



Brief Side-by-Side Comparison of Senator Specter's Comprehensive Immigration Reform "Mark" (2/23/06) and the Secure America and Orderly Immigration Act

February 28, 2006

| Specter Chairman's Mark | McCain-Kennedy Secure America and Orderly Immigration Act |
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| TREATMENT OF UNDOCUMENTED IMMIGRANTS | |
| <ul style="list-style-type: none"> • Must have been working in the U.S. as of 1/04 • "Plead guilty" to being undocumented and waive rights; undergo background checks • Employer has to pay \$500 fee; immigrant has to pay back taxes • Receive conditional work authorization, travel permission, and ability to bring family • Status is tied to employment; portability limited to employers that pass the labor market test to hire a new temporary worker • Many are ineligible because of the strict employment requirement, cut-off date, or other bars tied to their undocumented status (such as, having been ordered deported, not departing according to a "voluntary departure" agreement, failing to attend a removal hearing, or aiding an individual who enters unlawfully) • DREAM Act students do not qualify for legal status on their own • <u>No path to a green card and U.S. citizenship (the immigrant could apply through "normal channels," and wait decades or longer for status)</u> | <ul style="list-style-type: none"> • Must have been working in the U.S. as of 5/05 • Undergo background checks • Pay a \$1000 penalty in addition to application costs • Receive a six-year nonimmigrant visa that includes full work authorization, travel permission, and ability to bring family • Status is tied to good character; immigrant is not tied to an employer, so he can "vote with his feet" to get the best job possible • Permits the broadest range of undocumented immigrants possible to apply, waiving the inadmissibility bars related to unlawful presence while retaining those that disqualify criminals • DREAM Act students do qualify for legal status on their own • <u>After 6 years of model behavior, the immigrant can show that he has cleared up his back taxes and is learning English, pay an additional \$1000 fine plus application costs, and get in line to apply for a green card</u> |
| TEMPORARY WORKER PROGRAM | |
| <ul style="list-style-type: none"> • Creates a new visa program (H-2C) for foreign workers to fill jobs in hotels, restaurants, cleaning, meat-processing, and other "essential" occupations • The program is uncapped, but a commission is established to recommend a quota • An employer wishing to hire an H-2C worker would have to first attempt to find a U.S. worker. The employer would have to offer prevailing wage and attest to recruitment efforts • Additional labor protections are mostly built in to the attestation process, but others are similar to Secure America and Orderly Immigration Act • <u>The H-2C worker would be allowed to work in the U.S. for a total of 6 years, but required to return home for at least 1 year at the end</u> • <u>Status tied to employment; portability limited to employers that pass the labor market test to hire a new temporary worker</u> | <ul style="list-style-type: none"> • Creates a new visa program (H-5A) for foreign workers to fill jobs in hotels, restaurants, cleaning, meat-processing, and other "essential" occupations • The program starts out with 400,000 visas, but quota will decrease or increase based on market conditions • An employer wishing to hire an H-5A worker would have to first attempt to find a U.S. worker. The employer would have to offer market-based wages and attest to recruitment efforts • A variety of labor protections are given to both H-5A workers and, in some cases, H-2B workers • <u>The H-5A worker would be allowed to work in the U.S. for a total of 6 years, but could apply for a green card or other status during that time</u> • <u>Status tied to employment; however, H-5A worker has the same portability as a green card holder to "vote with his feet" and get the best job possible</u> |

| <p style="text-align: center;">Specter Chairman’s Mark</p> | <p style="text-align: center;">McCain-Kennedy Secure America and Orderly Immigration Act</p> |
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| <ul style="list-style-type: none"> • <u>No path to a green card and U.S. citizenship (the immigrant could apply through “normal channels,” and wait decades or longer for status)</u> | <ul style="list-style-type: none"> • <u>To earn a green card the worker must either have an employer sponsor or work in the U.S. for at least 4 years; show he is learning English and has maintained good character; and pay additional application fees</u> |
| <p style="text-align: center;">FAIRNESS FOR FAMILY IMMIGRATION</p> | |
| <ul style="list-style-type: none"> • Raises the quota on family and employment immigrant visas, to promote fairness for legal immigrants who have waited decades or longer to reunite with close relatives • Fails to remove unnecessary obstacles in current law that separates families. | <ul style="list-style-type: none"> • Raises the quota on family and employment immigrant visas, to promote fairness for legal immigrants who have waited decades or longer to reunite with close relatives • Includes additional provisions related to family sponsorship, fairness for widows and children, and other key measures to remove unnecessary obstacles in current law that separates families. |
| <p style="text-align: center;">ENFORCEMENT</p> | |
| <ul style="list-style-type: none"> • Many of the enforcement provisions, if implemented before the reforms for the undocumented, would have the effect of barring eligible workers from status • Makes undocumented immigrants into criminals that state and local police can arrest • Expands the definition of “alien smuggling” beyond any common-sense notion • Makes it harder for long-time legal residents to become citizens, applying changes to the law retroactively and gives DHS unchecked power to deny citizenship • Denies refugees and victims of abuse protection for having used fake documents to flee an oppressor • Makes any immigrant deportable for forgetting to include a piece of information in an immigration application, no matter how trivial • Turns the immigration system on its head, imposing a “guilty until proven innocent” standard for immigrants and further limiting judicial review of DHS bureaucrats’ decisions • Undercuts a Supreme Court decision and permits the indefinite detention of foreign-born people whose home countries will not take them back • Further expands mandatory minimums instead of restoring judges’ discretion to punish • Imposes harsh new penalties for aliens who “fail” to file a change of address with DHS – even if the problem is really the Department’s inability to process the request | <ul style="list-style-type: none"> • Expands resources for labor law enforcement through applicants’ fees and fines • Expands resources for interior and border enforcement through applicants’ fees and fines • Increases employer fines and penalties for labor violations • Proposes a national border security strategy that evaluates and deploys needed resources, improves communication with federal, state, and local partners • Harmonizes security strategies and policies with our North American neighbors and migrant-sending regions • Tracks and shares information on Central American gang activities • Improves reimbursement schemes to state and local governments that are disproportionately impacted by being along the border • Fights immigration benefits fraud and abuse through licensing, training, and monitoring of immigration law practitioners |