



**SIDE BY SIDE COMPARISON OF IMMIGRATION REFORM PROPOSALS (June 5, 2006)**

	McCain-Kennedy (S.1033)	Specter Amendment	Frist (S.2454)	Hagel-Martinez Amendment	Specter-Hagel (S.2611)	Sensenbrenner (H.R.4437)	Hunter-Goode (H.R.4313)	
<b>Worksite Enforcement</b>	<b>Mandatory Verification</b>	Mandatory verification only of guest workers (i.e. the new H-5A visa class created) (§ 402).	Mandatory verification for all employers, but <u>DHS has authority to exempt any employers and to change verification procedures</u> (§ 301)	Mandatory verification for all employers, but <u>DHS has authority to exempt any employers and to change verification procedures</u> (§ 301)	Mandatory verification for all employers, but <u>DHS has authority to exempt any employers and to change verification procedures</u> (§ 301)	Mandatory verification for all employers, <u>but only after \$400 million is appropriated to fund system; DHS may change procedures to improve system</u> (§ 301).	Mandatory verification of all employees and all "previous hires" (§§ 701, 703)	Mandatory verification of all employees (§§ 411-412).
	<b>Verification System Required</b>	Directs SSA and DHS to develop a system for electronically verifying new, biometric, machine-readable immigration documents using the Employment Eligibility Database; requires annual re-verification of aliens; phases out I-9 (§ 402).	Requires DHS and SSA to implement a system that provides for electronic verification of work eligibility (§ 301); maintains I-9 system with a few changes (§ 301)	Requires DHS and SSA to implement a system that provides for electronic verification of work eligibility (§ 301); maintains I-9 system with a few changes (§ 301)	Requires DHS and SSA to implement an Employer Eligibility Verification System (§ 301); maintains I-9 system with a few changes (§ 301).	Requires DHS and SSA to implement an Employer Eligibility Verification System (§ 301); <u>streamlines I-9 system</u> (§ 301).	Expands Basic Pilot Program and renames it the Employment Eligibility Verification System (§ 701)	Expands Basic Pilot Program for interim (§ 411), then implements new system (WEVS) allowing electronic verification through phone, online or card-reader systems (§ 412). Creates Alien Work Eligibility Database for alien verification (§ 421).
	<b>Documents Authorized to Verify Work Eligibility</b>	Biometric, machine-readable immigration documents (§§ 401-02).	Acceptable documents are essentially the same as I-9 system except some (but not social security card) must have security features (§ 301)	Acceptable documents are essentially the same as I-9 system except some (but not social security card) must have security features (§ 301)	Acceptable documents are essentially the same as I-9 system except some (but not social security card) must have security features (§ 301)	<u>Streamlines acceptable documents; requires security features for alien documents; allows transition until new system is implemented</u> (§ 301).	Requires digitized photograph on documents that establish identity; otherwise no change (§ 701).	<b>Citizens</b> must use either REAL ID DLs or new social security cards meeting REAL ID standards; <b>non-citizens</b> must use biometric social security card (§§ 412, 422).
	<b>Implementation schedule</b>	Employment Eligibility Database will be implemented on a "gradual basis," no specific date (§ 402(c)).	5 years for all employers, sooner for larger employers and employers at critical sites; however <u>DHS may waive provisions for any employer or a class of employers</u> (§ 301)	5 years for all employers, sooner for larger employers and employers at critical sites; however <u>DHS may waive the implementation provisions for any employer or a class of employers</u> (§ 301)	5 years for all employers, sooner for larger employers and employers at critical sites; however <u>DHS may waive the implementation provisions for any employer or a class of employers</u> (§ 301)	All employers must comply <u>18 months after \$400 million is appropriated to DHS for implementation</u> (§ 301); DHS <u>may</u> require critical employers to comply " <u>on a priority basis</u> " (§ 301).	Expanded Basic Pilot must be implemented for new hires in 2 yrs (§ 709); verification of previous hires within 6 years (3 for govt employers); employers may voluntarily check previous hires beginning 2 yrs after enactment (§ 703).	Basic Pilot Program is mandatory at 1 year (§ 403). WEVS is mandatory for <b>non-citizens</b> at 3 yrs; <b>citizens</b> at 10 yrs (§ 403).

\* Blue text denotes provisions added by amendment.

	McCain-Kennedy (S.1033)	Specter Amendment	Frist (S.2454)	Hagel-Martinez Amendment	Specter-Hagel (S.2611)	Sensenbrenner (H.R.4437)	Hunter-Goode (H.R. 4313)	
<b>Worksite Enforcement (cont.)</b>	<b>Worksite Enforcement</b>	Authorizes DOL to investigate hiring of H-5A aliens only <b>IF</b> : DOL certifies there is reasonable cause to believe that the employer is out of compliance <b>and</b> DOL approves the investigation (§ 404).	Adds 10,000 DHS worksite investigators over 5 years; Adds 1,000 DHS immigration enforcement agents to detect immigration fraud over 5 years (§ 303)	Adds 10,000 DHS worksite investigators over 5 years; Adds 1,000 DHS immigration enforcement agents to detect immigration fraud over 5 years (§ 303)	Adds 10,000 DHS worksite investigators over 5 years; Adds 1,000 DHS immigration enforcement agents to detect immigration fraud over 5 years (§ 303)	Adds 11,000 ICE agents over 5 years; requires that at least 25% of ICE work hours be dedicated to worksite enforcement (§ 303); Annually adds 2,000 DOL compliance investigators to enforce H-2C program (§ 412).	Expressly requires DHS to investigate employers who submit identical social security numbers multiple times in a way that indicates fraud; provides SSA is only required to perform worksite verification function to the extent DHS first gives SSA the funds (§ 701)	Adds 10,000 new DHS worksite investigators over 5 years; allows private parties to file administrative complaints to enforce the law (§§ 203, 412).
	<b>Employer Penalties for Hiring Illegal Aliens</b>	No change to current law.	Increases <b>civil penalties</b> for hiring unauthorized aliens: range for 1 <sup>st</sup> offense is increased from \$250-\$2,000 to \$500-\$4,000; range for 2nd offense is increased from \$2,000-\$5,000 to \$4,000-\$10,000; range for 3 <sup>rd</sup> offense is increased from \$3,000-\$10,000 to \$6,000-\$20,000; employers who fail to keep records or use system are subject to a civil penalty of: for 1 <sup>st</sup> offense, \$200-\$2,000; for 2 <sup>nd</sup> offense, \$400-\$4,000; for 3 <sup>rd</sup> offense, \$6,000; Gives DHS discretion to reduce penalties (§ 301(e)). Increases <b>criminal</b> fine from \$3,000 to \$20,000 (§ 301).	Increases <b>civil penalties</b> for hiring unauthorized aliens: range for 1 <sup>st</sup> offense is increased from \$250-\$2,000 to \$500-\$4,000; range for 2nd offense is increased from \$2,000-\$5,000 to \$4,000-\$10,000; range for 3 <sup>rd</sup> offense is increased from \$3,000-\$10,000 to \$6,000-\$20,000; employers who fail to keep records or use system are subject to a civil penalty of: for 1 <sup>st</sup> offense, \$200-\$2,000; for 2 <sup>nd</sup> offense, \$400-\$4,000; for 3 <sup>rd</sup> offense, \$6,000; Gives DHS discretion to reduce penalties (§ 301(e)). Increases <b>criminal</b> fine from \$3,000 to \$20,000 (§ 301).	Increases <b>civil penalties</b> for hiring unauthorized aliens: range for 1 <sup>st</sup> offense is increased from \$250-\$2,000 to \$500-\$4,000; range for 2nd offense is increased from \$2,000-\$5,000 to \$4,000-\$10,000; range for 3 <sup>rd</sup> offense is increased from \$3,000-\$10,000 to \$6,000-\$20,000; employers who fail to keep records or use system are subject to a civil penalty of: for 1 <sup>st</sup> offense, \$200-\$2,000; for 2 <sup>nd</sup> offense, \$400-\$4,000; for 3 <sup>rd</sup> offense, \$6,000; Gives DHS discretion to reduce penalties (§ 301(e)). Increases <b>criminal</b> fine from \$3,000 to \$20,000 (§ 301).	Increases <b>civil penalties</b> for hiring unauthorized aliens: range for 1 <sup>st</sup> offense is increased from \$250-\$2,000 to \$500-\$4,000; range for 2nd offense is increased from \$2,000-\$5,000 to \$4,000-\$10,000; range for 3 <sup>rd</sup> offense is increased from \$3,000-\$10,000 to \$6,000-\$20,000; employers who fail to keep records or use system are subject to a civil penalty of: for 1 <sup>st</sup> offense, \$200-\$2,000; for 2 <sup>nd</sup> offense, \$400-\$4,000; for 3 <sup>rd</sup> offense, \$6,000; Gives DHS discretion to reduce penalties (§ 301(e)). Increases <b>criminal</b> fine from \$3,000 to \$20,000 (§ 301).	Increases <b>civil penalties</b> for hiring unauthorized aliens: minimum penalty for each offense is increased from \$250-\$2,000 to \$500-\$4,000; range for 2 <sup>nd</sup> offense is increased from \$2,000-\$5,000 to \$4,000-\$10,000; range for 3 <sup>rd</sup> offense is increased from \$3,000-\$10,000 to \$6,000-\$20,000; employers who fail to keep records or use system are subject to a civil penalty of: for 1 <sup>st</sup> offense, \$200-\$2,000; for 2 <sup>nd</sup> offense, \$400-\$4,000; for 3 <sup>rd</sup> offense, \$600-\$6,000; Gives DHS discretion to reduce penalties (§ 301(e)). Increases <b>criminal</b> penalty from 6 months to 3 years and increases the fine from \$3,000 to \$20,000 (§ 301).	Increases <b>civil penalties</b> for employers who hire illegal aliens: 1st offense is increased from \$250-\$2,000 to \$5,000-\$7,500; 2nd offense is increased from \$2,000-\$5,000 to \$10,000-\$15,000; 3rd offense is increased from \$3,000-\$10,000 to \$25,000-\$40,000; <b>Reduces civil penalties</b> for businesses depending on size: penalties for those with an average of 25 or less employees are reduced by 60%; those with an average of 26 to 100 employees are reduced by 40%; those with an average of 101 to 250 employees are reduced by 20%; provides exemption from civil penalties for a first violation made in good faith. Increases <b>criminal penalty</b> for a pattern of hiring unauthorized aliens from a fine of \$3,000 and up to 6 months to a fine of \$50,000 and not less than one year (§ 706 contains all penalties)

**Enforcement Provisions**

	<b>McCain-Kennedy (S.1033)</b>	<b>Specter Amendment</b>	<b>Frist (S.2454)</b>	<b>Hagel-Martinez Amendment</b>	<b>Specter-Hagel (S.2611)</b>	<b>Sensenbrenner (H.R.4437)</b>	<b>Hunter-Goode (H.R.4313)</b>
<b>Border Enforcement</b>	Directs DHS to: (1) develop and implement a “National Strategy for Border Security” within 1 year of enactment (§ 111); (2) develop a border security coordination plan with Federal, State, local and tribal authorities (§ 121); (3) use aerial surveillance technology to patrol the border (§ 123); and (4) create a Border Security Advisory Committee (§ 122). Directs State Dept. and DHS to provide technical and law enforcement assistance to other governments to improve border security (§ 133).	<a href="#">Authorizes replacing old and building new fencing along urban areas of the Arizona border (§ 106); authorizes 4,000 new border patrol agents over 5 years (above Intel Reform Act) (§101);</a> Allows use of DOD equipment for aerial surveillance (§ 102); Directs DHS to develop a Surveillance Plan for the border (§ 111); Directs DHS to develop a “National Strategy for Border Security” (§ 112); Directs DHS and State Dept. to work with Mexico, Guatemala, and Belize to improve Mexico’s southern border (§ 114).	Authorizes replacing old and building new fencing along urban areas of the Arizona border (§ 106); Authorizes 4,400 new border patrol agents over 6 years (§101); Allows use of DOD equipment for aerial surveillance (§ 102); Directs DHS to develop a Surveillance Plan for the border (§ 111); Directs DHS to develop a “National Strategy for Border Security” (§ 112); Directs DHS and State Dept. to work with Mexico, Guatemala, and Belize to improve Mexico’s southern border (§ 114).	Authorizes replacing old fencing and building new fencing along urban areas of the Arizona border (§ 106); Authorizes 4,000 new border patrol agents over 5 years (§101); Allows use of DOD equipment for aerial surveillance (§ 102); Directs DHS to develop a Surveillance Plan for the border (§ 111); Directs DHS to develop a “National Strategy for Border Security” (§ 112); Directs DHS and State Dept. to work with Mexico, Guatemala, and Belize to improve Mexico’s southern border (§ 114).	Authorizes replacing old and <a href="#">building new fencing (370 miles) along urban areas of southern border, but requires prior consultation with Mexico (§§ 106, 117); Authorizes use of National Guard to supplement border patrol at southern border ( § 133);</a> Authorizes <a href="#">5,000</a> new border patrol agents over 5 years (§101); <a href="#">Increases Border Patrol helicopters and power boats (§ 162);</a> Allows use of DOD equipment for aerial surveillance (§ 102); Directs DHS to develop a Surveillance Plan for the border (§ 111); Directs DHS to develop a “National Strategy for Border Security” (§ 112); Directs DHS and State Dept. to work with Mexico, Guatemala, and Belize to improve Mexico’s southern border (§ 114).	Creates segments of border fence (698 miles total) along southern border (§ 1002); directs DHS to establish a border security advisory committee (§ 304); directs DHS to develop a “national strategy for border security” (§ 102); more similar provisions in bill	Creates border fence from Pacific Ocean to Gulf of Mexico (§ 101); adds and appropriates money for 8,000 border patrol agents above the 10,000 authorized in the Intelligence Reform and Terrorism Prevention Act of 2004 (§ 102); provides for upgrading of facilities and purchasing of equipment; allows use of DOD equipment for aerial surveillance (§ 103); allows border patrol to place checkpoints near the border (§ 201).
<b>Customs and Border Protection</b>	No increase in Customs and Border Protection personnel.	Adds 2,500 point of entry inspectors over 5 yrs (§ 101)	Adds 1,250 CBP agents over 5 yrs; adds 1,250 point of entry inspectors over 5 years. (§ 101).	Adds 2,500 point of entry inspectors over 5 years (§ 101).	Adds 2,500 point of entry inspectors over 5 years (§ 101).	Authorizes appropriations for Border Patrol Agents added in Intelligence Reform Act (§ 101)	Adds 1,250 CBP agents over 5 years (§ 201).
<b>Immigration and Customs Enforcement (ICE)</b>	No increase in interior enforcement personnel.	Over 5 years adds 1,000 ICE investigators to pursue INA violations; adds 1,000 new DHS investigators to detect fraud and alien smuggling (§ 101).	Over 5 years adds 1,000 ICE investigators to pursue INA violations; adds 1,000 new DHS investigators to detect fraud and alien smuggling (§ 101).	Over 5 years adds 1,000 ICE investigators to pursue INA violations; adds 1,000 new DHS investigators to detect fraud and alien smuggling (§ 101).	Over 5 years adds 1,000 ICE investigators to pursue INA violations; adds 1,000 new DHS investigators to detect fraud and alien smuggling (§ 101).	Adds 1,000 full-time port of entry inspectors over four years; Over 5 yrs, annually increases trained detection canines by 25% (§§ 107, 108)	Over 5 years adds 1,000 new DHS investigators to detect fraud and alien smuggling (§ 202); also adds 500 DHS immigration attorneys (§ 202).

**Enforcement Provisions (cont.)**

	<b>McCain-Kennedy (S.1033)</b>	<b>Specter Amendment</b>	<b>Frist (S.2454)</b>	<b>Hagel-Martinez Amendment</b>	<b>Specter-Hagel (S.2611)</b>	<b>Sensenbrenner (H.R.4437)</b>	<b>Hunter –Goode (H.R. 4313)</b>
<b>Local and State Authorities</b>	Provides that nothing in Title I (Border Security) may be construed to provide any state or local entity any additional authority to enforce Federal immigration laws (§ 125).	<a href="#">Affirms state and local law enforcement authority to enforce criminal immigration laws (§ 229).</a>	Affirms state and local law enforcement authority to enforce criminal immigration laws (§ 229).	Affirms state and local law enforcement authority to enforce criminal immigration laws (§ 229).	Affirms state and local law enforcement authority to enforce criminal immigration laws (§ 229).	Affirms inherent authority of state and local law enforcement agencies to enforce federal immigration law; prohibits language from being construed to require sharing of information on aliens who are victims or witnesses to crimes (§ 220)	Clarifies the ability of states and locals to enforce federal immigration law (§ 231); withholds DOJ funding to local authorities that do not share immigration information (§ 213).
<b>Detention Facilities</b>	No increase to detention capacity.	<a href="#">Requires the acquisition or construction of 20 detention facilities with combined capacity of 10,000 beds (§ 233).</a>	No increase to detention capacity.	Requires the acquisition or construction of 20 detention facilities with combined capacity of 10,000 beds (§ 233).	Requires the acquisition or construction of <a href="#">at least</a> 20 detention facilities with combined capacity of <a href="#">20,000</a> beds (§ 233).	Requires DHS to “fully utilize” all available detention facilities operated or contracted by DHS (§ 403)	Requires the construction of 20 detention facilities with a combined capacity of 200,000 beds (§ 221).
<b>Expedited Removal</b>	No change to current law.	<a href="#">Requires use of expedited removal for OTMs who are apprehended within 100 miles of the border within 14 days of entry (§ 227); Permits use of expedited removal on incarcerated aliens (§ 227).</a>	Requires use of expedited removal for OTMs who are apprehended within 100 miles of the border within 14 days of entry (§ 227); Permits use of expedited removal on incarcerated aliens (§ 227).	Requires use of expedited removal for OTMs who are apprehended within 100 miles of the border within 14 days of entry (§ 227); Permits use of expedited removal on incarcerated aliens (§ 227).	Requires use of expedited removal for OTMs who are apprehended within 100 miles of the border within 14 days of entry (§ 227); Permits use of expedited removal on incarcerated aliens (§ 227).	Requires use of expedited removal for illegal aliens who are apprehended within 100 miles of the border within 14 days of entry; also allows discretionary use on aggravated felons (§§ 407, 610).	Allows expedited removal for illegal aliens who have been in the U.S. for less than 5 years, unless the alien has been charged with a crime or intends to apply for asylum; expands the scope of criminal offenses that subject an alien to expedited removal (§§ 512, 513).

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<b>Document Reform</b>	<b>Document Integrity</b>	Adds anti-fraud measures and biometric data to all visa and immigration documents (§ 401).	Adds anti-fraud measures and biometric data to all visa and immigration documents (§ 126); Requires collection of fingerprints from each alien required to submit them under IIRAIRA (§ 121).	Adds anti-fraud measures and biometric data to all visa and immigration documents (§ 126); Requires collection of fingerprints from each alien required to submit them under IIRAIRA (§ 121).	Adds anti-fraud measures and biometric data to all visa and immigration documents (§ 126); Requires collection of fingerprints from each alien required to submit them under IIRAIRA (§ 121).	Adds anti-fraud measures and biometric data to all visa and immigration documents (§ 126); Requires collection of fingerprints from each alien required to submit them under IIRAIRA (§ 121).	Requires collection of 10 fingerprints from each alien required to submit them under IIRAIRA (§ 104).	Adds anti-fraud measures and biometric data to all visa and immigration documents (§ 442); mandates issuance of secure, tamper-resistant Social Security cards for work eligibility verification (§ 422); creates minimum document standards for birth certificates (§ 443).
	<b>Fraud Prevention</b>	None.	Adds 1,000 fraud detection personnel to DHS over 5 years (§ 303); Directs DHS to train CBP officers in detecting fraudulent documents (§ 125).	Adds 1,000 fraud detection personnel to DHS over 5 years (§ 303); Directs DHS to train CBP officers in detecting fraudulent documents (§ 125).	Adds 1,000 fraud detection personnel to DHS over 5 years (§ 303); Directs DHS to train CBP officers in detecting fraudulent documents (§ 125).	Adds 1,000 fraud detection personnel to DHS over 5 years (§ 303); Directs DHS to train CBP officers in detecting fraudulent documents (§ 125).	Requires that allegations of immigration benefits fraud be cleared before any immigration benefits are granted.	Adds 1,000 fraud detection personnel to DHS over 5 years (§ 202); Directs DHS to train customs and border protection officers in detecting fraudulent documents (§ 204).
	<b>Penalties for Document-Related Fraud</b>	No change to current law.	Rewrites Ch. 75 of Title 18 (relating to passport, visa, and immigration fraud) adding new sections on seizure and forfeiture; additional jurisdiction; venue; and authorized law enforcement activities (§ 208).	Rewrites Ch. 75 of Title 18 (relating to passport, visa, and immigration fraud) adding new sections on seizure and forfeiture; additional jurisdiction; venue; and authorized law enforcement activities (§ 208).	Rewrites Ch. 75 of Title 18 (relating to passport, visa, and immigration fraud) adding new sections on seizure and forfeiture; additional jurisdiction; venue; and authorized law enforcement activities (§ 208).	Rewrites Ch. 75 of Title 18 (relating to passport, visa, and immigration fraud) adding new sections on seizure and forfeiture; additional jurisdiction; venue; and authorized law enforcement activities (§ 208).	Rewrites Ch. 75 of Title 18 (relating to passport, visa, and immigration fraud) adding new sections on seizure and forfeiture; additional jurisdiction; venue; and authorized law enforcement activities (§ 213); adds distribution of false documents as crime; doubles penalties for document fraud (§ 618)	Increases <b>civil</b> penalties for document fraud; for 1 <sup>st</sup> offense, from \$250 - \$2,000 to \$500 - \$4,000; for 2 <sup>nd</sup> offense from \$2,000 - \$5,000 to \$4,000 - \$10,000 (§ 211). Increases <b>criminal</b> penalties for false claims of citizenship from 5 yrs to 10 yrs (§ 211). Increases <b>criminal</b> penalties for making or trafficking false ID documents: for DLs, birth certificates, etc., from 15 yrs to 20 yrs; to facilitate drug trafficking, from 20 to 25 yrs; in all other instances, from 1 to 2 yrs (§ 211); makes additional changes.

**Change in Status for Illegal Aliens**

	<b>McCain-Kennedy (S.1033)</b>	<b>Specter Amendment</b>	<b>Frist (S.2454)</b>	<b>Hagel-Martinez Amendment</b>	<b>Specter-Hagel (S.2611)</b>	<b>Sensenbrenner (H.R.4437)</b>	<b>Hunter-Goode (H.R.4313)</b>
<b>Amnesty Options Available to Illegal Aliens</b>	Eligible for H-5B non-immigrant visa (§ 701)	Conditional nonimmigrant status (§ 601); AgJobs (Subtitle B of Title VI); DREAM Act (Subtitle C of Title VI)	N.A.	“Earned Adjustment “ for illegal aliens present on/before April 5, 2001; Deferred Mandatory Departure for aliens present on January 7, 2004; AgJobs (see Subtitle B of Title VI); DREAM Act (see Subtitle C of Title VI)	“ <b>Earned Adjustment</b> “ for illegal aliens present on/before April 5, 2001; <b>Deferred Mandatory Departure</b> for aliens present on January 7, 2004; <b>AgJobs</b> (see Subtitle B of Title VI); <b>DREAM Act</b> (see Subtitle C of Title VI)	N.A.	None; allows voluntary departure in lieu of removal (deportation) proceedings (§ 511).
<b>Conditions for Participation</b>	For <b>H-5B visa</b> , alien must --submit application --establish that he/she was illegally present on date of introduction --has been employed in U.S. before and since date of introduction (or has attended school full-time) --undergo a background check --pay \$1000 fine (§ 701).	For <b>conditional nonimmigrant status</b> , an alien must --submit application --establish that he/she has been present and employed in U.S. before and since January 7, 2004 (or has attended school full-time) --undergo background check --meet general admissibility criteria --pay \$1000 fine (§ 601)	N.A.	For “ <b>earned adjustment</b> ”, alien must be present on or before April 5, 2001 and not have departed since, except for brief periods; Must show general admissibility ( <u>numerous provisions are waivable</u> ); Must show employment for 3 yrs out of 5-yr period plus 6 years after date of enactment ( <u>part-time permissible, reduced for those under 21; college study qualifies</u> ); Must pay taxes since April 5, 2001; Must enroll or learn English and civics (required by current law); Must submit fingerprints for background check, register for selective service and pay \$2,000 fine (§ 601). For “ <b>mandatory departure and reentry</b> ”, alien must be in U.S. on Jan. 7, 2004 and not have departed since except for brief periods. Must show employment before date ( <u>but does not have to be continuous or full-time</u> ) and employment continuously since ( <u>except for periods of 60 days or less</u> ). Must establish general admissibility ( <u>numerous provisions are waivable</u> ), undergo background check and pay \$1,000 fee (§ 601).	For <b>earned adjustment</b> , alien must be present on/ before April 5, 2001 and not have departed since, except for brief periods; Must show general admissibility ( <u>numerous provisions are waivable</u> ); Must show employment for 3 yrs out of 5-yr period plus 6 years after date of enactment ( <u>part-time permissible, reduced for those under 21, college study qualifies</u> ); Must pay taxes since April 5, 2001; Must <b>learn English and civics (as required by INA § 312)</b> ; Must submit fingerprints for background check, register for selective service and pay <b>\$3,250 in fines</b> (§ 601). For “ <b>deferred mandatory departure status</b> ”, alien must be in U.S. on Jan. 7, 2004 and not have departed since except for brief periods. Must show employment before date ( <u>but does not have to be continuous or full-time</u> ) and employment continuously since ( <u>except for periods of 60 days or less</u> ). Must establish general admissibility ( <u>numerous provisions are waivable</u> ), undergo background check and pay <b>\$2,250</b> fee (§ 601).	N.A.	To qualify for voluntary departure: must not be deportable as terrorist or aggravated felon; must post bond; deadline for departure is 90 days max; other limitations depend on stage in process; ineligible if already departed voluntarily (§ 511).

Change in Status for Illegal Aliens (cont.)

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<b>Eligibility for Legal Permanent Residence (LPR) Status</b>	H-5B aliens may apply for LPR status after 6 years if they: complete an employment or education requirement; undergo a medical exam and background check; establish no tax liability; enroll in English/civics course; and pay a \$1,000 fine (§ 702).	<b>Conditional nonimmigrant</b> aliens may apply for LPR status after 6 years if they: <u>establish any employment (need not be continuous) or attendance at school; undergo a medical exam and background check; pay taxes accrued since January 7, 2004; enroll in English/civics course; register with selective service and pay a \$1,000 fine (§ 602)</u>	N.A.	“Earned adjustment” automatically leads to LPR status, but note that there is no clear legal status granted in the interim (§ 601(b)). Aliens granted Mandatory Departure and Return status may apply for any nonimmigrant visa (such as an H-2C) or a green card (LPR status).	“Earned adjustment” automatically leads to LPR status, but note that there is no clear legal status granted in the interim (§ 601(b)). Aliens granted Deferred Mandatory Departure status may apply for any nonimmigrant or immigrant visa while in the U.S. (§ 601); <u>Note that caps for all nonimmigrant visas (including H-2Cs) are waived for applicants with Deferred Mandatory Departure Status (§ 601).</u>	N.A.	No. Bars adjustment of status for aliens engaging in unauthorized work for 180 days (§ 321); repeals INA § 245(i) (§ 326).
<b>Sanctions for Illegal Aliens</b>	No change to current law.	<u>Criminal provision deleted by amendment</u>	Makes unlawful presence a crime punishable by up to 6 months (§ 206); increases criminal penalties for certain felons who reenter illegally (§§ 206, 207).	No change to current law.	No change to current law.	Makes unlawful presence a crime punishable by a year and a day (felony); increases <b>criminal</b> penalty for illegal entry from 6 months (misdemeanor) to a year and a day (felony); expands definition of the crime of marriage fraud and increases criminal penalty from 5 years to 10 years (20 yrs in certain specified cases)(§ 203)	Increases <b>criminal</b> penalty for willful failure to carry one’s alien registration card from 30 days and a \$100 fine to 18 months and a \$2,000 fine (§ 502); increases <b>criminal</b> penalty for willful failure to register from 6 months and a \$1,000 fine to 18 months and a \$2,000 fine (§ 502); increases <b>criminal</b> penalty for failing to notify of address change from 30 days and \$200 fine to 18 months and \$2,000 fine (§ 502); increases <b>criminal</b> penalty for making false statements in registering from 6 months and \$1,000 fine to 18 months and \$2,000 fine (§ 502).

**Guest Worker Program**

	<b>McCain-Kennedy (S.1033)</b>	<b>Specter Amendment</b>	<b>Frist (S.2454)</b>	<b>Hagel-Martinez Amendment</b>	<b>Specter-Hagel (S.2611)</b>	<b>Sensenbrenner (H.R.4437)</b>	<b>Hunter-Goode (H.R.4313)</b>
<b>Type of Guest Worker Visa</b>	H-5A visa; not sector specific (§ 301).	H-2C visa; not sector specific, but excludes work falling under H-1B, H-2A and other visas (§§ 402, 403).	N.A.	H-2C visa; not sector-specific, but excludes work falling under H-1B, H-2A (ag work) and other visas (§§ 402-403).	H-2C visa; not sector-specific, but excludes work falling under H-1B, H-2A (ag work) and other visas (§§ 402-403).	N.A.	N.A.
<b>May Illegal Immigrants Apply Without Returning to Home Country?</b>	Yes (§ 302).	Yes (§ 403).	N.A.	Yes. Illegal presence prior to enactment may be waived (§ 403).	Yes. Illegal presence prior to enactment may be waived (§ 403).	N.A.	N.A.
<b>Requirements for Guest Worker Program</b>	For H5-A visa, if illegally present, must obtain waiver and pay \$1,500 waiver fine. Otherwise, must provide evidence of employment; pay \$500 fee; undergo medical exam (§ 302).	For H-2C visa, must establish capacity to work; offer of employment; pay \$500 fee; undergo medical exam and background check (§ 403).	N.A.	For H-2C visa, must establish capacity to work; offer of employment; pay \$500 fee; undergo medical exam and background check (§ 403).	For H-2C visa, must establish capacity to work; offer of employment; establish general admissibility ( <u>numerous provisions are waivable</u> ); pay \$500 fee; undergo medical exam and background check (§ 403); <u>Note that numerical cap of 200,000 on H-2C visas is waived for applicants with deferred mandatory departure status</u>	N.A.	N.A.
<b>Ineligible Workers</b>	Felons and terrorists are ineligible; certain removable aliens eligible for waivers (§ 302).	Terrorists and certain felons are ineligible; <u>certain removable aliens eligible for waivers</u> (§ 403).	N.A.	Terrorists and certain felons are ineligible; <u>certain removable aliens eligible for waivers</u> (§ 403).	Terrorists and <u>aliens with conviction of a felony or 3+ misdemeanors are ineligible</u> ; <u>certain removable aliens eligible for waivers</u> (§ 403).	N.A.	N.A.
<b>Length of Visa</b>	H-5A = 3 years (§ 302); H-5B = 6 years (§ 701).	H-2C = 3 years (§ 403); <b>Conditional nonimmigrant status = 6 years</b> (§ 601).	N.A.	H-2C = 3 years (§ 403).	H-2C = 3 years (§ 403).	N.A.	N.A.
<b>Renewable?</b>	H-5A is renewable once; time limit does not apply if LPR application is pending (§ 302); H-5B may only be extended for pending LPR application (§ 701).	H-2C is renewable once (§ 403); <b>Conditional nonimmigrant status may only be extended for pending LPR application</b> (§ 601).	N.A.	H-2C is renewable once (§ 403).	H-2C is renewable once (§ 403).	N.A.	N.A.

**Guest Worker Program (cont.)**

	<b>McCain-Kennedy (S.1033)</b>	<b>Specter Amendment</b>	<b>Frist (S.2454)</b>	<b>Hagel-Martinez Amendment</b>	<b>Specter-Hagel (S.2611)</b>	<b>Sensenbrenner (H.R.4437)</b>	<b>Hunter-Goode (H.R.4313)</b>
<b>Maximum Length of Admission</b>	H-5A visa has maximum admission period of 6 years (§ 302).	<b>H-2C visa has maximum admission period of 6 years (§ 403).</b>	N.A.	<b>H-2C visa has maximum admission period of 6 years (§ 403).</b>	<b>H-2C visa has maximum admission period of 6 years (§ 403).</b>	N.A.	N.A.
<b>Early Dismissal of Worker</b>	H-5A alien may remain unemployed 45 days, after which alien must return to home country before reapplying for H-5A status (§ 302).	<b>H-2C alien may remain unemployed 60 days, after which alien must return home before reapplying for H-2C status (but note the return requirement may be waived)(§ 403).</b>	N.A.	<b>H-2C alien may be unemployed for 60 days, after which alien must return home before reapplying for H-2C status (note the return requirement may be waived)(§ 403).</b>	<b>H-2C alien may be unemployed for 60 days, or longer if resulting from circumstances not under alien's control, after which alien must return home before reapplying for H-2C status (but return requirement may be waived)(§ 403).</b>	N.A.	N.A.
<b>Opportunity to Adjust Status?</b>	Yes, after 4 years, or anytime with employer sponsorship (§ 306).	<b>Yes, anytime with employer sponsorship, or after 4 years in U.S. as H-2C worker (§ 408).</b>	N.A.	Yes, anytime with employer sponsorship or after 4 years in U.S. as H-2C worker (§ 408).	Yes, anytime w/ employer sponsorship; after 4 years in U.S. as H-2C alien; <b>or if DOL certifies there are no U.S. workers available &amp; alien establishes current employment (§ 408(h)).</b>	N.A.	N.A.
<b>Portability of Visas</b>	Yes (§ 302).	<b>Yes (§ 403).</b>	N.A.	Yes (§ 403).	Yes (§ 403).	N.A.	N.A.
<b>Employer Responsibilities</b>	Employers of H-5As must confirm work eligibility via confirmation system (§ 402); must abide by labor laws(§ 303) ; may not treat H-5As as independent contractors; must file taxes and social security; must provide H-5As same wages, benefits and conditions as similarly employed U.S. workers; may not intimidate or threaten to withdraw application as retaliation. Subject to increased <b>civil</b> penalties for employment discrimination and civil and criminal penalties for violating agreements with recruited workers (§ 304).	<b>Employers of H-2Cs must: file a petition; pay fee; attest that hiring H-2Cs will not depress wages of similar workers or cause layoffs of others. Must pay H-2Cs the greater of the actual wage of those similarly employed or the prevailing wage; must provide same benefits and conditions as similar workers; (§ 404). Provides it is unlawful to intimidate discriminate or retaliate against H-2C workers for reporting violations (§ 404). Employers are subject civil and criminal penalties for violating agreements with workers (§ 404).</b>	N.A.	Employers of H-2Cs must: file a petition; pay fee; attest that hiring H-2Cs will not depress wages of similar workers or cause layoffs. Must pay H-2Cs the greater of the actual wage of those similarly employed or the prevailing wage; must provide same benefits and conditions as similar workers; (§ 404). Provides it is unlawful to intimidate discriminate or retaliate against H-2C workers for reporting violations (§ 404). Employers subject civil and criminal penalties for violating agreements with workers (§ 404).	Employers of H-2Cs must: file a petition; pay fee; attest that hiring H-2Cs will not depress wages of similar workers or cause layoffs. Must pay H-2Cs the greater of the actual wage of those similarly employed or the prevailing wage; must provide same benefits and conditions as similar workers; (§ 404). Provides it is unlawful to intimidate discriminate or retaliate against H-2C workers for reporting violations (§ 404). Employers subject civil and criminal penalties for violating agreements with workers (§ 404).	N.A.	N.A.

**Guest Worker Program (cont.)**

	<b>McCain-Kennedy (S.1033)</b>	<b>Specter Amendment</b>	<b>Frist (S.2454)</b>	<b>Hagel-Martinez Amendment</b>	<b>Specter-Hagel (S.2611)</b>	<b>Sensenbrenner (H.R.4437)</b>	<b>Hunter-Goode (H.R.4313)</b>
<b>Advertisement of Jobs Prior to Hiring Guest Worker</b>	America's Job Bank (§ 308).	Must post on electronic job registry (§ 407).	N.A.	Must post job opening (§ 407).	Must post job opening at prevailing wage rate (§ 407); must send posting to state employment agency for posting and circulation; must post in conspicuous place at worksite (§ 404)	N.A.	N.A.
<b>Health Care for Guest Workers</b>	Expands reimbursement to hospitals for care of guest workers and the unauthorized (§ 1001).	Must provide insurance if alien is not covered by workers' compensation laws (§ 404).	N.A.	Must provide insurance if alien is not covered by workers' compensation laws (§ 404).	Must provide insurance if alien is not covered by workers' compensation laws (§ 404).	N.A.	N.A.
<b>Families May Visit the U.S.</b>	No specific limitation.	Spouse and children may accompany under H-4 visa (§ 403).	N.A.	Spouse and children may accompany under H-4 visa (§ 403).	Spouse and children may accompany under H-4 visa (§ 403).	N.A.	N.A.
<b>Incentives to Return to Country of Origin</b>	Try to create better conditions in Mexico and reintegration programs (§§ 501-02).	No specific measures.	N.A.	No specific measures.	No specific measures.	N.A.	N.A.

	McCain-Kennedy (S.1033)	Specter Amendment	Frist (S.2454)	Hagel-Martinez Amendment	Specter-Hagel (S.2611)	Sensenbrenner (H.R.4437)	Hunter-Good (H.R.4313)
<b>Employment-Based Visas (green cards)</b>	Increases employment based visas from 140,000 to 290,000 (§ 501); Provides that ceiling is automatically increased by any employment visas that were not issued the previous year (§ 501); Exempts family members of employment-based visa holders from cap (§ 501); Reallocates employment based visas to increase percentage given to skilled workers and unskilled workers (§ 503); exempts persons with advanced degrees from cap (§ 409).	Increases employment based visas from 140,000 to 290,000 (§ 501); Provides that ceiling is automatically increased by any employment visas that were not issued the previous year (§ 501); Exempts family members of employment-based visa holders from cap (§ 501); Reallocates employment based visas to increase percentage given to skilled workers and unskilled workers (§ 503); exempts persons with advanced degrees + 3 years employment from cap (§ 508).	Increases employment based visas from 140,000 to 290,000 (§ 401); Provides that ceiling is automatically increased by any employment visas that were not issued the previous year (§ 401); Exempts family members of employment-based visa holders from cap (§ 401); Reallocates employment based visas to increase percentage given to skilled workers and unskilled workers (§ 403); exempts persons with advanced degrees from cap (§ 406).	Increases employment-based visas from 140,000 to 450,00 for 10 years, then annual cap drops to 290,000 (§ 501(b)); Provides that ceiling is automatically increased by any employment visas that were not issued the previous year (§ 501(b)); Exempts family members of employment-based visa holders from cap (§ 501(b)); Reallocates employment based visas to increase percentage given to skilled workers and unskilled workers (§ 503(b)); exempts persons with advanced degrees from cap (§ 508).	Increases employment-based visas from 140,000 to 450,00 for 10 years, then annual cap drops to 290,000 (§ 501(b)); Provides that cap automatically increases by unused employment visas from previous year (§ 501(b)); <a href="#">Provides that family members may be admitted via employment based visas to the extent a 650,000 total ceiling is not exceeded (exempts visas issued for earned adjustment or deferred mandatory departure) BUT SEE § 524(a) which appears to contradict this</a> ; Reallocates employment-based visas to increase percentage given to skilled workers and unskilled workers (§ 503(b)); <a href="#">Annually reserves 30% of unskilled immigrant visas for aliens present before Jan. 7, 2004</a> (§ 503(b)(7)); exempts persons with advanced degrees from cap (§§ 508, 524); <a href="#">Adds \$500 fee for LPR adjustment</a> (§ 527); <a href="#">Creates streamlined and expedited process for employers who file petitions</a> (§§ 528-529); <a href="#">Requires DOL to process prevailing wage info for labor certification w/n 20 days</a> (§ 530)	None.	None
<b>Family-Based visas (green cards)</b>	Reallocates family based visas (§ 603); expands definition of immediate family members (§ 604).	Reallocates family based visas (§ 503); expands definition of immediate family member (§ 504).	Reallocates family based visas (§ 403); expands definition of immediate family member (§ 404).	Reallocates family based visas (§ 503); expands definition of immediate family member (§ 504).	Reallocates family based visas (§ 503); expands definition of immediate family member (§ 504).	N.A.	N.A.

<b>Country Caps (green cards)</b>	Increases country caps from 7% to 10% (for a single foreign state) and from 2% to 5% (for a single foreign dependent) (§ 602).	Increases country caps from 7% to 10% (for a single foreign state) and from 2% to 5% (for a single foreign dependent) (§ 502).	Increases country caps from 7% to 10% (for a single foreign state) and from 2% to 5% (for a single foreign dependent) (§ 402).	Increases country caps from 7% to 10% (for a single foreign state) and from 2% to 5% (for a single foreign dependent) (§ 502).	Increases country caps from 7% to 10% (for a single foreign state) and from 2% to 5% (for a single foreign dependent) (§ 502).	N.A.	N.A.
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Legal Immigration (Cont.)

	McCain-Kennedy (S.1033)	Specter Amendment	Frist (S.2454)	Hagel-Martinez Amendment	Specter-Hagel (S.2611)	Sensenbrenner (H.R.4437)	Hunter-Goode (H.R.4313)
<b>Student Visas</b>	N.A.	Authorizes F-4 visas for foreign students accepted to graduate programs in math and sciences (§ 507); allows F-4 holders who have earned degrees to apply for LPR status (§ 507); authorizes extension of F-4 visa for an additional year to give holder time to apply (§ 507); allows foreign students to work in off-campus jobs (§ 507).	Authorizes F-4 visas for foreign students accepted to graduate programs in math and sciences (§ 405); allows F-4 holders who have earned degrees to apply for LPR status (§ 405); authorizes extension of F-4 visa for an additional year to give holder time to apply (§ 405); allows foreign students to work in off-campus jobs (§ 405).	Authorizes F-4 visas for foreign students accepted to graduate programs in math and sciences (§ 507); allows F-4 holders who have earned degrees to apply for LPR status (§ 507); authorizes extension of F-4 visa for an additional year to give holder time to apply (§ 507); allows foreign students to work in off-campus jobs (§ 507).	Expands F visas to include aliens engaged in certain professional training (§ 525); Creates F-4 visas for foreign students accepted to graduate programs in math and sciences, programs may be distance learning programs and aliens need only temporarily be in U.S. (§ 507(a)); expands J visas to include foreign students accepted to graduate programs in math and sciences (§ 507(b)); allows F-4 and J-2 aliens who have earned degrees to apply for LPR status (§ 507); authorizes extension of F-4 and J-2 visas to give holder time to apply (§ 507); allows foreign students to work in off-campus jobs (§§ 507, 525).	N.A.	N.A.
<b>Temporary Work Visas</b>	N.A.	Allows F-4 aliens classified as extraordinary ability, professors and researchers to apply for LPR status (§ 507); exempts alien graduates from U.S. universities from labor certification requirements (§ 508); exempts degree earners from U.S. universities from H-1B cap (§ 508); Increases H-1B visa cap from 65,000 to 115,000 (§ 508); extends the J-1 visa program for doctors (§ 226); expands S visa program (§ 410); Limits L-1 visa program (§ 411).	Allows F-4 aliens classified as extraordinary ability, professors and researchers to apply for LPR status (§ 507); exempts graduates from U.S. universities from labor certification requirements (§ 406); exempts degree earners from U.S. universities from H-1B cap (§ 409); Increases H-1B visa cap from 65,000 to 115,000 (§ 406); extends the J-1 visa program for doctors (§ 407).	Allows F-4 aliens classified as extraordinary ability, professors and researchers to apply for LPR status (§ 507); exempts graduates from U.S. universities from labor certification requirements (§ 508); exempts degree earners from U.S. universities from H-1B cap (§ 508); Increases H-1B visa cap from 65,000 to 115,000 (§ 508); extends the J-1 visa program for doctors (§ 226); Puts limits on L-1 visa program (§ 411).	Allows F-4 or J-2 aliens classified as extraordinary ability, professors and researchers to apply for LPR status (§ 507); exempts graduates from U.S. universities from labor certification requirements (§§ 508, 524); exempts degree earners from U.S. universities from H-1B cap (§ 508); Increases H-1B visa cap from 65,000 to 115,000 with an automatic 20% escalator (§§ 508, 524); extends the J-1 visa program for doctors (§ 226); Puts limits on L-1 visa program (§ 411).	N.A.	N.A.