

# ISSUE BRIEF

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## Securing America's Future Act: The Good, the Bad, and the Ugly of the House Immigration Bill

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Last week, Representatives Bob Goodlatte (R-VA) and Michael McCaul (R-TX), chairmen of the House Judiciary and Homeland Security Committees, respectively, introduced H.R. 4760, the Securing America's Future Act (SAFA).<sup>1</sup> This bill is one of several that addresses the issue of Deferred Action for Childhood Arrivals (DACA) recipients, as well as many other aspects of immigration. Ultimately, the legalization offered by SAFA is amnesty. Rather than removing illegal immigrants who have no legal right to remain in the U.S., it rewards law breaking with temporary legal status and work authorization. Heritage Foundation analysts have long held that immigration reform should not be amnesty-centric, and instead focus on much-needed reforms first.

That said, SAFA does include many provisions that attempt to make some of these much-needed reforms, while not being an entirely comprehensive piece of legislation. These provisions deserve close consideration on their own merits to see if they are worthwhile and likely to be successful in reforming the U.S. immigration system.

### What SAFA Gets Right

H.R. 4760 would rightly end the immigration system's overwhelming focus on family-based immi-

gration and the resulting chain migration. SAFA also ends the Diversity Visa lottery program. The pronounced focus on family reunification and diversity in U.S. immigration—accounting for over 72 percent of green cards in fiscal year 2016<sup>2</sup>—ultimately does not serve U.S. interests well. No one has an inherent right to come to the U.S., and so a main focus of the immigration system must be the contribution by new immigrants to the U.S. and its economy. There are certainly larger economic and fiscal benefits to be realized in a system of immigration that prioritizes employment and economic merit. Additionally, the creation of a new agricultural guest worker system with good enforcement provisions will provide a legal, but temporary, path to work in the U.S., discouraging illegal immigration.<sup>3</sup>

The bill is also filled with a host of new policies to ensure that state and local governments assist the federal government with immigration enforcement. For example, it requires that cities comply with requests for information from the federal government regarding immigration enforcement and to briefly detain arrested immigrants until federal authorities can pick up the immigrant. Sanctuary localities that do not comply become ineligible for various homeland security and law enforcement grants. Furthermore, H.R. 4760 would allow non-compliant localities to be sued by victims of crime caused by an illegal immigrant who was back on the streets because of a local government's sanctuary policies. The bill would also mandate that the Department of Homeland Security enter into 287(g) agreements—to train and deputize willing state and local police to help enforce federal immigration—rather than allowing such agreements to be at the discretion of any given Administration.

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This paper, in its entirety, can be found at  
<http://report.heritage.org/ib4815>

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The bill also adds new punishments for illegal and criminal aliens. Criminal and dangerous aliens must be detained during removal proceedings. Being unlawfully present in the U.S. would become a criminal violation with escalating penalties and fees for repeat and criminal offenders. Nations that refuse or delay in taking back their citizens will have their diplomatic visas slowly and consistently cut. And, SAFA would allow the U.S. to more quickly return unaccompanied minors regardless of their country of origin.

### Missed Opportunities

While H.R. 4760 takes several steps forward, it misses a few critical opportunities to improve the immigration system. On the enforcement side, while the bill expands various punishments, deterrents, and programs, including a mandatory E-Verify program, it does not provide additional internal resources to enforce these new laws. For example, the bill does not include additional Immigration and Customs Enforcement (ICE) officers or prosecutors to enforce the new rules. Similarly, it does not require the Department of Justice to hire additional immigration court judges or support staff. The Senate companion bill, the SECURE Act,<sup>4</sup> does include such provisions.

In terms of legal immigration, SAFA misses a key opportunity to turn the U.S. immigration system into one that prioritizes employment and economic growth. The bill cuts the number of family and diversity green cards by around 350,000 but only adds 50,000 more employment-based green cards. As it stands, the bill would still leave the U.S. with a primarily family-based immigration system. Given that there are many potential immigrants with skills and education demanded by the U.S.

economy, the U.S. should replace every green card cut from the family-based system with an employment-based green card. Such workers will be net fiscal contributors to the U.S. (that is, they will pay more taxes than they consume) and will serve to grow the economy, especially in high-skilled areas. SAFA also fails to end the arbitrary per country cap that limits the number of visas that can be given to individuals from a given country. Like the Diversity Visa, the per country cap uses an immigrant's country as a reason to choose or reject him rather than his individual merits or lack thereof.

### Problems with the Bill

While H.R. 4760 has border-security provisions that are largely positive and are drawn from Chairman McCaul's Border Security from America Act,<sup>5</sup> there is a concerning change in SAFA. Whereas the Border Security for American Act authorized around \$15 billion for border security, SAFA authorizes over \$130 billion exclusively for border security, an amount that has never been seen before in serious legislation, and is hard to justify from either a fiscal conservative perspective or from the perspective of using finite national security dollars prudently. Other border-security problems include wasteful spending on a biometric exit system that will not help the U.S. stop illegal immigration and provide minor security benefits at best for a significant price tag. It is possible to have reliable border security that is also fiscally responsible and cost-effective, but this proposal fails that test.

Then, of course, there is the ultimate problem of amnesty. By effectively setting the DACA program in stone, Congress will be providing amnesty—that is, it is rewarding those who came here illegally with legal status, while others waited in line in order to come to

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1. Securing America's Future Act of 2018, H.R. 4760, 115th Cong., 2nd Sess., <https://www.congress.gov/bill/115th-congress/house-bill/4760> (accessed January 24, 2018).
  2. U.S. Department of Homeland Security, *2016 Yearbook of Immigration Statistics*, Table 6. "Persons Obtaining Lawful Permanent Resident Status by Type and Major Class of Admission: Fiscal Years 2014 to 2016," December 18, 2017, <https://www.dhs.gov/immigration-statistics/yearbook/2016/table6> (accessed January 24, 2018).
  3. For similar arguments made regarding a different temporary worker program, see then-Representative Mike Pence and Heritage's James Carafano and Steven Moore, "The Red Card Solution Video—Bringing Order to U.S. Borders," Vernon K. Kriebel Foundation, video, 18:04, December 3, 2014, <https://www.youtube.com/watch?v=ZCIJadAZVOU&feature=youtu.be> (accessed January 24, 2018).
  4. Security, Enforcement, and Compassion United in Reform Efforts (SECURE) Act of 2017, S. 2192, 115th Cong., 1st Sess., <https://www.congress.gov/bill/115th-congress/senate-bill/2192/text> (accessed January 24, 2018).
  5. David Inserra, "House Border Security Bill a Strong Step Forward but Improvements Still Needed," Heritage Foundation *Issue Brief* No. 4778, October 30, 2017, <https://www.heritage.org/homeland-security/report/house-border-security-bill-strong-step-forward-improvements-still-needed>.
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the U.S. the right way.<sup>6</sup> In addition to being patently unfair, amnesties encourage more illegal immigration and tend to result in Congress not following through on its other immigration promises and responsibilities. It is true that this amnesty is one of the more “tailored” ones, in that it is limited to current DACA beneficiaries, currently fewer than 690,000 people. Recipients of this temporary status would be able to pursue a green card through other existing channels.

### The Way Forward

To improve SAFA, Congress should:

- **Expand and reform employment-based immigration.** For every green card cut from the family-based category, Congress should add an employment-based green card. The government would not be picking winners and losers among industries, job categories, or immigrants. If there are more requests for green cards than are available, a limited points system would come into play that again would place emphasis on market signals. For example, a company’s offered compensation to a potential immigrant would be weighted with significant priority. Other factors like income and wealth would earn a good amount of points, young working age and higher education would earn some points, and family ties would earn less weight. This new program would also maintain an investor category to incentivize immigration of those who want to build businesses in the U.S. It should also end the per country cap.
- **Make employment-based green cards conditional.** Employment-based green cards should be made conditional to ensure that employment-based green card candidates are indeed working or otherwise providing significant benefit to the U.S.

- **Improve enforcement capabilities.** SAFA should improve the resources of ICE and Justice Department immigration courts to effectively enforce immigration laws and adjudicate cases.
- **Implement cost-effective border security.** Rather than just throwing money at the border with massive authorizations, Congress should actually appropriate funding for cost-effective border-security measures paired with robust enforcement.
- **Reject amnesty.** The lessons of the past are that amnesty encourages more illegal immigration and results in Congress failing to make other immigration reforms. Such actions betray the American people and their interests.

### Making the Immigration System Work for America

The Securing America’s Future Act has many good policies that will improve the U.S. immigration system, but more reform is needed and its problems need to be fixed. Then the immigration system will best advance American security and prosperity.

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6. David Inserra, “Dreaming of Amnesty: Legalization Will Spur More Illegal Immigration,” Heritage Foundation Issue Brief No. 4777, October 30, 2017, <https://www.heritage.org/immigration/report/dreaming-amnesty-legalization-will-spur-more-illegal-immigration>.