Democratic Comprehensive Immigration Reform
The Safe, Orderly, Legal Visas and Enforcement Act (The SOLVE Act)
OVERVIEW OF LEGISLATION

EARNED ADJUSTMENT

- Immigrants who have been here for five (5) or more years on date of introduction (May 4, 2004) and can demonstrate 2 years in aggregate of employment (including self-employment) in the U.S. and payment of taxes would be eligible for legalization. The principal applicant's spouse and unmarried children under 21 are also eligible. These applications will be adjudicated outside the caps/numerical limitations on visas

- Grounds of inadmissibility related to undocumented status would be waived

- Applicants shall undergo criminal background checks and medical examination, and register with the Selective Services. They shall also be able to travel and work with authorization while application is pending

- Applicants shall demonstrate an understanding of English and civics, or be pursuing a course of study to achieve such understanding

- The Department of Homeland Security (DHS) shall not use the applicant's information for any purpose other than to make a determination on the application, unless they have committed fraud or are a national security threat (confidentiality)

- Bill provides for administrative and judicial review for denials of an application

- Applicants in the U.S. on the date of introduction (5/4/04) but here less than five years or without the requisite work history shall be eligible (after a thorough background check) for transitional status (TS) of 5 years. Qualifying TS immigrants shall be able to work with authorization and travel abroad. After 2 additional years of work in aggregate, they, too, shall be eligible for adjustment of status

FAMILY REUNIFICATION AND BACKLOG REDUCTION

- Immediate relatives will be exempted from counting towards the 480,000 ceiling on family-based immigrant visas and include immediate relatives of permanent residents

- Per-country ceilings on visas: Immigrants waiting more than five years shall be allocated a visa outside the per-country limits

- Unused family-based visas in any given year shall be "recaptured" and applied to future years without per-country limitations

- The income test for the affidavit of support shall be reduced from 125% to 100% of the poverty level

- The 3- and 10-year bars to re-entry shall be repealed

Temporary Worker Program

- Establishes worker visa programs (H-1D & H-2B) for workers in low-skilled positions (workers who qualify for other visas shall be excluded). 250,000 such visas shall be available for H-1D workers for a period of 2 years and renewable for 2 additional terms (6 years total). 100,000 such visas shall be available for H-2B workers for a period of 9 months and renewable for up to 40 months

- Immediate family members may accompany the H-2B and H-1D visa holder, but will only be eligible to work if they, too, qualify for an H-2B or H-1D visa or other work visa

- Worker could move to another H-2B or H-1D job after 3 months (job portability)

- H-2B and H-1D programs shall include a path to permanent residency, wherein an employer could immediately petition for a worker upon initial employment or a worker could self-petition after 2 years of employment. These adjustment applications would be adjudicated outside the caps on visas

- The Department of Labor must approve through a strengthened attestation process that U.S workers are not available and that the employment of foreign workers will not adversely affect the wages and working conditions of U.S. workers. Foreign workers can only apply for a job offer from an employer who has complied with DOL obligations. DOL shall also have the authority to enforce compliance with terms of program through inspections and audits (as well as complaints)

- H-2B and H-1D workers shall be able to pursue a private right of action against employers who fail to comply with the provisions and requirements of the worker program

- H-2B and H-1D job positions shall pay the prevailing wage, as determined in the shop's collective bargaining agreement, or, in its absence, under the Davis Bacon or McNamara-O'Hara Service Acts. If the job is not covered by these wage determinations, the prevailing wage shall be the mean of the highest 66% of the wage data provided by DOL's Bureau of Labor Statistics Occupational Employment Survey

- Includes a Hoffman Plastics fix that would protect backpay, workman's compensation and other remedies that were undermined by the Supreme Court decision

- A study of the H-2B and H-1D programs will be commissioned, to examine, among other issues, the appropriate labor market test to protect U.S workers and the appropriate wage calculation formula. The study will also evaluate the positive and negative impact of the programs, reassess the programs, and make recommendations to Congress