

# MIGRATION INFORMATION SOURCE

FRESH THOUGHT, AUTHORITATIVE DATA, GLOBAL REACH

## Side-By Side Chart for Major Immigration Legislation Pending in 109<sup>th</sup> Congress

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
<b>Change in Status for Unauthorized Immigrants</b>					
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
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
Opportunity to Adjust Status	-	After six years as H-5B nonimmigrant and additional \$1,000 fine plus application fee	No	-	Immediate
Priority for Lawful Permanent Residency	-	No	No	-	Yes
Sanctions for Unauthorized Migrants	-	-	Makes a false claim to citizenship punishable with a fine of up to \$5,000 and a term of imprisonment of up to three years	Makes entry without inspection and unauthorized presence felony counts	-

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	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
<b>Guest Worker Program</b>					
Type of Worker/Visa	Not sector specific	H-5A visa; not sector specific	W visa; not sector specific, excluding H-1A and H-2B categories	H visa; not sector specific, replaces all current H visa categories	-
Unauthorized Migrants Able to Apply Without Returning to Country of Origin?	Yes	Yes	No	No	-
Requirements for Temporary Work Enrollment	Pay a fee, prove employment	Pay \$1,000 fine, submit fingerprints, undergo background check, prove that individual was working before bill's introduction	Submit fingerprints, \$500 visa fee, background/ security check	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). Current unauthorized workers may not participate.	-
Prohibition of Participation for Worker	Excluded for three years if entered illegally after enactment	-	If worker does not undergo Mandatory Departure, then 10-year bar	-	-
Length of Visa	Three years	Three years	Two years	365 days in a two-year period	-
Renewable?	Yes	Yes, one time	Yes, three times with at least one year between renewals	Yes	-
Maximum Length	Unspecified	Six years	Six years (two years at a time), not applicable to commuters or seasonal workers who reside in the US for less than a six-month period in any given year	Unspecified	-

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<b>Guest Worker Program (continued)</b>					
Early Dismissal of Worker	-	60 days to find new job	30 days to find new job	-	-
Mandatory Return?	No	No	Yes	Yes	-
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	-
Portability of Visas	Yes	Yes	Yes	Not specified	-
Employer Responsibilities	Use electronic directory; try to hire citizen first; labor law protection	Same rights under labor laws; not hired as contractors; file taxes and social security	Conduct labor market test	May not have laid off citizen worker in previous six months	-
Advertisement of Job Opportunities Prior to Hiring Guest Worker	Electronic database	America's Job Bank	America's Job Bank, local media	America's Job Bank, 14-day advertising period	Advertise to all, but in particular to minorities
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	-
Families May Visit the United States	-	Unlimited	May visit for up to 30 days within a year	No	-
Incentives to Return	Tax-preferred savings accounts and Social Security benefits available upon return to home country	Try to create better conditions in Mexico and reintegration programs	Creates a temporary worker investment fund	-	-

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<b>I-9 Document Reform</b>					
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	-
Fraud Prevention	-		Adds 1,000 new DHS investigators to detect fraud in the adjudication process; increase penalties for document fraud	Reduces length of validity for federally acceptable identification from eight to five years; increase penalties for document fraud	Establishes a task force on fraudulent immigration documents
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	-	-

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<b>Enforcement Provisions</b>					
Border Enforcement	-	Requires DHS to make and implement strategic plan, 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	-
Customs and Border Protection (CBP)	-	-	Increases by 1,250 the number of CBP inspectors over five years	Increases the number of CBP officers by 200 by FY 2008	Increases by 5,000 the number of CBP inspectors over five years
Immigration and Customs Enforcement (ICE)	-	-	Authorizes 5,000 new immigrants 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	-
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	-
Worksite Enforcement	-	-	Authorizes 10,000 new personnel for worksite enforcement 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	Replaces range of fines with set levels of \$5,000 (paperwork violation), \$10,000 (substantive violation), and \$25,000 (pattern of offenses)	Establishes immigration status-related intimidation as an unfair labor practice

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<b>Enforcement Provisions (continued)</b>					
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 the ability of states and local authorities to enforce 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
Detention Facilities	-	-	Adds 10,000 beds to ICE detention facilities	-	-
Expedited Removal	-	-	Expands to entire border	-	-