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The Ag JOBS Act: Immigration Amnesty Revived

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After failing to secure amnesty for the over 12 million individuals unlawfully in the United States with a deeply flawed approach to comprehensive immigration reform, some Members of the Senate are now reintroducing amnesty piecemeal, spread across several bills. One is the “Ag JOBS Act of 2007” (S. 340), which could be attached to the upcoming farm bill. The bill contains the same language as this summer’s failed immigration legislation, including provisions granting amnesty to undocumented workers. Instead of reviving amnesty, Congress should focus on reforming the existing H2-A agricultural worker visa program to allow legal flows of workers that meet the needs of employers and employees.

Ag JOBS Atrocity. The Ag JOBS Act would create a pilot program that provides work visas, called “blue cards,” to guest workers who wish to work in the agricultural sector, regardless of whether they are currently illegally present. In sum, the Ag JOBS Act would grant amnesty to 1.5 million illegal agricultural workers and 1.8 million of their family members. Because it adopts a looser approach to the basic requirements that applicants must meet to be granted blue card status, this legislation would make it even easier for illegal immigrants to obtain legal status than under the Senate’s comprehensive immigration bill. Three changes are especially significant:

- In order to be considered for blue card status, applicants would only have to prove that they worked in agriculture for “863 hours or 150

work days,” in 2005 and 2006, using government employment records or “other reliable documentation as the alien may provide.” The wide variety of valid documentation will only make it easier to fabricate documents.

- Applicants for blue card status would not need to return to their home countries before applying, as was required by a provision in the original immigration bill.
- Applicants with pending criminal charges and those who have been convicted of some misdemeanors can still receive amnesty.

In addition to this amnesty, several provisions in the act would compound the illegal immigration problem:

- A confidentiality clause would bar the Department of Homeland Security from using an applicant’s information for alternative purposes, such as enforcing federal immigration laws.
- Program participants are obligated to become citizens after 3 to 5 years of work in the agricultural sector. If a worker fails to do so, he will lose his visa and could be deported. Many migrant workers do not aspire to become citizens, and

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this provision would only discourage workers from joining the program.

- The amendment also protects workers of blue card status from being fired unless the employer has “just cause.” This protection is not even afforded to those American workers who work on an “at will” basis in many states, where they can be fired for any reason or no reason. This clause could mire employers in legal proceedings if a worker feels that he has been unjustly fired and would be a large disincentive for employers to hire workers with a blue card.

A Real Solution. Rather than try to pass another amnesty bill, Congress should:

- Reject any new guest worker program that would grant amnesty to illegal immigrants already in

the country. Creating such a program would only exacerbate the illegal immigration problem.

- Reform the H2-A program to allow a realistic flow of legal workers that meets the needs of employers and employees.

Amnesty, however it is clothed, is the wrong answer. The right solution is to enact fair, compassionate, and practical reforms to current visa programs that get employers the employees they need.

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