

McCain-Kennedy-Flake-Gutierrez-Kolbe Bill *at a Glance*

Title I: Border Security

- Requires the development and implementation of various plans and reports evaluating information-sharing, international and federal-state-local coordination, technology, anti-smuggling, and other border security initiatives
- Establishes a Border Security Advisory Committee made up of local stakeholders who understand the problems of the border region to provide recommendations to the Department of Homeland Security regarding border enforcement
- Encourages the development of multilateral partnerships to establish a North American security perimeter and improve border security south of Mexico

Title II: State Criminal Alien Assistance

- Reauthorizes and increases the State Criminal Alien Assistance Program that provides reimbursement to state and local governments for incarcerating undocumented aliens convicted of crimes
- Creates a new program to pay for additional criminal justice costs associated with undocumented immigrants convicted of crimes

Title III: Essential Worker Visa Program

- Creates a new temporary visa to allow foreign workers to enter and fill available jobs that require few or no skills and when there are no Americans available (the H-5(a) visa)
- The visa is biometric and secure to prevent fraud and duplication
- Before entering the U.S., applicants must show that they have a job waiting in the US, pay a fee of \$500 in addition to application fees, and clear all security, medical, and other checks
- Requires updating of America's Job Bank to make sure job opportunities are seen first by American workers
- Initial cap on H-5(a) visas is set at 400,000, but the annual limit will be gradually adjusted in subsequent years as the economy dictates
- Visa is valid for three years, and can be renewed one time for a total of 6 years; at the end of the visa period the worker either must go home or be eligible and accepted as a green card applicant
- Visa is portable, but if the worker loses his job he has to find another one within 60 days or go home
- H-5(a) visa holder can apply for a green card either immediately (sponsored by his employer, as is the case under current law), or after four years in temporary status (on his own)
- Sets up a task force to evaluate the H-5(a) program and recommend improvements

Title IV: Enforcement

- Creates a new electronic work authorization system that will ultimately replace the paper-based, fraud-prone I-9 system, to be phased in gradually
- When operational, the system will be applied universally and cannot be used to discriminate against job applicants

- Individuals will have the right to review and correct their own records; data privacy protections are in place
- Immigration-related documents and US-VISIT will be upgraded to enable biometric verification of travelers
- The Department of Labor will have new powers to conduct targeted audits of employers and ensure compliance with labor laws; also includes new worker protections and doubled fines for illegal employment practices

TITLE V: Promoting Circular Migration Patterns

- Requires foreign countries to enter into migration agreements with the US that help control the flow of their citizens to jobs in the US, with emphasis on encouraging the re-integration of citizens returning home
- Encourages the US government to partner with Mexico to promote economic opportunity and reduce the pressure to immigrate to the US
- Encourages the US government to partner with Mexico on health care access so that the US is not unfairly impacted with the costs of administering health care to Mexican nationals

Title VI: Family Unity and Backlog Reduction

- Immediate relatives of US citizens are not counted against the 480,000 annual cap on family-sponsored green cards, thereby providing additional visas to the family preference categories
- The current per-country limit on green cards is raised slightly to clear up backlogs
- Income requirements for sponsoring a family member for a green card are changed from 125% of the federal poverty guidelines to 100%, and other obstacles are removed to ensure fairness
- The employment-based categories are revised to provide additional visas for employers who need to hire permanent workers, and the annual cap is raised from 140,000 to 290,000
- Immigrant visas lost due to processing delays are recaptured for future allotments

Title VII: Adjustment of Status for H-5(b) Non-Immigrants

- Undocumented immigrants in the US on or before May 12, 2005 (date of introduction) can register for a temporary visa (H-5(b)), valid for six years
- In order to obtain this visa, workers must pay a \$1,000 fine (and another \$1,000 if they want to stay) for breaking the law and pay any back taxes
- Applicants have to show work history, clean criminal record, and that they are not a security problem to be eligible for a temporary visa
- They will receive work and travel authorization
- Their spouses and children are also eligible
- In order to obtain permanent status, workers will have to meet a future work requirement, clear additional security/background checks, pay a \$1,000 application fee and meet English/civics requirements

Title VIII: Protection Against Immigration Fraud

- Attempts to eliminate the exploitation of immigrants by *notorios* or other unlicensed immigration law practitioners by imposing new legal requirements on such individuals

- Allows immigrants defrauded by unauthorized legal representatives to file actions against these perpetrators

Title IX: Civics Integration

- 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
- Provides for new money to fund civic and English language instruction for immigrants

Title X: Promoting Access to Health Care

- Extends the authorization of federal reimbursements for hospitals that provide emergency care to undocumented immigrants; includes H-5(a) and (b) workers in the program

Title XI: Miscellaneous

- Distributes the fees and fines paid by H-5(a) and (b) workers among the DHS and DOS for processing, DHS for border security efforts, DOL for enforcement of labor laws, SSA for development of the employment eligibility confirmation system, hospitals to pay for uncompensated health care, and the USCIS Office of Citizenship for civic integration and English classes
- Requires the dissemination of information related to the provisions of this legislation
- Includes anti-discrimination protections that cover all workers, including H-5(a) and H-5(b) visa holders