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A Way Forward on Immigration

By Kris W. Kobach
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The Senate's comprehensive immigration bill died an inevitable death. It was inevitable because it included so many provisions that unjustly rewarded illegal behavior. If the Senate hadn't killed the bill, the House certainly would have.

No matter how much proponents of the bill protested, it was impossible to dress the bill up as legislation that took the enforcement of immigration law seriously. It would have granted immediate amnesty to virtually all illegal aliens and would have jeopardized national security by legalizing aliens after only 24-hour background checks. It even made amnesty available to absconders-fugitives who had their day in immigration court, were ordered deported and ignored the order.

Laden with such provisions, the bill drew justified fire from just about anyone who believes in the concept of the rule of law.

Proponents of the dead Senate bill repeatedly insisted that the status quo is unacceptable, and then claimed that amnesty was the only alternative to the status quo. This was always a transparently ridiculous assertion. There is much that can be done to improve the enforcement of immigration laws that does not entail granting a massive amnesty.

Leaders of both parties in the House have suggested that they are open to the idea of moving smaller legislative initiatives forward. Here are three suggestions, each of which would significantly strengthen our immigration laws.

First, Congress should mandate that all employers use the Employment Eligibility Verification System (formerly known as the Basic Pilot Program). This is an Internet-based system that allows any employer to type in an employee's name, date of birth and identification number (Social Security number, alien employment authorization number, etc.) to find out whether the employee is authorized to work in the United States. It's fast too — in 92 percent of the cases, the employer receives an answer

within two seconds. In most of the remaining cases, an answer comes back by the next day.

More than 16,000 employers are already using the (free) system voluntarily — because it is easier and more accurate to rely on the federal government to tell you if an employee is legal than it is to scrutinize documents yourself. Making the system mandatory would dramatically curtail the employment of unauthorized aliens. This was part of the "Sensenbrenner Bill" that the House passed in late 2005 (but the Senate never voted on). It should be revived.

Second, Congress must stop the proliferation of sanctuary cities — municipalities that refuse to inform the federal government when they arrest illegal aliens in the course of their law enforcement duties.