.</li> <li>Bars restriction of state/local/federal information sharing on deportable noncitizens. A state or locality that implements a practice that inhibits cooperation is barred from receiving law enforcement/DHS grants. Noncompliance reports issued yearly.</li> </ul>
<b><i>Detention, Removal, Immigration Courts, Humanitarian Issues</i></b>		
Criminal Penalties/ Immigration Consequences	<ul style="list-style-type: none"> <li>New criminal penalties for a variety of passport, visa, and immigration fraud offenses, organized and abusive human smuggling activities, certain drug offenses on federal lands, illicit spotting, destroying, altering, or damaging any fence, barrier, sensor, camera, or other physical or electronic device used for border control.</li> <li>Increased penalties for illegal entry and illegal re-entry after removal.</li> <li>Classifies third drunk driving offense as an aggravated felony.</li> </ul>	<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>Makes “illegal presence” in the United States a federal misdemeanor.</li> <li>Expands the definition of illegal entry to include visa overstayers of 90+ days; makes illegal entry a continuing offense until the noncitizen is discovered by authorities; increases civil and criminal penalties (especially for criminal aliens).</li> <li>Expands list of aggravated felonies.</li> <li>Increases criminal penalties for alien smuggling and related offenses.</li> <li>Increases criminal penalties for re-entry after removal (especially for criminal aliens), includes border crossers in definition.</li> <li>Strengthens laws concerning the issuance of passports, false statements in passport applications, misuse of passports, schemes to defraud noncitizens, immigration and visa fraud, and other related topics.</li> <li>Evidence besides the conviction record can be used to make crime of moral turpitude and crime of violence determinations (only w/ domestic violence crimes) for inadmissibility and deportability purposes.</li> <li>Increases penalties for failure to depart: \$3,000 civil penalty, ineligibility for relief for 10 years, ineligibility for reopening the removal order with some exceptions. Noncitizens granted pardons for convictions that subject them to removal are not deportable.</li> <li>Certain US citizen and LPR sex offenders cannot sponsor relatives for family-based visas.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<p><b>Grounds of Inadmissibility/Deportability</b></p>	<ul style="list-style-type: none"> <li>▪ New grounds of inadmissibility/deportability for convictions related to criminal gang activity, participation in criminal street gangs, habitual drunk driving, trafficking in immigration documents or passports, domestic violence, stalking, child abuse, and violations of protection orders.</li> </ul>	<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Expands grounds of inadmissibility to include social security/ID fraud, unlawful procurement of citizenship, certain firearm offenses, an aggravated felony committed at any time, domestic violence crimes, stalking and child abuse, second DUI, and protection order violations.</li> <li>▪ Expands deportability grounds to include unlawful procurement of citizenship, social security or ID fraud, and second DUI.</li> <li>▪ Establishes new grounds of inadmissibility and deportability for criminal gang members, subjects them to mandatory detention; makes them ineligible for asylum and TPS; and includes restrictions on removal to certain countries based on asylum grounds.</li> <li>▪ Bars refugee and asylum adjustments of status for aggravated felons.</li> <li>▪ Expands criminal, national security, health (drug use), and immigration-related violations (misrepresentation and smuggling) grounds of ineligibility for registry green cards.</li> </ul>
<p><b>Detention</b></p>	<ul style="list-style-type: none"> <li>▪ DHS to contract with nongovernmental community-based organizations to conduct screening of detainees, provide alternative-to-detention services, and operate community-based supervision programs.</li> <li>▪ Alternatives-to-detention determination shall be individually based.</li> <li>▪ Annual inspections for all detention facilities + routine oversight inspections.</li> <li>▪ Homeland Security Secretary shall impose “meaningful financial penalties” upon detention facilities that fail to comply with applicable detention standards.</li> <li>▪ With the exception of criminal aliens and those detained on terrorism grounds, noncitizens may be detained only if DHS demonstrates that alternatives to detention will not reasonably assure the appearance of the noncitizen and the safety of others.</li> <li>▪ Immigration judges may only enter stipulated orders of removal after finding at an in-person hearing that the stipulation was voluntary, knowing, and intelligent.</li> <li>▪ Limits use of solitary confinement of immigration detainees, and establishes standards and oversight for solitary confinement; bars use of solitary confinement for children.</li> <li>▪ Mandates new reporting and record keeping on detention.</li> </ul>	<p><u>SAFE Act:</u></p> <ul style="list-style-type: none"> <li>▪ Requires DHS to construct or acquire, and fund, additional detention space; facilities will be required to have a number of beds necessary to carry out the title. Noncitizens apprehended under the title shall be detained pending examination.</li> <li>▪ Increases DHS authority to detain noncitizens beyond removal period for certain detained noncitizens—contradicting the Supreme Court case Zadvydas v. Davis.</li> <li>▪ If state or local law enforcement requests that DHS take a noncitizen into federal custody, DHS must do so. DHS is required to issue a detainer or request that the agency transport him/her into federal custody. DHS must take the person into custody within 48 hours of detainer or apprehension.</li> <li>▪ Requires DHS to reimburse states for detention costs.</li> <li>▪ Continues and expands to all states criminal alien identification programs; authorizes detention of noncitizens for up to 14 days after completion of a state or local prison sentence until DHS picks them up.</li> <li>▪ Increases detention authority in general, especially over criminal aliens and noncitizens subject to mandatory detention laws—they may only seek relief from detention through an application process. Those convicted of at least 1 DUI are subject to mandatory detention.</li> <li>▪ A detention review process will be available to noncitizens not subject to mandatory detention laws who cooperate with DHS.</li> <li>▪ DHS can issue expedited removal orders on criminal grounds; reduces from 14 to 7 days after the issuance of an expedited removal order the time period during which DHS may not execute the order.</li> <li>▪ Requires DHS to reimburse states for detention costs.</li> <li>▪ Requires reporting on detainee deaths.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Removal</b>		<ul style="list-style-type: none"> <li>▪ Encourages certain noncitizens to voluntarily depart at their own cost instead of going through removal proceedings, by entering into agreements with DHS that may reduce period of inadmissibility.</li> <li>▪ Increases penalties for failure to depart: \$3,000 civil penalty, ineligibility for relief for 10 years, ineligibility for reopening the removal order with some exceptions.</li> <li>▪ Bars DHS from finalizing, implementing, administering, or enforcing the prosecutorial discretion guidelines issued by ICE in 2011 memos.</li> <li>▪ Noncitizens found re-entering illegally after being removed would be issued reinstatements of removal that do not require proceedings and that are subject to being reopened; the noncitizen is not eligible to apply for relief.</li> <li>▪ Requires reports to Congress on the exercise and abuse of prosecutorial discretion.</li> </ul>
<b>Immigration Detainees' Access to Information / Right to Counsel</b>	<ul style="list-style-type: none"> <li>▪ Enables the Attorney General to appoint or provide counsel at government expense to noncitizens in immigration proceedings in certain cases, including unaccompanied minors and those with a serious mental disability.</li> <li>▪ Requires government to automatically provide to noncitizens in immigration proceedings a complete copy of all relevant documents maintained by DHS.</li> <li>▪ Establishes Office of Legal Access Programs within EOIR to make immigration proceedings more efficient and cost-effective.</li> <li>▪ Ensures legal orientation programs are available to all detained noncitizens within 5 days of arrival into custody.</li> </ul>	
<b>Immigration Enforcement Protections</b>	<ul style="list-style-type: none"> <li>▪ Limits enforcement actions by immigration officers at sensitive locations including hospitals and health-care clinics, schools, organizations that assist vulnerable populations, and religious organizations. Mandates oversight and reporting.</li> <li>▪ Establishes enforcement action procedures and protections for apprehended parents or primary care-givers of children under 18 to mitigate the effects of family separation.</li> </ul>	
<b>Immigration Courts</b>	<ul style="list-style-type: none"> <li>▪ Requires DOJ to add 75 immigration judges per year, FY 2014-16; increases EOIR support staff and Board of Immigration Appeals (BIA) attorneys.</li> <li>▪ Codifies the BIA and certain BIA procedures.</li> <li>▪ Improves training, resources, and technology for immigration courts and BIA.</li> <li>▪ Requires EOIR to improve interpreter selection and evaluation.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Asylum, Refugees, and Stateless Persons</b>	<ul style="list-style-type: none"> <li>Removes 1-year time after arrival limit to apply for asylum, allows certain asylum applicants denied on basis of deadline to file motions to reopen.</li> <li>Requires DHS to terminate the status of any refugee or asylee who returns to the country from which they fled persecution without “good cause.”</li> <li>Clarifies that asylum applicants can receive work authorization 180 days after the application filing date, de-couples “asylum clock” used by EOIR and USCIS.</li> <li>Allows USCIS asylum officers to grant asylum to qualified individuals originally referred for expedited removal.</li> <li>Allows the president to designate for refugee status certain groups of noncitizens identified as targets of persecution on account of race, religion, nationality, membership of a social group, or political opinion.</li> <li>Admits children of noncitizens who qualify for admission as a refugee’s dependent.</li> <li>Offers certain immigration benefits to stateless persons.</li> <li>Requires national security screening and law enforcement checks before admission of refugees and grants of asylum.</li> <li>Provides 5,000 immigrant visas for qualified Tibetan refugees.</li> </ul>	<ul style="list-style-type: none"> <li>Expands national security grounds for asylum and cancellation of removal ineligibility.</li> </ul>
<b>U Visa</b>	<ul style="list-style-type: none"> <li>Expands U visa eligibility to include victims of serious labor law violations and certain other crimes.</li> <li>Raises U visa cap from 10,000 to 18,000; not more than 3,000 can be for victims of labor law violations.</li> <li>Noncitizens with pending U and T visas are eligible to receive work authorization.</li> </ul>	
<b>Prevention of Abuse and Trafficking</b>	<ul style="list-style-type: none"> <li>Requires registration and disclosure of certain information by foreign labor contractors, increases monitoring of labor contractors, regulates recruitment fees, creates protections for contracted workers, and prohibits discrimination contractors.</li> <li>Strengthens trafficking detection, prevention, and protections with an emphasis on children, includes the Child Trafficking Victims Protection Act, which establishes new treatment of unaccompanied minors in DHS and Office of Refugee Resettlement (ORR) custody.</li> <li>Transfers responsibility for trafficking protections to DOJ.</li> <li>Increases trafficking protections, transparency, prohibits discrimination, establishes new fee regulations, information sharing, and enforcement in Exchange Visitor Program.</li> </ul>	<p><u>Border Security Results Act:</u></p> <ul style="list-style-type: none"> <li>Comprehensive strategy to include assessments of trafficking and screening for such violations.</li> </ul>
<b>Visa and National Security Measures</b>		
<b>Visa Security, Processing, Interviews</b>	<ul style="list-style-type: none"> <li>Establishes interview waivers for visa applicants who are determined to be low-risk, but Secretary of State retains right to interview any applicant.</li> <li>Provides consular officers with access to all terrorist databases; requires all noncitizens seeking admission to provide biographic or biometric information for screening against terrorist watchlists and databases; no one who is listed in such watchlists or databases shall be issued a visa (review process available).</li> <li>Increases criminal penalties for Student and Exchange Visitor Program (SEVIS) offenses by educational institutions, tightens accreditation requirements. DHS may cut off institutions’ access to SEVIS if there is reasonable suspicion of fraud, and can permanently disqualify them from filing student visa petitions if convicted of fraud. Requires implementation of SEVIS II.</li> </ul>	<ul style="list-style-type: none"> <li>Increases visa information sharing for the purpose of visa issuance decisions, restricts visa interview waivers, enables denial of visas without interviews, gives Homeland Security Secretary authority over visa granting and refusal functions of consular officers, increases oversight of visa issuance at high-risk posts, places more DHS personnel at overseas embassies and consulates.</li> <li>Increases criminal penalties for SEVIS offenses by educational institutions, tightens accreditation requirements, and requires background checks for SEVIS users. DHS may cut off institutions’ access to SEVIS if there is reasonable suspicion of fraud, and permanently disqualify them from filing student visa petitions if convicted of fraud; requires implementation of SEVIS II.</li> </ul>

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>National Security Measures</b>	<ul style="list-style-type: none"> <li>▪ Codifies national security and law enforcement checks for refugees and asylees.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Tightens good moral character finding bars for terrorism and aggravated felonies.</li> <li>▪ Expands bars to naturalization and denaturalization on national security grounds.</li> <li>▪ Requires completed background checks for grant of any immigration benefit.</li> <li>▪ Authorizes disclosure of Immigration Reform and Control Act (IRCA) of 1986 legalization information for census and national security purposes.</li> </ul>
<b>TITLE IV. REFORMS TO NONIMMIGRANT VISA PROGRAMS</b>		
<b>Summary</b>	<ul style="list-style-type: none"> <li>▪ Establishes W nonimmigrant visa for lower-skilled jobs, allowing multi-year employment with option to apply for permanent residence.</li> <li>▪ Expands temporary worker provisions to replace H-2A temporary agricultural program, permitting multi-year employment, portability for some workers, and option to apply for permanent residence.</li> <li>▪ Increases H-1B visa limits and fees, permits work authorization for spouses, and increases regulatory requirements for some H-1B employers.</li> <li>▪ Introduces substantial new fees and restrictions on employers with large shares of temporary visa holders in workforce.</li> <li>▪ Establishes independent statistical agency/bureau to make recommendations to policymakers on numerical limits and all other aspects of employment-based visa system.</li> <li>▪ Creates entrepreneur visa.</li> <li>▪ Creates non-work authorized retiree visa.</li> </ul>	<p><u>AG Act:</u></p> <ul style="list-style-type: none"> <li>▪ Establishes new H-2C agricultural worker program to replace H-2A temporary agricultural program, permitting multi-year employment and portability for some workers, but without path to permanent residence.</li> <li>▪ Allows unauthorized immigrants already working in agriculture to participate in the current H-2A program and then to apply for H-2C worker program (they must first “touch back”) but provides no path to permanent residence.</li> </ul> <p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ Increases H-1B visa limits and fees, and permits work authorization for spouses.</li> <li>▪ Creates entrepreneur visa.</li> </ul>
<b>Low-Skilled Nonimmigrant Visa Changes</b>		
<b>Low-Skilled Nonagricultural Workers</b>	<ul style="list-style-type: none"> <li>▪ W visa for jobs requiring less than bachelor’s degree with initial duration of 3 years, renewable, with option to apply for permanent residence through merit-based system or employer sponsorship.</li> <li>▪ Caps W visas at 22,000 in first year, increasing to up to 220,000 visas over time based on statistical formula and bureau recommendations, with possibility of more visas for shortage occupations and workers with high wages; prioritizes applications in shortage occupations and for small businesses.</li> <li>▪ Allows 60-day job-search period for workers to move between registered employers/positions. Makes dependents of W visa holders eligible for work authorization.</li> <li>▪ Prohibits W approvals where local unemployment &gt; 8.5% unless position is on shortage list or higher-wage occupation.</li> <li>▪ Fees for processing and additional fees (up to \$3,500 per position) for heavy visa users; at least 70% of workers in medium/large businesses must be US workers.</li> <li>▪ Debars employers who commit certain labor violations for up to 3 years, or permanently for trafficking-related violations.</li> </ul>	
<b>H-2B Visa</b>	<ul style="list-style-type: none"> <li>▪ Employer requirements to pay travel costs, not displace US workers, and pay \$500 fee for labor certification.</li> <li>▪ Exempts FY 2013 H-2B workers returning through FY 2018 from numerical limits.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Agricultural Worker Program</b>	<ul style="list-style-type: none"> <li>▪ H-2A program replaced with 2 agricultural visas for “contract” and “at-will” employment; visas are for 3 years with one 3-year renewal; visas capped at 112,333 but can be adjusted at discretion of Agriculture Secretary.</li> <li>▪ At-will workers can move between employers registered for the program; contract workers can do so on completion of contract; unemployment of up to 60 days permitted.</li> <li>▪ Wages specified in law and adjusted in line with inflation/other considerations.</li> <li>▪ Electronic database to monitor presence and employment of workers.</li> <li>▪ No dependents allowed.</li> </ul>	<p><u>Ag Act:</u></p> <ul style="list-style-type: none"> <li>▪ H-2A program replaced with new agricultural program allowing both contract and at-will employment. Contract employment for maximum 18 months in seasonal/temporary work, or 3 years (plus 18 month extension) in nonseasonal jobs. No maximum stay for shepherders or for “commuter workers” who return to their home countries each day; visas capped at 500,000 but can be reduced at the discretion of the Agriculture Secretary.</li> <li>▪ At-will employment only available after completing regular contract; at-will workers can move between registered employers; total stay cannot exceed 4.5 years; 30 days unemployment permitted between jobs.</li> <li>▪ Must return home for period of up to 3 months when maximum stay expires. Shepherders and commuter workers exempt from return requirements.</li> <li>▪ 10% of wages withheld and claimed at embassy in home country after return home. Uncollected funds will be used for immigration enforcement.</li> <li>▪ E-Verify modified to identify at-will workers only authorized for agricultural employment.</li> <li>▪ No dependents allowed.</li> </ul>
<b>H-1B and L Nonimmigrant Visa Changes</b>		
<b>H1-B Visa</b>	<ul style="list-style-type: none"> <li>▪ Increases cap to 115,000 with formula-based adjustments over time up to maximum 180,000; raises additional H-1Bs for US master’s holders from 20,000 to 25,000 and reserves them exclusively for STEM graduates. Up to 20,000 additional visas made available immediately if cap exhausted quickly.</li> <li>▪ Increases wage requirements (with larger increases for H-1B dependent employers), establishes requirements to recruit US workers, and increases fraud detection measures and penalties.</li> <li>▪ Increases fees of up to \$10,000 per worker for employers with large shares of H-1B and L-1 holders in workforce and prohibits hiring more than 50% on these visas from FY 2017 onwards. Foreign workers with green-card petitions pending not counted toward total.</li> <li>▪ Provides work authorization for spouses.</li> <li>▪ New online job posting requirement before hiring H-1B worker.</li> <li>▪ Provides 60-day period for workers to change jobs.</li> </ul>	<p><u>SKILLS Visa Act</u></p> <ul style="list-style-type: none"> <li>▪ Increases cap to 155,000 plus 40,000 master’s grads, with no adjustment mechanism.</li> <li>▪ Modifies wage requirements and prevailing wage standard, but does not increase requirements for H-1B dependent employers.</li> <li>▪ Increases fees but without additional fees or prohibitions on hiring for high-volume users.</li> <li>▪ Provides work authorization for spouses.</li> <li>▪ New procedure for authenticating foreign degrees.</li> </ul>
<b>L Visa</b>	<ul style="list-style-type: none"> <li>▪ Increases in fees and prohibitions on hiring high share of workforce, on L visa, as described in H-1B section.</li> <li>▪ Restrictions on new offices.</li> <li>▪ Increases fraud-detection measures, audits, penalties, and whistleblower protections.</li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>▪ Adds prevailing wage requirement for L visa holders staying more than 6 months per 2 years.</li> </ul>
<b>Other Changes to Visa System</b>		
<b>Adjusting Future Immigration Flows</b>	<ul style="list-style-type: none"> <li>▪ Establishes independent statistical agency/bureau to make recommendations to policymakers on numerical limits for new W visa, analyze shortage occupations, and make recommendations on all aspects of employment-based system.</li> <li>▪ Introduces statistical formulae to adjust W visa numbers annually.</li> </ul>	

Issue	Senate Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 (S. 744)	2013 Bills Marked up in House Judiciary and Homeland Security Committees
<b>Startup Visa Program</b>	<ul style="list-style-type: none"> <li>Creates temporary visa for entrepreneurs with venture backing of \$100,000 or whose business has created 3+ jobs; 3-year visa renewable for another 3 years.</li> <li>Allows adjustment to permanent status if business creates 5+ jobs and meets revenue-raising requirements, with slightly lower requirements for STEM degree holders.</li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>2-year conditional visa for entrepreneurs with venture backing of \$500,000.</li> <li>Full permanent residence awarded after creating 5+ jobs and raising/generating additional \$1,000,000. No revenue/investment requirements for E-2 visa holders who create 5+ jobs and spend 10 years in United States.</li> </ul>
<b>Other Temporary Visa Reforms</b>	<ul style="list-style-type: none"> <li>Introduces or raises fees for several nonimmigrant applications, to fund education/training, operation of statistical bureau, and for other purposes.</li> <li>Authorizes foreign students to apply directly for green cards.</li> <li>Introduces retiree visa for those who purchase \$500,000 or more of residential property in United States; no work authorization or access to benefits.</li> <li>Creates E visa for high-skilled workers from countries concluding free trade agreements with United States, and for middle- and high-skilled workers from Ireland and certain African/ Caribbean nations.</li> <li>Renews H-1C nurse visa with numerical limit of 300.</li> </ul>	<p><u>SKILLS Visa Act:</u></p> <ul style="list-style-type: none"> <li>Adds prevailing wage requirement to J-1 visas, TN visas, and former international students on OPT.</li> <li>Authorizes foreign students to apply directly for green cards.</li> <li>Streamlines aspects of petition process for employers filing multiple petitions.</li> <li>Exempts employers from paying all temporary foreign workers the prevailing wage if 80% of comparable employees are US workers; instead, foreign worker must be paid the same as those comparable US workers.</li> <li>Employers protected from repetitive audits.</li> <li>Requires a portion of nonimmigrant visa application fees to be used to improve US STEM education.</li> </ul>

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