

MIGRATION INFORMATION SOURCE

FRESH THOUGHT, AUTHORITATIVE DATA, GLOBAL REACH

Side-By Side Chart for Major Immigration Legislation Pending in 109th Congress

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)	Hagel (S. 1916-1919)	Specter (Chairman's Mark)
Change in Status for Unauthorized Immigrants							
Alternatives Available to Unauthorized Immigrants	May participate in guest worker program	Eligible for H-5B non-immigrant visa; may participate in guest worker program	Eligible for Deferred Mandatory Departure; allows temporary residence of up to five years with no future migration penalty	None	Earned access to legalization	Earned adjustment for longer-term residents, temporary authorization for more recent immigrants	Eligible for Deferred Mandatory Departure as in S.1438; may depart country and immediately apply for H-5A guest worker visa
Conditions for Participation	-	Pay processing fee; submit fingerprints; undergo background check; prove that individual was working before bill's introduction and maintains continued employment	One year physical presence prior to Act; continuous employment; pay \$2,000 to \$5,000 fee based on length of time in Mandatory Departure status	-	Continuous physical presence in US for at least five years or resident of US since 1986; demonstrate knowledge of English; be of good moral character; no criminal convictions	Residence in US for at least five years; worked at least three years prior to Act; work in the US for 6 years following the Act; payment of all federal and state taxes; registration for military selected service; knowledge of English and American civics; \$2,000 fine and application fees	One year physical presence prior to Act; employment before and since July 20, 2005; \$1,500 waiver fine plus \$2,000-\$5,000 penalty fee based on length of time in Mandatory Departure status; undergo background check; submit biometric data

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Change in Status for Unauthorized Immigrants (continued)							
Opportunity to Adjust Status	Temporary Workers may apply through existing measures after one year outside the US	After six years as H-5B nonimmigrant and additional \$1,000 fine plus application fee	May apply through existing measures from outside the US after Deferred Mandatory Departure	-	Immediate	After either all immigration applications filed by the date of the Act have been considered, or eight years after the Act, whichever comes first	May apply through existing measures from outside the US after Deferred Mandatory Departure
Adjustment Subject to LPR Numerical Limits	Yes	No	Yes	-	No	No	Yes
Sanctions for Unauthorized Migrants	-	-	False claim to citizenship punishable with a fine of up to \$5,000 and a term of imprisonment of up to three years	Entry without inspection and unauthorized presence felony counts	-	-	False claim to citizenship punishable with a fine of up to \$5,000 and term of imprisonment of up to three years
Guest Worker Program							
Type of Worker/Visa	Not sector specific	H-5A visa; not sector specific	W visa; not sector specific; replaces H-1A and H-2B categories	H visa; not sector specific, replaces all current H visa categories	-	H-2B expanded for short-term guest workers; H-2C visa for long-term guest workers; not sector specific	H-5A visa; not sector specific



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Guest Worker Program (continued)							
Unauthorized Migrants Able to Apply Without Returning to Country of Origin?	Yes	Yes	No	No	-	Yes	No
Requirements for Temporary Work Enrollment	Pay a fee; prove employment	Pay \$500 fee; submit fingerprints; undergo background check; prove that individual was working before bill's introduction	Submit fingerprints; \$500 visa fee; background/security check; waive right to appeal removal order	Pay fee; sign an affidavit stating individual is ineligible to adjust status; waive government assistance. No citizenship for children born in US, unless other parent is a citizen or legal permanent resident (LPR)	-	None	Payment of \$500 application fee, undergo a medical exam
Prohibition of Participation for Worker	Excluded for three years if entered illegally after enactment	Excluded from participation if enter after enactment	If worker does not undergo Mandatory Departure, then 10-year prohibition	-	-	Excluded from participation if enter after enactment	If worker does not undergo Mandatory Departure, then 10-year prohibition
Length of Visa	Three years	Three years	Two years	365 days in a two-year period	-	Two years	Three years
Renewable?	Yes, one time	Yes, one time	Yes, two times with at least one year between renewals	Yes	-	Yes, one time	Yes, one time

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Guest Worker Program (continued)							
Maximum Length	Six years	Six years	Six years	Unspecified	-	Four years	Six years
Early Dismissal of Worker	-	60 days to find new job	30 days to find new job	-	-	Not Specified	45 days to find new job
Opportunity to Adjust Status?	May apply for LPR status through existing channels while a guest worker	Yes, after four years, or anytime with employer sponsorship	No	No	-	Yes, after three years	Yes, with employer sponsorship
Portability of Visas	Yes	Yes	Yes	Not specified	-	Yes, after 3 months	Yes
Advertisement of Job Opportunities Prior to Hiring Guest Worker	Electronic database	America's Job Bank; 30-day advertising period	America's Job Bank; 30-day advertising period, local media	America's Job Bank, 14-day advertising period	Advertise to all, but in particular to minorities	America's Job Bank; 14-day period for H-2B or 30 days for H-2C	America's Job Bank, 30-day advertising period
Employer Responsibilities	Labor law protection	Same rights as under US labor laws; may not hire immigrants as contractors; file taxes and Social Security	None specified	May not have laid off citizen worker in previous six months	-	Attest to payment of prevailing wage; provide same conditions for all workers; may not lay off citizen workers 60 days prior to or after filing application	Same rights as under US labor laws; may not hire immigrants as contractors, file taxes and Social Security

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Guest Worker Program (continued)							
Healthcare for Workers	Not specified	Expands reimbursement to hospitals for care of guest workers and the unauthorized	Requires minimum healthcare to be provided by foreign government, employer, or alien	Healthcare providers must provide Department of Homeland Security (DHS) with immigration status info to be reimbursed	-	Not specified	Requires minimum healthcare to be provided by foreign government
Families May Visit the United States	-	Eligible for derivative non-immigrant visa	May visit for up to 30 days within a year	No	-	Eligible for derivative non-immigrant visa	Not specified
Incentives to Return	Tax-preferred savings accounts and Social Security benefits available upon return to home country	Promotes investment and reintegration programs in Mexico and other countries of origin	Withholds wages which are placed in a temporary worker investment fund redeemable upon return migration	-	-	-	-
I-9 Document Reform							
Document Integrity	-	Adds anti-fraud measures and biometric data to all visa and immigration documents	Adds anti-fraud measures and biometric data to all visa and immigration documents; mandates the creation of secure, tamper-resistant Social Security cards	Mandates the creation of secure, tamper-resistant Social Security cards	-	DHS Secretary must develop plan by 2007 for machine-readable, tamper-resistant documents that include biometric information	Every document issued by DHS must be machine-readable, tamper-resistant and include biometrics



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I-9 Document Reform (continued)							
Fraud Prevention	-	-	Adds 1,000 new DHS investigators to detect fraud in the adjudication process; increases penalties for document fraud	Reduces length of validity for federally acceptable identification from eight to five years; increases penalties for document fraud	Establishes a task force on fraudulent immigration documents	Provides border officers training in identifying fraudulent documents and access to fraudulent document lab; increases penalties for document fraud	Provides border officers training in identifying fraudulent documents and access to fraudulent document lab; increases penalties for document fraud
I-9 Document Consolidation	-	Restricts immigrant eligibility verification documents to secure visa and immigration documents	Restricts eligibility verification documents to secure Social Security cards and Real ID driver's licenses	-	-	Restricts documents to Social Security cards & machine-readable, tamper-resistant cards issued by the US government that explicitly authorize employment	Restricts documents to Social Security cards & machine-readable, tamper-resistant cards issued by the US government that explicitly authorize employment
Enforcement Provisions							
Border Enforcement	-	Requires DHS to develop a national strategy for border security, use technology, and coordinate with Mexico to police the border	Increases by 10,000 the number of Border Patrol (BP) agents over five years, allows BP to maintain checkpoints on any interior road	Allows the military to be deployed at or near the border to assist in border enforcement	-	Requires DHS to report on ways to prevent land and subterranean border crossing; increases customs and border personnel by 2,500 over 5 years	Requires DHS Secretary to develop a national strategy for border security

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Enforcement Provisions (continued)							
Immigration and Customs Enforcement (ICE)	-	-	Authorizes 5,000 new benefit fraud investigators over five years; also 500 DHS, 250 Department of Justice (DOJ), 250 US attorneys, and 250 new immigration judges	Increases number of detention and removal officers by 2000, ICE attorneys by 300, and benefit fraud investigators by 500 by FY 2008	-	Increases smuggling/status violation investigators by 1,000 by 2010; creates a DOJ Assistant Attorney General for Immigration; adds 100 Federal Defenders Program attorneys, 50 DOJ attorneys, 50 federal court attorneys, and 50 immigration judges	Increases smuggling/status violation investigators by 1,000 and fraud detection investigators by 1,000 by 2010; creates a DOJ Assistant Attorney General for Immigration; adds 100 DHS, 50 DOJ, and 50 federal court attorneys, and 50 immigration judges
Local and State Authorities	-		Clarifies the ability of states and local authorities to enforce federal immigration law; requires such authorities to report immigration violations to DHS	Clarifies role of states and local authorities in enforcing federal immigration law, prevents DOJ funding or assistance to local authorities that do not divulge immigration status info	Allows states and local authorities to decide whether or not they will participate in immigration law enforcement	Reimburses states for costs associated with processing unauthorized immigrants through the criminal justice system	Allows state and local authorities to identify and detain, or transfer to federal authorities unauthorized immigrants found in the course of investigatory activities; reimburses states for costs

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Enforcement Provisions (continued)							
Employer Verification of Work Eligibility	-	Mandatory participation in electronic verification system	Mandatory participation in Social Security-based electronic verification	Mandatory participation in improved electronic verification system	-	Mandatory participation in improved electronic verification system	Mandatory participation in electronic verification system
Worksite Enforcement	-	-	Authorizes 10,000 new worksite investigators over five years	-	-	-	Authorizes 10,000 new worksite investigators over five years
Employer Penalties	-	Doubles the upper and lower bounds for penalties under the Immigration and Nationality Act (INA)	Doubles the upper and lower bounds for penalties under the INA	\$5,000 for paperwork violation, \$10,000 for substantive violations, \$25,000 for a pattern of offenses	Establishes immigration status-related intimidation as an unfair labor practice	Doubles the upper and lower bounds for penalties under the INA	Doubles the upper and lower bounds for penalties under the INA
Detention Facilities	-	-	Adds 10,000 beds for ICE	-	-	Adds 10,000 beds each year, FY 2006-2010	Adds 10,000 beds each year, FY 2006-2010
Expedited Removal	-	-	Expands to entire Southern border	-	-	Expands to entire Southern border	Expands to entire Southern border