

Comprehensive Immigration Reform Bill Introduced in Congress

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A comprehensive immigration bill that goes beyond the immigration proposal of President George Bush was introduced in Congress last week by Republican Senator Chuck Hagel and Democratic Senator Tom Daschle.

To be known as the Immigration Reform Act of 2004, it contains three basic components namely: (1) family reunification; (2) opportunity for undocumented aliens to apply for adjustment of status; and the (3) establishment of a temporary worker program.

Family Reunification

Under the family reunification provision, visa numbers for immediate relatives which refer to minor unmarried children, spouses and parents of US citizens will no longer be deducted from the annual 480,000 cap on family-based immigration.

Further, the spouses and minor unmarried children of permanent residents (now classified under Family 2A category) will be reclassified as immediate relatives.

This means that the more than one million aliens worldwide waiting for visa numbers under the 2A category will be able to apply for immigrant visa immediately. This will benefit Filipinos whose wait has been at least five years.

Opportunity to Get Green Card

With respect to the adjustment of status of undocumented aliens and their families, the Hagel-Daschle Bill proposes an "earned adjustment" of their status provided they have been physically present in the US for five years before the bill's introduction. They would have to pay a \$1,000 fee as well as meet certain work requirements. They must also pay their income taxes, or enter into an agreement with the IRS to pay their outstanding liabilities. The spouses and minor children may adjust with the principal applicant.

The work requirement for earned adjustment includes working at least three of the five years before the bill's introduction, and a prospective work requirement of at least one year after the enactment of the bill into law.

Foreign workers who meet the physical presence requirement, but not the work requirement of the earned adjustment, would be eligible for a three-year transitional worker status. As such, they would be allowed to work, given permission to travel, and would be eligible to adjust their status to permanent resident.

Temporary Worker Program

As to its temporary worker program, the Hagel-Daschle Bill seeks to reform the existing H-2B visa category and create a new H-2C program. The bill proposes increasing the annual cap for H-2B to 100,000 for five years, after which the cap will revert to 66,000. H-2B visa holders would be allowed to work in the US for a limited period of nine months in any 12-month period, and a maximum of 36 months in any 48-month period. It would not allow portability, meaning, the worker may not be employed elsewhere.

The proposed H-2C program is for an initial period of two years, renewable for another two years, and capped at 250,000 annually, which "sunset" five years after regulations are issued. In contrast to the proposed reform of the H-2B program, the foreign worker is allowed portability after three months, with certain exceptions.

The bill provides that US employers who will petition for workers in either program must meet US worker recruitment requirements to establish the unavailability of US qualified workers.

Under the Bush proposal, which was unveiled last January 7, the uncapped temporary worker program would be open not only to undocumented foreigners in the US but to workers outside the US as well. It would allow foreign workers to remain in the US for an initial period of three years, renewable for an unspecified period as yet. As with the Hagel-Daschle Bill, American employers must establish that there are no available qualified US workers willing to fill the position. The Bush proposal includes incentives for the foreign workers to return to their home countries.