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January 30, 2013

To: Supervisor Mark Ridley-Thomas, Chairman  
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From: William T Fujioka  
Chief Executive Officer

## WASHINGTON, D.C. UPDATE ON IMMIGRATION REFORM

On January 28, 2013, a bipartisan group of eight Senators released a framework for comprehensive immigration reform (Attachment I), and the White House released a fact sheet with the Administration's principles (Attachment II) following President Obama's speech on immigration reform on January 29, 2013. The bipartisan Senators include Democratic Senators Schumer (New York), Durbin (Illinois), Menendez (Illinois), and Bennet (Colorado), and Republican Senators McCain (Arizona), Flake (Arizona), Rubio (Florida), and Graham (South Carolina).

Both the Administration and bipartisan Senate immigration reform proposals lack details, and were not accompanied by draft bill language. White House officials also indicate that they do not plan to release any draft bill language, but, instead, will work with Congress in crafting legislation. Based on the documents, which were released, the Administration and bipartisan immigration reform proposals have several common elements - stronger border enforcement; stronger employment eligibility verification to prevent the hiring of undocumented workers; a path to citizenship (legalization) for undocumented immigrants who are currently in the United States; and reforms of legal immigration.

The most contentious element of both proposals is the legalization of the estimated up to 11 million undocumented immigrants who currently are in the country. Both proposals call for a lengthy, "earned" path to citizenship in which undocumented immigrants would have to pass background checks, pay fines and taxes, and meet other requirements in order to receive legal status. The path to citizenship, however, would be expedited for

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“DREAMers” - undocumented children who were brought here illegally by their parents. In addition, undocumented immigrants would be granted a “provisional” (temporary) legal status before they can apply for lawful permanent resident status under both proposals.

Both the Senate and White House immigration reform fact sheets indicate that, consistent with current law, former undocumented immigrants who are granted legal status would not be eligible for Federal public benefits. The fact sheets do not specify which Federal benefits would be denied them except that the White House fact sheet states that they would be ineligible for Affordable Care Act (ACA) health exchange subsidies. If the newly legalized population is denied Federal benefits, such as health exchange subsidies, Medicaid, Supplemental Security Income (SSI), and Temporary Assistance for Needy Families (TANF), then, under current State law, the County would be required to provide County-funded health services, mental health services, and General Relief.

Comprehensive immigration reform legislation is rarely considered by Congress, let alone enacted. Immigration reform legislation with legalization provisions most recently was seriously considered in 2006 and 2007. The most recently enacted immigration reform law was the Immigration Reform Control Act (IRCA) of 1986, which included strong immigration enforcement provisions, including employer sanctions against the hiring of undocumented workers, and the legalization of nearly 2.6 million undocumented immigrants. Efforts to enact immigration reform legislation had failed for more than five years before IRCA was enacted in November 1986. Now as in past years, there is greater opposition to the legalization of undocumented immigrants in the House than in the Senate. Therefore, while the prospects for immigration reform are the best in many years, it still is far from certain that it can be enacted this year. It is far easier for Congress to reach agreement on broad concepts or parts of immigration reform than on the details of all aspects of immigration reform.

We will continue to keep you advised.

WTF:RA  
MR:MT:ma

#### Attachments

c: All Department Heads  
Legislative Strategist

## **Bipartisan Framework for Comprehensive Immigration Reform**

**Senators Schumer, McCain, Durbin, Graham, Menendez, Rubio, Bennet, and Flake**

### **Introduction**

We recognize that our immigration system is broken. And while border security has improved significantly over the last two Administrations, we still don't have a functioning immigration system. This has created a situation where up to 11 million undocumented immigrants are living in the shadows. Our legislation acknowledges these realities by finally committing the resources needed to secure the border, modernize and streamline our current legal immigration system, while creating a tough but fair legalization program for individuals who are currently here. We will ensure that this is a successful permanent reform to our immigration system that will not need to be revisited.

Four Basic Legislative Pillars:

- Create a tough but fair path to citizenship for unauthorized immigrants currently living in the United States that is contingent upon securing our borders and tracking whether legal immigrants have left the country when required;
- Reform our legal immigration system to better recognize the importance of characteristics that will help build the American economy and strengthen American families;
- Create an effective employment verification system that will prevent identity theft and end the hiring of future unauthorized workers; and,
- Establish an improved process for admitting future workers to serve our nation's workforce needs, while simultaneously protecting all workers.

### **I. Creating a Path to Citizenship for Unauthorized Immigrants Already Here that is Contingent Upon Securing the Border and Combating Visa Overstays**

- Our legislation will provide a tough, fair, and practical roadmap to address the status of unauthorized immigrants in the United States that is contingent upon our success in securing our borders and addressing visa overstays.
- To fulfill the basic governmental function of securing our borders, we will continue the increased efforts of the Border Patrol by providing them with the latest technology, infrastructure, and personnel needed to prevent, detect, and apprehend every unauthorized entrant.
- Additionally, our legislation will increase the number of unmanned aerial vehicles and surveillance equipment, improve radio interoperability and increase the number of agents at and between ports of entry. The purpose is to substantially lower the number of successful illegal border crossings while continuing to facilitate commerce.

- We will strengthen prohibitions against racial profiling and inappropriate use of force, enhance the training of border patrol agents, increase oversight, and create a mechanism to ensure a meaningful opportunity for border communities to share input, including critiques.
- Our legislation will require the completion of an entry-exit system that tracks whether all persons entering the United States on temporary visas via airports and seaports have left the country as required by law.
- We recognize that Americans living along the Southwest border are key to recognizing and understanding when the border is truly secure. Our legislation will create a commission comprised of governors, attorneys general, and community leaders living along the Southwest border to monitor the progress of securing our border and to make a recommendation regarding when the bill's security measures outlined in the legislation are completed.
- While these security measures are being put into place, we will simultaneously require those who came or remained in the United States without our permission to register with the government. This will include passing a background check and settling their debt to society by paying a fine and back taxes, in order to earn probationary legal status, which will allow them to live and work legally in the United States. Individuals with a serious criminal background or others who pose a threat to our national security will be ineligible for legal status and subject to deportation. Illegal immigrants who have committed serious crimes face immediate deportation.
- We will demonstrate our commitment to securing our borders and combating visa overstays by requiring our proposed enforcement measures be complete before any immigrant on probationary status can earn a green card
- Current restrictions preventing non-immigrants from accessing federal public benefits will also apply to lawful probationary immigrants.
- Once the enforcement measures have been completed, individuals with probationary legal status will be required to go to the back of the line of prospective immigrants, pass an additional background check, pay taxes, learn English and civics, demonstrate a history of work in the United States, and current employment, among other requirements, in order to earn the opportunity to apply for lawful permanent residency. Those individuals who successfully complete these requirements can eventually earn a green card.
- Individuals who are present without lawful status - not including people within the two categories identified below - will only receive a green card after every individual who is already waiting in line for a green card, at the time this legislation is enacted, has received their green card. Our purpose is to ensure that no one who has violated America's immigration laws will receive preferential treatment as they relate to those individuals who have complied with the law.

- Our legislation also recognizes that the circumstances and the conduct of people without lawful status are not the same, and cannot be addressed identically.
  - For instance, individuals who entered the United States as minor children did not knowingly choose to violate any immigration laws. Consequently, under our proposal these individuals will not face the same requirements as other individuals in order to earn a path to citizenship.
  - Similarly, individuals who have been working without legal status in the United States agricultural industry have been performing very important and difficult work to maintain America's food supply while earning subsistence wages. Due to the utmost importance in our nation maintaining the safety of its food supply, agricultural workers who commit to the long term stability of our nation's agricultural industries will be treated differently than the rest of the undocumented population because of the role they play in ensuring that Americans have safe and secure agricultural products to sell and consume. These individuals will earn a path to citizenship through a different process under our new agricultural worker program.

## **II. Improving our Legal Immigration System and Attracting the World's Best and Brightest**

- The development of a rational legal immigration system is essential to ensuring America's future economic prosperity. Our failure to act is perpetuating a broken system which sadly discourages the world's best and brightest citizens from coming to the United States and remaining in our country to contribute to our economy. This failure makes a legal path to entry in the United States insurmountably difficult for well-meaning immigrants. This unarguably discourages innovation and economic growth. It has also created substantial visa backlogs which force families to live apart, which incentivizes illegal immigration.
- Our new immigration system must be more focused on recognizing the important characteristics which will help build the American economy and strengthen American families. Additionally, we must reduce backlogs in the family and employment visa categories so that future immigrants view our future legal immigration system as the exclusive means for entry into the United States.
- The United States must do a better job of attracting and keeping the world's best and brightest. As such, our immigration proposal will award a green card to immigrants who have received a PhD or Master's degree in science, technology, engineering, or math from an American university. It makes no sense to educate the world's future innovators and entrepreneurs only to ultimately force them to leave our country at the moment they are most able to contribute to our economy.

### **III. Strong Employment Verification**

- We recognize that undocumented immigrants come to the United States almost exclusively for jobs. As such, dramatically reducing future illegal immigration can only be achieved by developing a tough, fair, effective and mandatory employment verification system. An employment verification system must hold employers accountable for knowingly hiring undocumented workers and make it more difficult for unauthorized immigrants to falsify documents to obtain employment. Employers who knowingly hire unauthorized workers must face stiff fines and criminal penalties for egregious offenses.
- We believe the federal government must provide U.S. employers with a fast and reliable method to confirm whether new hires are legally authorized to work in the United States. This is essential to ensure the effective enforcement of immigration laws.
- Our proposal will create an effective employment verification system which prevents identity theft and ends the hiring of future unauthorized workers. We believe requiring prospective workers to demonstrate both legal status and identity, through non-forgable electronic means prior to obtaining employment, is essential to an employee verification system; and,
- The employee verification system in our proposal will be crafted with procedural safeguards to protect American workers, prevent identity theft, and provide due process protections.

### **IV. Admitting New Workers and Protecting Workers' Rights**

- The overwhelming majority of the 327,000 illegal entrants apprehended by CBP in FY2011 were seeking employment in the United States. We recognize that to prevent future waves of illegal immigration a humane and effective system needs to be created for these immigrant workers to enter the country and find employment without seeking the aid of human traffickers or drug cartels.
- Our proposal will provide businesses with the ability to hire lower-skilled workers in a timely manner when Americans are unavailable or unwilling to fill those jobs.
- Our legislation would:
  - Allow employers to hire immigrants if it can be demonstrated that they were unsuccessful in recruiting an American to fill an open position and the hiring of an immigrant will not displace American workers;
  - Create a workable program to meet the needs of America's agricultural industry, including dairy to find agricultural workers when American workers are not available to fill open positions;
  - Allow more lower-skilled immigrants to come here when our economy is creating jobs, and fewer when our economy is not creating jobs;

- Protect workers by ensuring strong labor protections; and,
- Permit workers who have succeeded in the workplace and contributed to their communities over many years to earn green cards.

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The White House

Office of the Press Secretary

For Immediate Release

January 29, 2013

## FACT SHEET: Fixing our Broken Immigration System so Everyone Plays by the Rules

America's immigration system is broken. Too many employers game the system by hiring undocumented workers and there are 11 million people living in the shadows. Neither is good for the economy or the country.

It is time to act to fix the broken immigration system in a way that requires responsibility from everyone —both from the workers here illegally and those who hire them—and guarantees that everyone is playing by the same rules.

President Obama's commonsense immigration reform proposal has four parts. First, continue to strengthen our borders. Second, crack down on companies that hire undocumented workers. Third, hold undocumented immigrants accountable before they can earn their citizenship; this means requiring undocumented workers to pay their taxes and a penalty, move to the back of the line, learn English, and pass background checks. Fourth, streamline the legal immigration system for families, workers, and employers.

Together we can build a fair, effective and commonsense immigration system that lives up to our heritage as a nation of laws and a nation of immigrants.

The key principles the President believes should be included in commonsense immigration reform are:

- **Continuing to Strengthen Border Security:** President Obama has doubled the number of Border Patrol agents since 2004 and today border security is stronger than it has ever been. But there is more work to do. The President's proposal gives law enforcement the tools they need to make our communities safer from crime. And by enhancing our infrastructure and technology, the President's proposal continues to strengthen our ability to remove criminals and apprehend and prosecute national security threats.
- **Cracking Down on Employers Hiring Undocumented Workers:** Our businesses should only employ people legally authorized to work in the United States. Businesses that knowingly employ undocumented workers are exploiting the system to gain an advantage over businesses that play by the rules. The President's proposal is designed to stop these unfair hiring practices and hold these companies accountable. At the same time, this proposal gives employers who want to play by the rules a reliable way to verify that their employees are here legally.
- **Earned Citizenship:** It is just not practical to deport 11 million undocumented immigrants living within our borders. The President's proposal provides undocumented immigrants a legal way to earn citizenship that will encourage them to come out of the shadows so they can pay their taxes and play by the same rules as everyone else. Immigrants living here illegally must be held responsible for their actions by passing national security and criminal background checks, paying taxes and a penalty, going to the back of the line, and learning English before they can earn their citizenship. There will be no uncertainty about their ability to become U.S. citizens if

they meet these eligibility criteria. The proposal will also stop punishing innocent young people brought to the country through no fault of their own by their parents and give them a chance to earn their citizenship more quickly if they serve in the military or pursue higher education.

- **Streamlining Legal Immigration:** Our immigration system should reward anyone who is willing to work hard and play by the rules. For the sake of our economy and our security, legal immigration should be simple and efficient. The President's proposal attracts the best minds to America by providing visas to foreign entrepreneurs looking to start businesses here and helping the most promising foreign graduate students in science and math stay in this country after graduation, rather than take their skills to other countries. The President's proposal will also reunify families in a timely and humane manner.

### **Continuing to Strengthen Border Security**

- **Strengthen border security and infrastructure.** The President's proposal strengthens and improves infrastructure at ports of entry, facilitates public-private partnerships aimed at increasing investment in foreign visitor processing, and continues supporting the use of technologies that help to secure the land and maritime borders of the United States.
- **Combat transnational crime.** The President's proposal creates new criminal penalties dedicated to combating transnational criminal organizations that traffic in drugs, weapons, and money, and that smuggle people across the borders. It also expands the scope of current law to allow for the forfeiture of these organizations' criminal tools and proceeds. Through this approach, we will bolster our efforts to deprive criminal enterprises, including those operating along the Southwest border, of their infrastructure and profits.
- **Improve partnerships with border communities and law enforcement.** The President's proposal expands our ability to work with our cross-border law enforcement partners. Community trust and cooperation are keys to effective law enforcement. To this end, the U.S. Department of Homeland Security (DHS) will establish border community liaisons along the Southern and Northern borders to improve communication and collaboration with border communities, boost funding to tribal government partners to reduce illegal activity on tribal lands, and strengthen training on civil rights and civil liberties for DHS immigration officers.
- **Crack down on criminal networks engaging in passport and visa fraud and human smuggling.** The President's proposal creates tough criminal penalties for trafficking in passports and immigration documents and schemes to defraud, including those who prey on vulnerable immigrants through notario fraud. It also strengthens penalties to combat human smuggling rings.
- **Deporting Criminals.** The President's proposal expands smart enforcement efforts that target convicted criminals in federal or state correctional facilities, allowing us to remove them from the United States at the end of their sentences without re-entering our communities. At the same time, it protects those with a credible fear of returning to their home countries.
- **Streamline removal of nonimmigrant national security and public safety threats.** The President's proposal creates a streamlined administrative removal process for people who

overstay their visas and have been determined to be threats to national security and public safety.

- **Improve our nation's immigration courts.** The President's proposal invests in our immigration courts. By increasing the number of immigration judges and their staff, investing in training for court personnel, and improving access to legal information for immigrants, these reforms will improve court efficiency. It allows DHS to better focus its detention resources on public safety and national security threats by expanding alternatives to detention and reducing overall detention costs. It also provides greater protections for those least able to represent themselves.

### **Cracking Down on Employers Who Hire Undocumented Workers**

- **Mandatory, phased-in electronic employment verification.** The President's proposal provides tools for employers to ensure a legal workforce by using federal government databases to verify that the people they hire are eligible to work in the United States. Penalties for hiring undocumented workers are significantly increased, and new penalties are established for committing fraud and identity theft. The new mandatory program ensures the privacy and confidentiality of all workers' personal information and includes important procedural protections. Mandatory electronic employment verification would be phased in over five years with exemptions for certain small businesses.
- **Combat fraud and identity theft.** The proposal also mandates a fraud-resistant, tamper-resistant Social Security card and requires workers to use fraud-and tamper-resistant documents to prove authorization to work in the United States. The proposal also seeks to establish a voluntary pilot program to evaluate new methods to authenticate identity and combat identity theft.
- **Protections for all workers.** The President's proposal protects workers against retaliation for exercising their labor rights. It increases the penalties for employers who hire undocumented workers to skirt the workplace standards that protect all workers. And it creates a "labor law enforcement fund" to help ensure that industries that employ significant numbers of immigrant workers comply with labor laws.

### **Pathway to Earned Citizenship**

- **Create a provisional legal status.** Undocumented immigrants must come forward and register, submit biometric data, pass criminal background and national security checks, and pay fees and penalties before they will be eligible for a provisional legal status. Agricultural workers and those who entered the United States as children would be eligible for the same program. Individuals must wait until the existing legal immigration backlogs are cleared before getting in line to apply for lawful permanent residency (i.e. a "green card"), and ultimately United States citizenship. Consistent with current law, people with provisional legal status will not be eligible for welfare or other federal benefits, including subsidies or tax credits under the new health care law.

- **Create strict requirements to qualify for lawful permanent resident status.** Those applying for green cards must pay their taxes, pass additional criminal background and national security checks, register for Selective Service (where applicable), pay additional fees and penalties, and learn English and U.S. civics. As under current law, five years after receiving a green card, individuals will be eligible to apply for U.S. citizenship like every other legal permanent resident.
- **Earned citizenship for DREAMers.** Children brought here illegally through no fault of their own by their parents will be eligible for earned citizenship. By going to college or serving honorably in the Armed Forces for at least two years, these children should be given an expedited opportunity to earn their citizenship. The President's proposal brings these undocumented immigrants out of the shadows.
- **Create administrative and judicial review.** An individual whose provisional lawful status has been revoked or denied, or whose application for adjustment has been denied, will have the opportunity to seek administrative and judicial review of those decisions.
- **Provide new resources to combat fraud.** The President's proposal authorizes funding to enable DHS, the Department of State, and other relevant federal agencies to establish fraud prevention programs that will provide training for adjudicators, allow regular audits of applications to identify patterns of fraud and abuse, and incorporate other proven fraud prevention measures.

### Streamlining Legal Immigration

- **Keep Families Together.** The proposal seeks to eliminate existing backlogs in the family-sponsored immigration system by recapturing unused visas and temporarily increasing annual visa numbers. The proposal also raises existing annual country caps from 7 percent to 15 percent for the family-sponsored immigration system. It also treats same-sex families as families by giving U.S. citizens and lawful permanent residents the ability to seek a visa on the basis of a permanent relationship with a same-sex partner. The proposal also revises current unlawful presence bars and provides broader discretion to waive bars in cases of hardship.
- **Cut Red Tape for Employers.** The proposal also eliminates the backlog for employment-sponsored immigration by eliminating annual country caps and adding additional visas to the system. Outdated legal immigration programs are reformed to meet current and future demands by exempting certain categories from annual visa limitations.
- **Enhance travel and tourism.** The Administration is committed to increasing U.S. travel and tourism by facilitating legitimate travel while maintaining our nation's security. Consistent with the President's Executive Order on travel and tourism, the President's proposal securely streamlines visa and foreign visitor processing. It also strengthens law enforcement cooperation while maintaining the program's robust counterterrorism and criminal information sharing initiatives. It facilitates more efficient travel by allowing greater flexibility to designate countries for participation in the Visa Waiver Program, which allows citizens of designated countries to visit the United States without obtaining a visa. And finally it permits the State Department to waive interview requirements for certain very low-risk visa applicants, permitting resources to be focused on higher risk applicants and creates a pilot for premium visa processing.

- **“Staple” green cards to advanced STEM diplomas.** The proposal encourages foreign graduate students educated in the United States to stay here and contribute to our economy by “stapling” a green card to the diplomas of science, technology, engineering and mathematics (STEM) PhD and Master’s Degree graduates from qualified U.S. universities who have found employment in the United States. It also requires employers to pay a fee that will support education and training to grow the next generation of American workers in STEM careers.
- **Create a “startup visa” for job-creating entrepreneurs.** The proposal allows foreign entrepreneurs who attract financing from U.S. investors or revenue from U.S. customers to start and grow their businesses in the United States, and to remain permanently if their companies grow further, create jobs for American workers, and strengthen our economy.
- **Expand opportunities for investor visas and U.S. economic development.** The proposal permanently authorizes immigrant visa opportunities for regional center (pooled investment) programs; provides incentives for visa requestors to invest in programs that support national priorities, including economic development in rural and economically depressed regions ; adds new measures to combat fraud and national security threats; includes data collection on economic impact; and creates a pilot program for state and local government officials to promote economic development.
- **Create a new visa category for employees of federal national security science and technology laboratories.** The proposal creates a new visa category for a limited number of highly-skilled and specialized immigrants to work in federal science and technology laboratories on critical national security needs after being in the United States. for two years and passing rigorous national security and criminal background checks.
- **Better addresses humanitarian concerns.** The proposal streamlines immigration law to better protect vulnerable immigrants, including those who are victims of crime and domestic violence. It also better protects those fleeing persecution by eliminating the existing limitations that prevent qualified individuals from applying for asylum.
- **Encourage integration.** The proposal promotes earned citizenship and efforts to integrate immigrants into their new American communities linguistically, civically, and economically.