Insight

The U.S. Citizenship Act of 2021

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Executive Summary

- The Biden Administration's immigration reform proposal, the U.S. Citizenship Act of 2021, has been introduced in both the House and the Senate.
- This proposal would provide a path to citizenship for illegal immigrants, implement a new strategy for physical security at the southern border, and introduce very modest changes to the visa system.
- The United States' immigration system faces two challenges, the large number of illegal immigrants and an impending demographic shift in the native-born population, and while this proposal addresses the first challenge, it is essentially silent on the latter.

Introduction

The last time the United States significantly changed its method for awarding visas was in 1965, when Congress passed the Immigration and Nationality Act (INA), which established the main priority of U.S. immigration policy as family reunification. Since then, the country's population has shifted in two keyways: (1) there has been a large influx of illegal immigrants, and (2) the native population's birthrate has dropped, portending slower economic growth and great fiscal challenges as the population shrinks.

On February 18, 2021, Senator Bob Menendez and Representative Linda Sanchez introduced in their respective chambers President Biden's U.S. Citizenship Act of 2021 (USCA).

The USCA features three key elements: an eight-year pathway to citizenship for most undocumented immigrants, a focus on eliminating the backlog at the southern border, and a modest reform to the legal immigration system. Regarding the two major demographic challenges facing the United States, the USCA addresses the first, illegal immigration, but is essentially silent on the second.

Legalization of Undocumented Immigrants

There are an estimated 11 million undocumented immigrants currently living in the United States. This bill would provide a pathway to citizenship for those undocumented immigrants living in the country on or before January 1, 2021. After paying back taxes from previous years and passing background checks, most undocumented immigrants would be allowed to live and work in the United States. After five years, they could obtain a green card after meeting certain requirements and demonstrating civic knowledge, and after three more years could become official citizens of the United States. Recipients of Deferred Action for Childhood Arrivals (DACA), those with Temporary Protected Status, and agriculture workers would have to ability to immediately apply for a green card and become citizens after three years.

Border Security

President Biden's plan seeks to address the influx of asylum seekers at the southern border and will prioritize

reuniting families that had been split up at the border due to the policies of the Trump Administration. The plan increases the number of immigration courts and judges so to reduce the backlog of cases left over by the Trump Administration. It also includes a $4 billion plan to send resources and aid to Guatemala, Honduras, and El Salvador over a four-year period to improve economic conditions in those countries and prevent citizens from fleeing to the United States. The bill invests a modest amount in smart border technology and enforcement against criminal organizations. (Of note, among the executive orders issued earlier this year, one ended the practice of transferring money from the Department of Defense to fund border wall construction.)

Immigration Visas

In terms of the legal immigration system, the USCA does not contain any meaningful proposals. The bill proposes to make the process for applying for an employment-based visa less cumbersome and to remove the limit of per-country visas. Biden's plan would make permanent the Trump Administration's decision to make obtaining an H-1B visa waged-based—a change that the Biden Administration initially delayed until December 31, 2021. It will replace the lottery system in place now. Biden's bill would increase the diversity visa cap from 55,000 to 80,000. Though these changes are a starting point, the legal immigration system needs a total overhaul. The American Action Forum has proposed a total reform to the core visa granting system that would make it skills-based instead of the current focus on family unification.

Conclusion

The USCA is an ambitious attempt at legalization of undocumented immigrants. By reinforcing the existing emphasis on family unification, however, it lacks comparable ambition in reforming the granting of visas to reward skills and therefore misses an opportunity to contribute substantially to economic growth.