

## SECURING THE BORDERS AND REFORMING IMMIGRATION WITHOUT AMNESTY

*"Our plan puts border security first and cracks down on those who knowingly hire illegal workers, but it also recognizes the need for a temporary worker program that operates without amnesty and harnesses the power of the private sector to avoid creating a huge new government bureaucracy."*

-Sen. Kay Bailey Hutchison and Rep. Mike Pence  
July 25, 2006

### **Securing the Borders First:**

The number one priority of any serious attempt at immigration reform must be a comprehensive and successful effort to secure the borders of the United States. Such an initiative must precede—not follow—the implementation of a temporary worker program. The border security initiative must include comprehensive surveillance that utilizes personnel and technology; infrastructure improvements including fences; checkpoints; detention facilities; judicial support; and deployment of additional Border Protection and Drug Enforcement personnel.

This plan adopts the strongest provisions of the House and Senate-passed bills and addresses unlawful entry of terrorists and instruments of terror, undocumented immigrants, narcotics and human trafficking.

### **Certification and Trigger:**

The new temporary worker program will begin when a border security certification by the President is sent to Congress. This certification will be based on objective criteria and achievable goals, such as hiring and training a certain number of new border patrol agents, making additional detention beds available, and utilizing upgraded border surveillance technology. Also, part of the trigger will be a requirement that all necessary systems and infrastructure for the temporary worker program are ready and have been tested for reliability and accuracy, for example: secure cards can be produced, temporary worker databases are available, and the FBI is able to conduct the required fingerprint and criminal background checks.

The bill will require that regulations for the temporary worker program be issued by the Department of Labor and licensing requirements be issued by the Department of Homeland Security not later than six months after enactment and that the program be ready for implementation two years after enactment. Therefore, the first two years after enactment will be dedicated to border security, and at the two-year point, if all criteria for the certification have been satisfied, the President will transmit the certification to Congress and the temporary worker program will begin.

### **Good Neighbor SAFE Visas and Ellis Island Centers:**

A new non-immigrant temporary worker visa category to be known as a "Good Neighbor SAFE (Secure Authorized Foreign Employee) Visa" will be created. This visa will be available as part of a new temporary worker program that will be managed by American-owned private employment agencies that open branches ("Ellis Island Centers") in NAFTA and CAFTA-DR nations. The Good Neighbor SAFE Visa Program is intended to offer a legal means for entry into the U.S. for willing foreign temporary workers, their spouses and minor children. The program is designed to ensure that over a period of years the incentives it contains will result in the great majority of the estimated 12 million undocumented residents currently in the U.S. self-deporting in order to return legally under the Good Neighbor SAFE Visa Program.

The Ellis Island Centers will be licensed and overseen by the Department of Homeland Security and Department of State, and they will be required to demonstrate that they are capable of confirming employment and facilitating a criminal background check and public health screening of applicants in one week or less.

### **No Amnesty:**

Undocumented residents currently in the U.S. must return to their country of origin in order to apply for participation in the Good Neighbor SAFE Visa Program.

Undocumented residents currently in the U.S. will not receive an automatic path to citizenship by virtue of participating in the Good Neighbor SAFE Visa Program. However, participation in the program will not preclude participants from returning to their country of origin at any time, surrendering their Good Neighbor SAFE Visa, and applying for legal permanent residence under current law.

### **NAFTA and CAFTA-DR:**

Good Neighbor SAFE Visa applicants will be required to apply for an open position from their country of origin and have their applications processed by an Ellis Island Center in that country. Participation in the Good Neighbor SAFE Visa Program will be limited initially to citizens of countries that are party to NAFTA and CAFTA-DR.

### **X-Change Visa:**

A new X-Change Visa category will be established and made available to Good Neighbor SAFE Visa holders, their spouses and minor children after a Good Neighbor SAFE Visa holder successfully completes the twelve-year maximum participation period in the Good Neighbor SAFE Visa Program. A Good Neighbor SAFE Visa holder, with an employer sponsorship and successful criminal background check, may apply for an X-Change Visa while in the U.S. In return, holders of an X-Change Visa, their spouses and minor children, will not be eligible to receive social service benefits or welfare. This visa will provide lawful, continuing residence in the U.S. After five years as an X-Change Visa holder, and a total of seventeen years in the U.S., the visa holder will have the option of continuing to hold an X-Change Visa, returning home, or applying for permanent adjustment of status.

### **Hiring of Americans First:**

Employers will be eligible to hire workers under the Good Neighbor SAFE Visa Program only if they can attest to having tried to hire an American worker for 30 days in a manner reasonable to the industry and locality. As part of this requirement, employers must advertise the job opening at a wage that is commensurate with the trade or industry in that locality (but that is not a Davis-Bacon wage requirement). Good Neighbor SAFE Visa holders must be hired and paid in accordance with the advertised wage, with failure to do so subjecting employers to a civil fine and a future bar from participation in the Good Neighbor SAFE Visa Program.

### **Mechanics of Hiring a Good Neighbor SAFE Visa Holder:**

Employers will register open jobs that cannot be filled by Americans with Ellis Island Centers in NAFTA and CAFTA-DR nations. Willing citizens of those nations

will register with an Ellis Island Center their availability to come to America and work.

The Ellis Island Centers will notify an employer of a potential temporary worker who could fill an available job registered by the employer with the Ellis Island Center. If the employer agrees to hire and sponsor the potential temporary worker for a Good Neighbor SAFE Visa, the potential temporary worker will undergo a criminal background check and public health screening. After passing the background check and health screening, the worker will be issued a Good Neighbor SAFE Visa to enter the U.S. and work in that specific job.

The Good Neighbor SAFE Visa will be issued in the form of a secure, tamper-proof identification card containing personal and biometric information about the holder of the card, as well as information describing the sponsoring employer and the job the cardholder is coming to the U.S. to perform.

The Ellis Island Centers and the companies issuing the secure visa cards will be required to operate under strict performance standards.

The Ellis Island Centers will charge a reasonable fee to employers for their services. This fee will include the cost charged by the U.S. or foreign government for the criminal background check, visa issuance and any other incurred costs so that the U.S. taxpayer is not paying these processing charges.

The Secretary of Homeland Security will require the posting of an immigration performance bond by the Good Neighbor SAFE Visa holder to insure that at the expiration of the visa, the Good Neighbor SAFE Visa holder will return to his or her country of origin.

***Number of Good Neighbor SAFE Visa Holders:***

The number of Good Neighbor SAFE Visa holders will be determined by the market during the first three years of operation of the program. This will allow the great majority of the estimated twelve million undocumented residents in the U.S. an opportunity to return to their country of origin and re-enter through the Good Neighbor SAFE Visa Program, as long as they have a sponsoring employer and satisfy the other program requirements. After three years, the Department of Labor will set an annual limit to provide for a future flow of temporary labor. After the third year and the institution of the annual limits, not more than one half of the Good Neighbor SAFE Visas subject to the annual limits will be available within the first six months of each year.

***Spouses and Minor Children:***

Spouses and minor children of Good Neighbor SAFE Visa holders will be allowed to enter the U.S. on an accompanying Good Neighbor SAFE Visa as long as they pass the criminal background check and public health screening.

***Length of a Good Neighbor SAFE Visa:***

The Good Neighbor SAFE Visa will last for an initial period of not more than two years. It is then renewable five times while in the country for a total period of not more than twelve years, as long as the Good Neighbor SAFE Visa holder passes a basic English proficiency exam for the first renewal and updated criminal background checks for all renewals. At the expiration of a Good Neighbor SAFE Visa holder's visa, the visa card will be electronically cancelled and the Good Neighbor SAFE Visa holder will be required to leave the U.S., or apply for another category of visa, if eligible.

***Welfare, Medicare, Social Security and Other Social Benefits:***

Good Neighbor SAFE Visa holders, their spouses and/or minor children, will not be eligible for welfare or other social benefits aside from the education and medical benefits required to be granted to all non-immigrant visa holders.

Good Neighbor SAFE Visa holders' Medicare contributions will go into a fund to reimburse hospitals for uncompensated emergency medical expenses.

Good Neighbor SAFE Visa holders' employee Social Security contributions will be returned to the Good Neighbor SAFE Visa holders upon their return to their country of origin and permanent exit from the Good Neighbor SAFE Visa Program. The employer Social Security contributions will remain in the Social Security system.

***Criminal Background Check and Public Health Screening:***

Good Neighbor SAFE Visa holders will be required to pass a criminal background check, including a search through the FBI's fingerprint database and any applicable Homeland Security terrorist watch-lists. If criminal databases are available in the Good Neighbor SAFE Visa holder's country of origin, then a check through that database also will be required.

Good Neighbor SAFE Visa holders will be required to take and pass a standard public health screening identical to that required for other visa applicants.

At each application for renewal of a Good Neighbor SAFE Visa, the Good Neighbor SAFE Visa holder must pass an updated criminal background check.

***Secure Visas:***

Good Neighbor SAFE Visas will be issued in the form of secure wallet-sized cards that contain information about the job the Good Neighbor SAFE Visa holder is coming to perform, and it will contain personal and biometric information about the Good Neighbor SAFE Visa holder.

Employers will use these cards to verify the Good Neighbor SAFE Visa holder's eligibility and legal status. Immigration authorities will use these cards to confirm that the Good Neighbor SAFE Visa holder is allowed to enter, leave and re-enter the country.

If a Good Neighbor SAFE Visa holder is fired, convicted of a crime, or disappears, the card will be cancelled, preventing another employer from hiring the cardholder.

The visa card will allow the Good Neighbor SAFE Visa holder to travel freely back and forth between the U.S. and his or her country of origin, enabling the holder to return home for vacations, holidays, maintenance of family ties, etc.

***Ellis Island Centers:***

Although they will be located outside of the U.S., Ellis Island Centers must be branches of American-owned private employment agencies.

Other performance standards will be required in order for an Ellis Island Center to obtain and maintain a license from the Department of Homeland Security to participate in the Good Neighbor SAFE Visa Program.

***Employment Eligibility Verification System:***

The Good Neighbor SAFE Visa Program will work in tandem with a nationwide employment eligibility verification system. Two years after enactment this verification system will go into effect for *prospective* employees. Employers will be required to verify the legal status of all new employees, including Good Neighbor SAFE Visa holders, and the hiring of unverifiable employees will be subject to significant fines.

Six years after enactment the nationwide employment eligibility verification system will go into effect for *all* employees. At that time, employers will be required to verify the legal status of their entire workforce. Employers seeking to comply with the law will need to have an entirely legal workforce.

***Good Neighbor SAFE Visas and Job Flexibility:***

Good Neighbor SAFE Visa holders will be allowed to change jobs. Upon leaving the employ of a sponsoring employer, a Good Neighbor SAFE Visa holder will be provided with a 45-day period in which to find a new sponsoring employer through an Ellis Island Center. If unsuccessful, the Good Neighbor SAFE Visa expires at the end of that 45-day period and the holder must return to his or her country of origin.

***English Language:***

Recognizing that English is the national language of the United States, Good Neighbor SAFE Visa holders will be required to study English and pass an English proficiency class and exam to receive their first visa renewal. The government will allow private industry to administer the exam to avoid growing the federal bureaucracy. A faith-based component will be provided to assist churches and other ministries that offer English classes.

***Outreach and Information:***

Faith-based groups will be encouraged to reach out to the undocumented resident community to educate them about the Good Neighbor SAFE Visa Program and how it will work.

Appropriations will be authorized for a public education campaign prior to and during the implementation of the Good Neighbor SAFE Visa Program.

***Reporting/Benchmarks:***

The Secretaries of Homeland Security and State will be required to provide reports to Congress on the effectiveness and operations of the Good Neighbor SAFE Visa Program and the employment eligibility verification system. If the reports show significant problems, the program will be suspended or scaled back while the problems are addressed.

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