IMMIGRATION: SENATE "GANG OF EIGHT" UNVEILS COMPREHENSIVE IMMIGRATION BILL

A bipartisan group of eight Senators - Charles E. Schumer (NY), Richard J. Durbin (IL), Robert Menendez (NJ), Michael Bennet (CO), John McCain (AZ), Marco Rubio (FL), Lindsey Graham (SC), and Jeff Flake (AZ) (the so-called "Gang of Eight") - introduced a comprehensive immigration bill on the Senate floor on Wednesday, April 17, 2013, The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013. The bill proposes a fundamental overhaul of the American immigration system, providing a path to citizenship for most of the 11.5 million undocumented immigrants living in the United States over a 13-year period. Additionally, the bill authorizes $4.5 billion to hire more border control agents, and utilize drones to monitor illegal crossings, and $1.5 billion to strengthen the border fence. The plan would also increase the number of new permanent residents, expand high-skilled temporary-worker programs, and create new visas for lower-skilled temporary workers and agricultural workers.

The immigration plan is expected to be the subject of multiple Senate hearings - including two Judiciary Committee hearings - and an anticipated markup in early May. A similar bipartisan group of House members - Reps. Xavier Becerra (Los Angeles), Zoe Lofgren (San Jose), Luis V. Gutierrez (IL) and John Yarmuth (KY), Raul R. Labrador (ID), Mario Diaz-Balart (FL), Sam Johnson (TX), and John Carter (TX) - are also working on a comprehensive immigration bill but have not introduced it yet.

Highlights of the Senate bill include:

Border Security
- Border Plan: Requires the Department of Homeland Security (DHS) Secretary to develop a Comprehensive Border Security Strategy and Southern Border Fencing Strategy within six months before the registration period for Registered Provisional Immigrant status (RPI) begins. These strategies must be designed to achieve persistent surveillance of the border and a 90 percent effectiveness rate for apprehensions and returns in high risk border sectors. After five years, if the specified goals of 90 percent effectiveness and persistent surveillance have not been met, a Southern Border Security Commission will be established to make further recommendations for achieving these goals. The bill
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appropriates $3 billion for this plan, which will include technology, personnel and other resources. The Secretary's border plan must be operational before any RPIs may apply for adjustment of status.

- **Other Prerequisites**: The Secretary must develop and implement a fencing plan ($1.5 billion); E-Verify must be mandatory and operational; and a biographic entry-exit system at air and seaports must be implemented before RPIs may adjust to permanent residence.

- **Additional Resources**: Customs and Border Patrol personnel and resources will be increased, additional funding for border prosecutions in the Tucson sector are funded, and the authority of the National Guard to assist in border security operations is codified.

- **Oversight**: Additional resources and training will be devoted to implementing a DHS-wide use of force policy and associated training in appropriate use of force and the impact of federal operations on border communities.

### Legalization

- **Registration**: Immigrants who entered the United States before December 31, 2011 and have been physically present in the U.S. since that time will be eligible to apply for RPI status provided they pass a background check, have not been convicted of a serious crime, pay any assessed tax liability, and pay appropriate fees and a $500 fine. Initial registration will be valid for six years. It provides for work and travel authorization, and includes spouses and children in the United States on the same application.

- **Permanent Residency**: At the end of ten years, RPIs may apply for adjustment of status, provided that they demonstrate: (1) they are admissible; (2) pay an additional $1,000 fine per adult plus application fees; (3) prove they are learning English; (4) pay their taxes; (5) pass a background check; and (6) demonstrate compliance with the employment requirement. Under the revamped legal immigration system, individuals present in the U.S. for 10 years in lawful status can adjust status to lawful permanent residence including RPIs and other legal immigrants. RPIs may apply for naturalization after an additional three year wait, making the total path to citizenship about 13 years. The bill includes a "back of the line" requirement: RPIs may not adjust status until the family and employment backlogs are cleared.

- **DREAM Act**: Individuals who entered the U.S. before the age of 16 and who have completed high school or obtained a GED in the U.S. may register for RPI status through the DREAM Act. Individuals who received Deferred Action for Childhood Arrivals are grandfathered into RPI status. DREAM RPIs are exempted from penalties and the triggers. Five years after registration, DREAM RPIs may apply for adjustment of status. Children under age 16 have a five year path to citizenship and are exempted from certain requirements.

- **Agricultural program**: Undocumented farm workers who can demonstrate a minimum of 100 work days or 575 hours in the two years prior to the date of enactment would be eligible for an Agricultural Card. Workers who work at least 100 days a year for five years or workers who perform at least 150 days a year for three years can adjust status to permanent residency. To be eligible for permanent residence, agricultural workers must show that they have paid all taxes, have not been convicted of any serious crime, and pay a $400 fine.

### Legal Immigration Reforms
- **Merit-Based Systems:** Starting in 2015, creates a "Track One" merit-based visa which will initially allocate 120,000 visas annually based on a points system, with the possibility of increasing the allotment by 5% (up to 250,000) in any year when unemployment is under 8.5%. Points will be awarded for factors such as education, employment, family in the U.S. and length of residence in the U.S. Half of the merit visas will be set aside for high skilled individuals and half of the cap will be for lower skilled workers. Additionally, a new "Track Two" merit-based system is created to clear the employment and family backlogs. These merit-based systems would replace the "Diversity Visa," which currently uses a lottery to distribute 55,000 permanent resident visas every year to natives of countries with low rates of immigration to the United States.

- **Lawful Permanent Residents' Spouses and Children:** The current family-based categories would be revised to permit the spouses and children of lawful permanent residents to immigrate immediately. Additionally, the current sibling category will be eliminated 18 months after enactment. The 3rd preference family category (adult married children of U.S. citizens) will have an age cap of 31 beginning 18 months after enactment.

- **Employment-Based Reforms:** Spouses and children of employment based visa applicants, STEM graduates with doctoral degrees, certain other professionals, and certain foreign doctors are exempt from the employment visa cap. The cap on low-skilled workers is raised.

- **Judicial Discretion:** Expands the authority of immigration judges and DHS to waive removal on humanitarian grounds.

**Interior Enforcement**

- **Mandatory E-Verify:** An electronic employment verification system (E-Verify) will cover all employers within a five year period, beginning with federal contractors and critical infrastructure employers. It requires identity verification through use of enhanced fraud-proof documents. Specifically prohibits creation of a national ID card.

**Reforms to Non-Immigrant Visa Programs**

- **H-1B:** Expands the current cap from 65,000 to 110,000 with an option to ultimately increase the cap to 180,000 visas annually based on a High Skilled Jobs Demand Index. Allows for work authorization for spouses and children. Increases requirements for recruiting and offering jobs to U.S. workers at higher wages prior to hiring foreign workers. Increases fines and wage requirements for companies that are heavy-users of H-1B visas. After 3 years, companies whose workforce is more than fifty percent H-1Bs are barred.

- **New Worker Program (W Visa):** Establishes a new nonimmigrant W classification for lesser-skilled foreign workers performing services or labor for a registered employer in a registered position. It is a three year visa with three year renewal periods. Initially, 20,000 W visas will be made available, rising to 75,000 visas in four years. The visa program cap can rise to 200,000 depending on a formula based on unemployment, job openings, number of applications and the recommendations of a newly established Bureau of Immigration and Labor Market Research.

- **Agriculture:** A new agricultural guest worker visa program would be established to provide a more stable agricultural workforce. A portable, at-will employment based visa (W-3 visa) and a contract-based visa (W-2 visa) administered by the Department of Agriculture would replace the current H-2A program. It is intended to provide growers with a streamlined process to petition for workers while ensuring critical worker protections. The H-2A program would sunset after the new guest worker visa program is operational.

- **INVEST Visa:** This bill creates a new INVEST visa for foreign entrepreneurs who seek to come to the U.S. to start their own companies. This 3-year visa would be available to immigrant entrepreneurs
who have a qualifying investor in the U.S. and can be renewed if the immigrant can demonstrate certain benchmarks related to the number of jobs created and revenue produced.

For more information, go to:

CYBERSECURITY: HOUSE PASSES CYBERSECURITY BILL

The House, on April 18, 2013, passed H.R. 624, the Cyber Intelligence Sharing and Protection Act (CISPA), by a vote of 288-127. Prior to passage, several amendments were adopted that are aimed at enhancing civil liberty and privacy protections.

The bill requires the director of National Intelligence (DNI) to establish procedures to promote the sharing of information about cyber threat intelligence between intelligence agencies and the private sector. It also requires DNI to establish procedures for protecting privacy and civil liberties with respect to such shared information. The bill provides authority for companies to use this intelligence to protect vital networks. The measure does not prescribe rules that require the sharing of cyber intelligence, either within the private sector or between the private sector and government, and allows the private sector to determine the level of detail of information it shares with the government and other private entities.

In order to further promote information-sharing by the private sector, the bill provides that shared information may not be used by other entities to gain an unfair competitive advantage, and provides liability protection for companies that act in "good faith" and choose to protect their networks. In order to protect privacy and civil liberties, the measure requires the government to remove all personally identifiable information, limits what information companies can share with the government and prohibits the government from requiring companies to give the government information in exchange for receiving cyber threat intelligence. The bill also requires an annual report from the Inspector General of the Intelligence Community to ensure that none of the information provided to the government is mishandled or misused.

Last year, the House passed a similar cybersecurity bill by a vote of 248-168. H.R. 624 includes a number of changes to address privacy and civil liberties concerns, including removing the broad "national security" allowable purpose, requiring the government to remove personally identifiable information from information shared by private companies, and explicitly prohibiting companies from "hacking back" against cyber attackers. In addition, the House passed several amendments to respond to civil liberty and privacy concerns. One, approved 409-5, requires that offices established in the Departments of Homeland Security and Justice be designated as the only permissible recipients of cyber-threat information provided by the private sector, to ensure that individuals' private information is not shared with U.S. military or intelligence agencies.

Another amendment, authored by Rep. Doug LaMalfa (Richvale) clarifies that nothing in the bill authorizes the targeting of U.S. citizens or legal residents for surveillance. It was adopted by a 413-0 vote. An amendment offered by Rep. Loretta Sanchez (Anaheim) added language regarding the
agencies and offices that are responsible for submitting an annual report to Congress that assesses the privacy and civil liberties impact (if any) of the government's information sharing under the bill. It was adopted by voice vote.

For more information on the bill, go to: http://intelligence.house.gov/.

**INFORMATION TECHNOLOGY: HOUSE ENERGY & COMMERCE SUBCOMMITTEE MARKS UP INTERNET GOVERNANCE BILL**

The House Committee on Energy and Commerce's Subcommittee on Communications and Technology met on Wednesday, April 10, 2013 and Thursday, April 11, 2013 to markup H.R.1580 affirming the United States' policy towards Internet governance. The bill is modeled after a concurrent resolution adopted by both chambers during the 112th Congress. That resolution was brought to the floor amid efforts by several U.N. bodies to allow the U.N. International Telecommunication Union to regulate the Internet.

The Subcommittee ultimately approved the bill by voice vote on Thursday, reaffirming that it is U.S. policy to promote an Internet free from government control and advance the current multi-stakeholder model of Internet governance. The measure would codify U.S. policy on Internet governance and includes several findings in support of a free flow of information and ideas.

While lawmakers from both parties expressed opposition to international governance of the Internet, Democrats also voiced concerns over what they deemed sweeping language in the bill. For example, Rep. Anna Eshoo (CA) wrote a letter to subcommittee Chairman Greg Walden (OR) expressing concern that the bill suggests that the Internet should be free from any form of government control. Eshoo argued that the language could hinder State Department negotiations on a related treaty and interfere with ongoing Federal Communications Commission proceedings on Internet Protocol-based voice services. Walden responded that the measure simply codified U.S. policy and did not require or prohibit an agency action.

Democrats urged the panel to address Internet censorship through a concurrent resolution rather than a bill in order to avoid codifying a formal policy statement. Lawmakers refrained from offering any amendments, expressing hope that the disagreements could be resolved before the full committee marks up the bill.


**RESOURCES: TRANSPORTATION SUBCOMMITTEE ON WATER RESOURCES HOLDS HEARING ON WRDA**

The House Committee on Transportation and Infrastructure's Subcommittee on Water Resources and Environment met on Tuesday, April 16, 2013 to hold a hearing on "The Foundations for a New Water Resources Development Act," to examine water resources projects and programs of the Army Corps of Engineers (Corps) and priorities for a new WRDA bill. The Subcommittee heard from representatives of organizations that have an interest in civil works projects and programs of the Corps. WRDA bills contain project authorizations, modifications and deauthorizations, program revisions, policy initiatives, and related provisions involving Corps activities. Traditionally, a WRDA bill is authorized every two years; however, the last WRDA bill was enacted in 2007.

Witnesses were: The Honorable Harry Simmons, Mayor, Caswell Beach, NC, President, American Shore and Beach Preservation Association; Mr. Warren D. Williams, General Manager,
Panelists generally advocated for increased federal involvement and funding, even if it means redefining "earmark" to exempt certain water projects from that prohibition. Panelists also called for more streamline approval procedures through the Corps. Mayor Simmons criticized certain "arbitrary" policies undermining the nation's water resources projects, including the current utilization of the Benefit-Cost Ratio in the President's Budget and the Corps' Work Plan. Mr. Williams made several recommendations for 2013 iteration of WRDA, including: (1) excluding Corps of Engineers' water resources projects from the definition of earmarks, (2) enactment of a national levee safety program; (3) creating a pilot project to assess the cost-effectiveness and project delivery efficiency of allowing non-federal interests to carry out flood risk management projects; (4) adding project acceleration provisions; and (5) improving the Corps planning process.

Ms. Larson discussed her concerns with deferring water resources project decisions to the Executive Branch. She also expressed her support of proposed reforms to the construction and major rehabilitation of the nation's aging locks and dams and sufficient funding for these projects. Finally, she criticized the lack of tax revenues that are used toward harbor maintenance in relation to the large amount of taxes paid by the nation's ports and harbors. She expressed support for legislation that would ensure that the revenues collected into the Harbor Maintenance Trust Fund are used for its intended purpose.

For more information, go to: http://transportation.house.gov/hearing/foundations-new-water-resources-development-act.

PATENTS: HOUSE JUDICIARY SUBCOMMITTEE HOLDS HEARING ON ABUSIVE PATENT LITIGATION

The House Judiciary's Subcommittee on Courts, Intellectual Property, and the Internet met on Tuesday, April 16, 2013 to examine ways to address issues surrounding patent assertion entities (PAEs), or "patent trolls." While the America Invents Act (AIA) went a long way in reforming and modernizing the patent system and patent quality, many believe that it failed to stem sufficiently so-called patent troll litigation, which threatens inventors and businesses. Moreover, in recent years, patent trolls have used the Independent Trade Commission (ITC) to assert weak or poorly-issued patents against American businesses.

Witnesses were: Mr. Kevin H. Rhodes, Vice President and Chief Intellectual Property Counsel, 3M Innovative Properties Company; Mr. Jonathan W. Dudas, Former Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; Professor Colleen V. Chien, Santa Clara University School of Law; Mr. Russell W. Binns, Jr., Associate General Counsel, IP Law & Litigation, Avaya, Inc.; Ms. Deanna Tanner Okun, Former Chairman, International Trade Commission, Partner, Adduci, Mastriani & Schaumberg, L.L.P.; and Mr. F. David Foster, Chairman, Legislative Committee, U.S. International Trade Commission Trial Lawyers Association.

Mr. Rhodes advocated three strategies for curbing abusive litigation practices, including: (1) more frequent fee-shifting in favor of prevailing parties in patent cases; (2) more rational, proportional and uniform discovery in patent cases; and (3) codification of the right to stay patent suits against
customers and end users. Mr. Dudas asserted four guiding principles for the Committee as it considers proposals for additional modifications to patent law, including: (1) Do No Harm - the solution should not risk causing more harm than the problem; (2) Do Not Discriminate - the intellectual property is what matters, not who owns it; (3) Be Conduct Focused - root out bad behavior regardless of the actor, and make sure a proposed change will actually address the targeted conduct; and (4) Respect the role of the Federal Judiciary - recognize that some measure of judicial discretion will be necessary, and that the federal judiciary already has a toolkit.

Professor Chien suggested several ways to minimize patent litigation through the reduction of duplication, waste, and the role of the government in resolving patent disputes. Specifically, Prof. Chien advocated the following: (1) reducing duplication in our patent system by improving coordination between patent entities; (2) reducing waste in the patent system through dispositive court motions and best-practices facilitation by Congress; and (3) reducing the government's role in deciding patent disputes by providing the public more information about patent litigations, reexaminations, ITC actions, and ownership information by third parties.

For more information, go to: http://judiciary.house.gov/hearings/113th/hear_04162013.html.

**EDUCATION: HOUSE ED AND WORKFORCE SUBCOMMITTEE EXAMINES STEM**

The House Committee on Education and the Workforce's Subcommittee on Early Childhood, Elementary, and Secondary Education met on Wednesday, April 10, 2013 to examine federal Science, Technology, Education, and Math (STEM) education programs in the United States. The Subcommittee analyzed STEM education in the context of the growing demand for high-tech workers, lack of preparedness for students to pursue STEM-related opportunities, and a 2012 Government Accountability Office (GAO) report that raised significant questions about recent federal efforts to improve and promote STEM education.

Witnesses included: Mr. George A. Scott, Director for Education, Workforce, and Income Security Issues, U.S. Government Accountability Office; Dr. Ioannis Miaoulis, President and Director, Museum of Science, Boston; Dr. Steve Schneider, Senior Program Director, WestEd, San Francisco, CA; and Mr. Bill Kurtz, Chief Executive Officer, Denver School of Science and Technology, Denver, CO.

Mr. Scott discussed the results of a GAO study on STEM education and put forth several recommendations based on those findings. The study found that, in 2012, 83 percent of federal STEM education programs overlapped to some degree with at least one other program. In other words, these programs offered similar services to similar target groups in similar STEM fields to achieve similar objectives. However, the report noted that, even when the programs overlap, the services they provide and the populations they serve may differ in meaningful ways and would therefore not necessarily be duplicative. Mr. Scott also stated that limited use of performance measures and evaluations may hamper their ability to assess the effectiveness of individual programs and the overall STEM effort. The report further criticized the lack and quality of comprehensive evaluation reports.

In order to better align federal STEM efforts, the GAO report recommended (1) working with agencies to strategically identify programs that might be candidates for consolidation or elimination, (2) developing guidance to help agencies determine appropriate evaluations and share information across agencies, and (3) developing a framework for how agencies will be monitored to ensure proper collection and reporting of strategic plan goals.

Dr. Schneider argued that federal efforts and leadership are critical in supporting STEM education and adapting to changing circumstances. He identified current issues with STEM, including the lack of focus on science education, the lack of qualified technology and engineering teachers and
misguided efforts to leverage inexperienced teachers, and non-integrated approach to current K-12 STEM instruction. Dr. Schneider advocated increased research and development, teacher training, and funding for basic STEM education. Finally, he emphasized federal inclusion on STEM efforts to compensate for recent shortfalls in local and state funding.

For more information, go to:

**IMMIGRATION/SECURITY: SENATE HOMELAND SECURITY HOLDS HEARING ON BORDER SECURITY**

The Senate Committee on Homeland Security and Government Affairs met on Wednesday, April 10, 2013 for a hearing on "Border Security: Frontline Perspectives on Progress and Remaining Challenges." The purpose of the hearing was to review the progress in securing the United States-Mexico border and identify remaining issues and means for improvement.


Mr. McAleenan, Mr. Fisher, and Mr. Alles, who submitted a joint statement, discussed developments with the Border Patrol, including: (1) substantially increased staffing levels along the Southwest border, which is at its highest level in its 88-year history; and (2) increased investments in border security infrastructure and technology, such as mobile surveillance units, thermal imaging, radiation monitors, Radio Frequency Identification technology-enabled secure travel documents, and increased aerial and maritime surveillance and operations assistance to ground personnel. He also pointed to historic low apprehensions and crime rates as well as seizures of currency, weapons, and drugs as evidence of recent success.

Likewise, Mr. Dinkins promoted ICE’s record number of criminal arrests, which resulted from successful investigations of strategic/counter-proliferation, commercial fraud, child exploitation, human trafficking, and financial crimes. He also praised the Illicit Pathways Attack Strategy (IPAS) program, which was launched in July 2011 to integrate federal resources in order to combat transnational organized crime and related threats to national security and public safety. Finally, he discussed ICE’s recent successes in investigating employers who exploit or abuse their employees and who have a history of knowingly and repeatedly employing an illegal workforce.

In his opening statement, Sen. Tom Coburn (OK) highlighted increasing transnational criminal activity along U.S. borders and questioned whether DHS has been effectively utilizing and measuring its resources.

For more information, go to:
BRIEFING: CONNECT AND CA HEALTHCARE INSTITUTE BRIEFING ON WIRELESS HEALTH INDUSTRY

On May 2, 2013 CONNECT, in partnership with the California Healthcare Institute (CHI), will host an “Innovation 101” Capitol Hill Briefing highlighting three different innovation stories that showcase emerging technologies in wireless health and the challenges emerging companies face. The briefing will focus on how innovation will improve patient care and reduce healthcare costs.

Speakers include:
- Robert Jarrin, Senior Director, Government Affairs at Qualcomm of San Diego, CA
- Mark Gehring, Co-founder and President, Asthmapolis of Madison, WI
- George M. Savage, M.D., Co-Founder and Chief Medical Officer, Proteus Digital Health of Redwood City, CA

There will be a briefing on both the House and Senate sides on May 2nd. The House Briefing is from 10:00 a.m.-11:00 a.m. in 2322 Rayburn Building. The Senate Briefing will be held from 2:00 p.m.-3:00 p.m. in 215 Dirksen. Light refreshments will be served.

More information on Connect and Innovation 101 can be found at: #innovation101 or http://connect.org/innovation101/.

To attend either of the briefings, please RSVP to: Theresa Andrews: tandrews@connect.org.