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Guest Worker Programs: Problem or Solution?

by

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Pell Scholars Honors Program

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The implementation of guest worker programs in the United States that include illegal immigrants is controversial.

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Should unauthorized immigrants be allowed to legally work within the borders of the United States? This question is at the heart of the debate over the use of guest worker programs in America. The guest worker programs currently in place allow temporary foreign workers access to jobs, both agricultural and technical, for which American employees are not available. On January 7, 2004, President George W. Bush[i] proposed a new temporary foreign worker plan, allowing legal status to those unauthorized immigrants already living and working in the United States, as well as foreign nonimmigrants[ii] who wish to take part in the program (Bush).[iii] Supporters believe guest worker programs like this are beneficial to the American economy, as well as help to control immigration. Critics disagree, saying illegal immigration actually increases, "temporary" workers become permanent residents in the United States, and illegal behavior is rewarded. The implementation of guest worker programs in the United States that include illegal immigrants is controversial.

A major piece of legislation concerning guest worker programs is the Immigration and Nationality Act (INA) of 1952. The main purpose of the INA is to regulate the admission of foreign workers into the United States. This act, which does not provide any amnesty provisions for illegal immigrants already within the United States, has numerous provisions consisting of different entry categories for nonimmigrants. One of these provisions instituted the H-2 program, allowing for the entry of both agricultural and nonagricultural workers into the United States on a temporary basis ("Guest Worker Programs"). This act is the primary basis for the system of guest worker programs the United States currently has in place.

In 1986, the Immigration Reform and Control Act (IRCA) was enacted to further control illegal immigration into the United States. In order to fulfill its goal, IRCA allowed for the sanctioning of employers who knowingly hire undocumented immigrants who have not been authorized to work in America[iv] and increased funds for enforcement. IRCA also provided an amnesty provision for those undocumented immigrants who had been living and working in America since January 1, 1982. Under this provision, these immigrants were allowed to apply to the Immigration and Naturalization Service for legal resident status if done by May 4, 1988. Furthermore, IRCA also amended the INA by subdividing the H-2 program into the H-2A program and the H-2B program ("Guest Worker Program Overview").

According to a recent study by the Pew Hispanic Center, IRCA was not overly successful in its goal of controlling illegal immigration.[v] Although the number of illegal immigrants living in the United States was lower than the number of legal immigrants in the United States in the early 1990s, by 2004 the number of illegal immigrants outweighed the number of legal ones (Passel, Jeffrey S. et al.).[vi] Despite this, IRCA's programs, including the H-2A and H-2B, dominate immigration legislation.

The H-2A program allows employers in the agricultural business to bring nonimmigrant workers into the United States to perform seasonal or temporary agricultural jobs[vii] that American workers are not available to do. To determine eligibility, employers must complete an application process,[viii] proving the need for such workers. They must file this application with the Division of Labor. It must state that there are not sufficient American workers who are willing, qualified, able, and available to perform the needed work. Also, it must say that the employment of these

nonimmigrants will not adversely affect the wages and working conditions of the American workers who are employed in similar work. In addition to the two criteria above, employers must also meet a long list of specific conditions ("H-2A Certification").[ix]

Unlike some other guest worker programs, the H-2A program does not have a numerical limit. This means there is no cap on the number of certifications given out. The number of visas issued has grown steadily in the last decade, from 6,445 in 1992 to 30,201 in 2000. Since then, the number has stayed at about 30,000.[x] Although this may seem like a large number, it accounts for only a small proportion of the reported 3.2 million agricultural employees in America in 2002.

The H-2B program differs from the H-2A program because it allows for the admission of temporary guest workers into the United States who engage in nonagricultural work.[xi] This work must be either one-time only, seasonal, peak-load or intermittent. Like the H-2A program, there is still the stipulation for the employers that American workers must not be available to fill these positions. Employers also have to complete an application process with the Department of Labor, although this application process is not nearly as extensive or time consuming.[xii] In addition, the employers are not subject to all of the same conditions, and do not have to provide housing, transportation, or the other benefits associated with the H-2A program ("Guest Worker Program Overview"). The certification, which is issued to the employer and not the worker, is non-transferable and valid for up to one year.

Unlike the H-2A program, a numerical statute limits the number of H-2B visas issued. During a single fiscal year, the total number of H-2B visas issued cannot exceed

66,000. This limit only applies to new H-2B workers, and does not take into account the current H-2B workers who wish to extend their stay, change their terms of employment, or change or add employers ("H-2B Certification for Temporary Nonagricultural Work").

A third major piece of guest worker legislation is the H-1B program. This program allows for the entry of a foreign worker into the United States who is engaged in a specialty occupation[xiii] or a fashion model with distinguished merit and ability. The maximum number of H-1B visas that can be issued is 65,000. Once an H-1B visa is issued, the foreign worker is able to stay in America for a continuous period of up to six years. After the visa expires, the worker is required to stay outside of the United States for one year before another visa can be approved ("H-1B Certification").

On January 7, 2004, President Bush proposed a new temporary guest worker program. His proposed program differs from the programs above because it offers legal status as temporary workers to the many undocumented workers already living in the United States.[xiv] The temporary worker's visa would be valid for three years, and it could be renewed for an additional three years. Once these six years were complete, incentives would be provided for these temporary workers to return to their countries of origin. With this program in place, Bush hopes that America's borders will be safer and the American economy will thrive.

One major concern that has resulted from the issue of giving legal status to undocumented immigrant workers is the welfare of the American economy. In his proposal, President Bush stressed the fact that immigrants have always been, and always will be, vital to the American economy. Many of the immigrants, both legal and illegal, in America are hardworking, and have made contributions to the economy for many

years. However, Bush believes that in order to best serve the needs of the economy, reform is needed in immigration laws, specifically referring to the guest worker programs that are currently in place.

A major reason proponents, including Bush, support this idea of a guest worker program is that it will allow willing employers to be matched with willing employees quickly and simply, and in a legal fashion. America's economy is constantly growing, and American citizens are not always willing or able to take all of the available jobs (Bush). This is especially true in the agricultural field. Without access to the labor of these temporary workers, farmers claim that their crops would not be harvested, causing an increase in the prices that consumers have to pay for these goods. Also, there will be a rise in imports of these crops from other low-wage countries. This will hurt the American economy (Levine). Guest worker programs that include undocumented workers will help to remedy this by providing more stability in the work force.

Opponents take a different stand on this issue. They argue that the large-scale availability of immigrants in the labor force will actually impede the economic progress in America. By inflating the supply of labor, the government keeps wages in the labor market low, resulting in slow mechanization and stagnating production. The result is a decrease in the amount of goods produced, causing an increase in the prices for consumers (Krikorian). Also, employers, specifically ones that employ agricultural workers, will become dependent on the temporary workers and will not try to engage in activities that will help to reduce labor or increase productivity (Martin "Guestworker Programs for the 21st Century").

In addition, technological innovations will be slowed because employers will depend on the "artificial infusion" of human labor, and new ideas for production will not need to be used. This could possibly result in the ability of other countries to leap ahead of the United States technologically (Krikorian).

A second controversial issue that is significant in the analysis of the implementation of guest worker programs that include undocumented workers is the affects this type of program has on American workers. The major argument supporting these guest worker programs comes from the employers who take part in these programs. They argue that hiring temporary workers does not affect domestic workers negatively in any way. The main reason for this is because the two groups of workers are not in competition for the same jobs, especially in the agricultural field. The employers contend that domestic workers are able to find more attractive employment opportunities than the ones that are offered to the foreign workers, even when the wages for these jobs are increased. Rather than taking these jobs, which sometimes may be strenuous and dirty, domestic workers are more apt to take jobs that are considered stable and prestigious. Therefore, it is necessary to have foreign workers in order to successfully fulfill these positions (Levine).

Opponents disagree. They contend that government initiatives, such as guest worker programs, that add to the supply of labor in the United States actually hurt the wages and working conditions of American workers (Jeffrey). This is because employers will prefer to hire foreign workers over domestic workers since they are less demanding. Foreign workers will not demand as high wages as domestic workers since invariably the wages in their home countries are less. Also, they would not expect working conditions

to be optimal, since it is likely that the working conditions in their homeland are worse. In turn, this will depress wages and weaken the incentives for employers to improve working conditions. The result will be a reduction in the employment of domestic workers, exacerbated by a poor working environment.

The concern stated above will be even more problematic if undocumented workers were included in the guest worker program. The current major guest worker program for agricultural workers, the H-2A, is not used to a huge extent, and therefore does not pose much of a problem to the welfare of the American workers. However, if these programs included undocumented workers, chances are high that the program will attract many more employers, causing an increase in the negative affects on American workers (Levine).

A third key issue when discussing guest worker programs, and specifically ones that grant legal status to undocumented immigrants, is illegal immigration. Despite the efforts of previous guest worker legislation, unauthorized immigration into the United States continues to rise. In January 2000, using data from the 2000 Census of the U.S. population and immigration data, the INS estimated that there were seven million undocumented immigrants living in the United States. This figure rose to 9.3 million in 2002 and 10.3 million in 2004. According to the Pew Hispanic Center, the population of undocumented workers in the country, excluding those in the agricultural industry, was 5.3 million in 2002 (qtd. in "Guest Worker Program Overview").[xv]

Proponents of this type of guest worker program believe granting legal status to illegal immigrants would help to control the nation's borders, which has become a crucial issue, especially since September 11, 2001 (Bush).[xvi] This is because the government

would have better knowledge of the immigrants that are in the country, and therefore would better be able to track their behavior. These immigrants would pay taxes, be able to open bank accounts, obtain driver's licenses, and visit family in their home country without the fear that they would not be allowed reentry upon return. In addition, the major reason undocumented immigrants enter the United States is because it is relatively easy to acquire a job.[xvii] However, if it is easier for employers to be matched with willing, temporary guest workers, these employers will be more apt to hire the legal workers rather than the undocumented ones. Therefore, it would be more difficult for illegal immigrants to find jobs (Taylor). In turn, this would help to reduce illegal immigration in the long run.

Furthermore, proponents look to past success with temporary worker programs that included an amnesty provision. When unauthorized immigrants were able to obtain legal status through IRCA in 1986, it was found that in 1992 most of these men and women had found better jobs than the ones they had received when they first arrived.[xviii] Like Americans, these former illegal immigrants experienced upward mobility in small, incremental gains. These jobs were also considerably better than the ones they previously held in their homeland. It was found that because of illegal immigration and legalization, these immigrants were greatly able to improve their status, both socially and economically (Powers, et al).

A major argument given by opponents of this legalization provision is that it will cause illegal immigration to drastically increase. In fact, evidence of this has already surfaced since Bush announced his proposal in 2004. The public interest group Judicial Watch[xix] released a survey conducted by the Border Patrol immediately following his

announcement of the proposal.[xx] This survey, which was given to illegal immigrants who were apprehended while crossing the U.S. border, showed that Bush's proposal was widely interpreted as an amnesty program by Mexican illegal immigrants. Approximately 45 percent of these immigrants had decided to cross the U.S. border illegally based upon rumors of the so-called amnesty program. About 63 percent said they had received information from the Mexican government or media outlets supporting the notion of Bush's amnesty program. Finally, 80 percent of the respondents said that they would seek amnesty if it were offered to them (Fitton).

In addition, critics fear that once the undocumented workers in America are given legal status, even for a temporary time, the chances will be slim that they go back to their home country,[xxi] despite the fact that the American government will try to enforce this (Martin, "There is Nothing More Permanent").[xxii] Instead, they will hide from the system and will live and work in the country illegally for an infinite amount of time (Taylor). Finally, some say that granting amnesty to these illegal immigrants would simply be considered wrong, for it would be rewarding illegal behavior.

The issue of undocumented workers in America is something that both the president[xxiii] and Congress[xxiv] are trying to alleviate. Some people believe a guest worker program including this large group of immigrants would help to control the problem at hand. In addition, they believe the nation's borders would be more secure and the American economy would benefit. Others believe guest worker programs that include these undocumented immigrants would actually be harmful. They fear these immigrants would not leave the country after their legal status has

expired[xxv] and that the conditions for many American workers would diminish. Furthermore, they believe it would be rewarding illegal behavior. For these reasons, the implementation of guest worker programs in the United States that include illegal immigrants is controversial.

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Appendix A

Picture and Biography of President George W. Bush

George W. Bush is the 43rd President of the United States. He was sworn into office on January 20, 2001, re-elected on November 2, 2004, and sworn in for a second term on January 20, 2005. Prior to his Presidency, President Bush served for 6 years as the 46th Governor of the State of Texas, where he earned a reputation for bipartisanship and as a compassionate conservative who shaped public policy based on the principles of limited government, personal responsibility, strong families, and local control.

President Bush was born on July 6, 1946, in New Haven, Connecticut, and grew up in Midland and Houston, Texas. He received a bachelor's degree in history from Yale University in 1968, and then served as an F-102 fighter pilot in the Texas Air National Guard. President Bush received a Master of Business Administration from Harvard Business School in 1975. Following graduation, he moved back to Midland and began a career in the energy business. After working on his father's successful 1988 Presidential campaign, President Bush assembled the group of partners who purchased the Texas Rangers baseball franchise in 1989. On November 8, 1994, President Bush was elected Governor of Texas. He became the first Governor in Texas history to be elected to consecutive 4-year terms when he was re-elected on November 3, 1998.

Since becoming President of the United States in 2001, President Bush has worked with the Congress to create an ownership society and build a future of security, prosperity, and opportunity for all Americans. He signed into law tax relief that helps workers keep more of their hard-earned money, as well as the most comprehensive education reforms in a generation, the No Child Left Behind Act of 2001. This legislation is ushering in a new era of accountability, flexibility, local control, and more choices for parents, affirming our Nation's fundamental belief in the promise of every child. President Bush has also worked to improve healthcare and modernize Medicare, providing the first-ever prescription drug benefit for seniors; increase homeownership, especially among minorities; conserve our environment; and increase military strength, pay, and benefits. Because President Bush believes the strength of America lies in the hearts and souls of our citizens, he has supported programs that encourage individuals to help their neighbors in need.

On the morning of September 11, 2001, terrorists attacked our Nation. Since then, President Bush has taken unprecedented steps to protect our homeland and create a world free from terror. He is grateful for the service and sacrifice of our brave men and women in uniform and their families. The President is confident that by helping build free and prosperous societies, our Nation and our friends and allies will succeed in making America more secure and the world more peaceful.

President Bush is married to Laura Welch Bush, a former teacher and librarian, and they have twin daughters, Barbara and Jenna. The Bush family also includes two dogs, Barney and Miss Beazley, and a cat, Willie.

Source: "Biography of President George W. Bush." The White House. 25 Oct. 2005

<http://www.whitehouse.gov/president/gwbbio.htm>

Appendix B

President Bush's Temporary Worker Program Proposal Speech

THE PRESIDENT: Thanks for coming, thanks for the warm welcome, thanks for joining me as I make this important announcement -- an announcement that I believe will make America a more compassionate and more humane and stronger country.

I appreciate members of my Cabinet who have joined me today, starting with our Secretary of State, Colin Powell. (Applause.) I'm honored that our Attorney General, John Ashcroft, has joined us. (Applause.) Secretary of Commerce, Don Evans. (Applause.) Secretary Tom Ridge, of the Department of Homeland Security. (Applause.) El Embajador of Mexico, Tony Garza. (Applause.) I thank all the other members of my administration who have joined us today.

I appreciate the members of Congress who have taken time to come: Senator Larry Craig, Congressman Chris Cannon, and Congressman Jeff Flake. I'm honored you all have joined us, thank you for coming.

I appreciate the members of citizen groups who have joined us today. Chairman of the Hispanic Alliance for Progress, Manny Lujan. Gil Moreno, the President and CEO of the Association for the Advancement of Mexican Americans. Roberto De Posada, the President of the Latino Coalition. And Hector Flores, the President of LULAC.

Thank you all for joining us. (Applause.)

Many of you here today are Americans by choice, and you have followed in the path of millions. And over the generations we have received energetic, ambitious, optimistic people from every part of the world. By tradition and conviction, our country is a welcoming society. America is a stronger and better nation because of the hard work and the faith and entrepreneurial spirit of immigrants.

Every generation of immigrants has reaffirmed the wisdom of remaining open to the talents and dreams of the world. And every generation of immigrants has reaffirmed our ability to assimilate newcomers -- which is one of the defining strengths of our country.

During one great period of immigration -- between 1891 and 1920 -- our nation received some 18 million men, women and children from other nations. The hard work of these immigrants helped make our economy the largest in the world. The children of immigrants put on the uniform and helped to liberate the lands of their ancestors. One of the primary reasons America became a great power in the 20th century is because we welcomed the talent and the character and the patriotism of immigrant families.

The contributions of immigrants to America continue. About 14 percent of our nation's civilian workforce is foreign-born. Most begin their working lives in America by taking hard jobs and clocking long hours in important industries. Many immigrants also start businesses, taking the familiar path from hired labor to ownership.

As a Texan, I have known many immigrant families, mainly from Mexico, and I have seen what they add to our country. They bring to America the values of faith in God, love of family, hard work and self reliance -- the values that made us a great nation to begin with. We've all seen those values in action, through the service and sacrifice of more than 35,000 foreign-born men

and women currently on active duty in the United States military. One of them is Master Gunnery Sergeant Guadalupe Denogean, an immigrant from Mexico who has served in the Marine Corps for 25 years and counting. Last year, I was honored and proud to witness Sergeant Denogean take the oath of citizenship in a hospital where he was recovering from wounds he received in Iraq. I'm honored to be his Commander-in-Chief, I'm proud to call him a fellow American. (Applause.)

As a nation that values immigration, and depends on immigration, we should have immigration laws that work and make us proud. Yet today we do not. Instead, we see many employers turning to the illegal labor market. We see millions of hard-working men and women condemned to fear and insecurity in a massive, undocumented economy. Illegal entry across our borders makes more difficult the urgent task of securing the homeland. The system is not working. Our nation needs an immigration system that serves the American economy, and reflects the American Dream.

Reform must begin by confronting a basic fact of life and economics: some of the jobs being generated in America's growing economy are jobs American citizens are not filling. Yet these jobs represent a tremendous opportunity for workers from abroad who want to work and fulfill their duties as a husband or a wife, a son or a daughter.

Their search for a better life is one of the most basic desires of human beings. Many undocumented workers have walked mile after mile, through the heat of the day and the cold of the night. Some have risked their lives in dangerous desert border crossings, or entrusted their lives to the brutal rings of heartless human smugglers. Workers who seek only to earn a living end up in the shadows of American life -- fearful, often abused and exploited. When they are victimized by crime, they are afraid to call the police, or seek recourse in the legal system. They are cut off from their families far away, fearing if they leave our country to visit relatives back home, they might never be able to return to their jobs.

The situation I described is wrong. It is not the American way. Out of common sense and fairness, our laws should allow willing workers to enter our country and fill jobs that Americans have are not filling. (Applause.) We must make our immigration laws more rational, and more humane. And I believe we can do so without jeopardizing the livelihoods of American citizens.

Our reforms should be guided by a few basic principles. First, America must control its borders. Following the attacks of September the 11th, 2001, this duty of the federal government has become even more urgent. And we're fulfilling that duty.

For the first time in our history, we have consolidated all border agencies under one roof to make sure they share information and the work is more effective. We're matching all visa applicants against an expanded screening list to identify terrorists and criminals and immigration violators. This month, we have begun using advanced technology to better record and track aliens who enter our country -- and to make sure they leave as scheduled. We have deployed new gamma and x-ray systems to scan cargo and containers and shipments at ports of entry to America. We have significantly expanded the Border Patrol -- with more than a thousand new agents on the borders, and 40 percent greater funding over the last two years. We're working closely with the Canadian and Mexican governments to increase border security. America is acting on a basic belief: our borders should be open to legal travel and honest trade; our borders should be shut and barred tight to criminals, to drug traders, to drug traffickers and to criminals, and to terrorists.

Second, new immigration laws should serve the economic needs of our country. If an American employer is offering a job that American citizens are not willing to take, we ought to welcome into our country a person who will fill that job.

Third, we should not give unfair rewards to illegal immigrants in the citizenship process or disadvantage those who came here lawfully, or hope to do so.

Fourth, new laws should provide incentives for temporary, foreign workers to return permanently to their home countries after their period of work in the United States has expired.

Today, I ask the Congress to join me in passing new immigration laws that reflect these principles, that meet America's economic needs, and live up to our highest ideals. (Applause.)

I propose a new temporary worker program that will match willing foreign workers with willing American employers, when no Americans can be found to fill the jobs. This program will offer legal status, as temporary workers, to the millions of undocumented men and women now employed in the United States, and to those in foreign countries who seek to participate in the program and have been offered employment here. This new system should be clear and efficient, so employers are able to find workers quickly and simply.

All who participate in the temporary worker program must have a job, or, if not living in the United States, a job offer. The legal status granted by this program will last three years and will be renewable -- but it will have an end. Participants who do not remain employed, who do not follow the rules of the program, or who break the law will not be eligible for continued participation and will be required to return to their home.

Under my proposal, employers have key responsibilities. Employers who extend job offers must first make every reasonable effort to find an American worker for the job at hand. Our government will develop a quick and simple system for employers to search for American workers. Employers must not hire undocumented aliens or temporary workers whose legal status has expired. They must report to the government the temporary workers they hire, and who leave their employ, so that we can keep track of people in the program, and better enforce immigration laws. There must be strong workplace enforcement with tough penalties for anyone, for any employer violating these laws.

Undocumented workers now here will be required to pay a one-time fee to register for the temporary worker program. Those who seek to join the program from abroad, and have complied with our immigration laws, will not have to pay any fee. All participants will be issued a temporary worker card that will allow them to travel back and forth between their home and the United States without fear of being denied re-entry into our country. (Applause.)

This program expects temporary workers to return permanently to their home countries after their period of work in the United States has expired. And there should be financial incentives for them to do so. I will work with foreign governments on a plan to give temporary workers credit, when they enter their own nation's retirement system, for the time they have worked in America. I also support making it easier for temporary workers to contribute a portion of their earnings to tax-preferred savings accounts, money they can collect as they return to their native countries. After all, in many of those countries, a small nest egg is what is necessary to start their own business, or buy some land for their family.

Some temporary workers will make the decision to pursue American citizenship. Those who make this choice will be allowed to apply in the normal way. They will not be given unfair advantage over people who have followed legal procedures from the start. I oppose amnesty, placing undocumented workers on the automatic path to citizenship. Granting amnesty encourages the violation of our laws, and perpetuates illegal immigration. America is a welcoming country, but citizenship must not be the automatic reward for violating the laws of America. (Applause.)

The citizenship line, however, is too long, and our current limits on legal immigration are too low. My administration will work with the Congress to increase the annual number of green cards that can lead to citizenship. Those willing to take the difficult path of citizenship -- the path of work, and patience, and assimilation -- should be welcome in America, like generations of immigrants before them. (Applause.)

In the process of immigration reform, we must also set high expectations for what new citizens should know. An understanding of what it means to be an American is not a formality in the naturalization process, it is essential to full participation in our democracy. My administration will examine the standard of knowledge in the current citizenship test. We must ensure that new citizens know not only the facts of our history, but the ideals that have shaped our history. Every citizen of America has an obligation to learn the values that make us one nation: liberty and civic responsibility, equality under God, and tolerance for others.

This new temporary worker program will bring more than economic benefits to America. Our homeland will be more secure when we can better account for those who enter our country, instead of the current situation in which millions of people are unknown, unknown to the law. Law enforcement will face fewer problems with undocumented workers, and will be better able to focus on the true threats to our nation from criminals and terrorists. And when temporary workers can travel legally and freely, there will be more efficient management of our borders and more effective enforcement against those who pose a danger to our country. (Applause.)

This new system will be more compassionate. Decent, hard-working people will now be protected by labor laws, with the right to change jobs, earn fair wages, and enjoy the same working conditions that the law requires for American workers. Temporary workers will be able to establish their identities by obtaining the legal documents we all take for granted. And they will be able to talk openly to authorities, to report crimes when they are harmed, without the fear of being deported. (Applause.)

The best way, in the long run, to reduce the pressures that create illegal immigration in the first place is to expand economic opportunity among the countries in our neighborhood. In a few days I will go to Mexico for the Special Summit of the Americas, where we will discuss ways to advance free trade, and to fight corruption, and encourage the reforms that lead to prosperity. Real growth and real hope in the nations of our hemisphere will lessen the flow of new immigrants to America when more citizens of other countries are able to achieve their dreams at their own home. (Applause.)

Yet our country has always benefited from the dreams that others have brought here. By working hard for a better life, immigrants contribute to the life of our nation. The temporary worker program I am proposing today represents the best tradition of our society, a society that honors the law, and welcomes the newcomer. This plan will help return order and fairness to our immigration system, and in so doing we will honor our values, by showing our respect for those who work hard and share in the ideals of America.

May God bless you all. (Applause.)

Source: Bush, George W. “President Bush Proposes New Temporary Worker Program.”

The White House. 7 Jan. 2004. 7 Sept. 2005

<http://www.whitehouse.gov/news/releases/2004/01/print/20040107-3.html>.

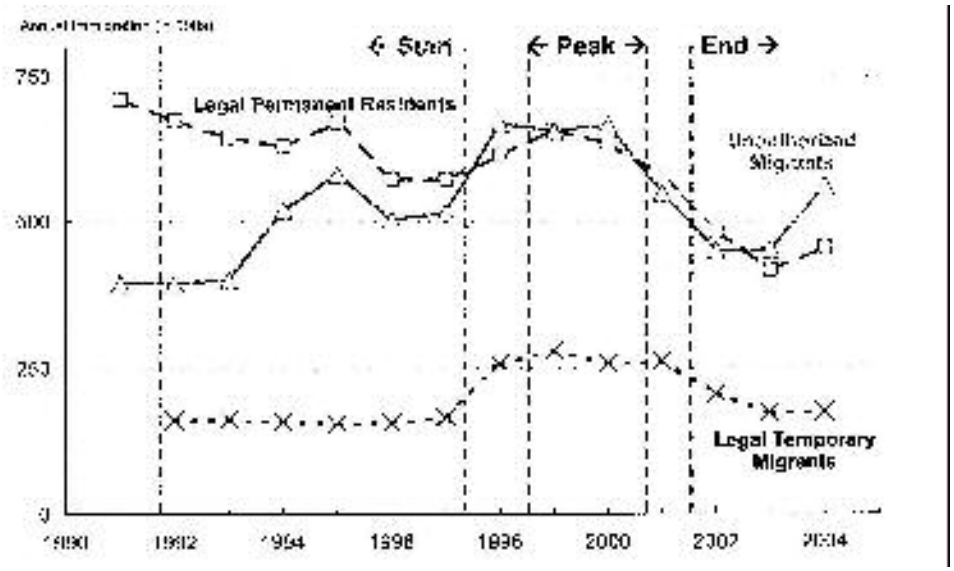
Appendix C

Immigration Law Enforcement Political Cartoon

Source: Granlund, Dave. Cartoon. Providence Journal 26 Oct. 2005: B4.

Appendix D

Legal Permanent Residents, Unauthorized Migrants, and Legal Temporary Migrants in the U.S. 1991-2004



Source: Passel, Jeffrey S., and Robert Suro. "Rise, Peak, and Decline: Trends in U.S. Immigration 1992-2004." Pew Hispanic Center. 27 Sept. 2005. Migration Policy Institute. 28 Sept. 2005 <http://www.pewhispanic.org/files/reports/53.pdf>.

Appendix E

Filing Process for an H-2A Certification

When To Apply

An employer should observe the following time considerations when applying for H-2A certification:

- A complete labor certification application must be filed with and received by the appropriate regional administrator and local SWA at least forty-five (45) calendar days before the first date on which workers are needed. If the initial application is accepted or amended within the required time frame and complies with the regulations, the regional administrator will make a certification determination thirty (30) calendar days before the date on which the workers are needed. Delays in obtaining an acceptable application beyond the time permitted in regulations will delay the certification determination. Employers are encouraged to file before the minimum forty-five (45) calendar-day requirement. This allows more time for review, discussion, and amendment, if necessary.
- Employers are encouraged to consult with the U.S. Department of Labor, Employment and Training Administration regional office and SWA staff for guidance and assistance well before the forty-five (45) calendar day filing period.
- In emergency situations the regional administrator may waive the time period specified, provided the regional administrator has an opportunity to obtain sufficient labor market information on an expedited basis in order to make a determination of U.S. worker availability. None of the minimum conditions of employment (wages, housing, other benefits) are waived, however.

How To Apply

Applications may be filed using any of the methods below:

- Filed in person with the appropriate regional administrator and local SWA;
- Mailed to the appropriate regional administrator and local office of the SWA by certified mail, return receipt requested; or
- Delivered by guaranteed commercial delivery to the appropriate regional administrator and local office of the SWA.

Source: "H-2A Certification." U.S. Department of Labor Employment and Training Administration. 21 June 2005 <http://workforcesecurity.doleta.gov/foreign/h-2a.asp>.

Appendix F

Specific Conditions for H-2A Employers

An employer who files an application for temporary foreign labor certification pursuant to H-2A regulations must meet the following specific conditions:

Recruitment: The employer must agree to engage in independent positive recruitment of U.S. workers. This means an active effort, including newspaper and radio advertising in areas of expected labor supply. Such recruitment must be at least equivalent to that conducted by non-H-2A agricultural employers in the same or similar crops and area to secure U.S. workers. This must be an effort independent of and in addition to the efforts of the SWA . In establishing worker qualifications and/or job specifications, the employer must designate only those qualifications and specifications which are essential to carrying out the job and which are normally required by other employers who do not hire foreign workers.

Wages: The wage or rate of pay must be the same for U.S. workers and H-2A workers. The hourly rate must also be at least as high as the applicable Adverse Effect Wage Rate (AEWR), federal or state minimum wage, or the applicable prevailing hourly wage rate, whichever is higher. The AEWR is established every year by the Department of Labor for every state except Alaska. Employers should consult with the SWA or the Department of Labor regional office to determine what the rate is for their state.

If a worker will be paid on a piece rate basis, the worker must be paid the prevailing piece as determined by the SWA. If the piece rate does not result in average hourly piece rate earnings during the pay period at least equal to the amount the worker would have earned had the worker been paid at the hourly rate, then the worker's pay must be supplemented to the equivalent hourly level. The piece rate offered must be no less than what is prevailing in the area for the same crop and/or activity.

Housing: The employer must provide free housing to all workers who are not reasonably able to return to their residences the same day. Such housing must be inspected and approved according to appropriate standards. Housing provided by the employer shall meet the full set of DOL Occupational Safety and Health Administration (OSHA) standards set forth at 29 CFR 1910.142 or the full set of standards at 654.404-645.417. Rental housing which meets local or state health and safety standards also may be provided.

Meals: The employer must provide either three meals a day to each worker or furnish free and convenient cooking and kitchen facilities for workers to prepare their own meals. If meals are provided, then the employer may charge each worker a certain amount per day for the three meals.

Transportation: The amount of transportation payment shall be no less (and shall not be required to be more) than the most economical and reasonable similar common carrier transportation charges for the distances involved. The employer is responsible for the following different types of transportation of workers: (1) After a worker has completed fifty percent of the work contract period, the employer must reimburse the worker for the cost of transportation and subsistence from the place of recruitment to the place of work if such costs were borne by the worker. (2) The employer must provide free transportation between the employer's housing and the worksite for any worker who is provided housing. (3) Upon completion of the work contract, the employer must pay economic costs of a worker's subsistence and return transportation to the place of recruitment. Special conditions apply when the worker will not be returning to the place of

recruitment because of another job. If the employer must advance transportation costs to foreign workers or provide transportation, the employer must advance such costs or provide transportation to U.S. workers as well. In addition, if it is prevailing practice in the occupation to provide transportation, the employer must provide transportation to U.S. workers, as well.

Workers' Compensation Insurance: The employer must provide workers' compensation insurance where it is required by state law. Where state law does not require it, the employer must provide equivalent insurance for all workers. Proof of insurance coverage must be provided to the regional administrator before certification is granted.

Tools and Supplies: The employer must furnish at no cost to the worker all tools and supplies necessary to carry out the work, unless it is common practice in the area and occupation for the worker to provide certain items.

Three-Fourths Guarantee: The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract period and any extensions. If the employer affords less employment, then the employer must pay the amount which the worker would have earned had the worker been employed the guaranteed number of days.

Fifty Percent Rule: The employer must hire any qualified and eligible U.S. worker who applies for a job until fifty percent (50%) of the period of the work contract has elapsed.

Labor Dispute: The employer must assure that the job opportunity for which H-2A certification is being requested is not vacant because the former occupant is on strike or is being locked out in the course of a labor dispute.

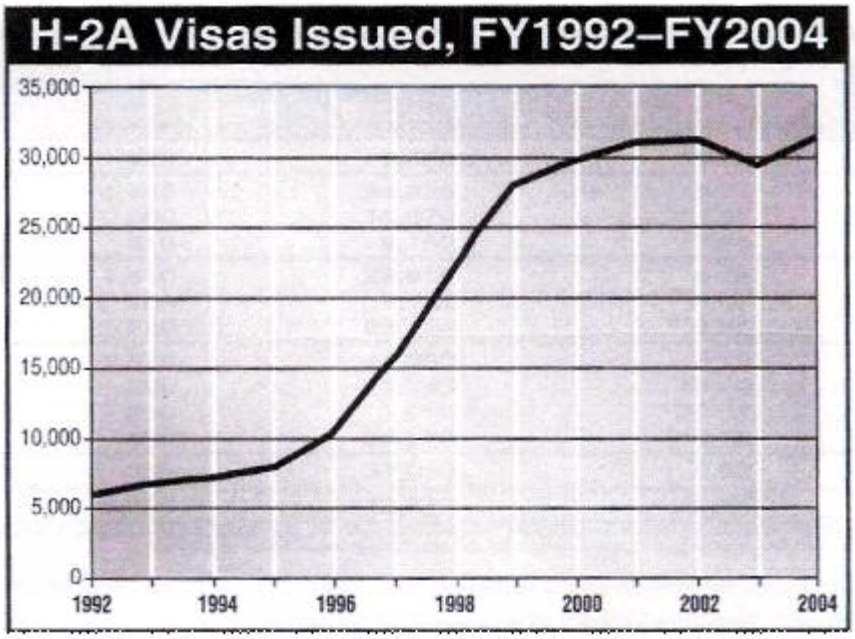
Certification Fee: A fee will be charged to an employer granted temporary foreign agricultural, labor certification. The fee is $100, plus $10 for each job opportunity certified, up to a maximum fee of $1,000 for each certification granted.

Other Conditions: The employer must keep accurate records with respect to a worker's earnings. The worker must be provided with a complete statement of hours worked and related earnings on each payday. The employer must pay the worker at least twice monthly or more frequently if it is the prevailing practice to do so. The employer must provide a copy of a work contract or the job order to each worker.

Source: “H-2A Certification.” U.S. Department of Labor Employment and Training Administration. 21 June 2005 <http://workforcesecurity.doleta.gov/foreign/h-2a.asp>.

Appendix G

H-2A Visas Issued 1992-2004



Source: "Guest Worker Program Overview: Current Policy and Issues for Debate."

Congressional Digest. June 2005: 164-192.

Appendix H

Filing Process for an H-2B Certification

Process for Filing

1. The prospective employer files a completed Form ETA 750 in duplicate to the local State Workforce Agency (SWA) serving the area of proposed employment.

2. The SWA instructs the employer on recruitment requirements, appropriateness of the wages and working conditions offered and refers qualified candidates to the employer for interviews.

3. The employer prepares a recruitment report summarizing the results of the effort. This recruitment report includes names and addresses of applicants and lawful reasons for not hiring the interviewees.

4. When evaluated, applications for certification shall be forwarded by the local SWA to the appropriate regional office.

5. The DOL regional certifying officer will grant certification if he/she finds that qualified persons in the United States are not available and that the terms of employment will not adversely affect the wages and working conditions of workers in the United States similarly employed.

6. The certification or notice of denial thereof is to be used by the employer to support its visa petition filed with the district director of the CIS. To obtain the H-2B work visa, the employer uses the CIS Form I-129, Petition for Nonimmigrant Worker. The Labor Certification Determination and the Form I-129 are submitted to the CIS along with filing fees.

7. Because the DOL decision is only an advisory to CIS, there is no appeal process within the DOL for denial for H-2B applications. Such appeals must be filed with the CIS.

8. A candidate outside the U.S. must apply for a visa at the U.S. Consulate must provide copies of the above forms to the local CIS center.

Source: "H-2B Certification for Temporary Nonagricultural Work." U.S. Department of Labor Employment and Training Administration. 21 June 2005 <http://workforcesecurity.doleta.gov/foreign/h-2b.asp>.

Appendix I

Estimates of Unauthorized Workers in the Labor Force by Industry
(2002)

Estimates of Unauthorized Workers in the Labor Force, by Industry
(in thousands)

Industry	Unauthorized Workers	Total Workers	Percentage Unauthorized Workers
Construction	620	9,670	6.40
Manufacturing	1,190	20,830	5.71
— Durable	580	12,670	4.58
— Non-durable	610	8,150	7.48
Wholesale and Retail Trade	1,410	29,850	4.72
— Restaurants	700	7,720	9.07
— Other	720	22,130	3.25
Services	1,320	41,960	3.15
— Business	390	2,350	16.60
— Private Household	250	1,050	23.81
— Other	690	38,570	1.79
Other Industries	350	37,990	0.92
Totals	**5,300**	**143,640**	**3.69**

Source: B. Lindsay Lowell and Roberto Suro, *How Many Undocumented? The Numbers Behind the U.S.-Mexico Migration Talks*, Pew Hispanic Center Report, March 21, 2002, p. 7, last column added by Congressional Research Service.

Source: "Guest Worker Program Overview: Current Policy and Issues for Debate."

Congressional Digest. June 2005: 164-192.

Appendix J

Mission of Judicial Watch, Inc.

Judicial Watch, Inc., a conservative, non-partisan educational foundation, promotes transparency, accountability and integrity in government, politics and the law. Through its educational endeavors, Judicial Watch advocates high standards of ethics and morality in our nation's public life and seeks to ensure that political and judicial officials do not abuse the powers entrusted to them by the American people. Judicial Watch fulfills its educational mission through litigation, investigations, and public outreach.

The motto of Judicial Watch is "because no one is above the law." To this end, Judicial Watch uses the open records or freedom of information laws and other tools to investigate and uncover misconduct by government officials and litigation to hold to account politicians and public officials who engage in corrupt activities. Through its Open Records Project, Judicial Watch also provides training and legal services to other conservatives on how to effectively use the Freedom of Information Act and other open records laws to achieve conservative goals of accountability and openness in government.

Litigation and the civil discovery process not only uncover information for the education of the American people on anti-corruption issues, but can also provide a basis for civil authorities to criminally prosecute corrupt officials. Judicial Watch seeks to ensure high ethical standards in the judiciary through monitoring activities and the use of the judicial ethics process to hold judges to account.

Judicial Watch's investigation, legal, and judicial activities provide the basis for strong educational outreach to the American people. Judicial Watch's public education programs include speeches, opinion editorials (op-eds), publications, educational conferences, media outreach, radio and news television appearances, and direct radio outreach through informational commercials and public service announcements. Through its publication *The Verdict* and occasional special reports, Judicial Watch educates the public on abuses and misconduct by political and judicial officials and advocates for the need for an ethical, law abiding and moral civic culture. Judicial Watch also pursues this educational effort through this Internet site where many of the open records documents, legal filings, and other educational materials are made available to the public and media.

This educational effort, which includes direct mailings to millions of Americans, educates the public on the operations of government and the judiciary and increases public awareness if corruption and misconduct exists.

Source: “About Judicial Watch.” Judicial Watch Web Page. 14 Oct. 2005

<http://www.judicialwatch.org/about.shtml>.

Appendix K

Summary of the “Secure America and Orderly Immigration Act”

Secure America and Orderly Immigration Act - Requires the secretary of Homeland Security to develop and implement a National Strategy for Border Security and other specified border security programs.

Authorizes the Secretary to establish a Border Security Advisory Committee.

Requires the Secretary of State to provide a framework for security coordination between the governments of North America.

Amends the Immigration and Nationality Act (INA) to: (1) authorize appropriations through FY2011 for the State Criminal Alien Assistance Program; and (2) reimburse states for pre-conviction costs.

Amends the Immigration Reform and Control Act of 1986 to authorize additional funding through FY2011 to reimburse states for indirect costs of incarcerating undocumented aliens.

Establishes: (1) an H-5A essential worker visa program for low-skilled workers; (2) a mechanism for subsequent adjustment of status; and (3) an Essential Worker Visa Program Task Force.

Addresses document security. Requires the Commissioner of Social Security to create a new Employment Eligibility Confirmation System.

Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to address the collection of arrival and departure information.

Broadens the Department of Labor's investigative authority under INA.

Authorizes the Secretary of State to enter into an agreement with foreign governments whose citizens participate in the H-5A program to establish a labor migration facilitation program.

Exempts immediate relatives of U.S. citizens from the annual cap on family-sponsored immigrant visas. Increases numerical limits for specified visas.

Authorizes H-5B nonimmigrant status for undocumented aliens present in the United States on the date of this Act's introduction who meet specified requirements and pay a fine. Provides a mechanism for subsequent adjustment of status.

Defines "authorized representative" for immigration purposes. Makes alien victims of fraud perpetrated by unauthorized representatives eligible for U (victims of certain crimes) nonimmigrant status.

Authorizes the Secretary to establish the U.S. Citizenship Foundation. Requires the Secretary to establish a competitive grant program to address civic integration.

Amends the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to extend authorization of Federal reimbursement for hospitals that provide emergency care to undocumented immigrants.

Source: "Summary of the 'Secure America and Orderly Immigration Act.'" U.S. Congress Website. 9 Nov. 2005 <http://www.congress.gov>.

Appendix L

Summary of the "Comprehensive Enforcement and Reform Act"

Comprehensive Enforcement and Immigration Reform Act of 2005 - Amends the Immigration and Nationality Act, and sets forth other immigration-related provisions with respect to increases in funding, personnel, and technology at the federal, state, and local level for border enforcement and visa security, worksite enforcement, document integrity, immigration fraud, and detention and removal of illegal aliens.

Increases criminal penalties for alien smuggling, document fraud, gang violence, and drug trafficking.

Makes alien street gang members inadmissible.

Extends the institutional removal program (IRP) to all States.

Establishes in the Department of Justice of a position of Assistant Attorney General for Immigration Enforcement.

Authorizes state and local authorities to assist in immigration enforcement.

Provides: (1) penalties for false work-related citizenship claims, and for social security number misuse; (2) for mandatory electronic employment verification of U.S. workers; and (3) a new W-visa temporary worker category (and elimination of the H-2B temporary nonagricultural worker visa category).

Terminates the diversity visa program.

Source: "Summary of the 'Comprehensive Enforcement and Immigration Reform Act.'"

U.S Congress Website. 9 Nov. 2005 <http://www.congress.gov>.

Appendix M

Summary of the "Real Guest Act"

Rewarding Employers that Abide by the Law and Guaranteeing Uniform Enforcement to Stop Terrorism Act of 2005 or the REAL GUEST Act of 2005 - Amends the Immigration and Nationality Act (INA) to establish a new guest worker program that replaces the current H nonimmigrant visa category with a single H-visa covering all aliens coming to the United States temporarily to perform skilled or unskilled work, where U.S. workers are not available or could not be trained in less than one year.

Increases: (1) border inspectors; (2) benefits fraud inspectors; and (3) immigration and customs enforcement attorneys.

Amends the Posse Comitatus Act to authorize U.S. military use for border enforcement.

Suspends the visa waiver program until the Secretary of Homeland Security certifies full implementation of an automated entry-exit system and the use of biometric machine readers and passports.

Amends INA to establish criminal and forfeiture penalties for unlawful presence.

Enhances civil and criminal penalties for document fraud and false statements of citizenship.

Revises provisions respecting: (1) valid identification documents for federal benefits purposes; (2) U.S. passports; (3) Social Security cards and accounts; (4) state licenses and identification documents; (5) adjustment of status; and (6) asylum termination.

Provides for federal custody of illegal aliens upon state or local request.

Establishes a visa term compliance bond.

Directs the Secretary to establish a U.S. Immigration and Customs Enforcement Office of Investigations in Tulsa, Oklahoma.

Renames the employment authorization verification pilot program as the EASI Check system, and makes such program mandatory and permanent. Sets forth program provisions.

Increases employer penalties for hiring, recruiting, or referral violations, including permanent ineligibility to petition for H-visa workers.

Amends the Internal Revenue Code to: (1) provide for individual taxpayer identification number (TIN) sharing between the Internal Revenue Service (IRS) and the Department of Homeland Security (DHS); (2) restrict tax credit eligibility for persons using a TIN rather than a social security number; and (3) provide maximum penalties for certain noncomplying employers.

Declares that states and localities have the inherent authority to arrest, detain, or transfer aliens in the enforcement of U.S. immigration laws.

Requires Cameron University, Lawton, Oklahoma, to establish an immigration training demonstration project for state, local and tribal law enforcement officers.

Amends the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to: (1) revise funding provisions for federal reimbursement of emergency health services furnished to undocumented aliens; (2) require an eligible health care provider in order to be paid for services to obtain and forward to U.S. Immigration and Customs Enforcement (ICE) an alien's citizenship information; and (3) eliminate coverage for Mexicans with border crossing cards.

Source: "Summary of the 'Real Guest Act'". The Library of Congress Website. 9 Nov. 2005 <http://thomas.loc.gov/>

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
Changes in Status for Unauthorized Immigrants					
Alternatives Available to Unauthorized Immigrants	May participate in guest worker program	Eligible for H-5B non immigrant visa; may participate in guest worker program	Eligible for Deferred Mandatory Departure: allows temporary residence of up to five years with no future migration penalty	None	Earned access to legalization
Conditions for Participation	-	Pay processing fee submit fingerprints, undergo background check, prove that individual was working before bill's introduction and maintains continued employment	One year physical presence prior to Act; continuous employment pay $2,000 to $5,000 fee based on length of time in Mandatory Departure status	-	Continuous physical presence in US for at least five years or residence at US since 1986; demonstrate knowledge of English; act of good moral character; no criminal convictions
Opportunity to Adjust Status	-	After six years as H-5B non immigrant and additional $1,000 fine plus application fee	No	-	Immediate
Priority for Lawful Permanent Residency	-	No	No	-	Yes
Sanctions for Unauthorized Migrants	-		Makes a false claim to citizenship punishable with a fine of up to $5,000 and a term of imprisonment of up to three years	Makes entry without inspection and unauthorized presence felony counts	-

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
Guest Worker Program					
Type of Worker/Visa	Not sector specific	H-5A visa; not sector specific	W visa; not sector specific, excluding H-1A and H-2B categories	H visa; not sector specific, replaces all current H visa categories	-
Unauthorized Migrants Able to Apply Without Returning to Country of Origin?	Yes	Yes	No	No	-
Requirements for Temporary Work Enrollment	Pay a fee, prove employment	Pay $1,000 fine, submit fingerprints, undergo background check, prove that individual was working before bill's introduction	Submit fingerprints, $500 visa fee, background/ security check	Pay fee, sign an affidavit stating individual is ineligible to adjust status, waive government assistance. No citizenship for children born in US, unless other parent is a citizen or legal permanent resident (LPR). Current unauthorized workers may not participate.	-
Prohibition of Participation for Worker	Excluded for three years if entered illegally after enactment	-	If worker does not undergo Mandatory Departure, then 10-year bar	-	-
Length of Visa	Three years	Three years	Two years	365 days in a two-year period	-
Renewable?	Yes	Yes, one time	Yes, three times with at least one year between renewals	Yes	-
Maximum Length	Unspecified	Six years	Six years (two years at a time), not applicable to commuters or seasonal workers who reside in the US for less than a six-month period in any given year	Unspecified	-

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
Guest Worker Program (continued)					
Early Dismissal of Worker	-	60 days to find new job	30 days to find new job	-	-
Mandatory Return?	No	No	Yes	Yes	-
Opportunity to Adjust Status?	May apply for LPR status through existing channels while a guest worker	Yes, after four years, or anytime with employer sponsorship	No	No	-
Portability of Visas	Yes	Yes	Yes	Not specified	-
Employer Responsibilities	Use electronic directory; try to hire citizen first; labor law protection	Same rights under labor laws; not hired as contractors; file taxes and social security	Conduct labor market test	May not have laid off citizen worker in previous six months	-
Advertisement of Job Opportunities Prior to Hiring Guest Worker	Electronic database	America's Job Bank	America's Job Bank, local media	America's Job Bank. 14-day advertising period	Advertise to all, but in particular to minorities
Healthcare for Workers	Not specified	Expands reimbursement to hospitals for care of guest workers and the unauthorized	Requires minimum healthcare to be provided by foreign government, employer, or alien	Healthcare providers must provide Department of Homeland Security (DHS) with immigration status info to be reimbursed	-
Families May Visit the United States	-	Unlimited	May visit for up to 30 days within a year	No	-
Incentives to Return	Tax-preferred savings accounts and Social Security benefits available upon return to home country	Try to create better conditions in Mexico and reintegration programs	Creates a temporary worker investment func	-	-

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
I-9 Document Reform					
Document Integrity	-	Adds anti-fraud measures and biometric data to all visa and immigration documents	Adds anti-fraud measures and biometric data to all visa and immigration documents; mandates the creation of secure, tamper-resistant Social Security cards	Mandates the creation of secure, tamper-resistant Social Security cards	-
Fraud Prevention	-		Adds 1,000 new DHS investigators to detect fraud in the adjudication process; increase penalties for document fraud	Reduces length of validity for federally acceptable identification from eight to five years; increase penalties for document fraud	Establishes a task force on fraudulent immigration documents
I-9 Document Consolidation	-	Restricts immigrant eligibility verification documents to secure visa and immigration documents	Restricts eligibility verification documents to secure Social Security cards and Real ID driver's licenses	-	-

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
Enforcement Provisions					
Border Enforcement	-	Requires DHS to make and implement strategic plan, use technology, and coordinate with Mexico to police the border	Increases by 10,000 the number of Border Patrol (BP) agents over five years, allows BP to maintain checkpoints on any interior road	Allows the military to be deployed at or near the border to assist in border enforcement	-
Customs and Border Protection (CBP)	-	-	Increases by 1,250 the number of CBP inspectors over five years	Increases the number of CBP officers by 200 by FY 2008	Increases by 5,000 the number of CBP inspectors over five years
Immigration and Customs Enforcement (ICE)	-	-	Authorizes 5,000 new Immigrants benefit fraud investigators over five years, also 500 DHS, 250 Department of Justice (DOJ), 250 US attorneys and 250 new immigration judges	Increases number of detention and removal officers by 2000, ICE attorneys by 300, and benefit fraud investigators by 500 by FY 2008	-
Employer Verification of Work Eligibility	-	Mandatory participation in electronic verification system	Mandatory participation in Social Security-based electronic verification	Mandatory participation in improved electronic verification system	-
Worksite Enforcement	-	-	Authorizes 10,000 new personnel for worksite enforcement over five years	-	-
Employer Penalties	-	Doubles the upper and lower bounds for penalties under the Immigration and Nationality Act (INA)	Doubles the upper and lower bounds for penalties under the INA	Replaces range of fines with set levels of $5,000 (paperwork violation), $10,000 (substantive violation), and $25,000 (pattern of offenses)	Establishes immigration status-related intimidation as an unfair labor practice

	Bush Proposal	Kennedy-McCain (S. 1033)	Cornyn-Kyl (S. 1438)	Tancredo (H.R. 3333)	Jackson-Lee (H.R. 2092)
Enforcement Provisions (continued)					
Local and State Authorities	-	-	Clarifies the ability of states and local authorities to enforce federal immigration law; requires such authorities to report immigration violations to DHS	Clarifies the ability of states and local authorities to enforce federal immigration law, prevents DOJ funding or assistance to local authorities that do not divulge immigration status info	Allows states and local authorities to decide whether or not they will participate in immigration law enforcement
Detention Facilities	-	-	Adds 10,000 beds to ICE detention facilities		-
Expedited Removal		-	Expands to entire border	-	-

[i] See Appendix A for a picture and biography of President Bush.

[ii] The term nonimmigrant refers to foreigners who are allowed into the United States for a temporary period of time and for a specific purpose ("Guest Worker Program Overview").

[iii] See Appendix B for a copy of President Bush's speech.

[iv] Because some feared an overreaction by employers to the threat of sanctions, IRCA implemented antidiscrimination provisions against discrimination of individuals who might appear foreign ("IRCA Antidiscrimination Provisions").

[v] See Appendix C for Immigration Law Enforcement Political Cartoon.

[vi] See Appendix D for a graph illustrating the number of legal permanent residents,

unauthorized migrants, and legal temporary migrants in the United States between the years 1991 and 2004.

[vii] Temporary or seasonal agricultural jobs refer to employment performed at certain seasons of the year, such as during harvest season for crops, or for a period of time that is less than one year when an employer demonstrates a temporary need for foreign workers ("H-2A Certification").

[viii] See Appendix E for the process for filing for an H-2A Certification.

[ix] See Appendix F for a complete list of specific conditions for employers who file an application for an H-2A certification.

[x] See Appendix G for a graph illustrating the number of H-2A visas issued

between the years 1992 and 2004.

[xi] In 2003, the top five H-2B occupations were (1) landscape laborer, (2) forestry worker, (3) maid and housekeeping cleaner, (4) construction worker, and (5) stable attendant ("Guest Worker Program Overview").

[xii] See Appendix H for the process of filing for an H-2B Certification.

[xiii] In order for one to qualify as having a specialty occupation, a "theoretical and practical application of a body of specialized knowledge" and a bachelor's degree or the equivalent in the specific specialty is required. Some examples of these specific specialties are the sciences, medicine and health care, education, biotechnology, and business specialties ("H-1B Certificaion").

[xiv] To take part in this program, the undocumented workers already living in America would have to pay a one-time fee. The men and women from abroad who wish to join the program would not have to pay this fee since they complied with the immigration laws (Bush).

[xv] See Appendix I for a table illustrating the estimates of unauthorized workers in the labor force by industry.

[xvi] On September 11, 2001, a series of suicide attacks were conducted on the United States by nineteen men affiliated with Osama bin Laden and Al-Qaeda. Four U.S. commercial airliners were simultaneously hijacked. Two crashed into the World Trade Center in Manhattan, New York, causing the collapse of both of the tall towers. The third aircraft crashed into the Pentagon in Arlington County, Virginia. The fourth airplane crashed in a rural area in Somerset County, Pennsylvania, following resistance

by the passengers. September 11 resulted in 2,986 deaths, and had lasting effects on the country.

[xvii] According to a survey given to the unauthorized immigrants who were given legal status due to IRCA in 1986, although legal status does matter somewhat while finding a job, they were able to find low-wage jobs that required low-level skills rather quickly. Almost 80 percent of the men and 65 percent of the women were able to find a job within the first year (Powers et al).

[xviii] This information was gathered in surveys by Westat, Inc. for the Department of Labor. The first survey, Legalized Population Survey (LPS-1), was conducted in 1989 and included a sample of 6,193 legalized immigrants. The second survey, Legalized Population Follow-Up Survey (LPS –2), was conducted in 1992 and included a survey of about 4,000 of the immigrants who had participated in the first survey (Powers et al).

[xix] Judicial Watch, Inc. is a conservative, non-partisan educational foundation that promotes both accountability and integrity in government. They work to make sure that government officials do not abuse the powers entrusted to them by use of litigation, investigations, and public outreach ("About Judicial Watch"). Refer to Appendix J for a copy of Judicial Watch's mission.

[xx] This survey was conducted by the Border Patrol for the Bush administration following the remarks he made on January 7, 2004. Less than three weeks into this survey, it was shut down by the administration. The Border Patrol agents were told not to discuss any results with the press, and the government never issued any of the reports or findings. Immediately, Judicial Watch, Inc. filed a Freedom of Information Act request

with the Department of Homeland Security. When the Department of Homeland Security resisted, Judicial Watch sued. The result was the forced release of about 1,000 documents concerning the survey (Fitton).

[xxi] In a report released on October 22, 2005 by the inspector general of the Department of Homeland Security, it was reported that the visa overstay population in the United States is at least 3.6 million. This is out of about 9 million to 10 million illegal immigrants currently in America. Furthermore, it was reported that 301,046 leads regarding these immigrants were received by the Immigration and Customs Enforcement agency. Out of these, only 4,164 were formally pursued, with only 671 apprehensions (Lipton).

[xxii] According to President Bush's proposal, financial incentives will be provided to

entice immigrants to return to their homeland. These include credit given to them in their own nation's retirement system for the time spent working in America and the ability to put a portion of their earnings into tax-preferred savings accounts for when they return to their native countries.

[xxiii] On November 28, 2005, President Bush addressed a crowd of people at the Davis-Monthan Air Force Base in Tucson, Arizona. Once again, he urged Congress to pass a bill establishing a new temporary guest worker program. He explained that he did not favor amnesty for illegal immigrants, but rather, he believed a new temporary worker program should be in place that allows illegal immigrants to reside legally in America without the threat of legal repercussions. In addition, Bush also called for stricter border enforcements and stricter enforcement of current immigration laws (Ferguson).

[xxiv] Currently in the 109th Congress, there are several legislative proposals being introduced to help reduce the unauthorized population in America. These bills also include reform of guest worker programs. One of the leading proposals is the "Secure America and Orderly Immigration Act" (S. 1033/ H.R. 2330), which was introduced on May 12, 2005 by Senators John McCain and Ted Kennedy and concurrently by Representatives Jim Kolbe, Jeff Flake, and Luis Gutierrez. After being read twice, this bill was referred to the Committee on the Judiciary. Refer to Appendix K for a summary of the "Secure America and Orderly Immigration Act." The second leading proposal is the "Comprehensive Enforcement and Immigration Reform Act" (S. 1438), which was introduced on July 20, 2005 by Senators John Cornyn and Jon Kyl. After being read twice, this bill was also referred to the Committee on the Judiciary. Refer to Appendix L for a summary of the "Comprehensive Enforcement and Reform Act." Two other immigration reform bills have been introduced in the House. The first is the "Real Guest Act" (H.R. 3333), which was introduced on July 19, 2005 by Tom Tancredo. This bill has been referred to the Subcommittee on Employer-Employee Relations. Refer to Appendix M for a summary of the "Real Guest Act." The second bill is the "Save America Comprehensive Immigration Act" (H.R. 2092), which was introduced by Representative Sheila-Jackson Lee. Although this bill does not include formal guest worker programs, Jackson-Lee believes her bill is complementary to the Kennedy-McCain bill. Refer to Appendix N for comparison chart of these four legislative proposals (Turner and Rosenblum).

[xxv] Recently, violent riots have swept through the country of France. These events have caused people to examine the use of guest worker programs. In the 1970s and

1980s, France imported million of immigrants, many of which were Muslims, into the country to perform the jobs that French people were not willing to do. When these jobs dried up, ethnic and human right organizations argued that these workers had the right to stay in Europe and that they should be allowed to bring their families in to be with them. The result was communities of these immigrants that had their own customs, traditions, and a religion that did not fit well into the rest of Europe. Because European countries are ethnic nations, the native Europeans also had a difficult time treating the immigrants and their children as their own. It is important to know that when discussing these recent riots, it is not the actually immigrants themselves who are doing the rebelling, but rather their adolescent and young-adult children and grandchildren. This situation helps to illustrate the problem of temporary workers who become permanent, and the possible lasting affects of guest worker programs years after they were introduced (Leiken; "What America Can Learn").

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