

# The art of the deal on immigration reform

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Champions of immigration reform are thinking big with this year's proposed bipartisan overhaul: a massive bill that would impose the most sweeping changes to the nation's broken border system in more than a generation.

Capitol Hill lawmakers involved in negotiations say the big-gulp approach is necessary to strike a compromise between camps that passionately hold different priorities on immigration.

Experts argue that, besides being politically expedient, a holistic plan is needed to bring the out-of-date U.S. immigration system into the 21st century.

But such a far-reaching omnibus bill could be difficult to implement, with unforeseen expenses and unintended consequences, in addition to political pitfalls that could imperil passage. And even if it's put into effect smoothly, advocates who envision reducing illegal immigration to a relative trickle, compared with the peak flows of the late 1990s and early 2000s, acknowledge that it and some related problems probably never will go away entirely.

"Big issues have big bills," said Rep. Ed Pastor, D-Ariz., the senior member of the state's House delegation. "The objective is to have a comprehensive bill because you want to ensure that you have all the components — border security, a pathway to legalization, visa improvements, maybe a guest-worker program — because in a way they're all intertwined. You gain support and you gain opposition, but also it provides the opportunity to make deals and to compromise."

It's not uncommon for Congress to put off problematic issues for years before addressing them in one fell swoop. President Barack Obama's 2010 health-care law is perhaps the best-known recent example.

Sometimes it takes public pressure that comes with a national crisis or scandal, such as the Enron Corp. debacle of the early 2000s, which led to a battery of new accounting regulations. Tide-turning elections that shifted control of Congress to the Democrats in 2006 and control of the House back to Republicans in 2010 add to a sense that once in power neither side has enough time to tend to big issues through a series of smaller-scale bills, even if they were so inclined.

The window of opportunity for Obama and his bipartisan allies on immigration is narrow, which is another argument to strike fast with a single comprehensive piece of legislation. But that also raises expectations and could make a failure that much more spectacular.

Most observers say Obama and Congress likely will have until the end of 2013 to pass an immigration bill. By then, lawmakers will be gearing up for the 2014 midterm elections and will avoid controversies. And then by 2015, presidential politics will be in full throat. In addition, Obama also has pressing fiscal matters and gun control on his agenda.

Because it already has some bipartisan momentum, immigration reform might be Obama's best opportunity to enact landmark legislation in his second term to help establish his legacy. But there is no guarantee that a fragile compromise along the lines laid out last month by the Senate's bipartisan "Gang of Eight" could even make it out of the Democrat-controlled Senate, let alone win passage in the Republican-controlled House, where opposition runs deeper to provisions that critics decry as "amnesty" for illegal immigrants.

The Senate Judiciary Committee will hold its first hearing on the issue Wednesday. The House held a hearing on it last week.

Some GOP players, including House Majority Leader Eric Cantor, have suggested taking small bites, starting with proposals that have broader support, such as the Dream Act. That legislation would allow young undocumented immigrants to earn citizenship by attending college or serving in the military. Others would prefer offering undocumented immigrants legal status with no direct path to citizenship.

"Presidents always want to make history, and you make history with big sweeping programs," said Larry Sabato, director of the Center for Politics at the University of Virginia. "However, if you can't get a big program passed, and (if) by proposing one you kill the opportunity for incremental reform, you're in the worst possible world. That's where judgment comes in."

Obama was able to get a huge, complicated health-care-reform law passed during his first term, but even then only barely at a time when fellow Democrats ran both chambers on Capitol Hill. Other landmark programs, including Social Security and Medicare, started off on a smaller scale but expanded over the years.

In favor of comprehensive immigration reform: After years of indifference and, more recently, partisan bickering, both parties appear motivated to do something. The last major congressional overhaul of the system was in 1986, during President Ronald Reagan's administration. Senate immigration-reform efforts in 2006 and 2007 did not result in new laws. Reform advocates also were disappointed at the lack of progress during Obama's first term, but are hopeful that the issue may finally be reaching critical mass.

"It's rare to find something that is so continually brought up and put to the side, and brought up and put to the side, as immigration reform," said Kareem Crayton, a political scientist and associate professor of law at the University of North Carolina-Chapel Hill. "We may be at the breaking point."

### **Something for everyone**

Theoretically, a comprehensive immigration bill would attract wide support by providing something for each set of stakeholders:

Improved border security and employment verification for enforcement hawks.

A pathway to citizenship and visa reforms for immigrant advocates.

A guest-worker program for the business community.

All three components would have to be included in a single bill in order to keep the coalition together.

The framework released last month by the bipartisan Senate group takes an additional step, explicitly requiring that a new commission declare the border secure before any of the estimated 11 million undocumented immigrants already in the United States can pursue a process of earned citizenship. That would ensure that neither of the two primary competing priorities can move forward without the other and hopefully increase trust between the enforcement and pro-immigrant camps.

“In the case of Arizona, we’re committed to having a more secure border, and the Obama administration really wants a pathway to citizenship,” said Sen. Jeff Flake, R-Ariz., one of four GOP members of the Gang of Eight. “We’ve found a way, we believe, to leverage one to the other. To be able to have real border security signed off on before anybody gets on a path to citizenship — that’s the benefit to having a big bill.”

The legislation contemplated by the Senate group’s outline is now being drafted, and the details of the new border commission and other provisions will come under intense scrutiny once it is released.

But one longtime immigration-reform advocate said that while the legislation can come across as “some tawdry set of trade-offs,” the idea of revamping the immigration system all at once dates back to discussions by experts, scholars and intellectuals at the end of the last century. Besides offering a clean slate to the undocumented immigrants now living in the shadows, the effort ostensibly would fix the immigration system once and for all by combining tougher border security and enforcement measures with a flexible legal immigration system that discourages illegal immigration. It would also better meet the changing labor demands of the U.S. economy.

Today, lawful immigration to the U.S. can be a long and tedious process — if it is even possible — for many people looking for a better way of life. And the current system cannot respond to short-term workforce needs during economic boom periods. Undocumented workers have supplied the demand by U.S. employers.

“It really does have a chance of ending illegal immigration as we know it,” said Frank Sharry, executive director of America’s Voice, a national organization that supports comprehensive immigration reform. “The purpose is to transform the chaotic status quo into an orderly system. Now, of course, it won’t be perfect, but if comprehensive immigration reform passes, it’s an architecture for a modernized regulatory regime that can manage migration intelligently, rather than the status quo, which is an attempt to repress it inhumanely and ineffectively. It’s a beautiful concept.”

**One big bill**

But while Sharry stressed that the political benefits of a comprehensive bill “just kind of turned out that way,” others said the political environment requires that kind of across-the-board legislation.

Sen. John McCain, R-Ariz., one of the Gang of Eight’s GOP negotiators, told *The Arizona Republic* that “the process in the Senate doesn’t lend itself to a rifle shot” and predicted that any attempt to pass immigration reform one piece at a time would get bogged down in a flurry of amendments from lawmakers seeking to attach their priorities or kill the bills with poison pills.

Comprehensive legislation, though, also runs the risk of being amended beyond recognition by opponents. Supporters are more likely to abandon the bill the more it is changed or watered down, and immigration reform offers many targets to critics.

“The peril in trying to get something accomplished in a limited amount of time, and doing it wholesale, is that it’s an all-or-nothing approach,” Crayton said. “It’s going to take a huge effort on the part of the sponsors to keep people on board.”

Even so, McCain said the best bet is for immigration-reform supporters to stand firm behind one big bill and vote down any amendments that would destroy the delicate compromise.

In 2006, McCain and the late Sen. Edward Kennedy, D-Mass., were able to shepherd a bipartisan comprehensive immigration bill through the Senate, but there was insufficient support for that approach in the House. The next year, McCain, who was running for president at the time, supported a new version of the legislation offered by Kennedy and then-Sen. Jon Kyl, R-Ariz., but it failed in the Senate amid public outcry against “amnesty.” Under fire from anti-amnesty conservative activists in key primary states such as Iowa, New Hampshire and South Carolina, McCain shifted his position to require a secure border before proceeding with other proposals such as a pathway to citizenship or a guest-worker program.

McCain wound up losing to Obama in 2008 as Republican nominee Mitt Romney also would do in 2012. Obama beat both GOP candidates, particularly Romney, soundly among Hispanic voters. Since the November election, McCain has again become a driving force behind comprehensive reform, saying the time is right.

“It’s the only way that I see that it can be done,” McCain said. “Obviously, it has failed in the past, but I also notice there is a somewhat changed attitude on the part of the American people about this issue.”

However, Rep. Matt Salmon, R-Ariz., warned that it could be a mistake for Obama and other immigration-reform supporters to try to ram a massive bill through the House. Salmon, who returned to Congress in January after serving in the House from 1995 to 2001, is open to border-security measures and a guest-worker program but is not interested in providing “amnesty” to undocumented immigrants who broke the law to enter the United States, saying to do so would be unfair.

“If we’re smart, and if the administration is smart, they’re going to do it in a more piecemeal fashion, and they’re going to try to bring it in in phases,” Salmon said.

### **Some doubt solution**

Others cast doubt on comprehensive immigration reform’s promise of fixing the illegal-immigration problem.

Steven Camarota, director of research at the Center for Immigration Studies, a think tank in Washington, D.C., that favors more immigration enforcement and less overall immigration, said he has no reason to believe that illegal immigration will be solved even if Congress passes a sweeping bill. That’s because the government has failed to vigorously enforce sanctions against employers or to adopt a mandatory electronic-verification system for employers to screen out illegal workers.

“The reason to be incredibly skeptical about stemming illegal immigration is that every time we’ve had that promise we don’t do it,” Camarota said. “The bottom line is we have all these things that we are not doing in enforcement and we are not doing it partly because of resources but mostly because of decisions, because of political pressures.”

Sabato, the University of Virginia political scientist, added that it is “guaranteed” Congress will run into unforeseen complications and unintended consequences, just as it often does when it passes sweeping, detailed legislation. Lawmakers likely will have to revisit the issue from time to time.

“Is immigration reform going to eliminate illegal immigration? Only if you’re terminally naive will you believe that,” he said.

Doris Meissner believes it is possible to create an immigration system that better serves the needs of the economy and, while not eliminating illegal immigration entirely, could reduce it to a manageable level.

“I am not saying that is what is going to happen. But I’m saying there are mechanisms for doing it,” said Meissner, a former commissioner of the Immigration and Naturalization Service and now director of the U.S. immigration-policy program at the Migration Policy Institute, a nonpartisan Washington, D.C., think tank.

Flake also is optimistic that the changes envisioned by comprehensive immigration reform would have a positive impact.

“This isn’t all going to be done in one day, either,” Flake said. “It’s going to take a while for some of these things.”

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