

<p>Senators John McCain (R-AZ) and Edward Kennedy (D-MA), and Representatives Jim Kolbe (R-AZ), Jeff Flake (R-AZ), and Luis Gutierrez (D-IL) introduced the Secure America and Orderly Immigration Act of 2005 (S. 1033/H.R. 2330).</p>	<p>Senators John Cornyn (R-TX) and Jon Kyl (R-AZ) introduced the Comprehensive Enforcement and Immigration Reform Act of 2005 (S. 1438).</p>	<p>Senator Chuck Hagel (R-NE) introduced a wide-ranging legislative package consisting of four bills. One bill addresses future guest workers (S. 1918).</p>
<p><u>Guest Worker Visa Program</u></p> <ul style="list-style-type: none"> <li>• New H-5B temporary nonimmigrant status with an initial stay of 6 years-no change of status permitted during this time</li> <li>• Initial three year authorization with option to extend up to 6 years</li> <li>• There is a path to permanent residency</li> <li>• 400,000 annual cap for initial year with an escalator</li> <li>• Full portability from day one</li> <li>• Spouse and minor child derivative visa status available</li> <li>• Petitions are filed by individual at Consulate with evidence of offer of employment from the Employment Eligibility Confirmation system or evidence from employer, employer groups or unions</li> <li>• Filing fees paid for by applicant</li> <li>• Status terminates in US if not employed for 45 consecutive days</li> <li>• Dual non immigrant and immigrant intent permissible</li> <li>• H-5A Adjustment to LPR – Petition by employer or petition by alien after cumulative total of 4 years in H-5A</li> <li>• Requirements – IRCA English Language and civics requirements</li> </ul>	<p><u>Guest Worker Visa Program</u></p> <ul style="list-style-type: none"> <li>• Establishes a work and return program through a new “W” visa</li> <li>• 2 year work visa and a mandatory 1 year return</li> <li>• Available for three 2 year work and return programs</li> <li>• Family members can only visit 30 days for each 2 year work visa</li> <li>• Many won’t qualify because of the presumption of immigrant intent – Section 214(b) of the Immigration and Nationality Act</li> <li>• No cap on the number of visas unless a newly established task force recommends a cap</li> <li>• No path to permanent residency</li> <li>• New Deferred Mandatory Departure status requiring participating undocumented aliens to depart the U.S. before seeking readmission a s either a temporary or permanent immigrant</li> </ul>	<p><u>Guest Worker Visa Program</u></p> <ul style="list-style-type: none"> <li>• Earned adjustment program for undocumented aliens who meet certain requirements</li> <li>• Deferred Mandatory Departure (DMD) status for aliens who cannot prove the 5 year residency or 3 year pre-introduction work requirements for earned adjustment</li> <li>• DMD status valid for 3 years after which the alien is required to return home</li> <li>• Path to permanent residency</li> </ul> <p><i>H-2B Reform</i></p> <ul style="list-style-type: none"> <li>• 100,000 annual cap</li> <li>• 9 month max admission in any 12 month period for “short-term service or labor”</li> <li>• 36 month max admission period in any 48 month period</li> <li>• Limited portability for personal circumstances or “bad actor” employer</li> <li>• Spouse /minor child derivative visa status available</li> <li>• Petitions may be filed by employer groups or unions</li> <li>• Dual nonimmigrant and immigrant intent is permissible</li> </ul> <p><i>New H-2C Visa</i></p> <ul style="list-style-type: none"> <li>• 250,000 annual cap</li> <li>• Employer required to test the U.S. labor market</li> <li>• 2 year admission with an option for 2 year renewal</li> <li>• Extensions in increments of one year if a permanent residence petition has been filed 365 days before the 4 year maximum period of stay</li> <li>• Portability after 3 months unless exempt because of personal circumstances or “bad actor” employer</li> <li>• Spouse/minor child derivative visa status available</li> <li>• Petitions may be filed by employer groups or unions</li> <li>• Filing fees on a sliding scale based on employer size</li> <li>• Dual nonimmigrant and immigrant intent is permissible</li> </ul>