IMMIGRATION: BIPARTISAN SENATE GROUP LAYS OUT FRAMEWORK FOR IMMIGRATION REFORM; PRESIDENT ALSO OFFERS GUIDELINES

A bipartisan group of United States Senators – the so-called "Gang of Eight" – on January 28, 2013 formally unveiled their proposal to overhaul the nation's immigration system. According to the framework, the plan would modernize and streamline the current legal immigration system, including creating a pathway to citizenship for certain undocumented immigrants, with the precondition that significant resources be committed to securing the border.

The Gang of Eight – Sens. Chuck Schumer (D-N.Y.), Bob Menendez (D-N.J.), Dick Durbin (D-Ill.), Michael Bennet (D-Colo.), John McCain (R-Ariz.), Marco Rubio (R-Fla.), Jeff Flake (R-Ariz.), and Lindsey Graham (R-S.C.) – indicated that the U.S. Senate would vote on a bill containing these provisions by late spring or early summer of this year. Sen. Graham said that he envisions a 12- to 15-year process for illegal immigrants to receive full citizenship under any eventual legislation he could support. However, other Republicans expressed skepticism at any immigration plan that includes a citizenship provision.

The bipartisan Senate framework contains four legislative "pillars":

- (1) A roadmap to address undocumented immigrants living in the U.S. by requiring them to register with the government, pass a background check, pay a fine and back taxes. Those who comply and are not otherwise excluded due to a serious criminal record would receive probationary legal status to live and work in the U.S. legally. Additionally, in order to obtain a green card, those with probationary legal status will have to pass an additional background check, pay taxes, learn English and civics, and demonstrate a history of work in the U.S. and current employment.

- The pathway to citizenship will be contingent upon addressing visa overstays and implementing increased border security measures, including increasing the number of unmanned aerial vehicles and surveillance equipment, improving radio interoperability, increasing the number of agents at and between ports of entry, and enhancing border patrol training. Also, illegal immigrants would be required to go to the "back of the line" behind those who have followed the legal process.

- The framework creates a different pathway to citizenship for agricultural workers and undocumented minor children who did not knowingly enter the country illegally.

- The plan also elevates the role of officials from Border States by calling for a commission of governors, attorneys general and community leaders living along the Southwest border to evaluate
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progress in securing the border and help define when enough progress has been made for other aspects of the proposal, potentially including citizenship applications, to move forward.

- (2) Improving the legal immigration system by, in part, attracting and keeping highly educated and trained immigrants through reduction of backlogs in family and employment VISA categories, and awarding green cards to immigrants who receive a graduate degree in science, technology, engineering, or math from an American university.

- (3) Creating a mandatory employment verification system that holds employers accountable for knowingly hiring undocumented workers and that deters fraudulent behavior to obtain employment.

- (4) Admitting new immigrant workers, particularly in the agricultural and dairy sectors, if it can be demonstrated that an American could not fill an open position, and restricting access when employment opportunities are plentiful in the U.S. Successful, long-term immigrant workers would also be granted the opportunity to earn green cards.

As outlined in a speech on immigration on January 30th, President Obama shares most of the bipartisan group's principles; however, only the Senate group would make tougher border security a precondition to citizenship for the nation's undocumented immigrants. The President's plan also provides further details that the Senate plan does not cover. For example, the president wants language that would allow same-sex bi-national couples to have the same rights as heterosexual couples. He also plans to prevent undocumented immigrants, even those with provisional legal status, from gaining access to subsidies and tax credits created by the Affordable Care Act.


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**TRANSPORTATION/INFRASTRUCTURE: SENATE EPW HOLDS HEARING ON HARBOR MAINTENANCE TRUST FUND**

The Senate Committee on Environment & Public Works, chaired by Sen. Barbara Boxer, met on Thursday, January 31, 2013 to examine the role of the Harbor Maintenance Trust (HMT) Fund in supporting commerce at U.S. ports in light of recent findings that the Fund will face a nearly $28 billion shortfall if funding continues at current levels. The HMT Fund, which is financed through a fee on the value of cargo imported through coastal and Great Lakes ports, is the primary source of Federal investment in maintaining U.S. ports.

Witnesses included: The Honorable Jo-Ellen Darcy, Assistant Secretary of the Army (Civil Works); Mr. Michael Christensen, PE, Deputy Executive Director of Development, Port of Los Angeles; Chair, California Marine Affairs and Navigation Conference; Member, California Association of Port Authorities; Mr. Mike Lorino, President, Associated Branch Pilots; Mr. James K. Lyons,
Issued discussed at the hearing included:

- According to the American Society of Civil Engineers, if funding continues at current levels, by 2040, the U.S. will face a shortfall of nearly $28 billion to meet the dredging needs of the nation's ports.

- Nationally, the Army Corps of Engineers estimates annual maintenance dredging funding needs of $1.3 to $1.6 billion, which are comparable to the funds collected in the HMT Fund. However, over the past five years, annual expenditures for channel maintenance have averaged less than $800 million, leaving a surplus and resulting in inadequately maintained channels.

- Sen. Boxer noted that increasing investment in ports and reforming the HMT Fund will be critical components of the next Water Resources Development Act (WRDA), which authorizes U.S. Army Corps of Engineers projects and programs, including expanding and maintaining navigation routes for commerce. In that context, Sen. Boxer proposed a WRDA provision that would increase equity for ports nationwide. The provision would allow certain ports to use harbor maintenance funds for limited additional uses after other traditional operation and maintenance needs are met. This would help ensure that the U.S.’s most essential ports receive an equitable share of harbor maintenance revenues. Sen. Boxer hopes to move forward with a bipartisan WRDA bill in the coming weeks.

- Panelists expressed that maintenance of port facilities is critical for commerce and jobs, and they generally called for increased investment from the HMT Fund to support this effort. Mr. Lorino and Mr. Cairns also strongly opposed the current use of HMT funds for projects other than its intended purpose: harbor maintenance and, specifically, dredging. They claim that inadequate harbor maintenance has led to traffic restrictions and ship groundings. They also raised concerns regarding the scheduled expansion of the Panama Canal by 2015, which will significantly increase the average container ship size at U.S. ports.

- Assistant Secretary Darcy stated that the overall funding level that the Federal government provides to support maintenance dredging and related purposes is appropriate and should be determined independent of the level of the HMT receipts. She also noted that the FY 2013 Budget for the Corps includes $848 million from the HMT Fund to support the maintenance of coastal harbors and their channels and related work, most of which allegedly involves maintenance dredging. She acknowledged that deepening a Federal navigation channel generally provides economic benefits; however, deepening a channel also tends to increase future maintenance costs due to the need to dredge the additional material that accumulates in channels and to construct additional placement sites for this material.

- Mr. Christensen, as a representative of California ports, expressed his support of the following initiatives: (1) Full utilization of HMT revenues for Operations & Maintenance (O&M) purposes; (2) prioritization of HMT funds for use on traditional O&M purposes, including maintenance of federal navigation channels, disposal sites, selected water projects (that is, breakwaters, jetties, and groins), and studies; (3) more equitable return of HMT funds to the system of ports in California; and (4) a cost share formula for maintenance that reflects the current cargo fleet.

- Mr. Christensen also noted that, in FY 2011, the California ports accounted for 32% ($431 million) of all Harbor Maintenance Trust Fund receipts ($1.35 billion). Yet, the California ports system received an average return of only 8% ($54 million).

For more information on the hearing, go to: