

SUMMARY OF KEY IMMIGRATION REFORM PROPOSALS: IMMIGRANT WORKER ISSUES

This chart analyzes elements of key legislative proposals for immigration reform, with particular focus on issues of interest to immigrant workers. These proposals include:

- **Immigration Reform and Control Act of 1986 (“IRCA”)**, Pub. L. 99-603, 100 Stat. 3359, 99th Cong. (1986). This statute’s amnesty/legalization provisions provide an earlier benchmark for legalization proposals.
- **Immigration Reform Bill of 2004: Strengthening America’s National Security, Economy, and Families (“Hagel-Daschle”)**, S. 2010, 108th Cong. (2004). Introduced by Sens. Hagel and Daschle.
- **Safe, Orderly, Legal Visa and Enforcement Act (“SOLVE”)**, S. 2381/H.R. 4262, 108th Cong. (2004). Introduced by Sens. Kennedy, Feingold, Clinton and Rep. Luis Gutierrez.
- **Secure American and Orderly Immigration Act (“McCain/Kennedy”)**, S. 1033/H.R. 2230, 109th Cong. (2005). Introduced by Sens. Kennedy and McCain.
- **Agricultural Job Opportunities, Benefits and Security Act (“Ag Jobs”)**, introduced in several sessions, including S. 359/H.R. 884, 109th Cong. (2006); as part of the Comprehensive Immigration Reform Act of 2006, S. 2611 (109th Cong. (2006); and reintroduced in 2007 as S. 340/H.R. 371, 110th Cong. (2007).
- **Comprehensive Immigration Reform Act of 2006 (“CIRA”)**, S. 2611, 109th Cong. (2006). Introduced by Senators Hagel, Martinez, McCain, Kennedy, Graham, and Brownbeck, and was passed by the Senate. The bill never became law, as it failed in conference committee (House counterpart H.R. 4437).
- **Comprehensive Immigration Reform of 2007 (“CIR 2007”)**, S. 1639, 110th Cong. (2007). Introduced by Sen. Kennedy and Specter.
- **Comprehensive Immigration Reform Act of 2011 (“CIRA 2011”)**, S. 1258, 112th Cong. (2011). Introduced by Senators Menendez, with Sens. Reid, Leahy, Durbin, Schumer, Kerry, Murray, and Gillibrand.

KEY PROVISIONS	IRCA	Hagel-Daschle	SOLVE	McCain/Kennedy	AgJobs	CIRA	CIR 2007	CIRA 2011
General reduction of immigration backlogs and general access to family visas	Yes	Yes	Yes	Yes	No	Yes.	Yes.	Yes.
Legalization Provisions	Temporary resident status granted if 1) timely application;	Workers in industries, here for 5 years with 3 years of work. \$1000 fine, payment of taxes,	Workers in all industries, here for 5 years with 24 months or 1800 hours of work.	Adjustment to temporary H-5B status with initial stay of 6 years. H-5B visa holders	Agricultural workers who have worked 863 hours or 150 days over 24 months. Payment of fine	Also includes provisions of AgJobs and DREAM Act. Earned legalization for unauthorized immigrants with 5	Also includes provisions of AgJobs and DREAM Act. Creation of Z nonimmigrant visa. Requires physical	Also includes AgJobs and DREAM Act. Expands basis of family reunification and increases

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	2) continuous residence since 1/1/82; 3) continuous physical presence since enactment; 4) admissible as immigrant, 5) minimal English. Grants authorization to travel, work. Cuban – Haitian adjustment.	English. Exceptions for age/spouse/humanitarian waivers. Transitional worker for those who worked 2 years and 5 years continuous presence.	Exceptions for age/disability/education. Transitional program for those who do not qualify for legalization: 5+ years employment authorization; eligibility to adjust to LPR, demonstration of 2 years employment.	could then adjust to LPR upon work requirement, payment of fine, and other eligibility criteria.	and application fee. Subsequent LPR status after working for 100-150 days/year for 3-5 years, payment of fine, and payment of income taxes.	years continuous residence; 3 years employment before; 6 years employment after date of enactment. Mandatory departure and re-entry for those with 2-5 years residence. Includes Ag-Jobs and DREAM.	presence from specified date, must be employed on date of application and seek to continue labor, services, or education; or spouse/child of Z visa applicant physically present. Must not be inadmissible or subject to final order of removal or deportation, specific criminal background. Must pay penalty and processing fee, taxes. Adjustment to LPR not permitted until backlog clears. \$4000 penalty, travel to home country for adjustment. No eligibility for public benefits. Exclusion for criminal history and other inadmissibility grounds.	number of available visas. “Lawful prospective immigrant status” if physically present on June 1, 2011, and continuous presence since that date. Grants work authorization; ability to travel. Processing/penalty of \$500. Ability to adjust status to LPR after 8 years or after backlog clears. Must prove English language acquisition, satisfaction of naturalization requirements, payment of taxes continuous presence. \$1000 fee. Exclusion for criminal history and other inadmissibility grounds.
Temporary Worker Program?	Yes. Created H-2A Temporary Agricultural Worker program.	Yes. “Willing Worker Program,” 350,000 visas, creation of H-2C program; sunsets in 5 years. Employer or worker’s union can petition at	Yes. 250,000 visas, no sunset provision.	Yes. Creation of “Essential Worker” program. 400,000 visas per year, plus percentage increase.	Yes. “Streamlines” current H-2A program.	Yes. Creates H-2C visa for up to 6 years of temporary workers.	Yes. Creates Y visa for temporary workers; amends H2A and H1B provisions.	Yes. Amends H2A program. Includes protections for collective bargaining agreements. Establishes standing commission on foreign workers,

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		any time for worker to remain permanently.						labor markets.
LEGALIZATION PROVISIONS								
Future work requirement?	No	Yes, one year, including for transitional program.	No, except for transitional program.	Yes.	Yes. Generally, 450-500 days in agricultural work over 6 years.	Yes—6 years	Yes. Must be employed at time of application and seek future employment.	No
Labor protections while in applicant stage	No	Same rights as those authorize to work.	Same rights as those authorized to work.	Same rights as those authorized to work.	Equal rights with other workers. Administrative process if fired without “just cause.”	No	No	No
Correction of Social Security records without penalty	No	Yes	Yes	No	Yes	No	Precludes SS credits for periods without work authorization. Assigns SSN after grant of visa.	Yes. Also assigns SSN after granted lawful prospective immigrant status. Creation of new SS cards.
Employers protected from employer sanctions liability for provision of records	Creates employment sanctions.	Yes	Yes	Yes	No	Yes	Yes	Yes
Employment documents needed to establish eligibility?	No, except for Special Agricultural Workers, who must document work history.	Yes. SSA, pay stubs, IRS, day labor center or union records, government documents.	Yes. Includes pay stubs, tax records, day labor center records, or other documents.	Yes. Includes pay stubs, tax records, day labor center records, or other documents.	Eligibility can be established with government employment records, employment records, collective bargaining agreements, or other reliable documentation.	Yes. Includes pay stubs, tax records, day labor center records, or other documents.	Yes. Includes bank records, business records, employer records, labor union/day labor center, remittance records.	No. Eligibility needs to be based on presence.

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IMMIGRANT WORKER PROTECTIONS								
<i>Hoffman Plastic fix</i> (back pay for undocumented workers under NLRA).	N/A	No	Yes	No	No	No	No	Yes
Non-interference by ICE in labor disputes/retaliation	No	Yes	Yes	No	No	No	No	No
Visas for victims of labor law violations	No	Yes	Yes	No	No	No	No	Yes. Includes POWER Act, providing U visa for victims of labor and employment violations. Temporary protection from deportation for victims of crime/labor violations.
Redefinition of document fraud	No	Yes	Yes	No	No	No	No	No
Eligibility for LSC services	Designates qualified voluntary organizations for assistance; H-2A workers have LSC eligibility.	No	Yes	No	Yes	No	No	No
Other								Broadens grounds for unfair immigration related practices; bars

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								reverification for anything other than expiration or to interfere with labor rights or retaliation. Defines retaliation as unfair immigration related practice, including disparate impact. Increase penalties on notario fraud.
TEMPORARY WORKER PROVISIONS								
Recruitment of U.S. workers	Not specified	Yes. Attestation, with some limits. 14-day recruitment period.	Yes. Attestation, with some limits. 14-day recruitment period.	Yes. Attestation. 30-day recruitment period.	Yes. Attestation, with some limits. 28 day posting with Job Bank; 14 day posting in local publication. 50% rule preference for U.S. workers.	Yes. Attestation. 14 day recruitment period.	Y visas: Yes, attestation. 10 day recruitment period. No Y visa granted if labor disputes in progress at workplace, or in area where unemployment rate is more than 7%. H-2A workers: attestation. 14 day recruitment period.	Yes. Attestation. Must contact former workers. 28 day posting with Job Bank; 14 day posting in local publication. 50% rule preference for U.S. workers.
Pathway to legalization for temporary workers	Yes. Special Agricultural Workers. Residence in U.S. and agricultural work for 90 days. Naturalization requires 5 years.	Yes, after 3 years.	Yes, after 2 years.	Yes, after 4 years or sponsorship by employer.	Only for H-2A shepherders, goat herders or dairy workers who have worked for 36 months.	Floor Amendment allows self-petition if in H2-C status for 4 years; employer attests job is available; DOL certifies there are no sufficient workers available	No. (exception for those who fit within AgJobs framework).	Only for H-2A shepherders, goat herders or dairy workers who worked for 36 months.
Enforcement Scheme	Not specified	No private right to sue, DOL enforcement. Equal rights with U.S. workers.	Private right to sue; DOL enforcement; Equal rights with U.S.	Equal rights with U.S. workers. Whistleblower protections.	Private right to sue. Continued exclusion from Agricultural Worker	DOL enforcement.	DOL enforcement. Private right of action (H2A). Bars threats of	DOL enforcement. Private right of action, including mediation. Whistleblower

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			workers.	DOL enforcement.	Protection Act.		withdrawal of protection for exercise of rights. Same labor rights as U.S. workers.	protection allowing portability if claim brought. Includes wage/hour protections; DOL commission on wage standards.
Wage enhancements	Not specified	Prevailing or Davis-Bacon, Service Contract Act, or collective bargaining. Study on wage depression.	Prevailing or enhanced DOL Wage (or Davis-Bacon, Service Contract Act, or collective bargaining)	Not specified	Prevailing wage or current enhanced wage; whatever is higher. Study new methods of determining enhanced wage. Additional provisions for guaranteed work; housing allowance, and transportation reimbursement. Study wage depression.	Prevailing wage.	Prevailing wage for both Y and H2A visa holders; Raises floor for required wage if Congress does not raise wage standards for H2A. Y visa applicants must pay visa processing fee, state impact fee, and undergo medical exam, subject to background check. Must show medical insurance coverage for spouse and children. Visa valid for 2 years; may be extended for 2 more years. No extension unless Y visa holder has spent 12 months outside the U.S. Y visa holders may travel outside the U.S. Permanent bar for overstay. H2A workers may only be present for 10 months, may not renew unless outside of U.S. for 1/5 of time spent in U.S. Exception for dairy workers.	Prevailing wage; requirement for housing

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Job portability	No	Yes, after 3 months.	Yes, after 3 months.	No. Termination of status within 45 days of loss of employment. But workers who have obtained prior visa may accept new employment with subsequent employer.	Not for H2A temporary workers.	No. Status lost if unemployed for 60 days.	Y visa: Yes, if position is newly certified, no unauthorized work, and notification of change of employment. H2A: potential portability for workers who file complaint with DOL.	Whistleblower protections; portability if complaint is filed.

IMMIGRATION ENFORCEMENT PROVISIONS

Electronic Verification	Created employer sanctions and original verification system. Study on use of telephone verification system.	None	None	New biometric visas; electronic employment verification system.	None	Establishes electronic verifications system. Requires all employers to participate after implementation. Nonconfirmation: provides nonconfirmation with 10 day period to contest; employers may not terminate employment based on tentative nonconfirmation until final confirmation issued. Compensation for lost wages for error. Civil penalties for hiring of unauthorized workers under EEVS:	Creates electronic verification system. After 6 months, new employees at some employers hired must be subject to EEVS; 18 months, all new employees and those who are subject to reverification due to expiration of documents. After 3 years: applies to all employees not previously verified in EEVS. Some employers required to submit biometrics. Nonconfirmation: leads to termination of continued employment. Employer may not use EEVS prior to offering employment; cannot terminate or retaliate	Creates employer verification system, requires federal contractors, employers with more than 1,000 workers to comply in 2 years; 500+ workers (3 years); 100+ workers (4 years) to participate; all employers (5 years). Employee protections include notice of non-confirmation, administrative appeal. ER must terminate employees with non-confirmation if no admin appeal. Includes judicial appeal and private
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						<p>\$500-\$20,000 per worker, criminal penalties for pattern violations.</p>	<p>due to further action notice. Complaint process for employees. Employer penalties from \$5000-\$75,000. Government contractors required to use EEVS.</p> <p>SSA No-Match: must establish regulation for reasonable time to correct.</p> <p>Creates new fraud-resistant social security cards; requires compliance with REAL ID.</p> <p>Creates voluntary program to allow employers to submit and verify employee's fingerprints for determining identity of employee.</p>	<p>right of action. Compensation for error/lost wages</p>
Worksite Enforcement Provisions	Enacted employer sanctions regime.	None	None	None	None	<p>Adds fine of \$5000 and 3-year term of imprisonment for workers who falsely represent eligibility for employment. Increases DHS worksite investigations; SSA no-match disclosure to DHS; preempts state laws that require shelter for day labor; strengthened employer liability for</p>	<p>Limits use of state ID as identity document if not compliant with REAL ID; requires employers to retain copy of verification. See above for increased employer penalties.</p>	<p>Worksite enforcement measures extend employer sanctions to those with "reckless disregard" for employment of unauthorized workers, including contractors and subcontractors. Adds civil penalty of \$2000-\$5000 for hiring of unauthorized worker; up to</p>

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						violation of employer sanctions.		\$25,000 for repeat violations. 5-year term of imprisonment for hiring 10+ unauthorized workers. Private right of action for anyone injured by reason of employment of an unauthorized worker. 10 year prison term for abusive employment for 10+ unauthorized workers.
Immigration Enforcement Provisions	Identifies facilities to incarcerate deportable immigrants; authorizes enforcement appropriation for INS. State reimbursement for costs of incarcerating undocumented immigrants and Cuban nationals.	None	None	Extensive. Development of a national strategy for border security; aerial surveillance; ground surveillance techniques against trafficking; security on Mexico's southern border; tracking of Central American gangs; reimbursement to states for cost of	None	Extensive. Increases border enforcement, database and biometric immigration documents. SCAAP compensation to reimburse states for processing undocumented immigrants.	Extensive. Increase of CBP officers, additional technological assets and infrastructure for border enforcement, biometric exit-entry system, unmanned aircraft systems, and surveillance technology along border, US-VISIT, and document fraud. Development of national border security policy. Criminalizes flight from immigration or customs patrol; increase of federal detention facilities, northern border. Expansion of LOP programs in detention; promulgation of	Extensive. Legalization conditioned on baseline funding and employment of Border Patrol Agents, immigration court staff. 2500 additional Northern and Southern border CBP officers; additional Port of Entry construction. 1000 additional alien smuggling investigators. Reimbursements to states for incarceration of undocumented immigrants. Implements US VISIT system. Illegal

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				incarcerating undocumented immigrants.			<p>detention standards, office of detention oversight. Alternatives to detention. Expands authority to detain for extended period. Expands aggravated felony grounds, inadmissibility of gang members; increased criminal penalties for drunk driving, illegal entry, perjury, and firearms offenses. Criminalizes illegal entry with imprisonment of 6 months, heightens penalties for illegal reentry, immigration fraud offenses. Increases incarceration of criminal aliens. Provides appropriations for state and local enforcement of federal immigration laws.</p>	<p>entry fine of \$250-\$500. Illegal reentry—2 years imprisonment. Reentry of criminal offenders =10 year sentence.</p> <p>Requires alternatives to detention; implementation of civil detention standards. Training for Border Security on civil rights. Requires report on deaths at Southern border. Amends 287(g) by requiring review of terms of compliance. Requires release from detention for vulnerable groups; protections for families with children. Creates ICE Ombudsman. Eliminates time limits on asylum applications.</p> <p>Detainers: Requires DHS to confirm alienage and identity, removability, and victim status before issuing detainer.</p>

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								<p>Increased criminal penalties for gang violence.</p> <p>Increased criminal penalties for SSN fraud. Creates SSA no-match disclosure to DHS.</p> <p>1 year prison term for use of false documents, with protections for refugees.</p>
Preemption	Preemption of states and localities from imposing sanctions on those who recruit unauthorized workers.	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Preemption of state and local employer sanctions laws; preemption of any state or local law that discriminates or imposes sanctions on basis of immigration status.

Please contact Eunice Cho, Staff Attorney, National Employment Law Project at echo@nelp.org with any questions or suggestions for this chart.