Senators in Immigration Talks Mull Federal IDs for All Workers

By Danny Yadron February 21, 2013

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Key senators are exploring an immigration bill that would force every U.S. worker-citizen or not-to carry a high-tech ID card that could use fingerprints or other personal markers to prove legal eligibility to work. Danny Yadron reports. Photo: Getty.

The idea, signaled only in vaguely worded language from senators crafting a bipartisan immigration bill, has privacy advocates and others concerned that the law would create a national identity card that, in time, could track Americans at airports, hospitals and through other facets of their lives.

The lawmakers haven't committed to the "biometric" ID card, and are wary of any element that might split the fragile coalition of Democrats, Republicans and outside organizations working toward agreement on a broad overhaul of immigration laws.

But at least five of the eight senators writing the bill have backed biometric ID cards in the past. At least three of them—Sens. Lindsey Graham (R., S.C.), John McCain (R., Ariz.) and Charles Schumer (D., N.Y.)—have said they support requiring the cards under the new law but are open to other options, aides say.

The goal is to ensure that employers can learn the legal status of all new hires quickly, part of the effort to dissuade illegal immigrants from entering the country or seeking jobs. A system now in place, called E-Verify, matches prospective hires to a database of Social Security numbers and other data, but it can be foiled at times when illegal immigrants give stolen names, dates of birth and Social Security numbers.

The Senate group, in a statement guiding their work on a new law, called for workers to prove their legal status and identities through "non-forgeable electronic means." Senate aides said the language was intentionally broad because of the sensitivity of the issue. It leaves open several possibilities for how new hires would be required to prove they can legally work.

Mr. Graham, in an interview, said that in his mind the language refers to a requirement for biometric ID cards. "This is the public's way of contributing to solving the problem" of illegal immigration, Mr. Graham said.

A second senator working on the bill, Jeff Flake (R., Ariz.), said in an interview he is open to the idea of biometric ID cards but that the issue remained unsettled. "You've got to give employers the tools" to screen new workers, Mr. Flake said, noting he had signed on to legislation in past years that employed biometric data.

Mr. McCain's spokesman declined to discuss Senate talks on the current bill. Two other senators who have backed the ID card in the past, Mr. Schumer and Democrat Dick Durbin of Illinois, said through spokesmen that the new Senate legislation wouldn't necessarily call for a biometric card.

In 2010, Messrs. Graham and Schumer offered an immigration plan that included the requirement for an ID card featuring either fingerprints or a scan of the veins in the top of a person's hand.

Like the senators, President Barack Obama is calling for an improved worker-verification system, but he doesn't specifically call for a biometric card for all workers. In principles for an immigration overhaul released this year, Mr. Obama called for a "fraud-resistant, tamper-resistant Social Security card." Draft legislation prepared by the White House refers to collecting biometric information from those in the country illegally as part of qualifying for legal status. A senior administration official said the White House wants to deal with "fraud in a way that works and is cost effective."

The other senators writing the immigration bill are Marco Rubio (R., Fla.), Michael Bennet (D., Colo.) and Robert Menendez (D., N.J.). Spokesmen for Messrs. Rubio and Bennet declined to comment on the

ID cards, while a spokeswoman for Mr. Menendez said the lawmaker has supported employee verification with antifraud measures.

As an alternative to a biometric card, senators may move to strengthen the E-Verify system by, for example, requiring new hires to answer questions about previous addresses or other details, a person familiar with the Senate group's thinking said.

Aides to several senators in the group said that a biometric card would be used only for employment verification and that it wouldn't become a mechanism for linking other personal data or replacing drivers' licenses. Still, privacy advocates fear that governments and companies would in time require people to use the biometric card in other spheres of daily life.

"I subscribe to the 'if you build it, they will come' school of regulation," said Chris Calabrese of the American Civil Liberties Union, who said he worried that the card would be required to board airplanes, to vote or perhaps purchase a firearm. "It becomes in essence a permission slip to do all of the ordinary things that are your rights as an American," he said.

Alex Nowrasteh, an immigration-policy expert at the Cato Institute, a libertarian think tank, said: "It's not only a gross violation of individual privacy, it's an enormously high-cost policy that will have an incredibly low to negligible benefit."

"Every time I've heard someone say 'non-forgeable,' it's code for biometric," Mr. Nowrasteh added.

The U.S. Chamber of Commerce supports expanding the E-Verify system, which is now used by a fraction of companies, though some states require all businesses to use it to clear new hires. The chamber hasn't taken a position on biometric IDs, a spokeswoman said.

Some businesses support a move to biometric cards. If Congress expanded E-Verify nationally, it could widen identity theft and create new paperwork for small businesses, some businesses said. A 2009 study by Westat Inc. for the Department of Homeland Security found that 54% of unauthorized workers who submitted E-Verify paperwork were able to trick the system, though unauthorized workers account for only 6.2% of E-Verify queries.

A high-tech ID card that could be scanned could solve that problem, said Manuel Cunha Jr., president of the Nisei Farmers League in Fresno, Calif. The scan would check the employee against a federal database to confirm eligibility to work. "I don't want on the biometric card when I went to the hospital or whether I am married," Mr. Cunha said. "I just want to know Manuel F. Cunha Jr. can work."

Julie Pace, an immigration lawyer from Phoenix, said she previously opposed a biometric card but would now support it as part of a broader immigration overhaul, arguing it would make worker verification more accurate. "Undocumented workers today would be so happy to come out from the underground," she said.

It isn't clear how much such a card would cost businesses and taxpayers. When Mr. Schumer proposed biometric identification in 2010, he estimated card scanners could cost businesses as much as $800.

A 2012 study by the Chief Justice Earl Warren Institute on Law and Social Policy at the University of California, Berkeley, law school concluded that a national ID system would cost the government $22.6 billion to create and $2.1 billion each year to operate.

Most European countries require their citizens to carry some form of ID. The U.K. recently attempted to offer voluntary national ID cards. Citing concerns over cost and civil liberties, it scrapped the plan in 2010.

—Janet Hook contributed to this article.