

## CRITICAL QUESTIONS

**Immigration**

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**Q1: Are legislative compromises now feasible?**

**A1:** Probably not. Senator Arlen Specter (R-PA) suggested in an op-ed column that the Congress should provide legal status to unauthorized foreigners, but not provide a path toward U.S. citizenship. There has been little reaction to this proposal, probably because liberal members of Congress believe it does not go far enough and conservative members think it goes too far. Two items of incremental legislation have not prospered either: the DREAM act (Development Relief and Education of Alien Minors) that would provide a path to legalization of unauthorized graduates of U.S. high schools who are between 16 and 30 years of age who attend college for at least two years or serve in the U.S. military for at least two years; and AgJOBS (Agricultural Job Opportunity, Benefits and Security Act) that would allow up to 1.5 million farm workers to earn legal immigrant status by continuing farm work over the next five years. One apparent reason for opposition to these bills is that they are seen as a foot in the door toward broad legalization of unauthorized foreigners.

**Q2: What is taking place since the failure to enact comprehensive immigration legislation?**

**A2:** Divisions in the country have deepened since the failure of comprehensive immigration legislation earlier this year. This is being played out in states and municipalities. Georgia, for example, passed a law that requires enforcement officers to investigate the citizenship of anyone charged with a felony. This past week, Prince William County in Virginia passed a law containing roughly the same provision as the Georgia law, but also prohibiting unauthorized foreigners from obtaining a driver's license, and denying health care even in emergencies to unauthorized foreigners. A law enacted in Hazelton, Pennsylvania, would have abrogated permits to businesses that hired unauthorized workers and fined landlords renting to unauthorized foreigners. A federal judge ruled in July this year that the ordinance was preempted by federal law and would violate the due process rights of those accused of violating the law. There have been similar statutes elsewhere. Immigration and Customs Enforcement of the Department of Homeland Security (DHS) has been raiding workplaces to identify and arrest unauthorized foreigners. In August, DHS instituted a rule requiring employers to fire workers whose names do not match their Social Security numbers, but the rule has been put in abeyance by a U.S. District Court judge because of the unreliability of the databases. The federal government is still on record as wanting to build a fence on the border with Mexico, while border governors and municipalities are concerned that this will interfere with the extensive cross-border commerce that exists. The unauthorized foreigners were de facto invited to come and work in the United States and are now being punished for accepting.

**Q3: What next?**

**A3:** Because positions on immigration issues have hardened, compromises are now more difficult than they were before legislation was introduced earlier this year. If the DREAM and AgJOBS legislation fail when the Senate takes up immigration legislation, as majority leader Senator Harry Reid (D-NV) said would happen, new immigration legislation is unlikely until at least 2009. If Democrats control both houses of Congress after the 2008 elections, and especially if the next president is also a Democrat, it is quite likely that an expert study commission will be set up to make recommendations on the immigration issue.

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