



Side by Side Analysis of Two Immigration Reform Bills

September 2005

	Secure America & Orderly Immigration Act (S. 1033/H.R. 2330) by Sens. McCain/Kennedy & Reps. Kolbe/Flake/Gutierrez	Comprehensive Enforcement & Immigration Reform Act (S. 1438) by Sens. Cornyn/Kyl
<p>Treatment of current undocumented immigrants</p>	<p>Visa Requirements</p> <p>In order to qualify for a temporary H-5B visa, an immigrant would have to:</p> <ul style="list-style-type: none"> • Show unlawful physical presence as of 5/12/05 and continuous presence since that date • Provide evidence of employment • Undergo security and background checks • Pay an application fee and \$1000 fine • Show he is admissible <p>Other Features</p> <p>Certain immigrants in removal proceedings or subject to final removal orders or voluntary departure agreements will have an opportunity to apply for an H-5B visa.</p> <p>A limited number of inadmissibility grounds related to unlawful status would be waived; others could be waived for humanitarian reasons. Criminal or security-related grounds of inadmissibility could not be waived.</p>	<p>DMD Requirements</p> <p>In order to qualify for Deferred Mandatory Departure (DMD), an immigrant would have to:</p> <ul style="list-style-type: none"> • Be a national of a country that has entered into a bilateral accord with the US stipulating to various requirements (see section on home country obligations) • Show physical presence for at least one year prior to 7/20/05, unlawful presence on this date, and continuous presence since that date • Show current employment • Undergo security and background checks • Pay an application fee and \$1000 fine (the fine escalates for each family member who is a derivative on the application) • Show he is admissible <p>Other Features</p> <p>Guilty Plea: Every applicant must:</p> <ul style="list-style-type: none"> • “Acknowledge” in writing and under oath that they are unlawfully present and subject to removal, and understand the terms of DMD status



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	<p>Spouses and children can apply for legal status as derivatives on the primary application, whether currently inside the US or following to join the H-5B visa applicant.</p> <p>Access to Courts and Confidentiality: The bill includes measured administrative and judicial review for H-5B applicants, as well as confidentiality protections for information provided by applicants.</p> <p>Visa Benefits</p> <p>Applicants would receive work authorization, travel permission, and protection from deportation until their cases are decided.</p> <p>A successful applicant will receive a six-year nonimmigrant visa that is not renewable, but fully portable to any job in any industry. At the end of the six years, the immigrant will have to either be in the pipeline for a green card or return home. Presumably, workers can apply for another nonimmigrant classification after six years, as the change of status bar appears to apply only during the six-year period.</p> <p>Path to Permanent Residency: YES</p> <p>H-5B nonimmigrants can apply for legal permanent residency after meeting employment requirements. These green cards will not be counted against the statutory caps on immigrant visas. An applicant must:</p>	<ul style="list-style-type: none"> • Submit any false or fraudulently-used social security numbers and documents to DHS <p>Signing Away Rights and Review: Every applicant must:</p> <ul style="list-style-type: none"> • Waive all rights to administrative and judicial review or appeal of a decision on his case (except for asylum or related protection) • Waive all rights to contest any removal action (except for asylum or related protection) • Authorize the release of any information contained in his application for law enforcement purposes <p>Access to Courts: The bill includes exceptionally limited review of decisions related to DMD applications.</p> <p>Ineligibility: Most applicants would be barred from applying if they are in removal proceedings, failed to depart voluntarily, are subject to a final order of removal, failed to comply with any request for information by DHS, or are “residents” of countries which DoS determines has repeatedly provided support for international terrorism.</p> <p>A limited number of inadmissibility grounds related to unlawful status would be waived; others could be waived for humanitarian reasons. Criminal or security-related grounds of inadmissibility could not be waived.</p>



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	<ul style="list-style-type: none"> • Reconfirm that he was employed • Undergo security and background checks as well as a medical exam • Show that he meets the English and civics learning requirements • Show proof he has satisfied outstanding tax obligations • Register for the selective service (if applicable) • Pay an additional application fee and another \$1000 fine (if 21 or over) • Show he is admissible <p>During the six-year time period, H-5B visa holders cannot apply to change their status or obtain legal permanent residency through different channels.</p> <p>Spouses and children may apply for adjustment to permanent resident status as derivatives.</p> <p>Special Considerations</p> <p>Spouses and children who are victims of domestic abuse can continue their applications for H-5B status (or if eligible, apply for such status) or legal permanent residency independent of the primary applicant.</p> <p>Students may apply for status on their own (if they meet the other criteria) by substituting education at a secondary school or institute of higher learning for the employment requirements.</p>	<p>Spouses or children of aliens applying for DMD status can be considered as derivatives on the application, although they are not authorized to work.</p> <p>The DMD program would have to be in place three months after enactment of the legislation. Applicants would have until six months post-enactment to file.</p> <p>DMD “Benefits”</p> <p>Those <i>granted</i> DMD (not those who apply) would obtain work authorization and travel permission. If they lose their jobs, they will have up to 30 days to find new ones before being required to leave or lose their status. They may only work for employers authorized to hire “W” temporary workers (see section on temporary worker program).</p> <p>DMD grantees would have up to five years to depart the US. After the first year, they will be subject to a \$2000 fee, which will increase each year to \$5000. Those who fail to leave the country after 5 years will be subject to a 10-year bar on obtaining any subsequent immigration status (except for asylum or related protection), as well as inadmissibility grounds that are waived for DMD grantees who leave on time.</p> <p>Path to Permanent Residency: NO</p> <p>There is a general prohibition on adjustment of status from within the US. Those who leave the US “on time” can apply for a nonimmigrant or immigrant visa if they qualify</p>



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	<p>The bill also includes certain employer protections. Employers of undocumented immigrants applying for status will not be penalized for having hired them as an undocumented worker. They will also be exempt from civil or criminal tax liability if payments were not made for the workers.</p>	<p>independently (for example, through a family relationship). However, the bill does not address the need for families to stay together by having an avenue to permanent status from within the US.</p> <p>Beneficiaries of 245(i) (for example, those who qualified under the LIFE Act) can adjust their status from within the US. However, the bill does not reinstate section 245(i) so that prospective applicants could adjust their status.</p> <p>Special Considerations</p> <p>The bill contains no special considerations for spouses and children who are victims of domestic abuse, students, or employers assisting undocumented immigrants applying for DMD status.</p>
<p>Family backlog reduction and green cards</p>	<p>Family-Based Immigration</p> <p>The bill would allow speedier family reunification by making the following changes to the family immigration system:</p> <ul style="list-style-type: none"> • Takes immediate relatives (spouses, minor children, and parents) of US citizens out of the cap of 480,000 visas that will apply to all other categories of family-sponsored immigrants (and redistributes the visas throughout the other preference categories) 	<p>Family-Based Immigration</p> <p>The bill makes no changes to the family-based immigration system to speed up reunification.</p> <p>Employment-Based Immigration</p> <p>The bill eliminates the “diversity visa” program, and appears to apply those 55,000 immigrant visas to the employment-based categories. The bill also captures immigrant visas that go unused in a given fiscal year due to processing delays, for use in</p>



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	<ul style="list-style-type: none"> • Lowers the income requirements for sponsoring a relative to immigrate from 125% of the federal poverty guidelines to 100% [N.B. before 1996, the immigration laws required sponsors to meet an income requirement of 100% of the federal poverty guidelines] • Allows an applicant's case to continue even if her sponsor dies <p>Employment-Based Immigration</p> <p>The bill also increases the number of immigrant visas available for workers sponsored by an employer, raising the annual cap on employment-based visas from 140,000 to 290,000. It redistributes the numbers among the existing employment-based categories (30% of employment-based visas, plus unused visas from the first four preference categories, are allocated to a re-designated <i>other worker</i> category for immigrants filling jobs that require little formal training).</p> <p>Other Provisions</p> <p>To the benefit of both family- and employment-based immigration, the bill captures immigrant visas that go unused in a given fiscal year due to processing delays, for use in the next fiscal year. It also raises the per-country immigration limits slightly.</p>	<p>the next fiscal year. It redistributes/reallocates employment-based visa numbers among the existing employment-based categories (36% of employment-based visas, plus unused visas from the first four preference categories, are allocated to a re-designated other worker category).</p> <p>Other Provisions</p> <p>It raises the per-country immigration limits slightly for family-sponsored and employment-based immigrants.</p>



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	<p>The bill allows DHS to waive the 3- and 10-year and permanent immigration bars for people who have been unlawfully present but have a pending family- or employment-based immigration petition. If an individual is granted one of these discretionary waivers, he will have to pay a fine of \$2000.</p>	
<p>Temporary worker program</p>	<p>Visa Requirements</p> <p>The bill creates a new temporary H-5A visa for foreign nationals to work in jobs that generally require little formal education. To qualify for the visa the foreign national must:</p> <ul style="list-style-type: none"> • Have an offer of employment from an eligible US employer • Undergo security and background checks, and a medical examination • Pay a \$500 fee in addition to application processing costs <p>Other Features</p> <p>Certain immigrants in removal proceedings or subject to final removal orders or voluntary departure agreements will have an opportunity to apply for an H-5A visa.</p> <p>Certain foreign nationals who were previously present in</p>	<p>Visa Requirements</p> <p>The bill eliminates the H-2B visa category and creates new temporary “W” visa for foreign nationals to work in jobs that generally require little formal education. To qualify for the visa the foreign national must:</p> <ul style="list-style-type: none"> • Be a national of a country that has entered into a bilateral accord with the US stipulating to various requirements (see section on home country obligations) • Have an offer of employment from an eligible US employer • Undergo security and background checks as well as a medical exam • Undergo a personal interview • Maintain a residence in his home country • Spend at least seven days in his home country every year • Pay a \$500 fee in addition to application processing costs



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	<p>the US without authorization and left the US can apply for an H-5A visa. Specific grounds of inadmissibility related to their unlawful status could be waived under the bill; others could be waived for humanitarian reasons. The applicant would have to pay a \$1500 fine if granted a waiver. Criminal or security-related grounds of inadmissibility could not be waived.</p> <p>Spouses and children can apply for visas as derivatives on the primary application. They will not obtain work authorization unless they qualify for their own H-5A visa. [N.B. While this is not spelled out in the bill, this is the intention of the bill’s authors. Modifications to the bill text may be required.]</p> <p>Visa Benefits</p> <p>The H-5A nonimmigrant visa is valid for three years, with one possible renewal, totaling six years of status. After the six years are over, the worker must either have an application for permanent residency pending or return home.</p> <p>The H-5A visa holder will have work and travel authorization, as well as visa “portability.” He can work for any employer in any industry at any time. If the worker leaves or loses his job, he will have 60 days to find new employment or leave the country. In this situation, the worker can obtain subsequent employment with an H-5A employer and re-enter the US, but his visa term will not be</p>	<p>Other Features</p> <p><i>Signing Away Rights and Review:</i> DHS may require every applicant to:</p> <ul style="list-style-type: none"> • Waive all rights to administrative and judicial review or appeal of a decision on his case (except for asylum or related protection) • Waive all rights to contest any removal action (except for asylum or related protection) <p>In addition, DHS shall require every applicant to authorize the release of any information contained in his application for law enforcement purposes.</p> <p><i>Access to Courts:</i> The bill includes exceptionally limited review of decisions related to W applications.</p> <p>A limited number of inadmissibility grounds related to previous unlawful status may be waived; others could be waived for humanitarian reasons. The applicant would be required to pay an additional \$500 fee for obtaining the waiver. Criminal or security-related grounds of inadmissibility could not be waived.</p> <p>Spouses and children of W visa applicants are not permitted to come and live with the visa holder in the US, but are eligible for 30-day visitor visas. These visas require applicable fees plus an additional \$100 surcharge.</p>



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	<p>extended. [N.B. While the bill text contains a 45-day rule, this is a drafting error and was intended by the bill’s authors to be 60 days.]</p> <p>There is an initial cap on H-5A visas of 400,000, but the limit fluctuates up or down based on usage. A task force is established to evaluate this and other aspects of the temporary worker program.</p> <p>How the Program Will Work</p> <p>Employers will seek US workers to fill upcoming or available positions through usual channels, and by posting the job in America’s Job Bank for at least 30 days. If they have not identified a willing and qualified US worker in that time frame, they can seek an H-5A worker by attesting to this recruitment. They must retain documentation indicating why they did not hire any US applicants.</p> <p>Foreign workers could learn of the job opportunities through a variety of means (including social relationships, labor recruiters, businesses, labor unions, Internet searches, home country migration facilitators, et cetera). The bill does not mandate how this match will take place, but it does include regulation of labor recruiters.</p> <p>The H-5A worker will enter the US with a “job offer” from the authorized employer. However, he will have full portability to change jobs once inside the US.</p>	<p>The bill exempts commuters who reside outside of the U.S. but work on a W visa from the time limitations.</p> <p>Visa Benefits</p> <p>The W nonimmigrant visa is valid for two years, after which the worker must return home for one year (and reside there continuously) before coming back to the US to work. The visa can be extended twice for a total of six years’ work authorization, spread out over a period of at least eight calendar years. After the visa has expired, the worker must return home. He cannot apply to adjust status from within the US or change his visa to another nonimmigrant classification.</p> <p>Seasonal workers and commuters are not subject to same time limitations as year-round, resident workers.</p> <p>The W visa holder will have work and travel authorization, as well as limited “portability.” He can only work for employers authorized to hire “W” temporary workers. If the worker leaves or loses his job, he will have 30 days to find new employment with an eligible employer or leave the country. In this situation, the worker can obtain subsequent employment with a W employer and re-enter the US, but his visa term will not be extended.</p> <p>There is no initial cap on the W visa program, but a task force is established to evaluate the need for an annual limitation.</p>



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	<p>Electronic Work Authorization Verification</p> <p>The bill creates a new Employment Eligibility Confirmation System that will ultimately replace the paper-based I-9 hiring system. The EECS will allow employers to check a new hire's work authorization by swiping a machine-readable document (preferred) or accessing a telephonic or electronic system that queries a SSA/DHS database. Employers will receive an answer within one business day.</p> <p>If the response is a "tentative non-confirmation" (meaning it appears that the individual is not authorized to work), the bill establishes a secondary verification process. The worker is given an opportunity to fix his SSA/DHS records. He also has the right to periodically review and verify their accuracy.</p> <p>The bill sets up a process for annual re-verification of employment authorization, to ensure that people whose work authorization is temporary do not remain employed illegally.</p> <p>Various protections are included, such as a prohibition on using the system to pre-screen applicants, manipulate its existence in order to reduce labor rights, or to terminate or suspend an employee with a tentative non-confirmation.</p> <p>The bill recognizes the fact that the EECS will not be up and running overnight. It brings immigration documents</p>	<p>How the Program Will Work</p> <p>The employer must apply for authorization to hire DMD or W workers, establish that it is a legitimate company, and agree to comply with the terms of the program. Before hiring a new worker under the W or DMD program, the employer must attest that he has posted the job position in an electronic job registry for not less than 30 days and offered the job to any eligible US worker who applies and is equally or better qualified.</p> <p>Foreign workers could learn of the job opportunities through a variety of means (including social relationships, labor recruiters, businesses, labor unions, Internet searches, home country migration facilitators, et cetera). The bill does not mandate how this match will take place.</p> <p>The W visa holder will enter the US with a "job offer" from the authorized employer. He will have limited portability to change jobs (may only work for an employer authorized to hire W workers).</p> <p>The bill creates a new Alien Employment Management System that would work with the enhanced Employment Eligibility Verification System (see below) to help employers facilitate the job match process and confirm a W visa holder's work authorization.</p>



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	<p>into compliance with the EECS 6 months after the bill's enactment, and prioritizes verification of H-5(a) workers. It also allows for an interim system to confirm employment eligibility.</p> <p>Path to Permanent Residency: YES</p> <p>H-5A visa holders can be sponsored by an employer for a green card upon entering the US. Or, after accumulating four years of work in H-5A status, they can petition for a green card on their own. An applicant must:</p> <ul style="list-style-type: none"> • Be physically present in the US • Undergo additional security and background checks • Meet English language and civics requirements or show that he is enrolled in a course to meet these requirements • Pay an application fee <p>Spouses and children may apply for adjustment to permanent resident status as derivatives on the primary application.</p>	<p>Electronic Work Authorization Verification</p> <p>The bill renames the Basic Pilot program the “Employment Eligibility Verification System (EEVS),” and makes it mandatory for all employers within twelve months of the bill’s enactment.</p> <p>It requires all workers (including US citizens) to obtain a machine-readable, tamper-proof social security card that they will present when proving work authorization to an employer. The bill does not explain exactly how the cards would be verified by the employer. It also does not address procedures needed for workers to contest inaccuracies in the government’s records.</p> <p>The bill places additional standards on the issuance of social security cards and birth certificates.</p> <p>Path to Permanent Residency: NO</p> <p>If the worker fails to depart after his period of authorized stay ends, he will face a permanent bar to immigration relief or status (except for refugee-related protection). There is a ten-day grace period.</p>
<p>Worker protections and labor law enforcement</p>	<p>Worker Protections</p> <p>The bill’s “program design” is worker-friendly. It includes:</p>	<p>Worker Protections</p> <p>The bill’s “program design” will fail to protect US and foreign workers:</p>



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	<ul style="list-style-type: none"> • True legalization of the current undocumented workforce, leading to better bargaining power in the workplace • A temporary worker program in which the worker owns the visa and can change employers if he wants better wages or working conditions • An independent path to permanent residency for H-5A temporary workers <p>The bill includes additional labor protections. It:</p> <ul style="list-style-type: none"> • Requires that H-5A workers receive the same wages, benefits, and working conditions as similarly-situated US workers • Ensures that H-5A workers have the same rights as similarly-situated US workers under applicable federal, state, and local labor, employment, and tax laws, <u>and cannot be asked to waive those rights</u> • Prohibits the treatment of H-5A workers as independent contractors, as well as the hiring of H-5A workers as replacement workers during a union strike or lockout • Prohibits employers or labor contractors from retaliating or discriminating against a complaining worker in a wide variety of circumstances • Provides employment protection to H-2B and H-5A workers who file nonfrivolous labor complaints • Registers and monitors labor recruiters; requires them 	<ul style="list-style-type: none"> • The DMD program will not put undocumented workers on sure legal footing, and ensure better treatment and exercising of their rights in the workplace • The number of visas available for the temporary worker program is not tied to economic forces, but left uncapped • Temporary workers have limitations on their portability and little time to spend looking for a new job, making them more dependent on heir initial employer • Temporary workers have no path to permanent residency <p>The bill includes a few additional labor protections. It:</p> <ul style="list-style-type: none"> • Requires that W visa holders be paid the greater of the hourly wage for the job under the Fair Labor Standards Act or the applicable state minimum wage • Increases employer sanctions, and dramatically expands the number of agents dedicated to worksite enforcement and fraud detection • Establishes a task force to evaluate the program's impact on US workers and to make recommendations about a visa cap • Encourages DoL audits of W employers



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	<p>to fully disclose information about the job and expectations; prohibits their charging fees to the workers outside of reasonable travel costs</p> <ul style="list-style-type: none"> • Provides remedies for addressing complaints about labor contractor violations • Sets forth an administrative process for workers harmed by H-5A program violations to seek remedies and damages (including both civil and criminal penalties) • Increases employer sanctions for unfair immigration-related employment practices • Applies anti-discrimination provisions in the INA to new categories of individuals (legal permanent residents, temporary residents, refugees, asylees, or H-5 workers) • Establishes a task force to review the H-5A program and make improvements • Significantly ramps up DoL audit and investigatory resources (channeling 15% of the fines and fees paid by H-5 workers to labor enforcement) 	
<p>Home country obligations, circularity</p>	<p>The bill encourages foreign countries to enter into migration agreements with the US that help control the flow of their citizens to jobs here, with emphasis on encouraging the re-integration of citizens returning home.</p> <p>The bill also encourages the US government to partner with Mexico to promote economic opportunity back home,</p>	<p>The bill requires bilateral agreements between a foreign nation and the US before its nationals can participate in either the DMD or the W visa program. In these agreements, the participating country must:</p> <ul style="list-style-type: none"> • Agree to accept its nationals who have been ordered deported within three days



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	<p>health care access at home and abroad, and to reduce the pressure to immigrate to the US.</p>	<ul style="list-style-type: none"> • Work with the US government to control illegal migration, human trafficking and smuggling, and gang activity • Provide the US government access to information about its nationals’ travel history and criminal records • Provide health insurance (unless secured by the alien himself or through the employer) • Consider providing housing for “returning workers” <p>In addition to these bilateral agreements, the bill establishes a monetary incentive for nationals to return to their home countries. It creates a Temporary Worker Investment Fund to pool certain federal taxes paid by W workers into an account that they will receive upon final return to their home countries.</p>
<p>Integration</p>	<p>Integration</p> <p>The bill’s design encourages integration by providing both current undocumented and incoming temporary workers with access to legal permanent residency and eventually citizenship.</p> <p>English Language and Civics Training</p> <p>The bill also makes learning English and US civics a requirement for both permanent visas for H-5B workers and adjustment of status for H-5A workers (currently this is a requirement for citizenship alone). To make this requirement achievable, the bill ensures that more English</p>	<p>Integration</p> <p>The bill discourages integration by making it very difficult for undocumented and temporary workers to stabilize their immigration status and eventually become citizens.</p> <p>English Language and Civics Training</p> <p>No provisions.</p>



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	<p>language and civics classes will be available for all immigrants. It creates a public-private foundation under the USCIS Office of Citizenship to support programs that promote citizenship, and to fund civics and English language instruction for immigrants. The bill dedicates 3% of the money raised in applicants' fines and fees towards these programs.</p> <p>Health Care</p> <p>The bill promotes immigrant access to health care, and includes reimbursements to hospitals for emergency care provided to H-5 and undocumented immigrants (dedicating 2% of H-5A and H-5B applicants' fees and fines to this reimbursement). It also encourages the US government to work with Mexico on health care access so that the US is not unfairly impacted with the costs of administering health care to Mexican nationals.</p> <p>Program Information</p> <p>The legislation also authorizes using up to 1% of the fees and fines collected under the H-5 programs to pay for community education about these new benefits.</p> <p>It includes extensive regulation of entities providing immigration advice and representation, including minimum accreditation, training, and service requirements for such organizations, and enhanced penalties for the unauthorized practice of law.</p>	<p>Health Care</p> <p>Participating countries are required to provide minimum health care for their nationals, but if they do not, the employer of the alien or the workers must secure it.</p> <p>Program Information</p> <p>The bill appropriates money to the DOJ Office of Justice Programs to provide grants to nonprofit community organizations for public education campaigns around the new worker program and the dangers of obtaining advice from people not authorized to provide legal representation.</p>



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Border enforcement	<p>The bill takes a comprehensive look at our border enforcement regime and evaluates strengths and areas for improvement. Specifically, it:</p> <ul style="list-style-type: none"> • Requires a complete evaluation of our current border enforcement strategy and law enforcement deployments, technologies, communication, and coordination capabilities, as well as the development of a national plan going forward • Involves and coordinates with international partners, state and local law enforcement, and other first responders when appropriate • Requires a plan on the use of aerial surveillance technologies • Tracks Central American gang activities and shares information with receiving countries about deported foreign nationals • Places greater priority on federal-state-local efforts to combat human smuggling • Establishes multilateral partnerships to make real a North American security perimeter, improve information-sharing between North American governments, and enhance border security south of Mexico • Creates a border advisory committee to evaluate and make recommendations on border initiatives 	<p>The bill includes a wide variety of border enforcement authorities, in many cases further curtailing immigrants' rights. Specifically, it:</p> <ul style="list-style-type: none"> • Expands expedited removal to the entire southern border (allowing immigration officers to summarily deport immigrants, including those fleeing persecution, without the opportunity to see a lawyer or a judge) • Sets mandatory bond minimums for certain aliens from non-contiguous countries apprehended along the land borders • Permits the Border Patrol to establish additional checkpoints on roads "close to the borders" • Authorizes DHS to deny entry to any person whose country does not accept the prompt removal of its nationals • Denies entry to aliens who have failed to submit biometric data at any time when seeking to enter, exit, transit through, or be paroled into the US (regardless of whether it was their fault or not) • Cancels all visas in the possession of an alien who fails to depart on time • Authorizes 10,000 Border Patrol agents and 1,250 Customs and Border Protection officers • Increases funding for border security technology and physical structures, including \$5 billion for border facilities (among other authorizations)



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	<p>The bill directs the majority of money collected in fines and fees from H-5 workers to DHS, a portion of which will be used to fund these border security initiatives.</p>	<ul style="list-style-type: none"> • Authorizes \$50 million in grants for American Indian Tribes on the border to facilitate border patrol access to their lands <p>In addition to these new authorities, the bill relies strictly on appropriations to fund its enforcement. Billions of dollars are authorized for appropriations in the border enforcement title alone.</p>
<p>Interior enforcement</p>	<p>The bill prioritizes its interior muscle on bad-actor employers who would still evade the law after being given access to a functioning legal system. Through establishment of the electronic work authorization system, the legislation makes it impossible for employers to claim they didn't know a worker was undocumented, and therefore avoid increased sanctions. Robust new labor law enforcement resources and back-end auditing authority will assist in enforcing immigration and labor laws in the workplace.</p> <p>There will be less need for enhanced interior enforcement when the job magnet is shut off for undocumented workers. However, significant resources will be available to boost immigration agents and initiatives in the interior, as the majority of the fees and fines paid by H-5 workers will go to DHS.</p>	<p>The bill includes a wide variety of interior enforcement authorities that mostly target workers instead of bad-actor employers. Specifically, it:</p> <ul style="list-style-type: none"> • Bars W or DMD immigration status to anyone who has overstayed a visa or entered without inspection for 10 years • Expands the authority for DHS to detain immigrants for a prolonged period or indefinitely • Restricts judicial review of visa revocations • Increases criminal penalties for smuggling, transporting, and harboring undocumented immigrants, as well as penalties related to document fraud • Increases mandatory minimum penalties for undocumented immigrants convicted of "crimes of violence," drug trafficking, or gang-related offenses • Clarifies authority of DHS to delay judgment on an immigration benefit application or issuance of evidence of status/work/travel authorization until all appropriate background checks are complete



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		<ul style="list-style-type: none"> • Authorizes DHS to deny a benefit to anyone who may pose a threat to national security • Strips opportunity for review or relief for people subject to reinstatement of removal • Shrinks the maximum time allowed for voluntary departure from 120 days to 30 days • Creates new grounds of inadmissibility/deportability for people who are members of criminal street gangs • Requires DHS to implement pilot programs for alternatives to detention in every state • Increases detention bed capacity by 10,000 above the 40,000 authorized in the intelligence reform bill, and encourages DHS to use military installations approved for closure for immigration detention • Adds 1,000 DHS investigators, 500 DHS trial attorneys, 250 DOJ immigration judges, 250 attorneys for the DOJ Office of Immigration Litigation, and 250 Assistant US Attorneys to litigate immigration cases • Authorizes \$25 million to automate alien records
State and local enforcement of immigration laws	<p>The bill establishes an appropriate level of coordination between federal immigration authorities and state and local police on issues related to border vigilance, first responders, and criminal enforcement.</p> <p>It authorizes billions of dollars to reimburse states under the State Criminal Alien Assistance Program, and creates new reimbursement programs to fund indirect criminal</p>	<p>The bill enlists state and local police in everyday immigration law enforcement, an idea that has been discredited and rejected by scores of local police departments. Specifically, it:</p> <ul style="list-style-type: none"> • Confers legislative authority on state and local police to enforce federal immigration laws (currently, most believe that state and local police can assist in criminal matters but not in the enforcement of federal civil laws)



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	<p>justice system costs associated with foreign nationals who are charged with or convicted of crimes.</p> <p>It includes a savings clause providing that nothing in the section relating to state/local assistance may be construed to provide state or local entities with any additional authority to enforce immigration laws.</p>	<ul style="list-style-type: none"> • Mandates the entry of certain immigration “violators” into the National Crime Information Center database for local police arrest (i.e. people with a final order of removal, subject to a voluntary departure agreement that has expired, or whose visas have been revoked). This information shall be entered regardless of whether the individual received notice of the deportation order and/or has already been removed • Invalidates state and local policies (“confidentiality” policies) which limit police enforcement of immigration laws to criminal matters • Requires states and localities to provide DHS with extensive information about foreign nationals who are believed to be in violation of immigration laws • Extends the Institutional Removal Program and places mandatory response requirements on DHS when state and local enforcement identify undocumented criminals that are incarcerated. Finally, it authorizes state and local authorities to detain individuals beyond completion of their sentences for the purpose of transfer to federal custody • Authorizes billions of dollars to reimburse states under the State Criminal Alien Assistance Program, and a new program to fund indirect criminal justice system costs associated with foreign nationals who are convicted of crimes • Promises state and local police officers immunity for civil rights and other abuses committed while attempting to enforce immigration laws