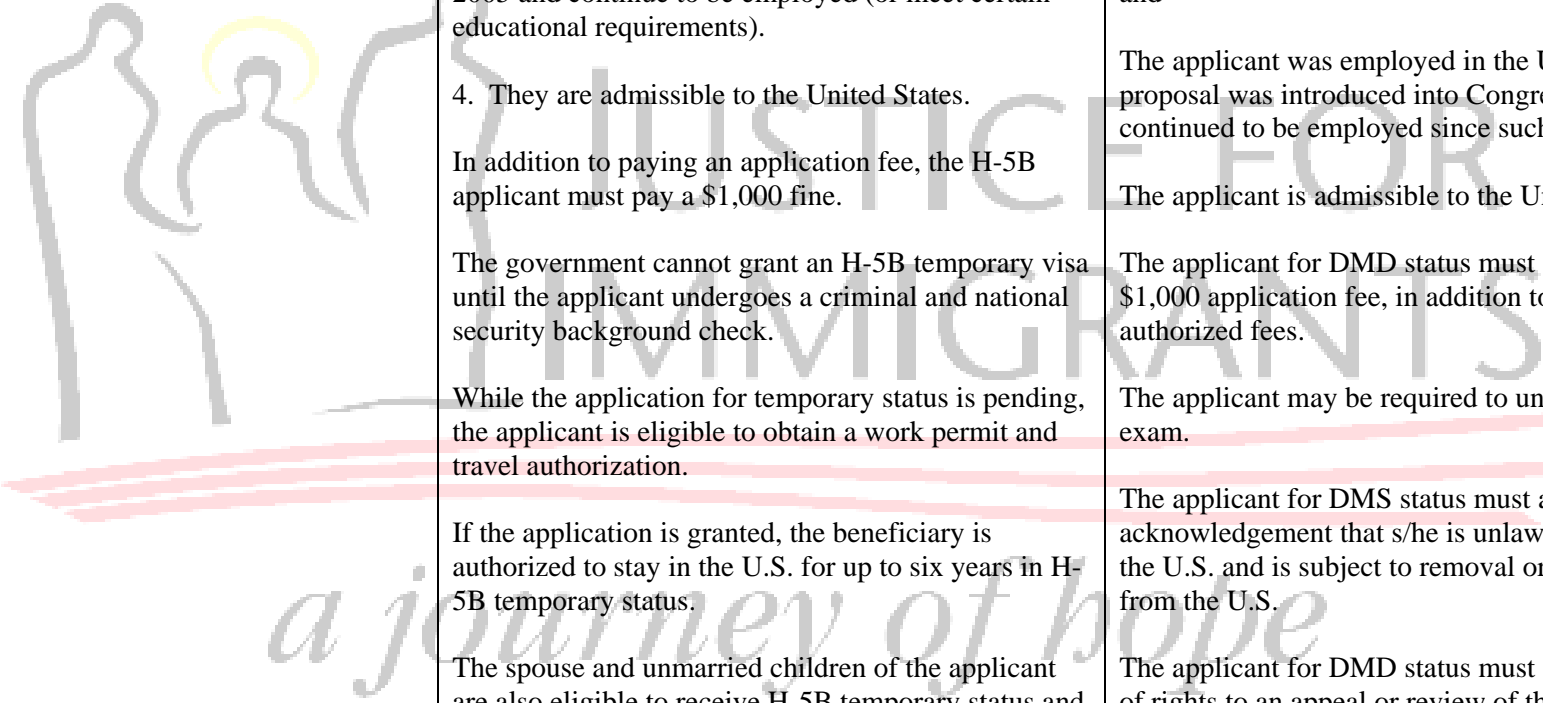


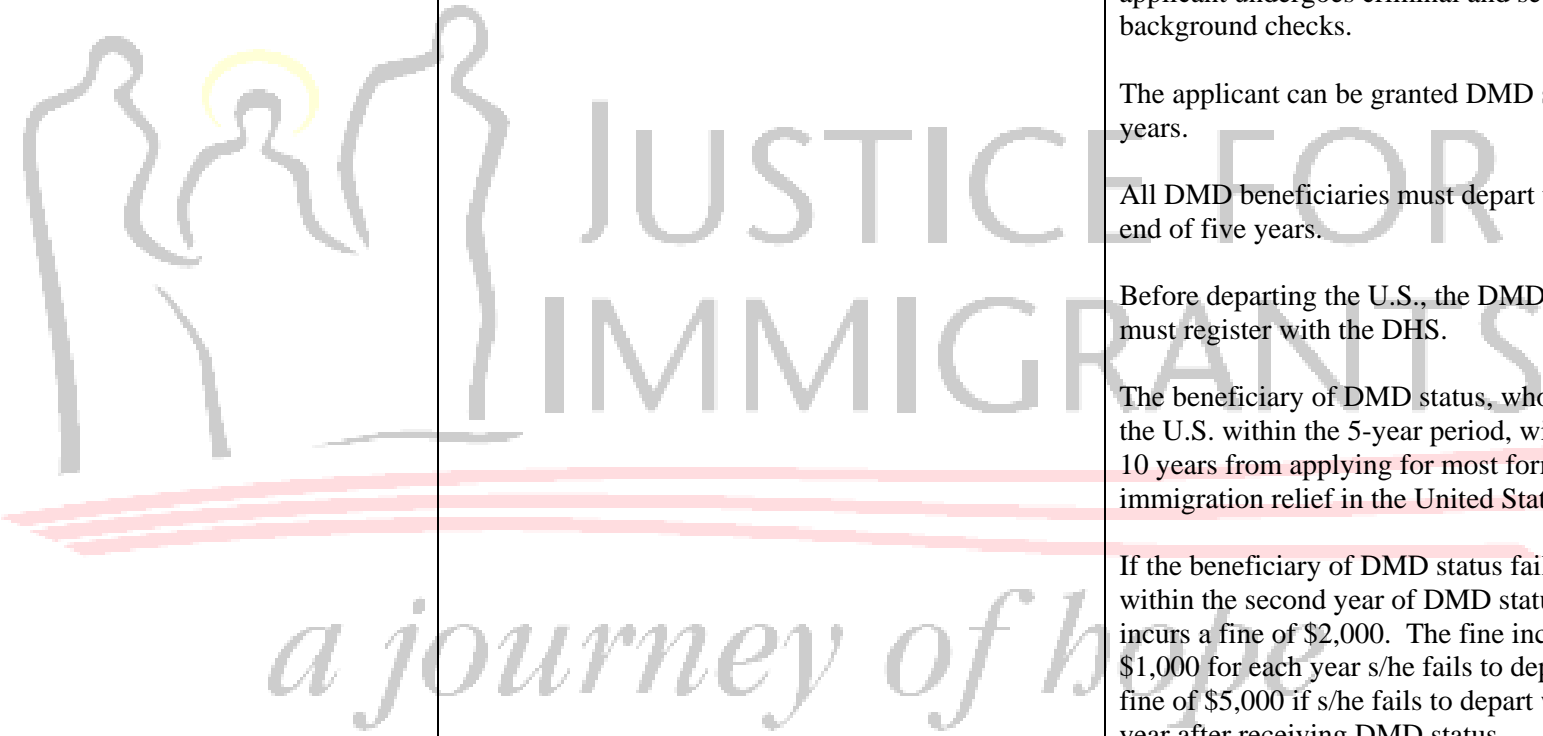
Side-by-side Analysis of Comprehensive Immigration Reform Bills

<p style="text-align: center;">U.S. Catholic Bishops' Principles for a Just and Fair Immigration Reform Proposal</p>	<p style="text-align: center;">The Secure American and Orderly Immigration Act of 2005 (S. 1033 and H.R. 2330) by Senators John McCain of Arizona and Edward Kennedy of Mass. and Representatives Luis V. Gutierrez of IL, Jim Kolbe and Jeff Flake of AZ.</p>	<p style="text-align: center;">Comprehensive Enforcement and Immigration Reform Act of 2005 (S.1438) by Senators John Cornyn of TX and Jon Kyl of AZ. There is no companion bill in the House of Representatives.</p>
<p>I. DOES THE LEGISLATION ADDRESS THE ROOT CAUSES OF MIGRATION, SUCH AS ECONOMIC INEQUITIES BETWEEN NATIONS?</p>	<p>The proposal encourages, through nonbinding language, the U.S. government to work with Mexico to promote economic opportunities for Mexican nationals in their home country. It also authorizes the establishment of labor migration programs which would facilitate the flow of migrants to jobs in the U.S., and encourage their reintegration in their home countries.</p>	<p>No provisions.</p>
<p>II. DOES THE PROPOSAL CONTAIN A PROVISION FOR BROAD-BASED EARNED LEGALIZATION?</p> <p>Earned Legalization means the process by which foreign nationals, who are living and working in the United States without authorization, can apply to obtain legal immigration status by demonstrating their commitment and connection to our society while undergoing rigorous identity and security background checks. An earned legalization includes prospective work requirements. The U.S. Catholic Bishops call for an earned legalization program which is achievable and verifiable and which provides a pathway to permanent residency to the estimated 11 million undocumented people in the United States.</p>	<p>Yes, the McCain/Kennedy proposal does include a pathway for the undocumented to obtain lawful status in the United States. It is called the H-5B Nonimmigrant visa program. A nonimmigrant visa is a temporary visa.</p> <p>Nonimmigrant visas are often referred to as the alphabet visas because they begin with a letter (e.g., B-1/B-2, T-1, H-5B, etc.).</p> <p>The applicants for the H-5B temporary visa must prove that:</p> <p>They were physically present in the United States since before May 12, 2005 (i.e., the date this proposal was introduced into Congress) and continue to be physically present in the U.S.;</p> <p>They were not legally present in the United States, on May 12, 2005, under one of the so-called alphabet temporary visas;</p>	<p>No, the Cornyn/Kyl proposal does not include a path to permanent residency.</p> <p>Instead, the proposal creates Deferred Mandatory Departure (DMD) status for certain undocumented migrants – giving them work authorization but requiring that they depart the United States within 5 years of the grant.</p> <p>In order for the migrant worker to apply for DMD status, the applicant's home country must have a bilateral agreement with the United States to participate in the DMD program.</p> <p>Eligibility requirements for DMD status:</p> <p>The applicant must prove continuous physical presence in U.S. for one year before this proposal was introduced into Congress (i.e., since July 20, 2004);</p> <p>The applicant was not legally present in the U.S.</p>

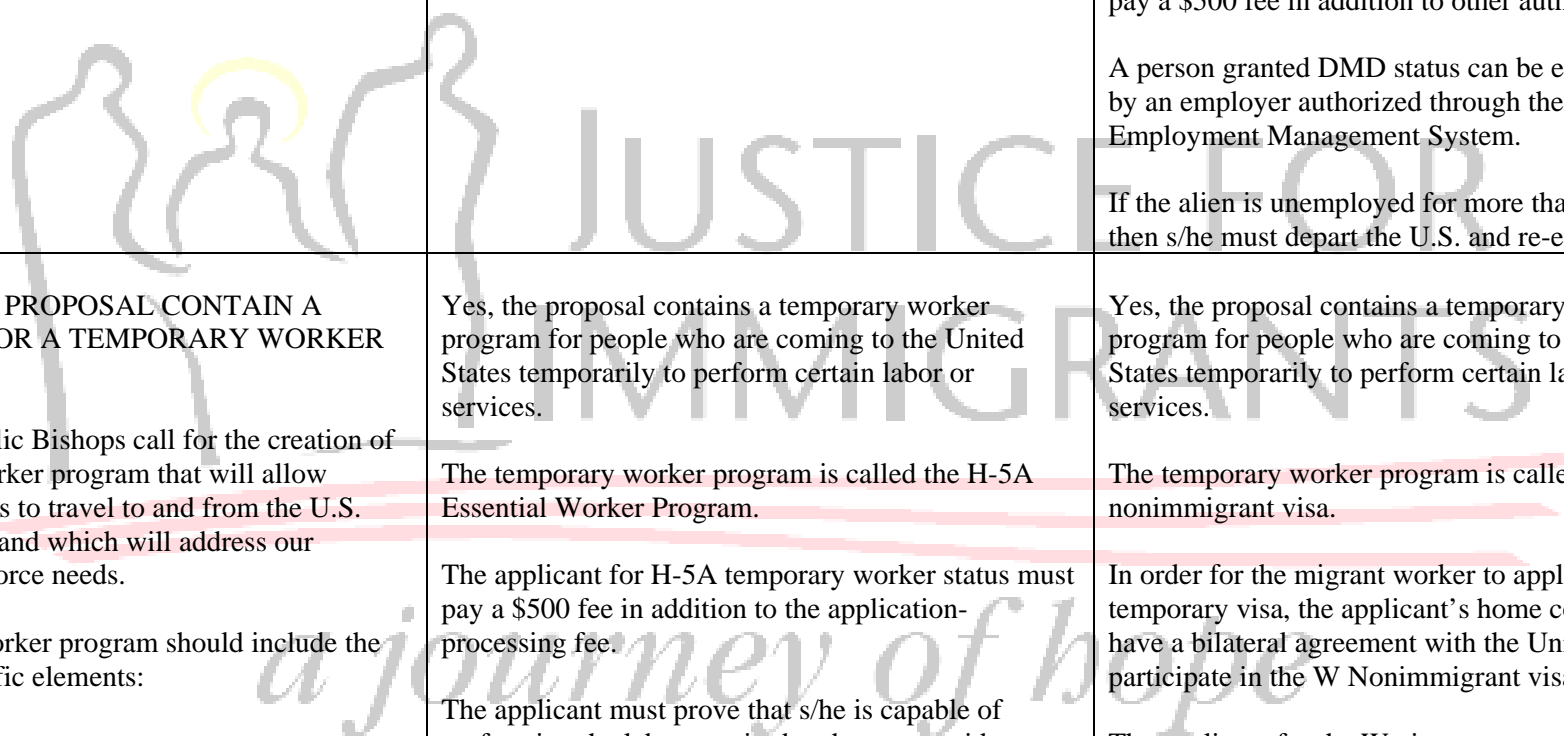
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	<p>3. They were employed in the U.S. before May 12, 2005 and continue to be employed (or meet certain educational requirements).</p> <p>4. They are admissible to the United States.</p> <p>In addition to paying an application fee, the H-5B applicant must pay a \$1,000 fine.</p> <p>The government cannot grant an H-5B temporary visa until the applicant undergoes a criminal and national security background check.</p> <p>While the application for temporary status is pending, the applicant is eligible to obtain a work permit and travel authorization.</p> <p>If the application is granted, the beneficiary is authorized to stay in the U.S. for up to six years in H-5B temporary status.</p> <p>The spouse and unmarried children of the applicant are also eligible to receive H-5B temporary status and later apply for lawful permanent residence.</p> <p>At the end of the six-year period, the H-5B temporary visa holder can apply to adjust to lawful permanent residence (i.e., apply for a “green card”) and must pay another \$1,000 fine.</p>	<p>under one of the so-called alphabet temporary visas, and</p> <p>The applicant was employed in the U.S. before this proposal was introduced into Congress and s/he has continued to be employed since such date.</p> <p>The applicant is admissible to the United States.</p> <p>The applicant for DMD status must also pay a \$1,000 application fee, in addition to any other authorized fees.</p> <p>The applicant may be required to undergo a medical exam.</p> <p>The applicant for DMS status must also submit an acknowledgement that s/he is unlawfully present in the U.S. and is subject to removal or deportation from the U.S.</p> <p>The applicant for DMD status must submit a waiver of rights to an appeal or review of the decision or to contest any deportation or removal proceedings.</p> <p>The applicant for DMD status must file the application within 6 months of enactment of this Act.</p> <p>The government cannot grant DMD status until the</p>

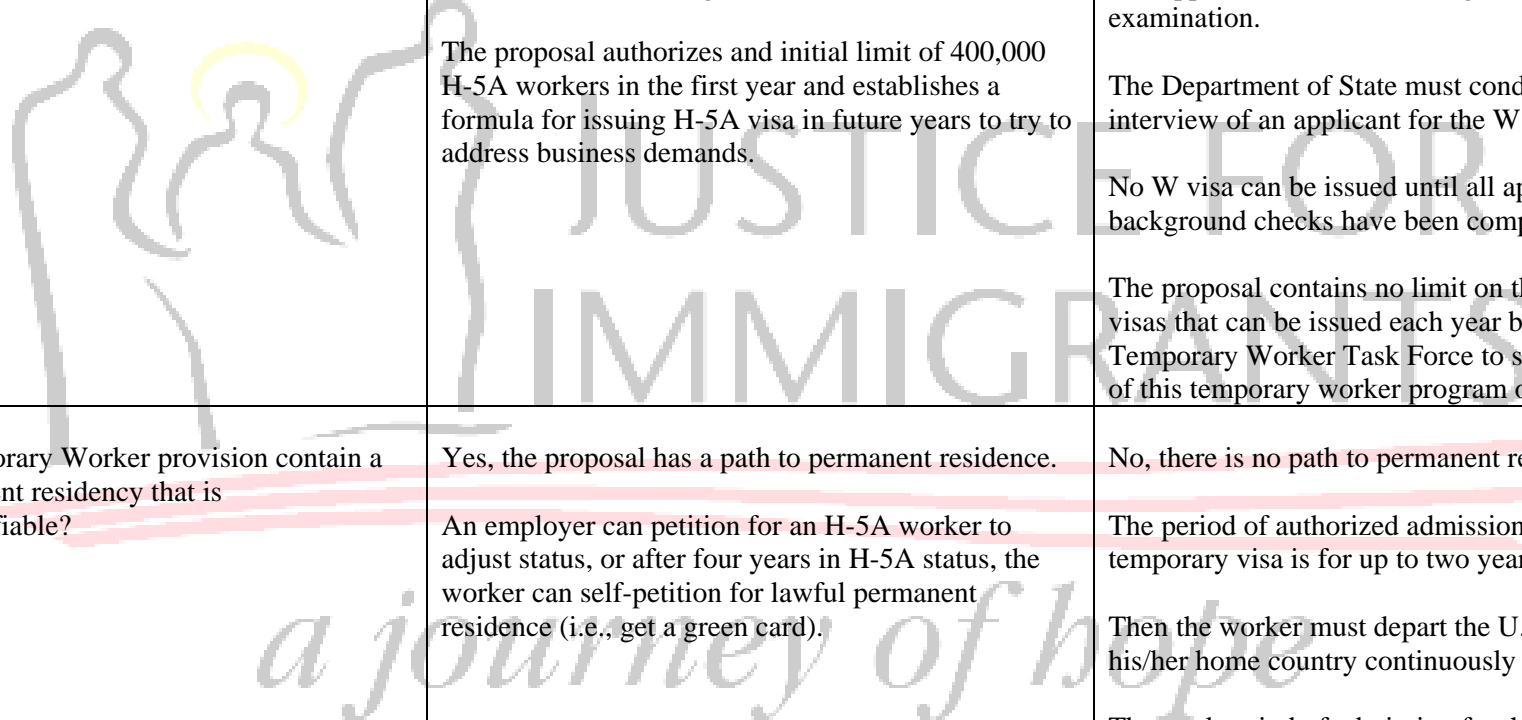
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		<p>applicant undergoes criminal and security background checks.</p> <p>The applicant can be granted DMD status for up to 5 years.</p> <p>All DMD beneficiaries must depart the U.S. at the end of five years.</p> <p>Before departing the U.S., the DMD beneficiary must register with the DHS.</p> <p>The beneficiary of DMD status, who fails to depart the U.S. within the 5-year period, will be barred for 10 years from applying for most forms of immigration relief in the United States.</p> <p>If the beneficiary of DMD status fails to depart within the second year of DMD status, then s/he incurs a fine of \$2,000. The fine increases by \$1,000 for each year s/he fails to depart – up to a fine of \$5,000 if s/he fails to depart within the fifth year after receiving DMD status.</p> <p>DMD status permits the beneficiary to depart the U.S. and return, as long as DMD status has not expired, without being barred by the 3 or 10-year bars for unlawful presence.</p> <p>The spouse and child are eligible for DMD status but not for a work permit. Spouse and child must</p>


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		<p>pay a \$500 fee in addition to other authorized fees.</p> <p>A person granted DMD status can be employed only by an employer authorized through the Alien Employment Management System.</p> <p>If the alien is unemployed for more than 30 days, then s/he must depart the U.S. and re-enter.</p>
<p>III. DOES THE PROPOSAL CONTAIN A PROVISION FOR A TEMPORARY WORKER PROGRAM?</p> <p>The U.S. Catholic Bishops call for the creation of a temporary worker program that will allow foreign nationals to travel to and from the U.S. legally to work and which will address our society's workforce needs.</p> <p>A temporary worker program should include the following specific elements:</p>	<p>Yes, the proposal contains a temporary worker program for people who are coming to the United States temporarily to perform certain labor or services.</p> <p>The temporary worker program is called the H-5A Essential Worker Program.</p> <p>The applicant for H-5A temporary worker status must pay a \$500 fee in addition to the application-processing fee.</p> <p>The applicant must prove that s/he is capable of performing the labor required and must provide evidence of a job offer.</p> <p>The applicant must undergo a medical exam.</p> <p>If granted, the beneficiary is authorized to remain in the U.S. for up to three years and can renew the period once for another three years.</p>	<p>Yes, the proposal contains a temporary worker program for people who are coming to the United States temporarily to perform certain labor or services.</p> <p>The temporary worker program is called the W nonimmigrant visa.</p> <p>In order for the migrant worker to apply for the W temporary visa, the applicant's home country must have a bilateral agreement with the United States to participate in the W Nonimmigrant visa program.</p> <p>The applicant for the W visa must prove that s/he is capable of performing the labor or services and that s/he has a job offer from an employer who is authorized to hire through the Alien Employment Management System program.</p> <p>The applicant must pay a \$500 fee in addition to the regular processing fee for the application.</p>

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	<p>The worker will be eligible for travel authorization.</p> <p>The proposal authorizes an initial limit of 400,000 H-5A workers in the first year and establishes a formula for issuing H-5A visa in future years to try to address business demands.</p>	<p>The applicant must also undergo a medical examination.</p> <p>The Department of State must conduct a personal interview of an applicant for the W visa.</p> <p>No W visa can be issued until all appropriate background checks have been completed.</p> <p>The proposal contains no limit on the number of W visas that can be issued each year but establishes a Temporary Worker Task Force to study the impact of this temporary worker program on U.S. workers.</p>
<p>Does the Temporary Worker provision contain a path to permanent residency that is achievable/verifiable?</p>	<p>Yes, the proposal has a path to permanent residence.</p> <p>An employer can petition for an H-5A worker to adjust status, or after four years in H-5A status, the worker can self-petition for lawful permanent residence (i.e., get a green card).</p>	<p>No, there is no path to permanent residency.</p> <p>The period of authorized admission under the W temporary visa is for up to two years.</p> <p>Then the worker must depart the U.S. and reside in his/her home country continuously for one year.</p> <p>The total period of admission for the W temporary visa cannot exceed 6 years.</p> <p>It is unclear from the text of the proposal whether the worker must apply for a new W nonimmigrant visa after residing outside the U.S. for one year or whether s/he may reenter on the original W</p>

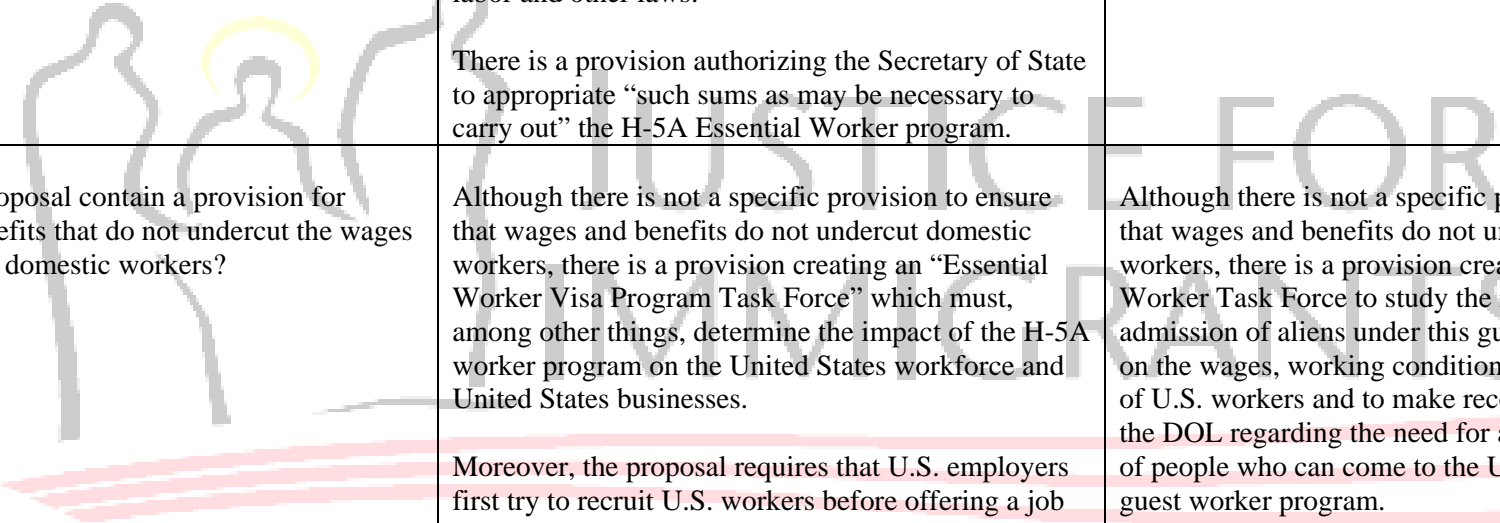
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		<p>nonimmigrant visa.</p> <p>W workers who work in the U.S. for less than six months at a time and W commuters are not subject to the time limitations.</p> <p>The applicant for W temporary visa must also have a residence in a foreign country which s/he has no intention of abandoning.</p> <p>The beneficiary of the W temporary visa must be present in that foreign country at least 7 consecutive days during each year s/he is a temporary worker.</p> <p>If the temporary worker fails to depart the U.S. within 10 days after the authorized admission ends, then s/he will not be eligible for most immigration benefits.</p>
<p>2. Does the Temporary Worker provision permit immediate family members to join the worker (i.e., Family Unity)?</p>	<p>Although the proposal does not include explicit language permitting the spouse and unmarried minor children to join the H-5A worker, the sponsors are aware of the family issue and hope to address it during the legislative process.</p>	<p>The spouse or child of a W nonimmigrant worker may be admitted for up to 30 days on a tourist visa. \$100 fee. The DHS cannot extend this time period unless it determines that exceptional circumstances exist. There is no provision granting permission to the spouse or child to work in the U.S. while visiting.</p>
<p>3. Does the Temporary Worker provision allow workers to change employers (i.e., job portability)?</p>	<p>Yes, the proposal permits an H-5A worker to accept new employment from a different employer after arrival in the United States.</p>	<p>Yes, the proposal provides job portability for W nonimmigrant workers but only to be employed by employers authorized by the DHS – through the Alien Employment Management Program—to hire</p>

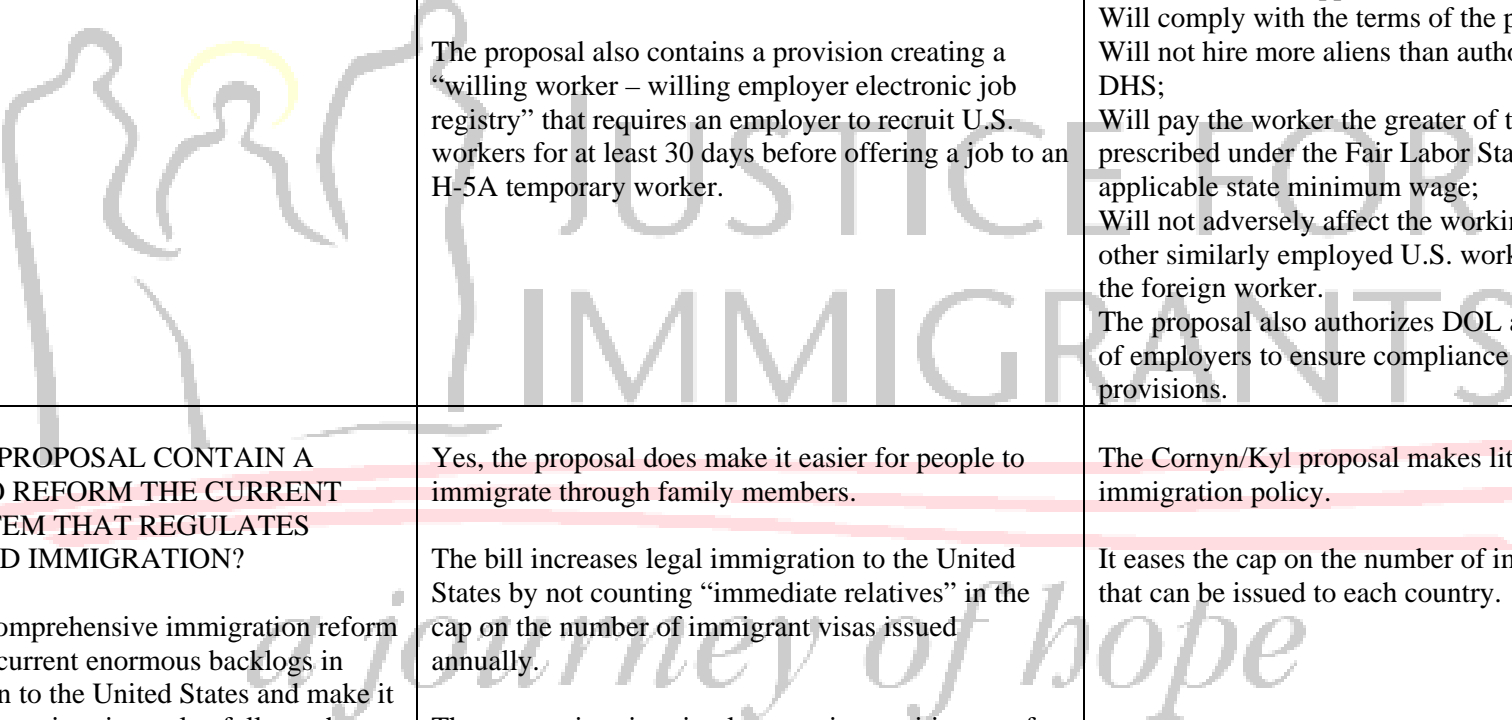
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	<p>This will help prevent workers from becoming bound to employers.</p> <p>If the H-5A worker is unemployed for 45 or more consecutive days, then his/her lawful status in the U.S. shall end.</p>	<p>W nonimmigrant workers.</p> <p>If the guest worker is out of work for more than 30 days, then s/he must depart the U.S. and be readmitted on a W visa.</p>
<p>4. Does the proposal contain, for the temporary worker, labor protections, which apply to U.S. workers?</p>	<p>Yes, the proposal contains a provision protecting an H-5A worker's rights under federal, state, and local employment and labor laws that would be applicable to a U.S. worker employed in a similar position.</p> <p>The proposal also treats H-5A workers equally as similarly employed U.S. workers with respect to wages, benefits, and working conditions.</p>	<p>No, the proposal does not contain provisions for protecting the temporary worker.</p> <p>The proposal requires that the temporary worker be paid the greater of the hourly wage under the Fair Labor Standards Act or under the applicable state minimum wage.</p>
<p>5. Does the proposal contain enforcement mechanisms and resources to enforce worker's rights?</p>	<p>Yes, the proposal authorizes the Department of Labor to issue regulations to handle complaints by workers who believe that their jobs, wages, or working conditions have been harmed by a violation of the provision protecting workers.</p> <p>There is also a specific provision requiring employers to comply with federal, state, and local laws.</p> <p>There is also a specific provision to regulate foreign labor contractors to prevent abuse of temporary workers.</p> <p>There is a provision authorizing the Department of</p>	<p>The proposal contains a provision requiring the Department of Labor and the Department of Homeland Security to conduct audits of employers to ensure that they are complying with the law.</p> <p>There is no explicit provision in the proposal authorizing appropriations of funds for the audits.</p>

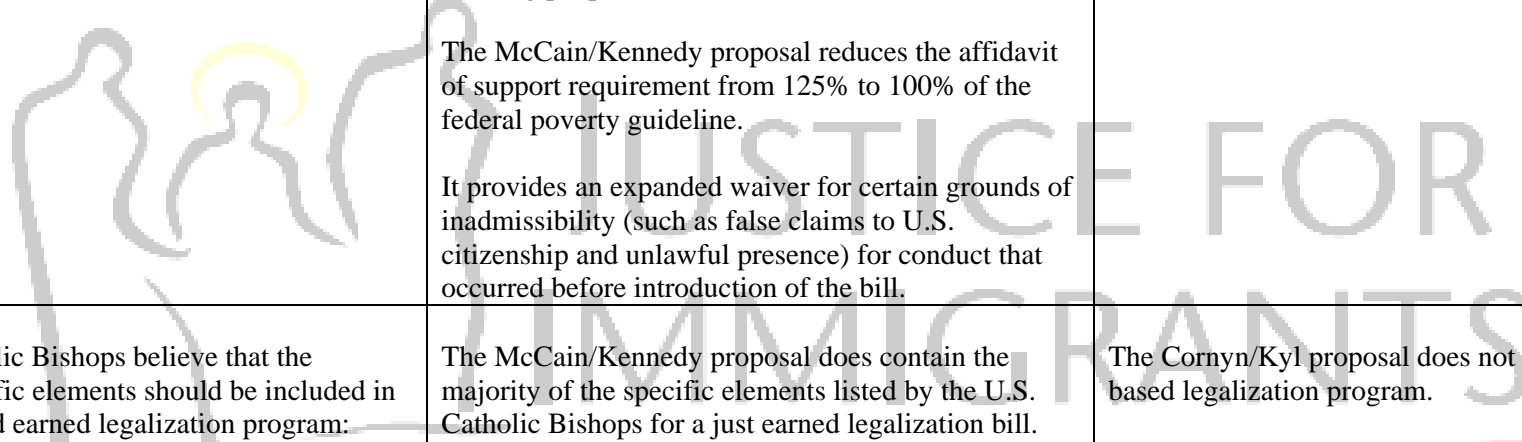
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	<p>Labor to impose penalties on employers for violating labor and other laws.</p> <p>There is a provision authorizing the Secretary of State to appropriate "such sums as may be necessary to carry out" the H-5A Essential Worker program.</p>	
<p>6. Does the proposal contain a provision for wages and benefits that do not undercut the wages and benefits of domestic workers?</p>	<p>Although there is not a specific provision to ensure that wages and benefits do not undercut domestic workers, there is a provision creating an "Essential Worker Visa Program Task Force" which must, among other things, determine the impact of the H-5A worker program on the United States workforce and United States businesses.</p> <p>Moreover, the proposal requires that U.S. employers first try to recruit U.S. workers before offering a job to a foreign worker.</p>	<p>Although there is not a specific provision to ensure that wages and benefits do not undercut domestic workers, there is a provision creating a Temporary Worker Task Force to study the impact of the admission of aliens under this guest worker program on the wages, working conditions, and employment of U.S. workers and to make recommendations to the DOL regarding the need for a cap on the number of people who can come to the U.S. through the guest worker program.</p>
<p>7. Does the proposal allow the temporary worker to travel between the U.S. and the homeland and travel within the U.S. (i.e., mobility)?</p>	<p>Yes, the proposal permits H-5A temporary workers to depart the U.S. while they are in status and to travel back to their home countries and then return to the U.S. as long as their H-5A authorization is still valid.</p>	<p>Yes, the proposal permits the W temporary worker to travel outside the U.S. and return to the U.S. if the period of authorized admission has not expired.</p>
<p>8. Does the proposal contain a provision for conducting a labor-market test to ensure U.S. workers are not harmed?</p>	<p>No, the proposal does not include a test to ensure that U.S. workers are not harmed.</p> <p>The proposal does include a provision creating an "Essential Worker Visa Program Task Force" which must, among other things, determine the impact of the H-5A worker program on the United States workforce</p>	<p>The W guest worker provision and the provision for Deferred Mandatory Departure (DMD) status require that an employer submit an attestation that it:</p> <ul style="list-style-type: none"> Has posted the position for at least 30 days in the electronic job registry; Has offered the job to any equally or better qualified

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	<p>and United States businesses.</p> <p>The proposal also contains a provision creating a “willing worker – willing employer electronic job registry” that requires an employer to recruit U.S. workers for at least 30 days before offering a job to an H-5A temporary worker.</p>	<p>U.S. worker who applies; Will comply with the terms of the program; Will not hire more aliens than authorized by the DHS; Will pay the worker the greater of the hourly wage prescribed under the Fair Labor Standards Act or the applicable state minimum wage; Will not adversely affect the working conditions of other similarly employed U.S. workers, by hiring the foreign worker. The proposal also authorizes DOL and DHS audits of employers to ensure compliance with these provisions.</p>
<p>IV. DOES THE PROPOSAL CONTAIN A PROVISION TO REFORM THE CURRENT BROKEN SYSTEM THAT REGULATES FAMILY-BASED IMMIGRATION?</p> <p>A proposal for comprehensive immigration reform must reduce the current enormous backlogs in legal immigration to the United States and make it easier for families to immigrate lawfully so that they can reunite.</p>	<p>Yes, the proposal does make it easier for people to immigrate through family members.</p> <p>The bill increases legal immigration to the United States by not counting “immediate relatives” in the cap on the number of immigrant visas issued annually.</p> <p>The current immigration law requires petitioners of family members to prove that they can support their family and all the beneficiaries of the petition at 125% of the federal poverty level. This is done through an “affidavit of support.”</p> <p>This requirement is virtually impossible for many</p>	<p>The Cornyn/Kyl proposal makes little change to immigration policy.</p> <p>It eases the cap on the number of immigrant visas that can be issued to each country.</p>

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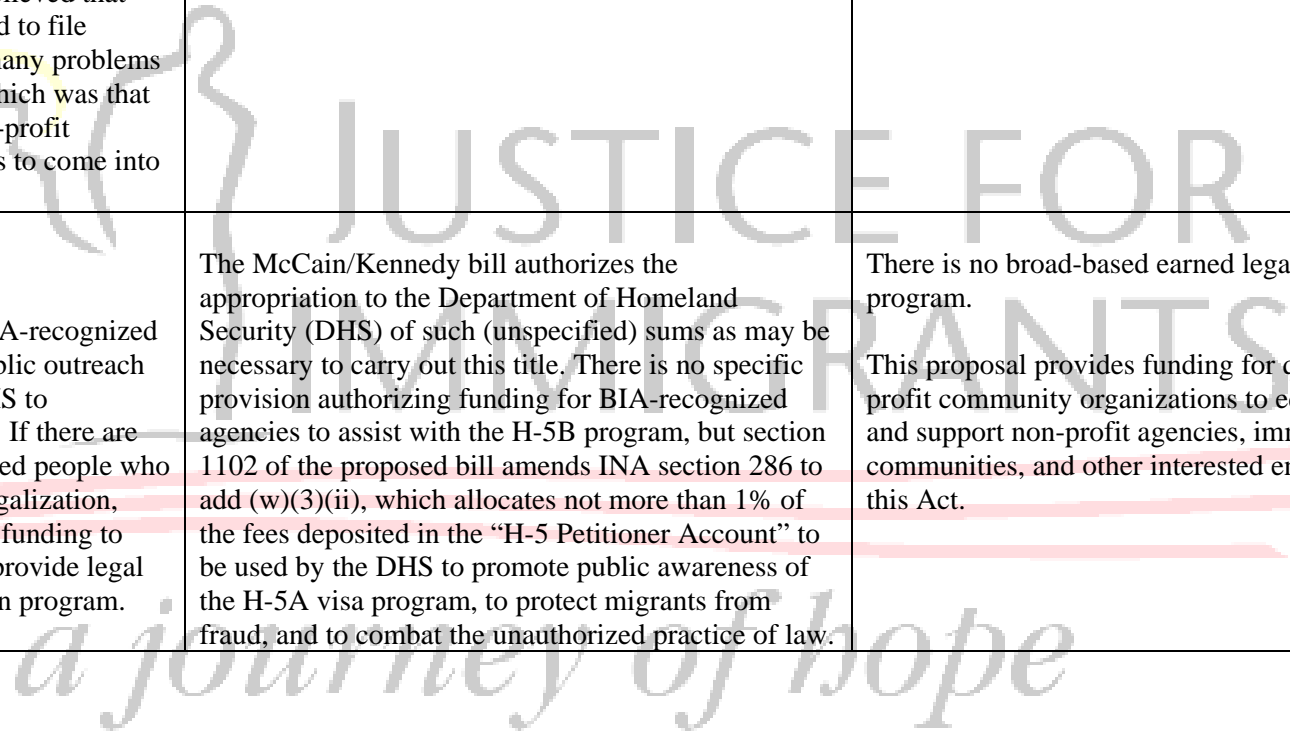
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	<p>working people to meet.</p> <p>The McCain/Kennedy proposal reduces the affidavit of support requirement from 125% to 100% of the federal poverty guideline.</p> <p>It provides an expanded waiver for certain grounds of inadmissibility (such as false claims to U.S. citizenship and unlawful presence) for conduct that occurred before introduction of the bill.</p>	
<p>The U.S. Catholic Bishops believe that the following specific elements should be included in any broad-based earned legalization program:</p>	<p>The McCain/Kennedy proposal does contain the majority of the specific elements listed by the U.S. Catholic Bishops for a just earned legalization bill. See below.</p>	<p>The Cornyn/Kyl proposal does not include a broad-based legalization program.</p> <p>The information below pertains to either the Deferred Mandatory Departure (DMD) program or the W temporary worker program.</p>
<p>1. Confidentiality:</p> <p>Applicants for the legalization program should be extended confidentiality and not subject to deportation or arrest if they do not qualify. A provision for confidentiality would limit use of any information provided in an application to the deciding of that application. The information would not be used for purposes of initiating deportation or removal proceedings.</p>	<p>Yes, this proposed bill contains a confidentiality provision that protects applicants for H-5B nonimmigrant status from having their applications used against them to place them in deportation or removal proceedings.</p> <p>The confidentiality provision contains exceptions permitting the government to provide information for criminal and national security investigations.</p> <p>The proposal also includes provisions with penalties for applicants who knowingly and willingly provide</p>	<p>There is no broad-based earned legalization program.</p> <p>The Deferred Mandatory Departure (DMD) program has no confidentiality provision.</p> <p>In fact, it requires that the applicant for DMD status must authorize the release of all information in the application for law enforcement purposes.</p>

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	<p>false information in an H-5B application.</p> <p>It includes a provision for confidentiality for people applying from H-5B status to adjust to permanent residence (i.e., to obtain the green card).</p>	
<p>2. Board of Immigration Appeals (BIA) recognized agencies:</p> <p>BIA-recognized agencies should be created to assist in implementation of an earned legalization program.</p> <p>The U.S. Catholic Bishops believe that BIA-recognized agencies should be involved with conducting public education to the potential beneficiaries of such a program and should provide legal services for the potential applicants under the earned legalization program.</p> <p>The previous legalization program under the Immigration Reform and Control Act (IRCA) of 1986 had a provision permitting “Qualified Designated Entities” (QDEs) to receive applications</p> <p>for legalization and to file them with the then Immigration and Naturalization Service (INS) on behalf of applicants.</p> <p>This was intended to help the undocumented come</p>	<p>The current proposed bill does not contain a provision permitting QDEs to file applications with the USCIS nor does the proposal have a provision authorizing BIA-recognized agencies to assist with implementation of the earned legalization program.</p>	<p>There is no broad-based legalization program.</p> <p>There is no provision for QDEs or BIA-recognized agencies in the DMD or temporary worker programs.</p>

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<p>out of the shadows because it was believed that undocumented aliens would be afraid to file directly with the INS. There were many problems with the QDE system, not least of which was that it resulted in many unscrupulous for-profit notarios and immigration consultants to come into existence.</p>		
<p>3. Adequate Funding:</p> <p>Funding should be authorized for BIA-recognized Agencies to assist applicants, for public outreach about the program, and for the USCIS to implement the program adequately. If there are an estimated 11 million undocumented people who will need help to apply for earned legalization, then the government should provide funding to BIA-recognized agencies to in turn provide legal services under the earned legalization program.</p>	<p>The McCain/Kennedy bill authorizes the appropriation to the Department of Homeland Security (DHS) of such (unspecified) sums as may be necessary to carry out this title. There is no specific provision authorizing funding for BIA-recognized agencies to assist with the H-5B program, but section 1102 of the proposed bill amends INA section 286 to add (w)(3)(ii), which allocates not more than 1% of the fees deposited in the "H-5 Petitioner Account" to be used by the DHS to promote public awareness of the H-5A visa program, to protect migrants from fraud, and to combat the unauthorized practice of law.</p>	<p>There is no broad-based earned legalization program.</p> <p>This proposal provides funding for qualified non-profit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding this Act.</p>



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<p style="text-align: center;">U.S. Catholic Bishops' Principles for a Just and Fair Immigration Reform Proposal</p>	<p style="text-align: center;">The Secure American and Orderly Immigration Act of 2005 (S. 1033 and H.R. 2330) by Senators John McCain of Arizona and Edward Kennedy of Mass. and Representatives Luis V. Gutierrez of IL, Jim Kolbe and Jeff Flake of AZ.</p>	<p style="text-align: center;">Comprehensive Enforcement and Immigration Reform Act of 2005 (S.1438) by Senators John Cornyn of TX and Jon Kyl of AZ. There is no companion bill in the House of Representatives.</p>
<p>Reasonable Enactment Period:</p> <p>The previous legalization program under the Immigration Reform and Control Act (IRCA) of 1986 was implemented six months after enactment of IRCA.</p> <p>Sufficient time should be given between enactment of the bill and implementation so that regulations, procedures, and infrastructure are in place.</p> <p>Deportations of prospective applicants who qualify should be suspended between the two dates.</p>	<p>The proposed bill does not specify the time period within which the H-5B Nonimmigrant Program must be implemented, although it does direct the DHS to establish regulations for the timely filing of adjustment of status applications.</p> <p>The proposed bill requires the DHS to let an alien, who is arrested after enactment of this Act and who demonstrates prima facie eligibility for H-5B status, a reasonable opportunity to apply for such status after regulations are issued.</p> <p>It prohibits detention or removal of the applicant while the application is pending.</p>	<p>There is no broad-based legalization program.</p> <p>The Deferred Mandatory Departure (DMD) program, however, must be set up to start receiving applications within three months after the date of enactment of this Act.</p> <p>People who want to apply for DMD must submit applications within 6 months of enactment of this Act.</p> <p>The DHS must process all applications for DMD status within 12 months of enactment of this Act.</p>
<p>5. Creation of Separate Entity:</p> <p>A separate entity, similar to the asylum corps, should be created within United States Citizenship & Immigration Services (USCIS) to implement legislation; such an entity should be adequately funded through appropriations.</p>	<p>The proposed bill does not contain a provision creating a separate entity within the DHS to handle the H-5B Nonimmigrant Program.</p>	<p>There is no broad-based legalization program.</p> <p>The proposal does not contain a provision requiring the DHS to establish a separate entity to handle either the W temporary visa program or the DMD program.</p>

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<p>6. Derivative Benefits:</p> <p>When a foreign national receives lawful status in the United States, sometimes immediate family members can also derive lawful status through the primary beneficiary.</p> <p>The U.S. Catholic Bishops recommend that immediate family members should receive the same benefits under the earned legalization program as the primary beneficiary.</p>	<p>The proposed bill permits the spouse and child of an H-5B applicant to also obtain H-5B status if the spouse and child were physically present and in unlawful status before introduction of the bill (i.e., May 12, 2005).</p> <p>The proposed bill also provides work and travel permits to the H-5B applicant and his/her spouse and children.</p> <p>It also prohibits detention or removal of the applicant and his/her spouse and children while the application is pending.</p>	<p>There is no broad-based legalization program.</p> <p>The spouse and child are eligible for DMD status but not for a work permit.</p> <p>In addition to other applicable fees, the Spouse and child must pay a \$500 fee.</p>
<p>(7) Generous Evidentiary Standards:</p> <p>Applicants for earned legalization carry the burden of proof - the duty to establish the truth of their application. The evidentiary standards for the burden of proof should be based upon the preponderance of evidence (i.e., the greater weight of the evidence) and should include a wide range of proof, including attestation.</p>	<p>The proposed bill sets the burden of proof for the H-5B applicant to prove employment in the United States, as "the preponderance of the evidence."</p> <p>The proposal lists a wide range of documents that can be used to prove employment, including sworn affidavits.</p> <p>It also provides the "intent of Congress" that this section should be interpreted and implemented in a manner that recognizes that undocumented workers have difficulty documenting their employment.</p> <p>People under age 21 are not subject to the employment requirements.</p>	<p>There is no broad-based legalization program.</p> <p>There is no provision with an explicit evidentiary standard for obtaining DMD status.</p> <p>The proposal grants the DHS "sole and unreviewable discretion" to grant DMD status.</p>

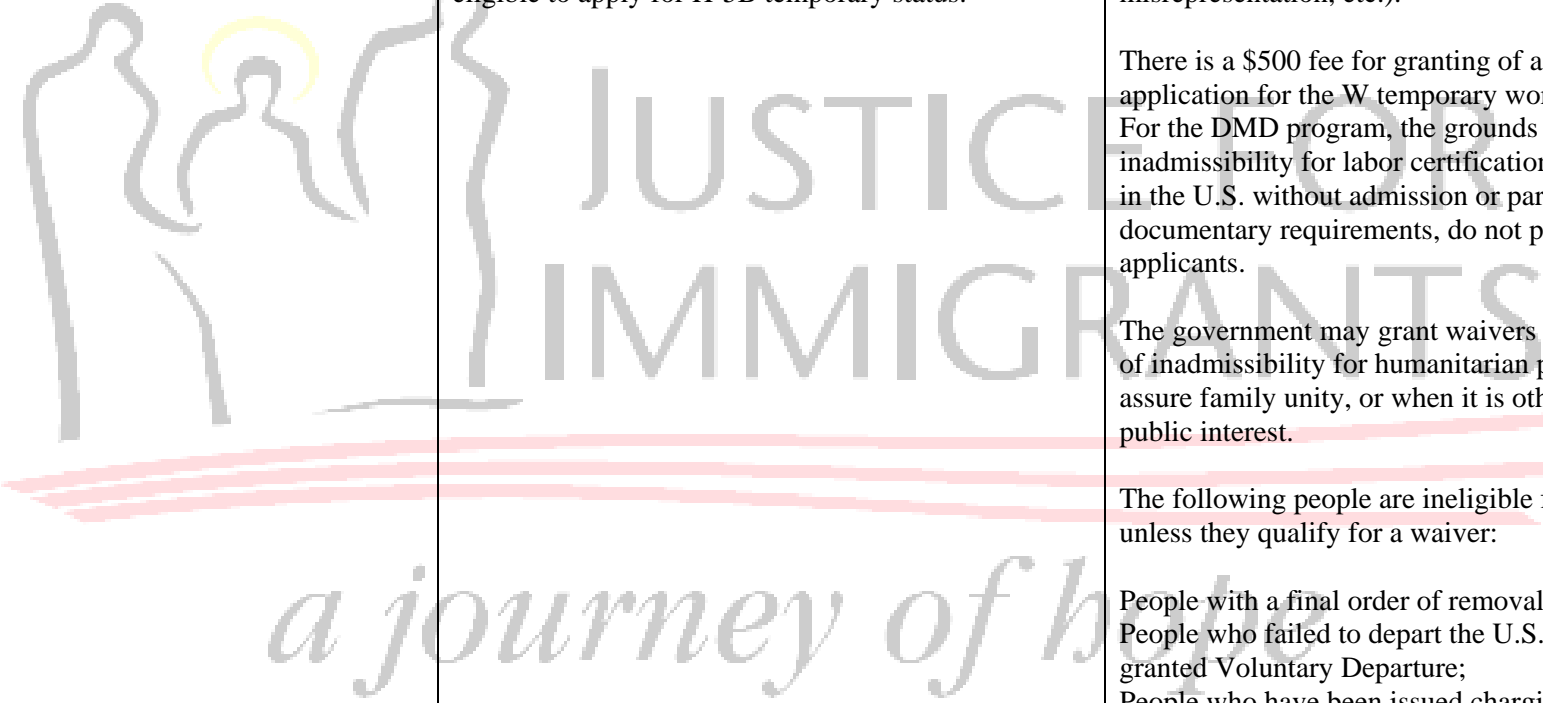
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<p>(8) One-Step Legalization:</p> <p>A one-step legalization program would verify eligibility and security and background checks in one process up front and not in a two-step process, i.e. upon conditional status and then permanent status.</p>	<p>The McCain/Kennedy proposed bill does not contain a one-step process.</p> <p>The earned legalization program is a two-step program: first obtain H-5B nonimmigrant status; then after six years apply for lawful permanent residence.</p> <p>It prohibits the DHS from permitting adjustment of status or change of status from H-5B before termination of the 6 years of authorized stay.</p>	<p>There is no broad-based legalization program. Therefore, there is no pathway to permanent residency from either the W temporary worker program or the DMD program.</p> <p>The beneficiary of DMD status is barred from changing to another temporary visa category while in DMD status.</p> <p>The beneficiary of DMD is barred from adjusting to lawful permanent residence while in DMD status (with a limited exception).</p>
<p>(9) Operational Terms should be defined:</p> <p>Operational terms in the bill, such as “continuous residence,” “brief, casual, and innocent,” and “known to the government,” should be defined in legislation to avoid later confusion.</p>	<p>Although the proposed bill, in the section for the H-5B Nonimmigrant Program, contains such operative terms as being “continuously present” in the U.S. and “expeditious processing” of fingerprints, and “satisfactorily pursuing a course of study” in civics and English, these terms are not defined in the proposed bill.</p> <p>This might lead to confusion when attempting to implement the bill through regulations or the DHS might provide restrictive interpretations of these terms making it difficult for applicants to legalize.</p>	<p>There is no broad-based legalization program.</p>

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<p>(10) Broad humanitarian waiver:</p> <p>Foreign nationals coming to the U.S. must prove that they are not subject to a ground of inadmissibility that bars them from admission into the U.S.</p> <p>For example, if someone has a certain type of contagious disease, then s/he could be barred from admission to the U.S. for a health-related ground of inadmissibility.</p> <p>In certain circumstances, a foreign national can apply for a waiver of certain grounds of inadmissibility to gain admission into the United States.</p> <p>The Catholic Bishops recommend that for an earned legalization program there be a broad waiver of bars to admissibility such as unlawful presence, fraud, or other minor offenses. See refugee waiver (INA 209c) or NACARA waiver.</p>	<p>The proposed bill makes certain grounds of inadmissibility inapplicable to aliens applying to adjust to H-5B nonimmigrant status for conduct that occurred before introduction of the bill (i.e., May 12, 2005).</p> <p>For example, the following grounds of inadmissibility are not applicable to an applicant for H-5B status:</p> <p>misrepresentation (including false claims to U.S. citizenship); labor certification; aliens present without admission or parole (EWIs); Failure to attend removal proceedings; subject to a final order for document fraud; student visa abusers; documentation requirements; aliens previously removed; unlawful presence, and the so-called "permanent bar," and guardian required to accompany helpless alien.</p> <p>Certain grounds of inadmissibility are still applicable and may not be waived (e.g. controlled substance traffickers; traffickers in persons; money laundering, terrorists, etc.).</p> <p>Other grounds of inadmissibility may be waived for humanitarian purposes, to ensure family unity, or when such waiver is in the public interest, for conduct that occurred BEFORE the introduction of this Act (e.g., public charge, health-related, unlawful voters, etc.).</p> <p>People who were granted voluntary departure in the</p>	<p>There is no broad-based legalization program and no broad humanitarian waiver.</p> <p>The W guest worker and the DMD programs require that the applicant provide information about his/her mental and physical health, criminal history, gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, and persecution, or who seek to overthrow the U.S. government, voter registration history, claims to U.S. citizenship, and tax history. The proposal provides that, for the W temporary worker program, the government may waive the grounds of inadmissibility concerning labor certification; aliens present without admission or parole; documentation requirements, aliens unlawfully present (i.e., the 3 and 10-year bars), and aliens unlawfully present after previous immigration violations (i.e., the so-called permanent bar).</p> <p>The waiver pertains to conduct that occurs before the effective date of this Act. This proposal provides that he government cannot waive most of the grounds of inadmissibility pertaining to criminals; security, child abductors and illegal voters.</p> <p>Other grounds of inadmissibility may be waived for humanitarian purposes, to ensure family unity, or when such waiver is in the public interest, for conduct that occurred BEFORE the introduction of</p>

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	<p>past and who failed to depart the U.S. would be eligible to apply for H-5B temporary status.</p>	<p>this Act (e.g., public charge, health-related, misrepresentation, etc.).</p> <p>There is a \$500 fee for granting of a waiver application for the W temporary worker program. For the DMD program, the grounds of inadmissibility for labor certification, being present in the U.S. without admission or parole, and certain documentary requirements, do not pertain to applicants.</p> <p>The government may grant waivers of other grounds of inadmissibility for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.</p> <p>The following people are ineligible for DMD status unless they qualify for a waiver:</p> <ul style="list-style-type: none"> People with a final order of removal; People who failed to depart the U.S. after being granted Voluntary Departure; People who have been issued charging documents starting removal proceedings against them (with limited exceptions); People from countries where the U.S. government has determined that the government of such country has repeatedly supported terrorism; and People who fail to comply with requests for information by the DHS.