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The Battle Over Unauthorized Immigration to the United States

New Bills in the U.S. House and Senate Vary On How to Deal With Illegal Immigrants

by Philip Martin

(April 11, 2006) The rising number of unauthorized foreign-born people in the United States—which approached 12 million in 2005 (see Figure 1), one-third of all foreign-born U.S. residents—has prompted massive public debate, huge public demonstrations, and recent congressional action.

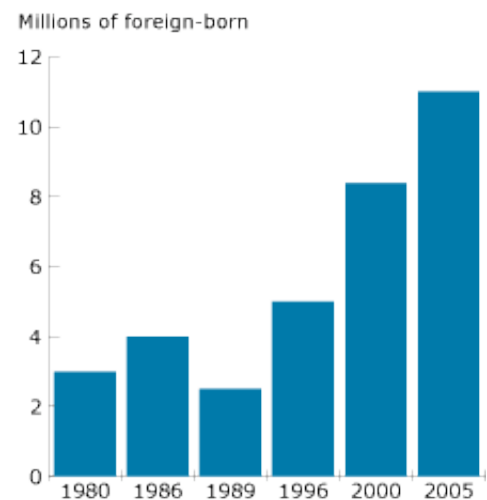
In December, the U.S. House of Representatives approved an enforcement-only bill that would authorize building a 700-mile wall on the border between Mexico and the United States. Now, the U.S. Senate is considering a bill that increases enforcement efforts, launches new guest worker programs, and allows some of the unauthorized foreign-born to eventually become legal immigrants and naturalized U.S. citizens. But compromise has come to a standstill, at least for now. On Friday, April 7, the Senate adjourned for a two-week recess without passing a bipartisan compromise bill. The debate will resume in late April.

These proposed reforms come at a time when parts of the U.S. economy are highly dependent on the labor of the unauthorized, and the governments of the migrants' countries of origin want to preserve the availability of U.S. jobs and remittances. Largely unskilled Latino migrants have spread to a new range of U.S. industries and areas, from Midwestern meatpacking to construction and food preparation. About 10 percent of the labor forces of Mexico as well as some Central American and Caribbean countries are now employed in the United States, and remittances are a major source of foreign exchange.

Immigration reforms in 2006 will determine whether the United States continues to absorb between 500,000 and 1 million Latin American workers a year—and whether new immigrant workers will be unauthorized, legal guest workers, or foreign-born on the path to American citizenship.

Figure 1

Numbers of Unauthorized Foreign-Born in the United States, 1980-2005

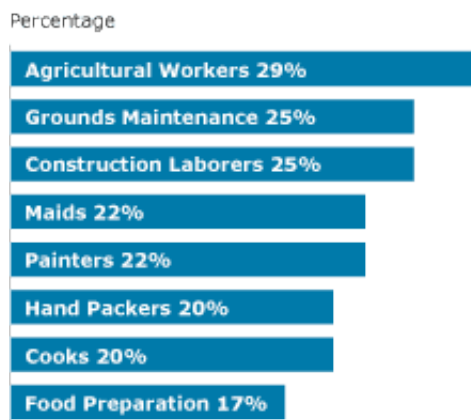


Source: J. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the United States," *Pew Hispanic Center Research Report 61* (2006).

Unauthorized Immigrants Make Up Almost 5 Percent of the U.S. Labor Force

There were 37 million foreign-born U.S. residents in 2005—including 11.5 million naturalized U.S. citizens, between 11.5 million and 12 million unauthorized immigrants, and 10.5 million legal immigrants. Demographer Jeff Passel of the Pew Hispanic Center estimates that the number of the unauthorized foreign-born in the United States rose by 400,000 in 2005. Some 850,000 unauthorized foreign-born people entered the United States in 2005, but others left, became legal, or died.¹

Figure 2
Percent of Unauthorized Foreign-Born Workers in the U.S. Labor Force, 2005



Source: J. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the United States," *Pew Hispanic Center Research Report* 61 (2006).

About 56 percent of the total number of unauthorized immigrants are Mexican, and 22 percent are from elsewhere in Latin America. Most of the unauthorized are recent arrivals: Two-thirds were in the United States less than 10 years, and 40 percent were in the United States less than five years.² Passel estimates that 1.8 million unauthorized foreign-born people arrived in the 1980s, 5.0 million in the 1990s, and 4.4 million between 2000 and 2005.³

Using Current Population Survey data, Passel also estimates that 7.2 million unauthorized foreign-born people were in the U.S. labor force in March 2005—almost 5 percent of all U.S. workers. Unauthorized immigrants made up 24 percent of hired farm workers, 17 percent of cleaners, 14 percent of construction workers, and 12 percent of food preparation workers (see Figure 2). Within construction, an estimated 36

percent of insulation installers and 29 percent of drywallers were unauthorized. However, the vast majority of workers in these professions are still U.S.-born.

Competing Bills and Competing Solutions

The House Bill: Mandates for Verification and a 700-Mile Wall

The U.S. House bill—named the Border Protection, Antiterrorism, and Illegal Immigration Control Act (H.R. 4437)—has as its centerpiece an expansion of the Basic Pilot employee verification program. According to this provision, all U.S. employers would have to submit the Social Security and immigration numbers of newly hired workers within three days to government agencies by telephone or computer. If the workers' data did not match those in government records, employers would notify these workers to correct the data within 30 days or be on notice that the workers were likely unauthorized, which could subject the employer to fines.

The bill would give U.S. employers two years to meet the three-day

verification requirement and six years to verify current employees. Fines for employers who violate the law would rise up to \$25,000, and "illegal presence" in the United States would become a felony, which could make it hard for currently unauthorized workers to become legal guest workers and immigrants. The House bill also introduces penalties on those who support or shield illegal migrants—a provision that critics say could mean up to five years in prison for those people (such as employees of social service agencies and churches) that help the unauthorized foreign-born.

One of the House bill's most controversial provisions authorizes (at a cost of \$2 billion) adding 700 miles of fencing to the current 106 miles of fence along the Mexico-U.S. border. While the House vote to build more fencing (approved 260-159) was stronger than its vote for the overall bill, the reaction of Mexico and other Latin American governments has been strongly negative. Mexican Foreign Secretary Luis Ernesto Derbez, who asked Central American nations to join in opposition to additional fencing, said: "Mexico is not going to bear, it is not going to permit, and it will not allow a stupid thing like this wall."⁴

President Bush has called for "comprehensive immigration reform" that includes more enforcement to prevent illegal entries as well as a new guest worker program to deal with the unauthorized foreign-born already here. But the House bill does not include a new guest worker program. As Rep. Tom Tancredo, R-Colo., leader of a House immigration reform caucus with 90 members, put it: "Our borders must be secured and our laws must be enforced before any guest worker plan can go into effect."⁵

The Senate Bills: Exploring Options for Legalization and Guest Workers

The Senate is currently grappling with immigration reform, and all of the major bills being considered by that body include beefed-up enforcement measures—such as hiring more U.S. Border Patrol agents and expanding the employee verification system—that parallel those in the House bill. But most senators have also accepted Bush's comprehensive immigration reform approach—specifically, that unauthorized foreign-born people in the United States with jobs should have a path open to them to earn legal immigrant status after six years and U.S. citizenship after 11 years.

However, Republican senators are divided. Some of these senators advocate enforcement and a guest worker program, meaning that unauthorized foreign-born people with U.S. jobs could work an additional six years as legal guest workers but would then have to return to their countries of origin. Other G.O.P. senators join most Democrats in preferring that unauthorized foreign-born residents in the United States be able to convert to immigrant status.

The Senate debated immigration reform in both March and early April, but did not approve a bill. There appeared to be majority support in the Senate for a comprehensive bill that would step up enforcement and offer "earned legalization" to those who have been in the United States for at least five years. But the vote to approve this compromise, which would have divided the unauthorized foreign-born into three groups based on how long they had been in the country, failed on a 38-60 vote on April 7. An alternative

enforcement-only bill failed on a 36-62 vote.

A Nation at a Crossroads About Unauthorized Immigration

Three lessons emerge from the current debate. First, there is no enthusiasm among U.S. policymakers for repeating the approach to unauthorized migration embodied in the Immigration Reform and Control Act of 1986 (IRCA), which involved legalization first and enforcement later. The act allowed 2.7 million foreign-born people to become immigrants and eventually citizens, but ineffective enforcement meant the entry and employment of unauthorized workers continued. Both the House bill and the Senate bills have stronger enforcement provisions than IRCA.

Second, there are fundamental disagreements about how to deal with the unauthorized foreign-born already in the United States. The House's enforcement-only approach aims to drastically reduce illegal entries and employment. Combined with other recent federal legislation (for instance, making it more difficult for states to issue drivers' licenses to the unauthorized foreign-born), the goal of this approach is to reduce the number of unauthorized foreign-born residents by attrition and then deal at a future date with the reduced numbers who remain. By contrast, a majority of senators seem willing to allow some unauthorized foreign-born people who have built lives in the United States to become immigrants and eventually citizens.

Third, immigration reform comes when the United States is at a crossroads in its dealings with Latin American countries that are the source of 80 percent of the unauthorized foreign-born in the United States. Trade agreements such as the North American Free Trade Agreement (NAFTA), the Central American Free Trade Agreement (CAFTA), and the Doha round of the World Trade Organization's trade talks have all aimed to encourage countries now sending migrants to the United States to instead send more goods and fewer migrants.

However, freer trade tends to produce a migration hump—a temporary surge of more emigration as protected local industries are exposed to competition while the investment that creates jobs takes time to have its migration-retarding effects. The migration hump from NAFTA and other accords is still ongoing, and U.S. policymakers appear to have grown tired of waiting for the reduction in immigration these accords should eventually bring.

Americans, immigrants, and migrant-sending countries are closely watching the congressional debate over immigration reform. There is general agreement that more must be done to reduce unauthorized migration, but disagreement over whether the solution lies more in border fences or workplace enforcement. Similarly, there is agreement that unauthorized foreign-born parents with U.S.-born children are not likely to be deported, but disagreement on whether they should nonetheless be encouraged to return on their own or offered a path to immigrant status. The stakes are high, affecting the lives of millions of immigrants and Americans as well as potential migrants.

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