Comprehensive Immigration Reform – Talking Points for SAA community

1. *What's CIR?*

   Comprehensive Immigration Reform – CIR- is the process of changing the U.S. immigration process for any or all who are planning to come to the U.S on a visa, or already in the U.S., as a visa holder or legal permanent resident (LPR) or for those who are planning to sponsor their families to come to the U.S. President Obama has made immigration reform a top priority for this year – 2013.

2. *Isn't CIR only for the undocumented immigrants?*

   No. CIR affects all foreign nationals who are here on visas. The media focuses on the Hispanic community because there are a large number of undocumented immigrants from Mexico. The Hispanic community has done a great job fighting for their green cards.

3. *Isn't CIR only about getting the 11milion undocumented workers green cards?*

   No. Since CIR includes overall changes, it affects the SAA community very much. CIR includes family sponsorships, H-1B visas, and path to green card/citizenship – very important things for the SAA community.

4. *Who's working on the CIR? Who is the Gang of Eight?*

   There are 8 senators (known as the gang of 8) who are working on CIR to draft a bill that will change the U.S. immigration process. There are 4 Republican and 4 Democratic senators. They are:
   a. Sen. Marco Rubio (R-Fla.)
   b. Sen. Jeff Flake (R-Ariz.)
   c. Sen. John McCain (R-Ariz.)
   d. Sen. Lindsey Graham (R-S.C.)
   e. Sen. Dick Durbin (D-Ill.)
   f. Sen. Robert Menendez (D-N.J.)
   g. Sen. Chuck Schumer (D-N.Y.)
   h. Sen. Michael Benet (D-Colo.)

5. *Why is CIR important to the South Asian American community in Michigan*

   SAA's ability to survive and thrive depends on their immigration status in the U.S. In recent survey, 85% of the SAA community in metro-Detroit reported immigration as a major issue.

   Since 1965, family sponsorship, employment, and student visas are the three main ways to come to the U.S for SAA's. Initially, they migrated with green cards from when they arrived as engineers or doctors. That changed and subsequently in the 1980's, most

SAA's come to the U.S. as F-1 (student visa with a time limit) or J-1 (exchange visa with a time limit and clause to return to home country) and it took them 5-8 years to be a LPR. From the 1990's, most SAA's started arriving as skilled professionals (H-1B, L-1, etc. employment visas with a time limit). Currently, it takes about 10 -15 years for the visa holders to become LPR's.

All through the years, no matter how they arrived, SAA's have sponsored their family members – parents and siblings – so that they retain the family unity here.

6. *What are the proposed changes in the CIR that impact the SAA community?*

The Gang of 8 is considering changes to the current process that will affect the SAA negatively:

- Cut family visas to include only spouse and children less than 21 years old – This means if a South Asian American citizen can only have his/her spouse and parents, but not siblings older than 21 years. This splits families and affects the community.

- Increase H-1B visas without a clear shortened path to green card and citizenship
- Is not addressing the existing backlogs in the green card process

7. There is no information on the specifics of these proposals yet.

8. *Why is this negative?*

First, about 2/3 of the SAA population that migrate to the U.S. come through family sponsorships so that naturalized citizens can keep families stable and unified. This is a very positive since it helps families thrive financially, emotionally, and socially.

Second, cutting visas from the family category and increasing H-1B visas is not a real or major reform for the SAA community. Real reform is to keep family visas and increase H-1B visas. By trading off family for temporary jobs is not a sound strategy for the community. In addition, there is no clear information that the future H-1B's will get green cards and eventually become citizens. The number of citizens/LPR's will decrease and temporary H-1B's may increase. It reduces the voting power.

9. *What is SAAVI doing in CIR?*

Immigration is a huge priority for SAAVI because it's a huge priority for the SAA community.

Free outreach services*:* SAAVI offers free immigration clinics for major categories of temporary visas (student, business, visitor, etc.). SAAVI, in partnership with other metro-Detroit organizations, offers free citizenship workshops to increase naturalization rates among community members.

Advocacy: SAAVI is a member of Michigan United – a coalition of 90 faith, labor, students, community organizations, and business groups in Michigan. Working with Michigan United, SAAVI accomplished the following for the SAA community so far in 2013:

a. Met with Senator Debbie Stabenow in February 2013 to make her and other elected officials aware of issues with H-1B visas and getting green cards.
b. Went to Washington D.C for the Feb. 27 Border Advocacy Day
c. Met with staff of the Gang of Eight to raise awareness of racial profiling of SAA at U.S.-Canada border crossing
    i. Met with Kay Meier, Senator Levin's staff to asked for expedited path to citizenship for SAA's
    ii. Met with Congressman Dingell's staff to share stories on backlogs in green cards
    iii. Met with Congressional Asian Pacific American Caucus to highlight immigration needs of APA's in metro-Detroit
d. Met with Senator Carl Levin in March 2013 to ask him not to trade family visas for H-1 visas and to retain family unity for this already marginalized group
e. Participated in Michigan United's town hall on April 10th with Senator Stabenow and Senator Levin in D.C.– SAAVI moderated the session with Senator Levin
f. Marched in the April 10th immigration rally on the national mall in Washington D.C.

10. Community Organizing

The Gang of 8 is expected to introduce the CIR bill in May/June 2013. After the summer recess, the bill will be debated in the House. SAAVI plans to work with Michigan United, national, and local groups to closely monitor the provisions in the bill. SAAVI plans to get the SAA community involved and engaged to influence the passing of a CIR bill that's fair and just through organizing events through youth leadership development programs.

11. How does SAAVI plan to fund the immigration work?

SAAVI has a fundraiser event on May 5th to raise funds for the community organizing activities. 5 local Indian dance teachers staging a classical dance are donating all of the proceeds from this event to SAAVI for its immigration programs. SAAVI also hopes to raise sponsorship funds and donations.

Possible Effects of the Proposed Bill on South Asian Americans

The proposed legislation by the "Gang of Eight" is an 844 page monolith of immigration reform. Some of the proposals are a shuffling of numbers from one visa category to another, but for the most part the changes are a long time in the making.

For non-citizens who are here in the United States illegally, this new proposed legislation could be a boon. After paying a fine, and paying any back-taxes, these folks would be able to adjust status to that of Registered Provisional Immigrant for 10 years. They will be able to work legally, travel abroad, and make a life for themselves and their family. The path to citizenship is 3 years after they fulfill the 10 year requirement as a Registered Provisional Immigrant. The negative is that people may not have the funds to pay the fines along with any back taxes and this opportunity may only be available for one year for people to file for this status.

In the family-based category, the proposed elimination of the F-4 category of brothers and sisters of U.S. citizens may be a difficult change to accept. It calls into question the government's intent in family unity, but we have to be careful before we challenge this as married brothers and sisters, with children of their own, no longer constitute "immediate relatives." Although this may seem like a terrible move by the "Gang of Eight" currently, this preference category is backlogged approximately 10-12 years depending upon from where these brothers and sisters are being sponsored. However, this is not the only change. The bill is also proposing a cap on the age of eligibility of married sons and daughters of U.S. citizens to 31 years old. So, if you are a U.S. citizen, it is better that you apply to petition for your married son or daughter before he or she "ages out" and is no longer eligible for this visa.

The other category in the family-based visas is that of spouses, minor children, and unmarried sons and daughters over 21 years of age of Legal Permanent Residents. This category is proposed to be changed to the "immediate relative" category which does not usually have a wait period for visas to be issued. This is a great opportunity for green card holders to be unified with their families a lot sooner than they may have been otherwise.

One of the bigger employment-based issues affecting the South Asian American community is the ever elusive H-1B specialty worker visa. Elusive because of the cap in the number of H-1B visas issued every year versus the number of applicants. The new proposed legislation increases not only the ceiling but the floor of the number of H-1B visas granted every year. The minimum recommended number of visas is increased from 65,000 to 110,000 with a possible upper limit of 180,000. This shows that the U.S. has a clear need for specialty occupation professionals. The second indication that the U.S. is in need of these professionals is the ability for spouses to now find employment. This will be a great change for those spouses on H-4 visas who cannot work in the U.S. unless they get H-1B visas of their own.

These proposed changes, though not perfect by any stretch, definitely give the impression that the U.S. recognizes its needs and is changing the pre-existing laws to fulfill those needs.

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Top Ten Questions and Answers about the Senate Immigration Bill

1. What are the general eligibility requirements for people for legalization?

At the heart of the Senate bill is a broad yet stringent legalization program that will put most of the 11 million undocumented immigrants on the road to eventual citizenship. The bill provides for a several step legalization program that first allows people to apply for "Registered Provisional Immigrant" (RPI) status and then, after 10 years, for lawful permanent resident status, and then after 3 more years, for U.S. citizenship.

Eligibility requirements include passing criminal and security background checks and establishing continuous physical presence in the United States since before December 31, 2011. Departures of less than 180 days during that period do not constitute breaks in physical presence. Certain criminal convictions (1 felony or 3 separate misdemeanors) and other grounds of inadmissibility render applicants ineligible for legalization.

Applicants must pay a penalty fine of $500 at the time of initial application, another penalty fine of $500 at the time of renewal of RPI status, and then a $1,000 penalty fine at the time of adjustment to permanent status. Processing fees for adjudication of the applications apply at each of 4 stages on the road to citizenship—initial application, renewal of RPI status after 6 years, application for lawful permanent resident status after 10 years, and application for citizenship after 3 additional years (if desired).

A person may remain in in RPI status and renew it every 6 years if they so desire. At the time of RPI renewal and/or application for permanent residence, the applicant must demonstrate that they have maintained regular employment or education, payment of taxes, and the ability to support oneself. At the time of application for adjustment to lawful permanent resident status, applicants must demonstrate that they are learning English and have a knowledge of civics.

Persons who have final orders of removal, or who have previously reentered the U.S. after a prior removal or voluntary departure are eligible to apply for RPI status. In addition, certain people previously deported for non-criminal grounds and who have a spouse, parent, or child USC or LPR in the United States or who would be eligible for the DREAM Act, are eligible to apply for a waiver to reenter the United States in order to apply for legal status. Persons who entered the United States on a valid visa and then overstayed are eligible, provided they have been in unlawful status since December 31, 2011.

Individuals who receive PRI status can work legally in the United States and travel outside the country. Their minor children, if present in the United States, can be included in their application.

Individuals with PRI status are not eligible for means-tested federal public benefits nor for subsidies or tax credits under the Affordable Care Act.

2. What will happen to people in current visa backlogs?

The Senate bill eliminates the entire family and employment-based visa backlogs within 8 years. All of the people who are currently in the visa backlogs, waiting for their "priority date" to become current, will obtain lawful permanent resident status before the newly legalized RPI's can obtain permanent status.

3. Will the border enforcement "triggers" delay the legalization program?

The border enforcement triggers should not delay the initial RPI legalization program. The "triggers" require the Secretary of Homeland Security to submit, within 6 months of enactment, two plans. The first is a strategy to achieve a 90% effective rate goal in high risk sectors of the Southern border. The second is a fencing plan designed to reinforce current fencing and barriers. The initial legalization program does not begin until these plans are submitted. The legalization program also will not begin until implementing regulations are issued – within 12 months after enactment of the bill.

If, after five years, the 90% effectiveness rate in high risk sectors has not been achieved, an additional pool of resources will be authorized for appropriation and a commission of experts and elected officials from border states will be formed. The border commission will issue recommendations to DHS regarding additional measures that should be adopted to help reach the 90% effectiveness rate goal.

Two other enforcement "triggers" that have to be met before RPIs can apply for permanent residence involve implementation of the E-Verify program and entry-exit controls at air and sea ports. Both of these triggers are achievable and should not delay the path to permanent residence.

4. What about family members...spouses/kids of LPRs, siblings, LGBT partners, adult married kids?

The Senate bill provides for increased family unity by categorizing spouses and minor children of lawful permanent residents as "immediate relatives" for immigration purposes. This means that these family members are not subject to any numerical limitations. That, in turn, frees up visas for the other family categories, which will limit the size of any new backlogs that may develop in those categories in the future.

The bill will phase out the U.S. citizen sibling visa category and diversity visas. But all U.S. citizens with sibling petitions currently pending will be able to complete their sponsorship and new petitions may be filed for another 18 months. After that point, siblings still will be eligible for a new "merit based visa" and will receive eligibility points based on their family relationship. They will also be authorized to travel to the United States as visitors for two-month periods each year.

The adult married children visa category will be limited in the future to those who are under 31 years of age.

The bill does not provide for family visas for LGBT "permanent partners." This provision will have to be added to the bill through the amendment process.

5. What about DREAMERS, what happens to them?

DREAMERs can earn permanent legal status within five years, and are then immediately eligible to apply for U.S. citizenship. DREAMERs who have been previously deported may still be eligible to apply for legal status if they meet certain requirements, even if they don't have a qualifying U.S. relationship

6. What other changes does the bill make to the employment-based visa programs?

Farmworkers are eligible for an expedited five year path to permanent legal status and then eventual citizenship under current law. In order to qualify, among other things, they must continue working in the agricultural sector for an additional 3-5 years post-enactment.

Other essential workers may apply for a new "W" worker visa which will allow them to enter and work in the U.S. for participating employers, change jobs to other W employers, and eventually self-petition for lawful permanent status under the new merit based program.

Both the W visa program and the new agricultural worker program are subject to important standards for wages and working conditions, negotiated by labor to protect both immigrant and native-born workers.

Finally, there are new protections against employers using immigration status to intimidate workers and to prevent international recruiters from misleading or otherwise mistreating those they bring to the U.S.

7. What about people who had TPS or DED?

People who have been in the United States in lawful or employment authorized status, including TPS or DED, for at least ten years are eligible to apply for lawful permanent residence. This will allow people in these statuses who have already been here for more than ten years to adjust status immediately, instead of waiting another ten years.

8. Are there any changes to the asylum and refugee programs in this bill?

The Senate bill provides important improvements to asylum and refugee programs, including the elimination of the arbitrary one-year filing deadline.

9. What about other enforcement measures, such as E-Verify?

The bill includes a mandatory, universal employment verification program, E-Verify. The program includes new due process and privacy protections, and is phased in over a period of five years until it includes all U.S employers.

10. When will this bill become law? What is the process? When can people begin to apply for legalization?

The Senate bill must first move through a process of approval in the Senate Judiciary Committee, where it will be subject to amendment from both Republicans and Democrats on the committee. The bill will then go to the whole Senate for debate and amendment and a final vote. The House must also pass an immigration bill.

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. **Summary of Proposed Changes in Legal Immigration**

. **(From Michigan United)**

- The bill eliminates the backlog for family and employment-based immigrants (see below discussion of merit-based system).
- Currently, there are four preference categories based on family relationships and 480,000 visas are allocated to family. Under the new system there will be two family preference categories and they will cover unmarried adult children; married adult children who file before age 31, and unmarried adult children of lawful permanent residents. We are expanding the current V visa to allow individuals with an approved family petition to live in the U.S. and allow certain other family members to visit the U.S. for up to 60 days per year.
- The bill repeals the availability of immigrant visas for siblings of U.S. citizens once 18 months have elapsed since the date of enactment.
- The bill a admitted for lawful permanent residence.
- The bill amends the existing category for married sons and daughters of citizens of the United States to include only sons and daughters who are under 31 years of age.
- The bill repeals the Diversity Visa Program. Aliens who were or are selected for diversity immigrant visas for fiscal years 2013 or 2014 will be eligible to receive them.
- On the employment green card categories, the bill exempts the following categories from the annual numerical limits on employment-based immigrants: derivative beneficiaries of employment-based immigrants; aliens of extraordinary ability in the sciences, arts,

education, business or athletics; outstanding professors and researchers; multinational executives and managers; doctoral degree holders in any field; and certain physicians..

- The bill then allocates 40 percent of the worldwide level of employment-based visas to : 1) members of the professions holding advanced degrees or their equivalent whose services are sought in the sciences, arts, professions, or business by an employer in the United States (including certain aliens with foreign medical degrees) and 2) aliens who have earned a an accredited U.S. institution of higher education and have an offer of employment in a related field and the qualifying degree was earned in the five years immediately before the petition was filed.
- The bill increases the percentage of employment visas for skilled workers, professionals, and other professionals to 40 percent, maintains the percentage of employment visas for certain special immigrants to 10 percent and maintains visas for those who foster employment creation to 10 percent.
- The bill creates a startup visa for foreign entrepreneurs who seek to emigrate to the United States to startup their own companies.

Merit Based Visa: The merit based visa, created in the fifth year after enactment, awards points to individuals based on their education, employment, length of residence in the US and other considerations. Those individuals with the most points earn the visas. Those who access the merit based pathway to earn their visa are expected to be talented individuals, individuals in our worker programs and individuals with family here. 120,000 visas will be available per year based on merit. The number would increase by 5% per year if demand exceeds supply in any year where unemployment is under 8.5%. There will be a maximum cap of 250,000 visas.

Under one component of this merit based system the Secretary will allocate merit-based immigrant visas beginning on October 1, 2014 for employment-based visas that have been pending for three years, family-based petitions that were filed prior to enactment and have been pending for five years, long-term alien workers and other merit based immigrant workers.

Long term alien workers and other merit based immigrant workers includes those

who have been lawfully present in the United States for not less than ten years and who are not admitted as a W visa under section 101(a)(15)(W) of the Act.

Between fiscal years 2015 and 2021, the Secretary shall allocate a seventh of the total number of those with employment based visas that have been pending on the date of enactment. Petitions for spouses and children of permanent residents who are accorded status under the INA are automatically converted to petitions to accord status as immediate relatives. Between fiscal years 2015 and 2021, the Secretary shall follow a specific formula to allocate visas to those with family based petitions pending on the date of enactment and subject to some restrictions visas should be authorized in the order petitions were filed. In fiscal year 2022, the Secretary of State shall allocate visas to half the number of those that filed family based petitions after the date of enactment and had not had a visa issued by October 2021. In fiscal year 2023, the visas should be allocated to the other half of those that filed family based petitions after the date of enactment and who had not had a visa issued by October 2021. Visas allocated for these family based petitions will be issued based on the order in which petitions were filed.

Employment Verification

1. Mandatory, Enhanced E-Verify: All employers will be required to use the E-Verify system over a 5-year phase-in period. Employers with more than 5,000 employees will be phased in within 2 years. More than 500 employees will be phased in within 3 years. All employers, including agricultural employers, will be phased in within 4 years.

2. Photo matching: As part of the E-Verify system, every non-citizen will be required to show
   These photographs will be stored in the E-Verify system. In order for the non-citizen to be cleared for a job, the picture on the card presented by the employee to the employer will have to exactly match the identical picture the employer has on the E-Verify system. The employer must certify that the photograph presented in person matches the identical photograph in the system.

a. Passports - For U.S. citizens with passports, the picture on the passport presented by the employee will have to match the identical picture the employer has on the E- agreed to submit a photo to E-Verify.

b. Agreements with State DMVs The DHS Secretary shall create and administer a subsection (c)(1)(C)(i) confirms the identity of the subject of the System assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information. $250 million will be appropriated to carry out this subparagraph.

c. Additional security measure for those without photos: The Secretary shall develop specific and effective additional security measures to adequately verify the identity of individuals whose identities may not be verified using the photo tool described above. Such additional security measures shall: 1) be kept up-to-date with technological advances; and 2) provide a means of identity authentication in a manner that provides a high level of certainty as to the identities of such individuals, using immigration and identifying information maintained by the Commissioner of Social Security or the Secretary that may include review of identity documents or background screening verification techniques using publicly available information.

3. To provide additional security, USCIS will also have a system in place with the capacity to:

a. Aecurity number in the E-Verify system so that their number cannot be used by another individual. The number can be unlocked every time the individual seeks new employment and then locked again afterward. Investigate whether Social Security numbers are being improperly used multiple times. USCIS can run scans to determine if a Social Security number is being used too many times within a short time period or if it is being improperly used in multiple geographic locations. If fraud is detected, USCIS can either launch an investigation or temporarily lock the Social Security number. If no fraud is found, the number will be unlocked. If it is found, the perpetrator can be caught.

b. Allow all employees to check their own E-Verify history. Individuals will therefore know if their social security number has been improperly used and can alert officials.

4. Due process requirements are established so that legal workers are not prevented from working due to errors in the system or because of employer negligence or misconduct.

Temporary Visas

H-1B Visa Reform

We will raise the base cap of 65,000 to 110,000 (we amend the current 20,000 exemption for U.S. advanced degree holders to be a 25,000 exemption for advanced degree graduates in science, technology, engineering, and mathematics from U.S. Schools).

In future years, the cap can go as high as 180,000. The cap will increase/decrease in the following way:

a. It will be based on two factors plugged into one formula known as

i. The percentage by which cap-subject nonimmigrant visa petitions approved under section 101(a)(15)(H)(i)(b) for a fiscal year exceeds/fails to meet the cap (50%)

ii. The inverse of the percentage increase/decrease between the previous fiscal year and the current fiscal year in the number of unemployed nt, professional, and related occupations

b. The most the cap can increase/decrease by each year is 10,000 visas.

We prevent H-1B workers from undercutting the wages paid to American workers by requiring employers to pay significantly higher wages for H-1B workers than under current law (and to first advertise the jobs to American workers at this higher wage before hiring an H-1B worker).

We will provide spouses of H-1B workers with work authorization if the sending country of the worker provides reciprocal treatment to spouses of U.S. workers.

We will establish a 60-day transition period for H-1B workers to change jobs.

We will provide dual intent visas programs or above.

We crack down on abusers of the H-1B system by requiring H-1B dependent employersto pay significantly higher wages and fees than normal users of the program.

If the employer has 50 or more employees, and more than 30% but less than 50% are H- 1B or L-1 employees (who do not have a green card petition pending), the employer must pay a $5,000 fee per additional worker in either of these two statuses.

If the employer has 50 or more employees, and more than 50% are H-1B or L-1 employees (who do not have a green card petition pending), the employer must pay a $10,000 fee per additional worker in either of these two statuses.

We will also crack down on the use of the H-1B and L visas to outsource American jobs by prohibiting companies whose U.S. workforce largely consists of foreign guestworkers from obtaining additional H-1B and L visas.

In Fiscal Year 2014, companies will be banned from bringing in any additional workers if more than 75% of their workers are H-1B or L-1 employees.

In Fiscal Year 2015, the ban applies to companies if more than 65% of their workforce are H-1B and L-1 workers. In Fiscal Year 2016, the ban moves to 50%

We require recruiting of American workers prior to hiring an H-1B nonimmigrant. The Secretary of Labor must establish a searchable website for posting H1B positions. The site must be operational and online within 90 days of the passage of the new law. We require employers to post a detailed job opening on the Department of Labor's website for at least 30 calendar days before hiring an H1B applicant to fill that

position.

We bar employers from recruiting or giving preference to H-1B or OPT workers over American workers.

We establish significant new authorities and penalties to prevent, detect, and deter fraud and abuse of the H-1B and L-1 visa systems by fraudulent employers.