

# Bloomberg GOVERNMENT

## Reagan-Era Legal Immigration Path Eyed as Option for Democrats

Ellen Gilmer

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Lawmakers and advocates are eyeing a largely forgotten section of immigration law as a pathway to legalization for millions after a Senate official rejected a broader proposal for overhauling the system.

Updating a section of the Immigration and Nationality Act would allow many undocumented individuals to apply for green cards and gain protection from deportation.

Members of Congress are weighing that option as a backup plan after the Senate parliamentarian on Sunday said a more ambitious proposal wasn't eligible for the budget reconciliation process Democrats are using to advance the Biden administration's sweeping economic and social agenda.

The failed proposal would have shielded from deportation an estimated 8 million people, including essential workers, individuals with temporary protected status, and those who were brought to the U.S. as children. Although some advocates are calling for lawmakers to ignore the parliamentarian and forge ahead, others are advocating for an update of the Immigration and Nationality Act's registry provision, allowing millions to pursue legal status.

"We're not changing a law, which was the essence of her arguments that I read in her opinion; we are just updating a date," Sen. Bob Menendez (D-N.J.) said during a press call Monday, referring to the parliamentarian's decision. "There's a dramatic difference in that."

### **'Most Straightforward'**

Immigration registry allows undocumented individuals to apply for green cards if they've been in the U.S. since a certain date. Most undocumented immigrants are ineligible for it.

Congress has updated the date multiple times over the past century, most recently under President Ronald Reagan in 1986, declaring then that immigrants continuously present since 1972 could pursue a green card if they had "good moral character" and met other admissibility requirements.

Updating the registry date would make millions of immigrants who arrived in the U.S. more recently eligible to apply for green cards. The number of affected immigrants would depend on the new cutoff year lawmakers select.

While some Republicans oppose any proposal to provide amnesty for immigrants who entered the country without authorization, a diverse set of policy advocates and researchers have supported an updated registry date as a relatively simple way to provide a path to legalization for longtime residents.

Advocates see it as an appealing option after the parliamentarian's ruling, Immigration Hub Deputy Director Kerri Talbot told reporters Monday.

"We are committed to getting to a 'yes' on lasting protections for millions of undocumented immigrants who are critical to America's future," Talbot said.

David Bier, immigration research fellow at the libertarian Cato Institute, called it "the most straightforward way to legalize people."

### **Tough Standard**

Menendez and immigrants' rights advocates see a registry update as a more modest legislative move that's less likely to raise red flags under reconciliation rules.

However, Senate parliamentarian Elizabeth MacDonough's opinion on the original immigration overhaul proposal set a tough standard. She reasoned that the plan's policy goals outweighed its budgetary impacts—making it inappropriate for the partisan budget reconciliation process.

That same logic could be applied to changing the registry date, said Theresa Cardinal Brown, managing director of immigration and cross-border policy for the Bipartisan Policy Center, leaving its fate in jeopardy.

"She is pretty clear that even though it has a big budgetary impact, the principal purpose of the policy is to legalize people and give them these benefits and responsibilities and things that are not based on the federal budget," Brown said. "Any of these other provisions, that might be the kind of challenge they have to overcome."

Bier, of the Cato Institute, also expressed doubt about its prospects.

"The parliamentarian's ruling is ironclad that green cards are not to be authorized through reconciliation, so I don't see any way that this is going to happen," he said.