

Is Legalization Possible? Trends and Political Mapping of Immigration in the House of Representatives

By Manuel Orozco and Julia Yansura, Inter-American Dialogue

Immigration Reform: A Continuing Problem

Immigration has sparked political debate in the United States for decades. After all, there is a great deal at stake: employment, family reunification, border security, asylum, social services, citizenship, and legalization. Among these difficult issues, it is the latter that has become the most controversial. Though many sectors recognize that the immigration system needs repair, the issue of what to do with the country's estimated 11 million undocumented immigrants is a political lightning rod.¹

Although the public supports immigration reform, opinion is more divided on the question of citizenship for undocumented migrants. In a July 2013 Gallup Poll, 90 percent of respondents said it was important to them to have new immigration laws. Of these, 37 percent felt that the issue was "extremely important." Nationwide, the vast majority of respondents support tightening border security (83 percent), requiring workplace verification (84 percent), and increasing short-term work visas for immigrants whose skills are needed (73 percent).² Significantly, a majority (67 percent) of those surveyed believe that undocumented immigrants currently in the US should "be allowed to stay in the country legally." Of those, 45 percent support a pathway to citizenship, while the remaining 22 percent support a pathway to permanent residency.³

Despite this political mandate for change, passing an immigration reform bill will be difficult, if past experiences are any indication. The most recent reform, the 1986 Immigration Reform and Control Act, is generally considered to have failed in preventing the emergence of another large undocumented population, and is often cited as a cautionary tale for contemporary reform efforts.⁴ In the early 2000s, a number of attempts to reform the immigration system came to a halt with the resounding defeat of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

Six years later, with an awareness of the growing political clout of Hispanic voters,⁵ the issue is back on the table. On April 26, 2013, a bipartisan "Gang of Eight" introduced the Border Security, Economic Opportunity, and Immigration Modernization Act to the Senate, where it later passed 68-32.

In essence, the Senate bill states that when certain border security triggers are met, a pathway to residency, and ultimately citizenship, will open up for undocumented migrants. The bill's security triggers, however, are quite stringent. Before any residency applications are processed, the Homeland Security Secretary must certify that a 90 percent effectiveness rate⁶ is reached in all high-traffic border corridors, an additional 20,000 Border Patrol agents have been hired, a strategy has been implemented to build 700 miles of border fencing, and employer verification systems have been implemented. Once these security stipulations are met, undocumented migrants will be eligible to apply for Registered Provisional Immigrant Status (RPI); plus, after completing various requirements and spending 10 years in the United States, they will be eligible to apply for citizenship.

There was strong opposition to the Senate bill in the Republican-controlled House, where it was deemed "fundamentally flawed and unworkable."⁷ Consequently, House Republicans began drafting several of their own bills, a so-called "step-by-step approach,"⁸ which focused heavily on enforcement and border control before any amnesty would even be considered. Many Americans saw this move as an attempt to stall reform.⁹ At the end of the August 2013 session, the House had introduced 5 separate bills:

- The Agricultural Guestworker Act, which would create a multi-year H-2C VISA program
- The Border Security Results Act, requiring 90 percent border control at high-traffic areas
- The Legal Workforce Act, implementing E-Verify over a period of 24 months



- The SAFE Act, strengthening interior enforcement through federal, state, & local cooperation
- The SKILLS Visa Act, which would increase H-1B visas and create an entrepreneur visa, while eliminating the diversity and 4th preference family visa categories

Congressional Politics: Understanding the Landscape

Whether the House of Representatives will arrive at a formula to legalize undocumented migrants depends on a number of complex factors operating within a polarized political environment. In this section, we consider the politics of the House, analyzing the position and the importance that each Representative attaches to legalization.¹⁰

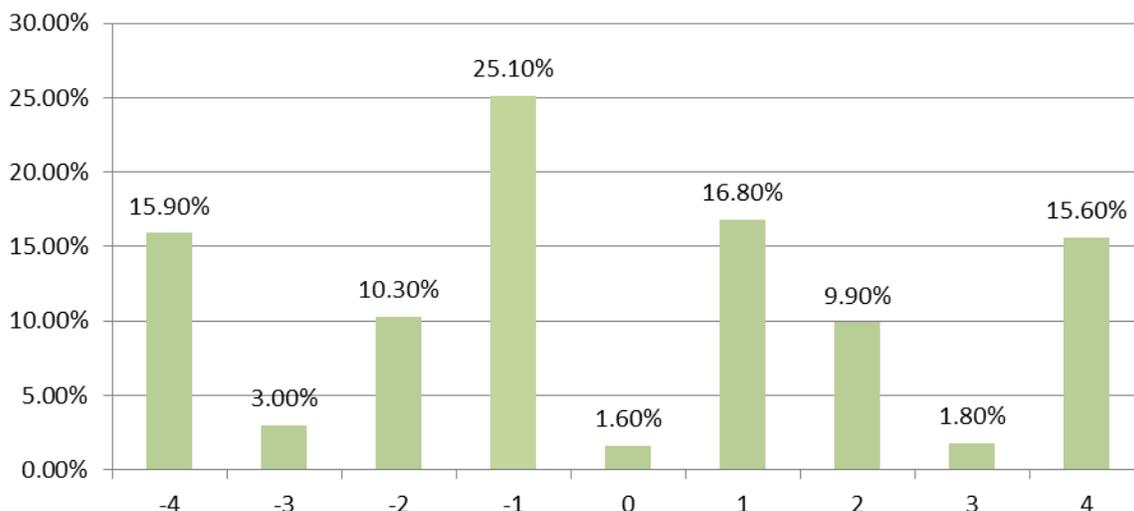
First, a look at the demographics of each district provides insight into the limited extent of Republican support for legalization. As the table below shows, the number of foreign born and naturalized citizens is smaller in Republican districts than Democratic ones. Moreover, 18 percent of the population in Democratic districts is foreign-born, compared to 9 percent in Republican districts. A much smaller political base of migrants or naturalized citizens in Republican territory makes it harder to advocate successfully for legalization in these districts.

Table 1: Key Characteristics of Congressional Districts

	Democratic	Republican	All Districts
Total pop.	692,508	736,313	716,430
Foreign born number	125,397	67,609	93,839
Naturalized	57,716	29,293	42,194
Foreign born	18%	9%	13%
Latino/Hispanic origin	25%	13%	19%
Average Year elected	2002	2005	2004
Average Unemployment Rate (June 2013)	8.2	7.6	7.8

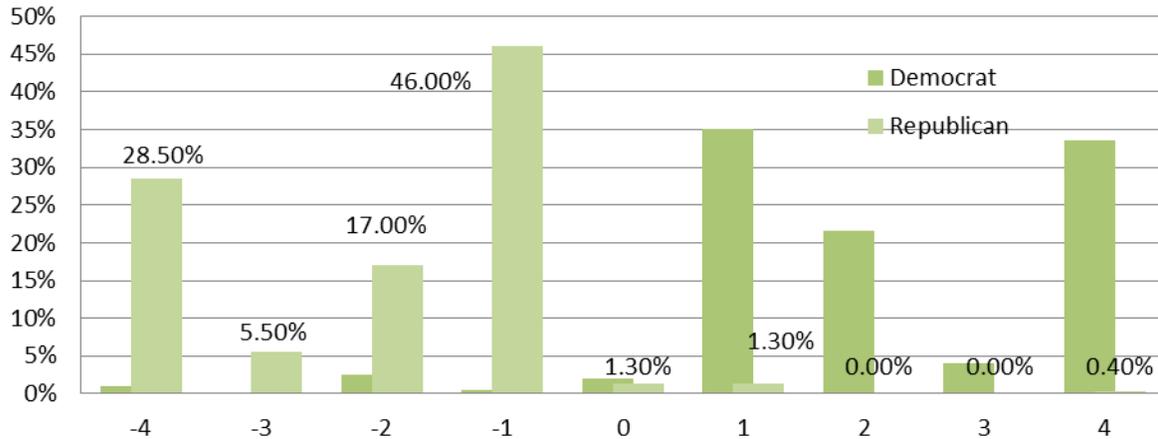
When it comes to positions¹¹ on immigration reform, opposition is widespread but shallow. As the chart below suggests, over 50 percent of Representatives are against a legalization solution. However, a significant portion of those who oppose legalization only oppose it somewhat. This segment of the House deserves close attention in the upcoming months.

Graph 1: Position Among Members of the House Against or In Favor of Legalization



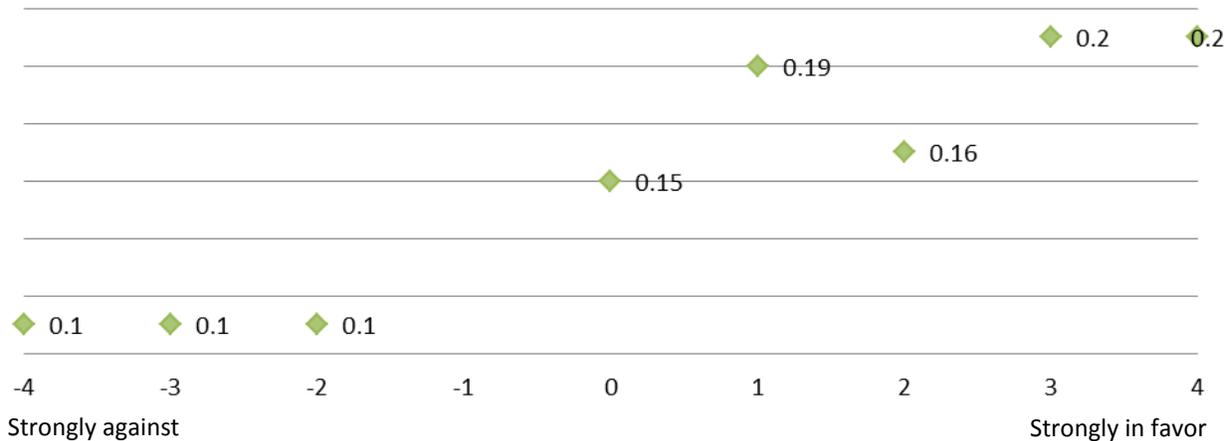
When these positions are compared on party lines, the divide is pretty straightforward; there is strong opposition from the Republican base. Finally, although there is opposition, the extreme is not so strong, and that can be seen particularly among Republican representatives, 46 percent of which can be considered as “not so against legalization.”

Graph 1: Position Among Members of the House Against or In Favor of Legalization



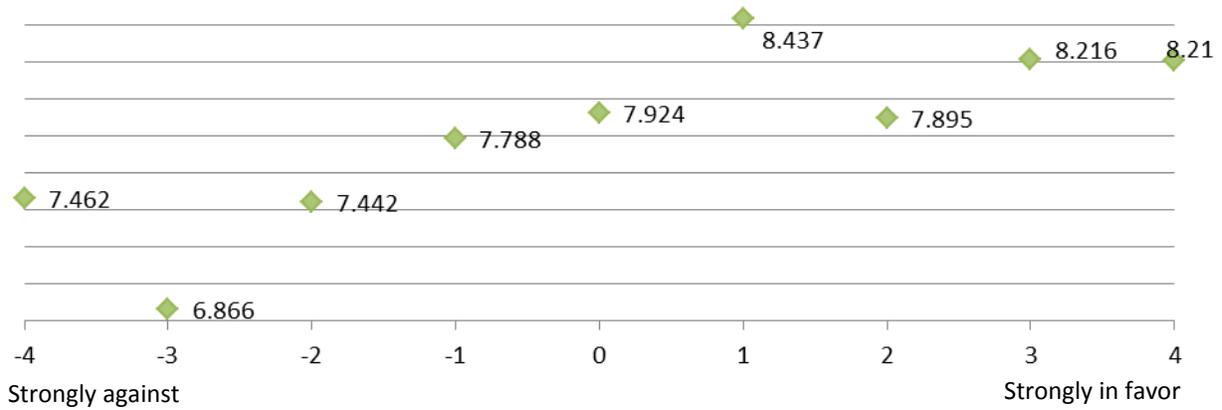
Opposition to legalization also decreases with the size of the foreign born population. As has been mentioned, Republicans represent districts with smaller foreign born populations, on average.

Graph 3: Position on Immigration Reform and Percent Foreign Born



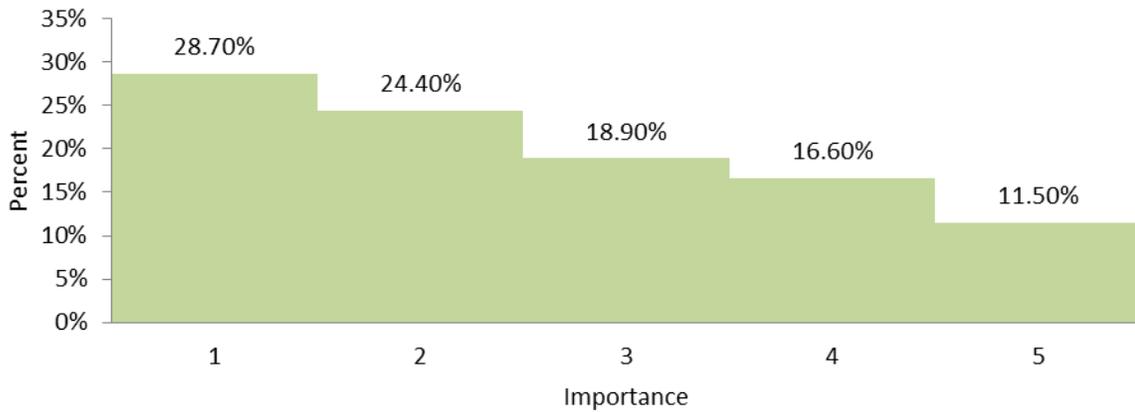
Another element is that opposition does not increase with increases in unemployment across districts. On average, Democrats represent districts with higher unemployment rates (8.2 percent), than Republicans (7.6 percent). House Representatives may not be as concerned with the effects of immigration on unemployment as is sometimes assumed, since district unemployment rates do not correlate with disapproval of reform.

Graph 4: Unemployment Rates and Position on Immigration Reform



Finally, if we consider the importance¹² attached to this issue, two in four Representatives don't consider legalization to be an important issue, making it difficult to mobilize their votes.

Graph 5: Importance of Immigration Reform to US Representatives



When their position on and the importance they attach to legalization are configured, we find that those in the middle are also among those who see legalization as a “somewhat important” issue but not “very important.”

Table 2: House of Representatives, Position and Salience

Importance	Position		
	Against	In the Middle	In Favor
Somewhat Important	19.80%	36.10%	16.10%
Very Important	9.40%	7.40%	11.30%

So far, it is important to identify ways to make immigration reform more *visible, beneficial and positively compelling* to all districts, but particularly in Republican districts and especially **targeting those Republican leaders who are ‘somewhat in the middle’ or ‘not so against’**.

Table 3: Salience -- Importance and Position on Immigration Reform by Party Lines

Position	House Democrats		House Republicans	
	Somewhat important	Very important	Somewhat important	Very important
Against	3.50%	0.00%	33.60%	17.40%
In the middle	28.50%	9.00%	42.60%	6.00%
In Favor	35.00%	24.00%	0.00%	0.40%

Perspectives of a Reform: Challenges and Scenarios

As officials debate whether the House and Senate bills can be reconciled, political alliances have formed and key actors have emerged.

The groups in favor of a comprehensive immigration reform are disparate and only loosely linked. Democratic policymakers are joined by some libertarians and Republicans, often those representing heavily Hispanic districts. Religious groups, immigrant groups, business, and labor have also lent support to a comprehensive immigration reform.

On the other side, a comprehensive bill is opposed by House Republican leadership such as John Boehner (R-OH) and Bob Goodlatte (R-VA). Tea party groups, anti-immigrant organizations, and some conservative policy organizations are also involved. The RNC has recently called on House Republicans to pass a comprehensive bill but strongly opposes a pathway to citizenship (see table below).

Table 4: Key Actors and Alliances in the Immigration Reform Debate

For a Comprehensive Immigration Reform Including Pathway to Citizenship	Against a Comprehensive Immigration Reform, Opposed to Pathway to Citizenship
<ul style="list-style-type: none"> • The Obama administration • Bipartisan “Gang of 8” in Senate • Democratic Support in House and Senate • The Bipartisan “Gang of 7” in the House • 23 Republican Representatives¹³ • Some Evangelical groups¹⁴ • Representatives from Catholic colleges¹⁵ • Business groups¹⁶ • Immigrant Rights Groups • Labor Unions • Libertarian policy organizations such as CATO¹⁷ 	<ul style="list-style-type: none"> • Republican Leadership in Congress • Conservative policy organizations such as the Heritage Foundation¹⁸ • Anti-Immigration organizations such as FAIR, NumbersUSA, and CIS • Tea Party Groups¹⁹

There are several dynamics that warrant further attention. It will be important to see whether red-state Democrats maintain their support for reform despite pressures from their constituents, and whether Republicans who have come out in favor of reform can build support for a reform bill, particularly among those who are only weakly opposed.²⁰ In addition, as the debate continues, the amount of political capital and resources that grassroots organizations allocate, on both sides of the issue, will be critical to determining political outcomes.

Challenges Ahead

While immigration reform with a pathway to citizenship is still within reach, it faces considerable obstacles. These include the Hastert Rule, political constraints from constituents, the lack of political priority that politicians currently attach to the issue, and the low political capital of pro-immigrant groups.

Any immigration reform bill written by House Representatives faces an immediate, procedural obstacle. The so-called “Hastert Rule” is a tradition whereby the speaker of the House does not let anything onto the floor that does not have the support of the majority of House Republicans.²¹ This is significant because a reform package that could pass the House –with Democrats and a dozen or so Republicans supporting it – may never be allowed onto the floor. In recent interviews, Boehner has hinted he will break the unwritten rule,²² stating that it’s more of a “goal” than a rule.²³

Even if a reform bill were to make it onto the floor of the House, Republican Representatives sympathetic to an immigration reform package face difficult dynamics in their home districts that may prevent them from voting for it. They are constrained by upcoming primary challenges²⁴ and the views of their constituents. It is important to note that, while a majority of Republicans support something being done about immigration, 62 percent oppose the Senate immigration package, and 47 percent of them do so “strongly.”²⁵ According to some political analysts, they are unlikely to sacrifice their seat for an immigration reform bill.^{26 27}

Finally, many pro-immigrant groups are geographically and politically clustered in areas that are already friendly to the idea of immigration reform. Analyzing 50 pro-immigrant organizations that attended a recent advocacy event, we find that they are geographically clustered in liberal, urban areas with large immigrant populations. Nationwide, less than 20 percent of their offices were located in Republican Districts, where their advocacy might have a more direct impact.

Table 5: Analysis of 50 Pro-Immigration Groups Nationwide

Groups in Democratic Districts	80%
Most frequently appearing Dem. Representatives	Becerra (D-CA), Holmes Norton (D-DC), Maloney (D-NY)
Groups in Republican Districts	20%
Most frequently appearing Repub. Representatives	Tipton (R-CO), Grimm (R-NY)

Despite these challenges, there is some room for optimism. Representative Rubén Hinojosa (R-TX), chair of the Congressional Hispanic Caucus, is “determined that we’re not going to give up.” “Immigration reform is like a jigsaw puzzle,” he said. “It requires us to put all the pieces together in order to get a solution. Unfortunately, the House continues to go down the path of doing small bills that do not address one of the major pieces—and that is legalization.”²⁸

Possible Scenarios

At this point, it seems likely that the House will pass some sort of immigration legislation. However, it will be difficult to adopt a comprehensive immigration reform that includes a pathway to citizenship. As economist Holtz-Eakin has argued, the final product may ultimately disappoint many; its passage will require “a coalition of the disgruntled.”²⁹

One possible scenario is that the House passes the Dream Act, giving some form of amnesty to migrants who entered the country illegally as children. Republicans have not historically supported the Dream Act, which was first introduced in 2001. However, some have indicated that they are willing to reconsider.³⁰ House Majority Leader Eric Cantor (R-VA) and Judiciary Committee Chairman Bob Goodlatte (R-VA) are drafting a so-called “Kids Act,” which would allow migrants who came into the country illegally as children to earn residency. Cantor has said he supports citizenship for the Dreamers, but others in his party are not yet convinced.³¹ It is unlikely that they will support citizenship for adults.

A second possible scenario is that House Republicans pass a package that includes increased border security along with a pathway to permanent residency – without citizenship. In doing so, the Republicans could perhaps balance the demands of the conservative base with the political demands of the future of their party.

However, it is difficult to say whether the Senate and the White House will support such limited bills. According to one political analyst, “as long as House Republicans pass a few immigration reform solutions of their own, they will have demonstrated to the American people that they want to solve the immigration problem, and it won’t matter whether their efforts facilitate a compromise with Obama and Democrats.”³² Indeed, Democrats may have trouble accepting a Republican bill that does not offer a path to citizenship for adults. According to Tamar Jacoby of ImmigrationWorksUSA, such a political conundrum will “divide the Democrat reform establishment right up the middle.”³³

¹ <http://www.pewresearch.org/2013/04/17/unauthorized-immigrants-how-pew-research-counts-them-and-what-we-know-about-them/>

² <http://www.gallup.com/poll/1660/immigration.aspx>

³ <http://www.nationaljournal.com/congressional-connection/coverage/americans-split-on-linking-border-security-and-citizenship-in-immigration-reform-20130618>

⁴ <http://www.migrationinformation.org/USFocus/display.cfm?ID=861>

⁵ <http://www.cnn.com/2012/11/09/politics/latino-vote-key-election>

⁶ Effectiveness is measured by dividing the number of apprehensions by the estimated total number of illegal entries.

⁷ <http://goodlatte.house.gov/pages/Top-10-Concerns-With-The-Senate-Immigration-Bill>

⁸ <http://www.npr.org/blogs/itsallpolitics/2013/07/10/200860744/house-gop-we-wont-consider-senate-immigration-bill>

⁹ http://msnbcmedia.msn.com/i/MSNBC/Sections/A_Politics/_Today_Stories_Teases/130724-July-NBC-WSJ-poll.pdf

¹⁰ This section reports results of a political mapping of the House and is based on a review of 15 legislative actions with the selection of the four most important and debated between 2005 and 2013. Those actions selected were used as proxy for positions against or in favor of some form of legalization of undocumented migrants. It is also based on a review of local and national news, and of statements made by each Representative on immigration issues between 2009 and 2013. The mapping took into consideration five main factors: i) size of the migrant and naturalized population in the district; ii) political positions on immigration reform; iii) the political importance attached to the issue of immigration reform and, iv) the distinction between freshman and other Representatives; v) district unemployment rates. The review and analysis of this data was conducted by the authors.

¹¹ This political positioning is based on how representatives have voted in favor or against immigration related legislations since 2005. A scale from -4 to +4 is used, -4 being Strongly against, +4 Strongly in favor of legalization.

¹² Importance was measured by studying each representative’s statements in the news, local and national, on immigration. The range of importance is in a scale of 1 to 5 (1 not important – 5 Very important).

¹³ <http://americasvoiceonline.org/research/getting-to-a-majority-more-house-republicans-come-out-for-citizenship/>

¹⁴ http://firstread.nbcnews.com/_news/2013/08/21/20118594-congress-evangelicals-launch-radio-ads-in-support-for-immigration-reform?lite

¹⁵ http://articles.washingtonpost.com/2013-07-18/local/40649216_1_immigration-reform-catholic-bishops-catholic-university

¹⁶ https://www.uschamber.com/sites/default/files/hill-letters/130731_Updated_Multiindustry_Comp-Immigration_House.pdf

¹⁷ <http://www.cato.org/blog/path-citizenship-vs-legalization-let-immigrants-choose>

¹⁸ <http://blog.heritage.org/2013/08/07/morning-bell-5-immigration-questions-for-your-congressman/>

¹⁹ <http://www.politico.com/story/2013/06/immigration-bill-2013-tea-party-93581.html>

²⁰ The role of Republican leadership and the extent of its political pragmatism leading up to the 2016 presidential election is a key deciding factor. The RNC recently passed a resolution calling on President Obama and Congress to pass a comprehensive immigration reform though it opposed to a path to citizenship. <http://abcnews.go.com/blogs/politics/2013/08/rnc-calls-for-immigration-reform-but-no-pathway-to-citizenship/>

²¹ <http://blogs.rollcall.com/goppers/boehnerhastertruleimmigration/>

²² <http://abcnews.go.com/m/story?id=19370792>

²³ <http://blogs.rollcall.com/goppers/boehnerhastertruleimmigration/>

²⁴ <http://www.scrp.org/blogs/multiamerican/2013/07/01/14148/what-s-next-for-immigration-reform-and-what-are-th/>

²⁵ <http://inhetank.newamerica.net/blog/2013/07/whats-next-immigration-reform>

²⁶ <http://www.scrp.org/blogs/multiamerican/2013/07/01/14148/what-s-next-for-immigration-reform-and-what-are-th/>

²⁷ <http://inhetank.newamerica.net/blog/2013/07/whats-next-immigration-reform>

²⁸ <http://abcnews.go.com/blogs/politics/2013/06/analysis-whats-next-for-immigration-reform/>

²⁹ <http://freebeacon.com/immigration-impacts-economy/>

³⁰ <http://articles.latimes.com/2013/jul/23/nation/la-na-immigration-kids-20130724>

³¹ http://www.huffingtonpost.com/2013/07/11/eric-cantor-bob-goodlatte-kids-act_n_3581635.html

³² <http://www.washingtonpost.com/blogs/plum-line/wp/2013/08/20/heres-how-republicans-may-try-to-kill-immigration-reform/>

³³ <http://inhetank.newamerica.net/blog/2013/07/whats-next-immigration-reform>