



517 Hart Building
Washington, DC 20510
(202) 224-2934
<http://cornyn.senate.gov>

The Border Security And Immigration Reform Act

U.S. Sen. John Cornyn (R-Texas)

My guest worker program is a balanced, common sense solution to our broken immigration system. It addresses the need for better border and homeland security while acknowledging the important contributions that immigrants make to our economy. It will bring hard-working immigrants out of the shadows and onto our tax rolls, while combating human smuggling and other exploitation.

For too long, policymakers have failed to address the flaws in our nation's immigration policy. Special interest groups on both ends of the political spectrum now dominate the debate, employing scare tactics to scuttle reforms that do not comport with their narrow views. We can and must do better.

This bill addresses the reality that millions of undocumented men and women go to work every day in America in violation of our immigration laws, without any way of our government knowing who, or where they are. And unlike the status quo, my proposal would encourage undocumented immigrants to ultimately return to their homes and families with both the fruit of their labor and valuable skills. It would have the highly desirable effect of restoring the rule of law and facilitate economic development on both sides of our border.

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Two Ways to Participate:

- The Secretaries of Homeland Security and State Department will create guest worker programs with eligible foreign countries who enter into agreements with the U.S. to develop standards of enrollment, procedures for providing health care through their home countries, training of workers and monitoring information regarding departure and return of workers.
- Undocumented immigrants may apply for the guest worker program within 12 months after the date of enactment in conjunction with a U.S. employer. Undocumented workers who apply must show proof of residency in U.S. by date of enactment, are able to travel across borders and will be provided a photo ID.

Types and Numbers of Workers:

- Individuals may work in the U.S. on a seasonal or nonseasonal basis. Seasonal workers are authorized to stay up to 9 months at a time. Nonseasonal workers are authorized a full 12 months, not to exceed 36 months total.
- The Secretary of Labor will adjust the number of guest workers permitted to enroll annually in response to changes in U.S. economic conditions, specifically unemployment rates, on a region-by-region basis. In consultation with the Secretary of Labor's determination of the annual number of guest workers, the total number of green cards available may be annually adjusted.

Immigration Status:

- The DHS Secretary shall establish an evaluation system to give a level of priority to guest workers applying for legal permanent residence status from their home country after participating for 3 years in the program.

Employer Requirements:

- Employers seeking temporary guest workers must apply with the Labor Department with information on availability of nonseasonal jobs including nature of work, anticipated period and wages to be paid. The employer must attest that there are insufficient workers to perform these jobs and that hiring guest workers will not adversely affect the wages and working conditions of U.S. workers.

Penalties for Employer and Employees:

- Any employer in the guest worker program that violates wage, labor or safety laws will be subject to the same penalties as they would if employing U.S. citizens. A violating employer would be debarred from participation in the guest worker program for up to 10 years. If workers and employers sign up for the guest worker program during the one year enrollment period, no penalties will be levied. Civil penalties will be imposed upon any U.S. employer that knowingly employs an unauthorized undocumented immigrant after the expiration of the application period. Employees and employers will face civil and criminal penalties as well as be barred from participation in the program for several years based on various violations.

Individual Worker Investment Accounts:

- Federal payroll taxes from guest workers will be transferred into individual investment accounts. The investment accounts will be the property of the guest worker and be invested in funds created and managed by the Secretary of the Treasury. The guest worker can access these investment accounts **only** after the worker permanently leaves the program and returns to their home country.