

Summary of the Reid-Schumer-Menendez Amnesty Proposal

April 30, 2010

PARTS

- I. Border Security
- II. Detection, Apprehension, and Removal of Illegal Aliens
- III. Employment Verification
- IV. Legal Immigration
- V. Amnesty
- VI. Miscellaneous

I. BORDER SECURITY

- ▶ Increases personnel in CBP and ICE, and resources for courts; creates trigger provision requiring these to be fulfilled before amnesty can be granted to those illegally in the country (p.1)
- ▶ Provides for additional increases in Border Patrol agents stationed on the southern and northern borders and CBP agents stationed at ports of entry (p.1)
- ▶ Provides for the installation of high-tech ground sensors along the southern border instead of SBInet (p. 2)
- ▶ Upgrades technology for the Border Patrol (BP), including: (1) secure two-way communication capabilities among all BP agents; (2) use of DOD equipment at the border; (3) additional SUVs, helicopters, power boats, river boats, portable computers, night vision equipment, unmanned aircraft systems, etc. (p. 2)
- ▶ Creates a “Border Patrol Auxiliary Unit” to assist the BP (p. 2)
- ▶ Authorizes DHS to deploy National Guard personnel to borders “when needed” (p. 2)
- ▶ Requires creation of additional ports of entry; hiring of thousands of CBP inspectors; provides ports of entry will have enhanced connectivity with government fingerprint databases (p. 3)

- ▶ Requires the construction of additional permanent “Border Patrol Forward Operating Bases” (p. 3)
- ▶ Provides additional investigators to ICE to investigate smuggling (p. 3)
- ▶ Provides additional agents to DEA and ATF for the Southwest Border Initiative (pp. 3-4)
- ▶ Creates a bipartisan commission tasked with investigating the state of security on the southern and northern borders and issuing recommendations to ensure complete operational control within 12 months. Congress will be required to vote on whether to enact the commission’s recommendations (p. 4)
- ▶ Expressly preempts states and municipalities from enacting their own rules and penalties relating to immigration (p. 4)
- ▶ Directs DHS, DOI, and DOA to work together “to protect our borders while preserving our national parks and wildlife sanctuaries” (p. 4)
- ▶ Provides grants to municipalities and counties “to mitigate the impact of illegal [aliens] crossing the border and assist them in transporting [them] to law enforcement authorities” (p. 4)
- ▶ Provides that northern border cities will be treated just like southern border cities and will be reimbursed for handling case dispositions of criminal cases that are federally initiated but federally declined or referred (pp. 4-5)
- ▶ Establishes a “Border Communities Liaison Office” responsible for reaching out to border town residents and creating a standardized complaint process for addressing complaints regarding the operations of CBP (p. 5)
- ▶ Allows communities to create alternatives to detention (p. 5)
- ▶ Creates custody standards providing minimum standards of care for all Border Patrol stations, holding cells, checkpoints, and short-term custody officials (p. 5)

II. DETECTION, APPREHENSION, AND REMOVAL OF ILLEGAL ALIENS

- ▶ Requires completion of US-VISIT (first passed in 1996) (p. 5)

- ▶ Provides DHS will promptly identify, investigate, and initiate removal proceedings against any nonimmigrant who has exceeded his/her authorized stay or otherwise violated the term of his/her visa (p. 6)
- ▶ Requires DHS to check all criminals in federal, state, and local prisons and to deport those here illegally (p. 5)
- ▶ Requires evaluation and monitoring of the Visa Waiver Program to ensure no participating country has a high percentage of visa overstays (p. 5)
- ▶ Provides “there will be zero tolerance for illegal entry and reentry into the U.S.” (p. 5)
- ▶ Prohibits gang members from entering the U.S. and states that such individuals will be deported when apprehended; further prohibits sex offenders from petitioning to bring in foreign nationals (p.6)
- ▶ Amends federal law to sanction countries that delay or prevent repatriation of their citizens (p. 6)
- ▶ States that the U.S. will have heightened authority to detain dangerous criminals until they can be deported (pp. 6-7)
- ▶ Provides that “states will be quickly reimbursed for the costs of incarcerating and transporting aliens” (p. 7)
- ▶ Requires all foreign nationals to provide the U.S. with biometric information (p. 7)
- ▶ Sets uniform standards for detention of aliens (p. 7)
- ▶ Increases penalties and sanctions for “those who violate immigration laws” (p. 7)
- ▶ Gives victims of “egregious” labor law violations “incentives” to cooperate with law enforcement to report labor law violations; egregious labor law violators will face civil sanctions and prison sentences (p. 8)
- ▶ Requires agencies participating in 287(g) to collect and maintain records and data necessary to ensure “that actions under the agreement comply with federal law” (p. 8)
- ▶ Grants refugees and asylees green cards when they receive status (p. 8)

III. EMPLOYMENT VERIFICATION

- ▶ Requires SSA to begin issuing biometric, secure social security cards 18 months after enactment; cards will contain a photograph and an electronically coded micro-processing chip with a unique biometric identifier for the card-bearer (pp. 8-9)
- ▶ Possession of the biometric social security card will only serve as evidence of work authorization, not proof of citizenship or lawful immigration status (p. 9)
- ▶ Requires DHS and SSA to identify all individuals before issuance (p. 10)
- ▶ Requires employers hiring workers in the future to use the new cards as verification of work authorization through what they call the BELIEVE system; prospective employees will present the card to their employers who will swipe the card through a card-reader to confirm the cardholder's identity and work authorization (p. 11)
- ▶ Extends laws relating to E-Verify during transition; estimates transition time from E-Verify to new cards will be six years (p. 11)
- ▶ Within 5 years of enactment the biometric social security card will be the sole acceptable document for verifying work authorization (p. 12)
- ▶ Preempts all state and local immigration or employment verification laws (p. 15)
- ▶ Creates an Employment Verification Advisory Panel of "experts" and "representatives" from affected industries that will advise the government on the implementation, deployment, and security of the BELIEVE system (pp. 15-16)
- ▶ Increases penalties for employers who knowingly hire illegal aliens, hire without verification, etc. Provides a safe harbor for employers who hire or continue to employ illegal workers through a subcontractor, unless the employer knew or recklessly disregarded that the subcontractor hired or continued to employ an unauthorized worker (p. 16)
- ▶ Directs HHS, SSA, and DHS to establish a national birth and death registry (p. 16)
- ▶ Prohibits employers from deducting wages paid to illegal alien workers (p. 17)
- ▶ Provides that BELIEVE system will be paid for by collecting fees and fines (p. 17)

IV. LEGAL IMMIGRATION

- ▶ Makes green cards immediately available to foreign students with advanced degrees from U.S. universities in science, technology, engineering, or math and who have offers of employment from a U.S. employer in a field related to their degree (p. 18)
- ▶ Eliminates the per country employment-immigration cap (p. 18)
- ▶ Adds “fraud and abuse protections” for the H-1B program (p. 18)
- ▶ Adds new limitations on the L-1 program (p. 19)
- ▶ Adds “protections” to the H-2B program. Provides that returning H-2B workers will not count against the cap in any year the national unemployment rate is at or below 8 percent. Even if the national unemployment rate is above 8 percent, an employer may import an H-2B worker if the metropolitan statistical area where the labor is to be performed has an unemployment rate below 6 percent (p. 20)
- ▶ Creates a new, **H-2C guest worker program** for unskilled workers. The visa shall last for three years and may be renewed once. H-2C workers are eligible to get green cards if they meet “sufficient integration metrics” to demonstrate they have successfully become part of the U.S. economy and society. Allows a qualified U.S. worker who is displaced by an H-2C worker or who applies for a job filled by an H-2C worker to have redress for being unlawfully displaced. There is no mention of whether an alien has to apply for the H-2C visa outside the U.S. or is eligible if illegally in the U.S. (pp. 20-21)
- ▶ Creates a **commission on employment-based immigration**. The Commission shall recommend policies “that promote economic growth and competitiveness while minimizing job displacement, wage depression and unauthorized employment.” The Commission shall have the power to declare an immigration emergency—meaning a situation in which our employment-based system “is either substantially failing to admit a sufficient number of workers for the needs of the economy or is substantially admitting too many foreign workers.” If the Commission declares an emergency, it shall recommend changes in the employment-based system. Congress shall then vote to approve or disapprove of those recommendations. (pp. 21-22)
- ▶ Allows same-sex partners of citizens and LPRs to obtain green cards (p. 22)
- ▶ Authorizes the “recapture” of immigrant visas (if like existing legislative proposals, would consist of over 500,000 green cards) (p. 22)

- ▶ Classifies spouses and children of LPRs as “immediate relatives” (p. 22)
- ▶ Increases the per country cap for family-based visas from 7 to 10 percent (p. 22)

V. AMNESTY OR “BROAD-BASED REGISTRATION PROGRAM”

- ▶ Grants amnesty in two phases.

Phase 1: “Lawful Prospective Immigrant” status

- Requires illegal aliens to register, get fingerprinted, be screened
- Allows these individuals to work in the U.S. and travel outside the U.S.
- Allows aliens to bring in spouses and minor children from outside the U.S. (pp. 23-24)

To be eligible, an alien must:

- Complete an application, which includes biometric information;
- Pass security and criminal history checks;
- Pay all applicable fees, civil penalties and taxes; and
- Have been continuously present in the U.S. since the date of enactment (p. 25)

Unlike S.1639, there is no requirement that applicants be gainfully employed.

Aliens will be ineligible if they:

- Have been convicted of any felony offense under federal or state law;
- Have been convicted of three or more misdemeanors;
- Are currently legal; or
- Have entered illegally since the date of introduction (p. 25)

Phase 2: Lawful Permanent Resident status

LPIs are eligible to become LPRs after 8 years.

To become an LPR, an LPI must “meet criteria related to”:

- Basic citizenship skills;
- English language skills;
- Continuous residence in the U.S.;
- Updated criminal history and security checks;
- Payment of “all” federal income taxes, fees, and civil penalties; and
- Registration for selective service (p. 25)

Again, there appears to be no employment requirement.

AgJOBS is included (no mention of which version).

The **DREAM Act** is included (no mention of which version).

VI. MISCELLANEOUS

- ▶ Makes the R-1 Religious Worker Visa Program permanent (p. 26)
- ▶ Makes the Conrad 30 J-1 Visa Program permanent (p. 26)
- ▶ Makes H-1B and J-1 visas more easily obtainable by foreign doctors, who will also be given an easier path to citizenship (p. 26)
- ▶ Creates E-3 visas for the Irish (p. 26)
- ▶ Allows fashion models to enter the U.S. on an O or P visa instead of an H-1B visa (p. 26)
- ▶ Allows admission of foreign nurses and physical therapists “to alleviate shortages” in these occupations (p. 26)
- ▶ Makes “technical fixes” to the EB-5 program (p. 26)