

**Specter  
Chairman's Mark**

**McCain-Kennedy  
Secure America and Orderly  
Immigration Act**

**TREATMENT OF UNDOCUMENTED IMMIGRANTS**

- 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
- No path to a green card and U.S. citizenship (the immigrant could apply through “normal channels,” and wait decades or longer for status)

- 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
- 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

**TEMPORARY WORKER PROGRAM**

- 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
- 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
- Status tied to employment; portability limited to employers that pass the labor market test to hire a new temporary worker
- No path to a green card and U.S. citizenship (the immigrant could apply through “normal channels,” and wait decades or longer for status)

- 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
- 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
- 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
- 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

## FAIRNESS FOR FAMILY IMMIGRATION

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| <ul style="list-style-type: none"><li>● 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</li><li>● Fails to remove unnecessary obstacles in current law that separates families.</li></ul> | <ul style="list-style-type: none"><li>● 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</li><li>● 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.</li></ul> |
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## ENFORCEMENT

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| <ul style="list-style-type: none"><li>● Many of the enforcement provisions, if implemented before the reforms for the undocumented, would have the effect of barring eligible workers from status</li><li>● Makes undocumented immigrants into criminals that state and local police can arrest</li><li>● Expands the definition of “alien smuggling” beyond any common-sense notion</li><li>● Makes it harder for long-time legal residents to become citizens, applying changes to the law retroactively and giving DHS unchecked power to deny citizenship</li><li>● Denies refugees and battered immigrants protection for having used fake documents to flee an oppressor</li><li>● Makes any immigrant deportable for forgetting to include a piece of information in an immigration application, no matter how irrelevant</li><li>● 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</li><li>● Undercuts a Supreme Court decision and permits the indefinite detention of foreign-born people whose home countries will not take them back</li><li>● Further expands mandatory minimums instead of restoring judges’ discretion to punish</li><li>● 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</li></ul> | <ul style="list-style-type: none"><li>● Expands resources for labor law enforcement through applicants’ fees and fines</li><li>● Expands resources for interior and border enforcement through applicants’ fees and fines</li><li>● Increases employer fines and penalties for labor violations</li><li>● Proposes a national border security strategy that evaluates and deploys needed resources, improves communication with federal, state, and local partners</li><li>● Harmonizes security strategies and policies with our North American neighbors and migrant-sending regions</li><li>● Tracks and shares information on Central American gang activities</li><li>● Improves reimbursement schemes to state and local governments that are disproportionately impacted by being along the border</li><li>● Fights immigration benefits fraud and abuse through licensing, training, and monitoring of immigration law practitioners</li></ul> |
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