

Comparison of Immigration Enforcement, Guest Worker, and Amnesty Bills in the 109th Congress

	S. 1033 Sen. McCain	S. 1438 Sen. Cornyn	S. ____ Sen. Specter	H.R. 4437 Rep. Sensenbrenner
BILL TITLE	SECURE AMERICA AND ORDERLY IMMIGRATION (SAOI) ACT OF 2005	COMPREHENSIVE ENFORCEMENT AND IMMIGRATION REFORM (CEIR) ACT OF 2005	COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006	BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005
Amnesty ¹ provisions?	YES	YES	YES	NO
What type ² of amnesty?	<p style="text-align: center;">MULTI-STEP CITIZENSHIP AMNESTY</p> <p>Step 1: Illegal aliens would pay a \$1,000 fine to apply for a temporary H-5B nonimmigrant visa and work permit.</p> <p>Step 2: After being employed as H-5B workers for six years, they would pay another \$1,000 to adjust to lawful permanent resident (LPR) status and the path to citizenship.</p>	<p style="text-align: center;">TEMPORARY REWARD AND EXIT AMNESTY</p> <p>Temporary Reward: Illegal aliens who come forward and sign up would receive permission to stay and work in the United States for up to five years (Deferred Mandatory Departure status).</p> <p>Exit Amnesty: Illegal aliens would have to leave the United States within five years in order to apply to return as guest workers.</p>	<p>REWARD AMNESTY—virtually all of the 10.2 million illegal aliens estimated to be in the United States as of January 1, 2004, would be rewarded with exactly what they broke U.S. law to obtain: permission to work in the United States indefinitely. A significant number of the estimated 1.2 million illegal aliens who have entered the United States since Jan. 1, 2004, along with some of those who enter in the future, also would likely be able to obtain amnesty through fraud. (Experts have found that the fraud rate in the 1986 amnesty was as high as 70 percent.)</p>	N/A
Who would qualify for amnesty?	<p>Illegal aliens who: have been in the United States illegally since May 12, 2005; have been employed illegally since that date (except that minors must show they have been in school during this period); are not national security threats, polygamists or child abductors; have not been convicted of a crime, other than prostitution or vice, in the United States. The spouse and children of such aliens also qualify for LPR status. Illegal aliens</p>	<p>Illegal aliens would be eligible for Deferred Mandatory Departure status if they: were illegally present in the United States on July 20, 2004, and have been here since then; were employed prior to July 20, 2005, and have been employed since then; are admissible except for prior unlawful work and unlawful presence; have not engaged in persecution of others; are not subject to a final order of removal; have not failed to depart when granted voluntary</p>	<p>Any illegal alien who:</p> <ul style="list-style-type: none"> \$ was employed in the United States on Jan. 4, 2004, and has been employed since then; \$ is admissible, except that the requirement that aliens coming to work are certified as needed by the Labor Department (DOL), most prior immigration and document violations, and the three-year/10-year bars on reentry do not apply, and 	N/A

	<p>seeking H-5B status would not be required to undergo health screenings to detect communicable or other diseases; nor would they be required to provide proof of immunizations.</p>	<p>departure; are not residents of state sponsors of terrorism; and apply within six months of the date of enactment.</p>	<p>certain other grounds of inadmissibility may be waived;</p> <p>§ is not subject to a final order of removal, has not failed to depart after being granted voluntary departure, has complied with any DHS request for information, and has not been served a notice to appear;</p> <p>§ applies within one year of enactment;</p> <p>§ waives the right to appeal DHS's decision on his/her amnesty application or to contest any removal action other than by claiming asylum;</p> <p>§ agrees to the release of any of the information on the application for law enforcement purposes;</p> <p>§ can obtain a signed affidavit from his/her employer attesting to current employment;</p> <p>§ acknowledges in writing that he/she is unlawfully present and removable and provides DHS any social security number/card and any other false/fraudulent document the alien has; and</p> <p>§ can get his/her employer to pay a \$500 application fee.</p> <p>Illegal aliens applying for amnesty <u>may</u> also be asked to undergo a medical exam and must establish that they have paid all income taxes owed for work prior to Jan. 4, 2004 (or have a payment agreement with the IRS).</p> <p>Spouses and children of amnestied aliens are to be granted amnesty, as well, but are not to be authorized to work in the United States and must submit an extra fee of \$100 per family member.</p>	
<p>Estimated number of illegal aliens who could qualify for amnesty?</p>	<p>Most of the 7.1 million adult illegal aliens estimated to have been working in the United States as of May 12, 2005, plus an estimated 3.6 million non-working spouses and minor children, could qualify.³</p>	<p>Most of the 6.7 million adult illegal aliens estimated to have been working in the United States as of July 20, 2004, plus an estimated 3.6 million non-working spouses and minor children, could qualify.</p>	<p>An estimated 6.7 million illegal aliens who were employed as of Jan. 1, 2004, plus an estimated 3.5 million non-working spouses and minor children, for a total of 10.2 million, could qualify for amnesty under the Specter plan.</p>	<p>N/A</p>

<p>Legal protections for amnesty applicants?</p>	<p>§ Once an illegal alien files an amnesty application, neither the alien nor his spouse or children may be detained, determined to be inadmissible or deportable, or removed until a final decision on the application is made.</p> <p>§ Upon filing an application for amnesty, illegal aliens must be granted employment authorization and permission to travel abroad until a final decision on the application is made.</p> <p>§ Illegal aliens apprehended after the date of enactment but before the promulgation of implementing regulations who can establish prima facie eligibility for amnesty must be allowed to stay and apply.</p> <p>§ Illegal aliens who are in removal proceedings must be allowed to apply for amnesty.</p> <p>§ Illegal aliens who have been ordered excluded, deported, removed, or to depart voluntarily, but who are still present in the United States, must be allowed to apply for amnesty.</p> <p>§ Illegal aliens have the right to appeal the denial of their amnesty application first to USCIS in an administrative process, and then to the Federal courts of appeal.</p> <p>§ Illegal aliens also have the right to sue DHS in Federal district courts if they can allege a pattern or practice at DHS that is arbitrary or capricious.</p> <p>§ Illegal aliens seeking administrative or judicial review of a denial may not be removed until a final determination establishing ineligibility is rendered.</p> <p>§ Information provided by illegal aliens in their amnesty applications may not be used for anything except adjudicating the application unless a law enforcement entity requests such information in writing about one or more specific individuals in connection with a criminal investigation.</p>	<p>No special protections.</p> <p>In order to qualify for Deferred Mandatory Departure status, illegal aliens would be required to sign a waiver of any right to administrative or judicial review or appeal of an immigration officer's determination of the alien's eligibility, or to contest removal other than on the basis of an asylum claim.</p>	<p>"Conditional nonimmigrant" status may be terminated by DHS if DHS determines that the illegal alien was not eligible to begin with or if the illegal alien commits an act that makes him/her removable (other than those acts committed prior to application). Amnestied aliens who are unemployed for 45 days or more are ineligible to work in the United States again until they have left the country and reentered.</p> <p>Amnesty applicants may not be detained, found inadmissible or deportable, or removed pending adjudication of the application unless the alien, through conduct or criminal conviction, becomes ineligible for amnesty.</p>	<p>N/A</p>
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<p>Amnesty for employers of illegal aliens?</p>	<p>The bill specifically protects the employers of the illegal aliens who apply for amnesty. Such employers would be exempt from civil and criminal tax liability and from civil and criminal liability under immigration law.</p>	<p>No special provision.</p>	<p>The Specter proposal does not address this directly, though it certainly implies that employers would be pardoned for hiring illegal aliens, so long as those aliens came forward and applied for amnesty. Amnesty applicants are required to provide an affidavit from their current employer, who must admit he/she is violating the law by hiring the alien. Employers would have no reason to comply unless they would be protected against prosecution.</p>	<p>N/A</p>
<p>Funding for amnesty program?</p>	<p>The bill authorizes the appropriation of such funds as may be necessary to carry out the amnesty.</p>	<p>The bill authorizes \$1 billion to carry out the exit amnesty and earmarks application fees to pay for activities to identify, locate, or remove illegal aliens.</p>	<p>States and localities may deem amnestied aliens ineligible for public assistance. As nonimmigrants, amnestied aliens would be ineligible for most non-emergency federal public assistance.</p> <p>However, the Specter plan establishes grant programs to:</p> <ul style="list-style-type: none"> § provide "such sums as may be necessary" in 2007 through 2009 for "non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding the provisions" of the Specter plan; educate immigrant communities regarding the individuals and organizations that can provide authorized legal representation; educate interested entities regarding the requirements for obtaining nonprofit recognition and accreditation to represent immigrants; educate interested parties regarding the process for obtaining amnesty; § provide "such sums as may be necessary to carry out the mission of the Office of Citizenship" within USCIS, including the establishment of a 501(c)(3) United States Citizenship and Immigration Foundation to support the functions of the Office of Citizenship within USCIS by accepting/soliciting 	<p>N/A</p>

			charitable donations and making donations to the Office of Citizenship; and § provide “such sums as may be necessary” to nonprofit organizations, including religious groups, to promote civics and English-as-a-second-language education.	
Guest worker provisions?	YES	YES	YES	NO
Modifies existing guest worker program(s)?	NO	The bill repeals the H-2B nonimmigrant category, since the new W category encompasses these unskilled workers.	<p>F Student Visas—Modifies the F nonimmigrant student visa to permit an alien to be issued an F visa in order to engage in temporary employment for optional practical training related to the alien’s area of study for up to 24 months.</p> <p>Adds an F-4 visa for aliens who have been accepted and plan to attend a graduate program in math, engineering, technology, or the physical sciences in order to obtain an advanced degree. Expands the circumstances under which an F visa holder may work off-campus in a position unrelated to the alien’s field of study.</p> <p>H-1B Visas—Adds 50,000 additional H-1B visas in the first fiscal year after enactment; and exempts from the H-1B cap aliens who earn advanced degrees in science, technology, engineering, or math.</p> <p>Establishes a sliding cap on H-1B visas, so if the cap is hit in a given year, the cap for the following year goes up to 120 percent of the existing cap. If the cap is not reached, the cap does not change in the subsequent year.</p>	N/A
Creates new guest worker program(s)?	The bill creates a new “H-5” nonimmigrant visa category that is supposed to have two subcategories: ⁴ 1. H-5A visas: § Are for foreign workers who do not qualify under one of the existing	The bill creates a new “W” nonimmigrant category for workers who do not qualify for H-1, H-2A, L, O, P, or R nonimmigrant visas. Aliens seeking W visas must: § Establish that they are capable of	Creates a new H-2C nonimmigrant category for aliens coming to the United States to perform temporary labor or services not covered by other nonimmigrant categories, if unemployed U.S. workers capable of performing the work cannot be found,	N/A

	<p>guestworker programs, who provide evidence of employment in the United States, who pay a \$500 fee and undergo a health exam, and who apply from abroad;</p> <p>§ Permit spouses and children to accompany workers to the United States;</p> <p>§ Are valid for three years and may be renewed once for a consecutive total of six years;</p> <p>§ Require the alien to return home after six years in order to apply for a subsequent H-5A visa;</p> <p>§ Permit the worker to travel outside the United States and to change employers at will;</p> <p>§ Require the alien to return home if he is unemployed for 45 or more consecutive days, though he may reenter on the same visa for however long it remains valid if he again finds employment.</p> <p>2. H-5B visas (Amnesty):</p> <p>§ H-5B visas are exclusively for aliens present in the United States illegally (see the Amnesty section above for eligibility criteria).</p>	<p>performing the work required;</p> <p>§ Prove that they have a job offer from a qualified employer;</p> <p>§ Pay a fee of \$500, in addition to the normal visa fees;</p> <p>§ Undergo a medical examination;</p> <p>§ File an application and provide information about their health, criminal history, gang membership, immigration history, involvement with groups or people engaged in terrorism, genocide, persecution, or who seek the overthrow of the U.S. government, voter registration history, and tax history;</p> <p>§ At the discretion of DHS, sign a waiver of any right to administrative or judicial review or appeal of an immigration officer's determination of the alien's eligibility, or of any removal action other than on the basis of an asylum claim; and</p> <p>§ Sign a certification that all the information provided on the application is true and correct, and that the alien authorizes the release of any of that information for law enforcement purposes.</p> <p>W workers are to be admitted for a period of two years, after which they must return to their home country for at least one year. No alien may reside in the United States as a W nonimmigrant for longer than a total of six years.</p> <p>Neither aliens who spend less than six months a year in the United States, nor aliens who commute each day from abroad as W nonimmigrants are subject to the time limits listed above.</p> <p>Aliens granted Deferred Mandatory Departure who leave the United States and apply to re-enter as W nonimmigrants may not work in the United States for more than a total period of seven years from when they register for Deferred Mandatory Departure.</p> <p>Family members are not permitted to</p>	<p>along with the spouse and minor children of such aliens. This new category would go into effect one year after enactment and be available to any aliens then outside the United States. H-2C workers would be permitted to work in the United States for three years, and they would be allowed to apply for one three-year extension, for a total of six years, after which they must leave the country for at least one year.</p> <p>In order to qualify for an H-2C visa, an alien must:</p> <p>§ establish that he every she has a job offer from an employer who has satisfied the requirements relating to petitions;</p> <p>§ pay a \$500 fee in addition to the normal visa processing fee;</p> <p>§ undergo, at his every her own expense, a medical exam;</p> <p>§ submit an application indicating physical and mental health, criminal history and gang membership, immigration history, involvement with terrorists; and</p> <p>§ certify that all information provided is true and may be released for law enforcement purposes.</p> <p>DHS may waive prior immigration violations and it may waive certain other grounds of inadmissibility for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.</p> <p>No H-2C visa may be issued and no H-2C nonimmigrant may be admitted until all appropriate background checks have been completed.</p> <p>H-2C workers are prohibited from changing to another nonimmigrant status, but they are not prohibited from adjusting to lawful permanent residence.</p>	
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<p>Numerical limits on affected guest worker program(s)?</p>	<p>H-5A Program</p> <p>§ Initially, the annual cap on H-5A visas would be 400,000. If employers used all the visas in the first quarter of any year, the cap would increase by 20 percent immediately and by 20 percent for the following year. If the visas were all used in the first half of a year, the cap would increase by 15 percent immediately and by 15 percent the following year. If the visas were all used during the third quarter of a year, the cap would increase by 10 percent immediately and by 10 percent the following year. If the visas were used by the end of the year, the cap would increase by 10 percent the following year, and if the visas are not all used, the cap would decrease by 10 percent the next year.</p> <p>§ 50,000 visas are reserved during the</p>	<p>NONE</p>	<p>NONE</p> <p>Establishes a task force to study the impact of H-2C workers on US wages, working conditions and employment, and to make recommendations on whether an annual numerical limit is needed.</p>	<p>N/A</p>

	<p>first half of each year for non-metropolitan counties that have lost 20 percent of their population in the past 20 years.</p> <p>H-5B Program</p> <p>§ No numerical limit.</p>			
<p>Protections for U.S. workers (U.S. citizens and legal residents) from guest worker programs?</p>	<p>§ Requires employers wanting to hire H-5A nonimmigrants to attest that they have posted the job opening in America's Job Bank for at least 30 days, and to maintain for at least one year records showing why they did not hire U.S. workers who applied.</p> <p>§ Requires employers of H-5A workers to verify the work eligibility of all H-5A workers (but not of any other workers) through an electronic verification system.</p> <p>§ Permits the Labor Department to initiate an investigation of an H-5A employer if there is "reasonable cause" to believe a violation has occurred, but not if the only problem is "lack of completeness or obvious inaccuracies" in the employer's petition for H-5A workers.</p> <p>§ Prohibits employers from hiring H-5A workers to break a strike or lockout that involves U.S. workers in the same occupational classification and at the same place of employment as the alien.</p> <p>But:</p> <p>§ Because illegal aliens must be employed from May 12, 2005, until they are granted H-5B visas, and remain employed in order to adjust to permanent resident status, they have, and will continue to have, a strong incentive to work at any wage level, under any conditions. Their presence in the labor force is thus virtually certain to suppress wages and working conditions for U.S. workers for at least the next six years.</p>	<p>Employers may not be authorized to hire W workers until they submit an attestation stating that:</p> <p>§ The job has been posted on a national, electronic job registry for at least 30 days;</p> <p>§ The employer has offered the job to any U.S. worker who is qualified;</p> <p>§ The worker will be paid at least the minimum wage; and</p> <p>§ Employment of the foreign worker will not adversely affect the working conditions of similarly situated Americans.</p>	<p>Employers of H-2C nonimmigrants must attest that employment of the worker will not adversely effect the wages and working conditions of US workers; that it did not and will not cause the separation from employment of a US worker within the 180-day period beginning 90 days before the date on which the petition is filed; and that the worker will be paid the greater of the actual wage paid to similarly situated workers or the prevailing wage.</p> <p>All workers at the place of employment must be provided the same working conditions and benefits. An H-2C worker may not be employed during a strike, lockout or work stoppage. If the worker's job is not covered by State workers' compensation law, the employer must provide insurance that is equivalent to workers' compensation law.</p> <p>Employers must provide notice of the filing of a petition for an H-2C worker to the bargaining representative or to the other employees.</p> <p>Unless the Labor Department has determined that there is a labor shortage in the occupation and area of intended employment, the employer must demonstrate good faith efforts to recruit US workers, including recruitment efforts from 90 days before the petition is filed to 14 days before the petition is filed, and the efforts must include the actual wage to be paid.</p> <p>Employers must make a copy of each petition available to the public, and provide a copy to the worker and the</p>	<p>N/A</p>

	<p>§ Employers of formerly illegal H-5B workers do <u>not</u> have to offer the jobs to U.S. workers, attest that they will pay equal wages or benefits, or use the verification system to confirm the work eligibility of new hires.</p>		<p>Labor Department. Employers must retain a copy for five years after the petition is filed.</p> <p>The employer must notify the Labor Department within three days if the H-2C worker is separated from his job.</p> <p>The Labor Department is authorized to audit any approved petition and may disqualify an employer who violates any provision from importing additional nonimmigrant workers for up to three years.</p> <p>DHS is required to establish an alien employment management system to track the employment of H-2C workers and provide employers an opportunity to recruit US workers before hiring an H-2C.</p> <p>The Labor Department is required to manage an electronic job registry, on which an employer petitioning for an H-2C worker must post the job announcement for at least 30 days</p>	
<p>Wage requirements for guest workers?</p>	<p>§ Employers of H-5A workers must attest that they will pay “the same wages, benefits and working conditions” they provide U.S. workers in the same occupation at the same place of employment.</p> <p>§ Employers of H-5B workers must pay at least the minimum wage.</p>	<p>Minimum wage.</p>	<p>The greater of actual wages or prevailing wages, which, in a saturated labor market, will slide toward minimum wage.</p>	<p>N/A</p>
<p>Path to U.S. citizenship for future guest workers?</p>	<p>YES</p> <p>§ Employment-based immigrant visas (i.e., green cards) are to be made available without limit to H-5A workers whose employers file a petition on their behalf at any time while they are in the United States and to H-5A workers who self-petition after working as an H-5A for at least four years. H-5A workers wanting to adjust to permanent residence must demonstrate the same level of English proficiency and U.S. history and civics knowledge as is</p>	<p>NO</p>	<p>Not automatic, but H-2C workers can apply for adjustment to LPR status if they qualify.</p>	<p>N/A</p>

	<p>required for naturalization or that they are pursuing a course of studies that will allow them to meet those requirements. Three to five years after becoming lawful permanent residents, these workers will be eligible for U.S. citizenship.</p> <p>§ H-5B workers also are to be granted permanent resident status without numerical limits once they have had H-5B status for six years, and are employed (or in school), have had a health exam, have no tax liability from when they were working illegally (or are in the process of paying the back-taxes owed, and have a basic understanding of English and U.S. history and civics. Their spouses and children are to be adjusted to permanent resident status, as well.</p>			
Changes in legal, permanent immigration levels?	YES	YES	YES	YES
Increase due to amnesty?	<p>Most of the 7.1 million adult illegal aliens estimated to have been working in the United States as of May 12, 2005, plus an estimated 3.6 million non-working spouses and minor children, could qualify.</p>	N/A	<p>While the amnestied aliens would be permitted to live and work in the United States indefinitely, they would not be given a direct path to LPR status.</p>	N/A
Change in family-based immigration?	<p>The family-preference quota would increase by 400,000 or more in the first year and by a minimum of 254,000 each year thereafter (§601).</p>	N/A	<p>Increases the cap on family-sponsored immigrant visas by 254,000 plus the difference between the number of such visas authorized to be issued since 2001, less the number actually issued since 2001.⁴</p> <p>Reallocates family-preference visas as follows:</p> <p>§ Unmarried sons and daughters of citizens = 10 percent of cap of 480,000;</p> <p>§ Spouses and unmarried sons and daughters of LPRs = 50 percent (of which 77 percent must be issued to the spouses and minor children of LPRs) of</p>	N/A

			<p>cap of 480,000;</p> <p>§ Married sons and daughters of citizens = 10 percent of cap of 480,000; and</p> <p>§ Brothers and sisters of citizens = 30 percent of cap of 480,000.</p>	
<p style="text-align: center; color: red;">Change in employment-based immigration?</p>	<p>The employment-based visa cap would increase by 150,000 to 290,000 from 140,000 each year (§601). This cap would be exceeded to the extent that H-5A workers seeking permanent residence in a year outnumbered visas available under the cap (§306).</p>	<p>The bill increases the annual cap on employment-based visas by the number of employment-based visas that were “unused”³ in fiscal years 2001 through 2005. While data for 2005 are not yet available, the total number of employment-based visas not issued to employment-based immigrants in 2001 through 2004 was almost 147,000.</p>	<p>An F-4 visa holder who successfully earns a doctorate degree in a listed field and is employed full time in the US in a job in the listed field is automatically eligible for adjustment to lawful permanent resident status.</p> <p>Authorizes any F visa holder to apply to adjust to lawful permanent resident status if an immigrant visa is available.</p> <p>Permits immediate adjustment of status to lawful permanent residence of students of math, engineering and science if they submit a \$1,000 fee.</p> <p>Exempts from numerical limitations aliens who earn an advanced degree in science, technology, engineering or math and have been working in a related field in the United States under a nonimmigrant (e.g., H-1B) visa during the three-year period before they apply for an employment-based permanent visa.</p> <p>Exempts from numerical limitations aliens with extraordinary ability, outstanding professors and researchers, and physicians who agree to work in a location designated by HHS as having a shortage of health care professionals.</p> <p>Exempts from the employment-based visa cap the “immediate relatives” of all employment-based immigrants.</p> <p>The above three exemptions are to apply to new and pending applications for employment-based visas.</p> <p>Grants blanket labor certification for aliens with advanced degrees in science, technology, engineering, and math from</p>	<p style="text-align: center;">N/A</p>

			<p>an accredited US university who are members of professions requiring such degrees.</p> <p>More than doubles the cap on employment-based visas to 290,000 from 140,000, and attempts the same slight of hand as is used to capture "unused" family-sponsored immigrant visas. ⁴ Makes the exemption from the employment-based cap for family members of employment-based immigrants retroactive to October 1, 2004, so that tens of thousands more "unused" visas will be available.</p> <p>Reallocates employment-based visas as follows:</p> <ul style="list-style-type: none"> § Priority workers = 15 percent of cap of 290,000; § Professionals with advanced degrees or aliens of exceptional ability = 15 percent of cap of 290,000; § Skilled workers (i.e., those with two years' experience or training) = 35 percent of cap of 290,000; § Investors = five percent of cap of 290,000; and § Unskilled workers = 30 percent of cap of 290,000. <p>Special Immigrants would be exempted from the numerical limits.</p>	
Change in Visa Lottery?	N/A	The bill eliminates the Visa Lottery, which awards 55,000 visas each year through a random drawing.	N/A	Eliminates the Visa Lottery.
BORDER ENFORCEMENT PROVISIONS?	MINIMAL	YES	YES	YES
ADDITIONAL INSPECTORS?			Authorizes 250 additional inspectors each year from 2007 through 2011.	Authorizes 250 additional inspectors each year from 2007 through 2010.
FENCING?			Requires a study of the need for fencing.	Requires construction of 700 miles of double-layer fencing in populated border areas.
US VISIT			Requires DHS within six months of enactment to provide Congress a	Requires DHS within one year of enactment to provide Congress a

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IMPLEMENTATION?			<p>timeline for full implementation of the entry and exit components of US VISIT at every port of entry, and for making interoperable all immigration screening systems operated by DHS.</p>	<p>timeline for full implementation of the entry and exit components of US VISIT at every port of entry, and for making interoperable all immigration screening systems operated by DHS. Also requires the collection and storage of 10 fingerprints from each alien processed through US VISIT, rather than the current two fingerprints.</p>
INTERIOR ENFORCEMENT PROVISIONS?			YES	YES
MANDATORY WORK ELIGIBILITY VERIFICATION?			<p>Within six months of enactment, all employers designated by DHS as critical infrastructure facilities and those directly related to national security or homeland security must verify the work eligibility of all employees.</p> <p>DHS also may require any other employer or class of employers to verify the work eligibility of new hires within six months of enactment.</p> <p>Within two years of enactment, employers with more than 5,000 employees must verify the work eligibility of new hires.</p> <p>Within three years of enactment, employers with between 1,001 and 5,000 employees must verify the work eligibility of new hires.</p> <p>Within four years of enactment, employers with more than 250 employees must verify the work eligibility of new hires.</p> <p>Within five years of enactment, all employers must verify the work eligibility of new hires.</p> <p>At no point do employers have to go back and verify all employees, which means all employed illegal aliens will be grandfathered in, until they attempt to switch jobs.</p>	<p>Within two years of enactment, all employers must verify the work eligibility of new hires through the Basic Pilot.</p> <p>Within three years of enactment, all federal, state, and local government agencies, employers in federal, state, or local facilities, and critical infrastructure facilities must verify the work eligibility of all employees through the Basic Pilot.</p> <p>Within six years of enactment (but beginning on a voluntary basis two years after enactment), all employers must verify the work eligibility of all employees through the Basic Pilot.</p>
MANDATORY FEDERAL COOPERATION WITH			NO Requires states to submit a written	Requires DHS to produce and pay for a training manual and a pocket guide to instruct state and local law

STATE EVERY LOCAL POLICE?			request to DHS to have aliens taken into federal custody.	enforcement personnel in the investigation, identification, apprehension, arrest, detention, and transfer to federal custody of aliens. Establishes federal grants for states and localities that assist in the enforcement of immigration laws.
EXPANSION OF EXPEDITED REMOVAL?			NO	Directs DHS to use expedited removal for aliens from noncontiguous countries who are apprehended within 100 miles of the border and who entered illegally within 14 days of apprehension. Authorizes DHS to use expedited removal for aliens convicted of criminal offenses who entered illegally, have no asylum claim, and are ineligible for relief from removal.
ADDRESSES SANCTUARY POLICIES?			NO	Eliminates SCAAP funding for any state or locality with a sanctuary policy in place two years after enactment.
LOGISTICAL IMPOSSIBILITIES?			YES	NO
IMPLEMENTATION OF AMNESTY			The proposal delegates responsibility for implementing the amnesty program to DHS, but USCIS is the component of DHS that will have to process all the applications and issue all the work permits. USCIS cannot effectively do its current job without significantly increasing U.S. vulnerability to terrorist attacks and predation by criminals. Despite this, the Specter plan would require USCIS to complete the processing of all applications for amnesty, including completion (to the satisfaction of the Secretary of DHS) of "all appropriate background checks," within 18 months after enactment. That's around 10 million applicants in addition to the six-seven million applications USCIS currently processes (or rubberstamps, in many cases). It is an absolute impossibility, unless the Specter plan were to be enacted at least	NO

			five years from now, and those five years were spent thoroughly overhauling the immigration process, including the management structure, implementing regulations, and mind set, at USCIS. If the Specter plan were to pass this Congress, it is virtually guaranteed that the amnesty would become an open invitation for terrorists, criminals, and others who wish to harm the United States.	
IMPLEMENTATION OF INCREASED LEGAL IMMIGRATION AND TEMPORARY WORKER PROGRAMS			Again, USCIS is the component of DHS that would bear the brunt of this increased workload. While the State Department would be responsible for issuing visas to applicants from abroad, USCIS still must process petitions from employers and relatives and issue all work permits. Even without the massive amnesty plan, it would be impossible for USCIS to handle this additional workload in a manner that protects homeland security.	No
OTHER PROVISIONS OF NOTE?				
OVERHAULING USCIS			N/A	Title XIII of H.R. 4437 would go a long way toward solving some of the problems that plague USCIS. By reintroducing a law enforcement perspective to this customer service focused agency, this title would ensure that national security issues are given the attention they deserve and are handled appropriately. Law enforcement personnel, specifically criminal investigators, also are sorely needed to target the widespread corruption within USCIS.

Please contact Rosemary Jenks, Director of Government Relations at NumbersUSA, at (202) 543-1341 if you have questions about this chart or the accuracy of anything in it.

* These particular bills were selected because they have received the most public attention, and they represent a broad spectrum of immigration proposals designed to address illegal immigration and the perceived need for foreign labor. A variety of other immigration bills have been introduced, as well, so this paper is not a comprehensive comparison of immigration legislation in the 109th Congress.

1. This chart uses the Black's Law Dictionary definition of amnesty: "a sovereign act of forgiveness for past acts, granted by a government to all persons (or a certain class of persons) who have been guilty of a crime or delict."

2. NumbersUSA has identified six types of amnesties for illegal aliens:

- A. **EXIT AMNESTY:** The lawbreaker is forgiven the crime and not assessed the penalty. The Exit Amnesty waives one or more of the penalties the law currently assesses for illegal immigration, including civil and criminal penalties and bars on legal re-entry. An Exit Amnesty would, however, require illegal aliens to leave the United States.
- B. **REWARD AMNESTY:** The lawbreaker is actually rewarded for lawbreaking by being given the very thing he/she attempted to steal in the first place. In the case of illegal aliens, most are seeking a job in the United States. A Reward Amnesty would give illegal aliens the legal right to work, either temporarily or permanently.
- C. **INSTANT JACKPOT AMNESTY:** The lawbreaker wins the jackpot - he/she is instantly rewarded for breaking our immigration laws by being given lawful permanent resident status and put on the path to U.S. citizenship. Instant Jackpot Amnesties generally are limited to illegal aliens of a certain national origin (e.g., the Nicaraguan Adjustment and Central American Relief Act) or who are working in a particular occupation in the United States (e.g., the Special Agricultural Worker amnesty included in the Immigration Reform and Control Act).
- D. **MULTI-STEP CITIZENSHIP AMNESTY:** The lawbreaker is first given a Reward Amnesty (usually through a legal work permit and temporary resident status or "cancellation of removal"). After a period of time and usually after other criteria (e.g., holding a job; paying taxes; working in a particular industry), the formerly illegal alien is given lawful permanent resident status and put on the path to U.S. citizenship.
- E. **BLANKET AMNESTY:** This is basically the Instant Jackpot Amnesty but for the entire population of illegal aliens (minus a few exceptions, such as certain criminals), although it may be limited to illegal aliens who have lived in the United States for a certain period. The "general amnesty" included in the 1986 Immigration Reform and Control Act, for example, was a Blanket Amnesty for all illegal aliens who had lived in the United States since January 1, 1982.
- F. **DE FACTO AMNESTY:** This does not immediately reward illegal aliens with legal status but holds out the promise that if they avoid arrest long enough they will be exempted from the penalties for illegal immigration and granted legal status. The now expired Section 245(i) of the Immigration and Nationality Act is a De-Facto Amnesty because it says that all illegal aliens in the country who have the right through jobs or relatives to apply for lawful permanent resident status may do so from within this country with the tacit assurance that they may remain in this country illegally until their name comes up to the top of the list for a green card sometime in the future.

3 Except as otherwise noted, all estimates are extrapolated from "Unauthorized Migrants: Numbers and Characteristics," by Jeffrey S. Passel of the Pew Hispanic Center, which found that the illegal-alien population was 10.3 million in March 2004. The study is available at: <http://pewhispanic.org/reports/report.php?ReportID=46>. The figures in this chart assume that the illegal-alien population in the United States has increased by a net 500,000 annually since the late 1990s, as estimated by DHS (http://uscis.gov/graphics/shared/aboutus/statistics/III_Report_1211.pdf), for a total population of 10.8 million in March 2005. The chart also assumes that the labor force participation rates and gender and age distribution figures provided in the Pew Hispanic Center study have remained constant since 2004.

4 Technically, S. 1033 and H.R. 2330 only create one subcategory of nonimmigrant visas within the new H-5 category they establish. Section 301 of the bill modifies Section 101(a)(15)(H) of the Immigration and Nationality Act to add an H-5A visa for workers applying from abroad who do not qualify under an existing guestworker program. The bills do not, however, add a definition of the H-5B visa to be provided to illegal aliens as the first step in their amnesty.

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⁵ There is no such thing as “unused” employment-based visas since all employment-based visas that are not issued in one year are allocated to the family-preference categories in the next year. Thus, this provision is, in effect, adding new employment-based visas in a number that coincides with the number not issued to workers in each of fiscal years 2001 through 2005, since the visas not issued were allocated to the family-preference categories in the following year.