

NCLR

NATIONAL COUNCIL OF LA RAZA

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September 27, 1999

The Honorable Bob Graham
United States Senate
Washington, D.C. 20510

Dear Senator Graham:

I write to thank you and your staff, Caroline Berver and Amanda Lawrence, for organizing the meeting last week with the National Council of La Raza (NCLR) and other immigrant and farmworker advocates to discuss your intentions to reform the H-2A program and other issues. Following this meeting, I wanted to raise a number of concerns I have about the framework for legislation as it was described at the meeting, and offer some suggestions based on NCLR's position in this debate.

Like you, NCLR does not believe that we should tolerate the status quo for America's farmworkers. As you know, in terms of wages, safety, housing and health, conditions for farmworkers are unacceptable. In recent years, farmworkers' real wages have declined, their poverty rates have escalated to well above one-half the population, and farmworkers in major agricultural production areas continue to experience high unemployment and underemployment. Farm work is consistently rated one of the three most dangerous jobs in America. Housing for farmworkers frequently is non-existent or decrepit. These and a host of other serious problems continue to characterize farm labor in America. NCLR is committed, as are you, to fundamental change.

We support reform of the farm labor system; indeed, such reform is vitally needed to improve wages and working conditions, apply and enforce basic labor standards, and to decrease unemployment among U.S. farmworkers. Consistent with these goals, NCLR has developed a set of priorities to serve as guideposts for this debate. We urge you to give them your strongest possible consideration:

- **End discrimination against farmworkers in labor laws so that all farmworkers enjoy the rights on the job that other occupations enjoy.** Examples of such rights include overtime pay, protection against child labor, access to sanitary facilities at work, unemployment insurance compensation, workers' compensation, minimum wage for all farmworkers, protection against retaliation for labor organizing and union membership, attorneys fees for successful litigants under the



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Agricultural Worker Protection Act (AWPA), and coverage for H-2A workers under AWPA, including the right to pursue labor law claims in federal courts. Loopholes that allow growers to escape liability through the use of crewleaders should be eliminated.

- **Enforce labor laws more effectively and improve access to the justice system to implement farmworkers' rights and to protect law-abiding employers against unfair competition by labor-law violators.** Unscrupulous employers must be held responsible for the treatment of their workers by removing the legal buffer provided to them by the use of farm labor contractors. Farmworkers' access to the courts must be strengthened by providing increased funding for the Legal Services Corporation, removing the restrictions against representing immigrants, as well as ending the ban on class action lawsuits. If this is not possible, a new federally funded system to provide such legal services should be established. Clarify that, under AWPA, workers have the right to sue for violations of employment-related laws and retaliation for exercise of their rights under these laws, including the EPA Worker Protection Standard, OSHA's Field Sanitation Standard, and payroll requirements under the Social Security Act. Funding for the Department of Labor's Wage and Hour Division should also be increased and targeted for investigations of the agricultural sector.
- **Legalization proposals should not encourage worker exploitation.** NCLR cannot support a legalization program tied to a prospective work requirement because it would provide unscrupulous employers with an inordinate amount of power over the worker. During a lengthy period of "conditional" status, these workers would be denied civil and constitutional rights basic to America's democratic tradition, particularly if such a legalization took place without concomitant labor law reforms. Undocumented farmworkers and the nation would be served best by a program like the Special Agricultural Worker program enacted in the Immigration Reform and Control Act of 1986, which would allow for the adjustment of status for undocumented farmworkers who have already worked for some time in the fields. This would provide the growers with an experienced, legal workforce, and would give the workers the ability to protect themselves from unscrupulous employers and substandard job terms.
- **Promote better wages, working conditions and housing to attract and stabilize the agricultural labor force, increase productivity, continue growth of exports, and reduce poverty and its consequences.** We should raise the minimum wage, increase funding for housing development for farmworkers, strengthen standards for farmworker housing, and clarify that the Fair Housing Act provisions against anti-family discrimination apply to farmworkers working for employers using H-2A workers. We should also substantially improve toxic pesticide monitoring and

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safety. Finally, the Employment Service should be reinvented so that employers and workers have an economic incentive to use it.

Unfortunately, the current proposals, focused exclusively or primarily on expanded use of the H-2A program or "legalization," do nothing to advance these priorities. Any major legislative proposal should be contingent on assuring the establishment of a basic legal "safety net" for this vulnerable and exploitable group of workers.

We would be happy to discuss these ideas in greater detail as you move forward with your efforts. We appreciate your intention to work in the best interest of farmworkers in such a difficult environment. Again, thank you for including NCLR in your deliberations and for considering our ideas.

Sincerely,



Raul Yzaguirre
President and CEO



Fact Sheet on Proposals to Create a New *Bracero* (Agricultural Guestworker) Program

Fact #1: There is no shortage of available workers for agriculture, there is a shortage of decent wages and working conditions. From the GAO and the Department of Labor to the California Rural Legal Assistance Foundation, study after study has found that unemployment rates among legally authorized farmworkers living in agriculture producing counties are often double that of the rest of the state or nation – even during peak harvest season. Employers are seeking government intervention in the labor market because they do not want to resort to raising wages or improve working conditions – like other employers are doing – in order to attract those legal workers. In fact, the U.S. Department of Agriculture just released statistics showing that farmworker wages went up by 5% in 1998. A *bracero* program would reverse this hopeful sign because it is designed to undercut the law of supply and demand in labor.

Fact #2: Farm labor hiring and recruiting practices result in a heavily undocumented workforce. The century old system of hiring through farm labor contractors (FLCs) gives growers an incentive to wash their hands of responsibility for the way workers are hired or treated on the job. FLCs often have connections to recruiters in other countries who recruit desperate would-be migrant workers. FLCs ignore the highly unemployed legally authorized workforce in Texas and California because legal workers are less susceptible to exploitation. Thus, the dependence on undocumented labor is merely a symptom of a greater problem – the lack of good jobs and a modern labor recruitment system for farmworkers.

Fact #3: No guestworker legislation has been introduced during the 106th Congress. Growers unsuccessfully attempted to attach a "rider" to a must-pass appropriations bill without much debate last year. After careful examination, the Administration rejected this rider and immigrant and farmworker advocates condemned it as legalized slavery. Nevertheless, agricultural employers are energetically lobbying for support for similar changes to the existing guestworker program. This effort entails hiring lobbyists with ties to the Latino and immigrant advocacy communities to try to manufacture consensus behind a new or expanded program, although no legislative language has been made public for examination.

Fact #4: Employers claim to be trying to help workers rise out of undocumented status at the same time they are seeking to worsen the lives of all farmworkers. The growers' greatest priority is to weaken the existing worker protections in the current guestworker program (H-2A) in order to bring in more foreign workers through this program. Under such a program, legally authorized farmworkers would be priced out of farm labor by decreased wages and worsened working conditions. Second, growers have introduced two other separate pieces of legislation that would completely undermine the few protections that do exist for farmworkers. H.R. 1886, by Rep. Canady (R-FL) would gut the Agricultural Worker Protection Act, and H.R. 1592 by Rep. Pombo (R-CA) would eviscerate regulations governing the use of dangerous pesticides, putting the health of children and farmworkers at great risk.



Fact #5: Indentured servitude is not a good immigration program. Growers have floated an idea to allow the legalization of currently working undocumented farmworkers only after they work in the fields for 180 days a year for another five years. Not only is it distasteful, but this requirement gives employers, contractors and crewleaders excessive control over the worker because workers would be relying on these employers to give them proof of having worked in the fields. Farmworkers already yield very little power to stop exploitation – for instance, women are often sexually harassed by crewleaders. Indentured servitude would make the worker even more prone to exploitation.

Fact #6: Legalization alone would not improve wages and working conditions. Most immigrant advocates don't realize that agriculture enjoys exemptions from most federal laws that protect workers. For instance, there is no overtime law for farm labor, and the federal minimum wage law excludes almost half of the farmworkers in the country. Agriculture, while ranked as the 3rd most dangerous occupation in the United States, is also exempted from certain child labor requirements. Further, farmworkers do not have the right under the National Labor Relations Act to organize a union or collectively bargain for contracts. If a farmworker is fired for union organizing, there is no remedy under federal law. A guestworker has even fewer rights, and would be less willing to complain about bad working conditions. This leads to exploitation, which is exactly why the first *bracero* program was killed after 22 years in 1964. These laws must be changed rather than enactment of another inhumane *bracero* program.

Fact #7: Farmworker advocates resoundingly reject guestworker proposals. 173 grassroots, local and national organizations who work directly with farmworkers all over the country have signed a letter to Congress rejecting guestworker proposals. Latino organizations are also opposed and have convened three times in the last two years as the National Latino Summit against Guestworker Legislation to lobby Congress against the growers efforts.

For more information, call Joel Najar at 202-785-1789 or Bruce Goldstein of the Farmworker Justice Fund at 202-776-1757, or visit the California Rural Legal Assistance Foundation web site on guestworkers at <http://www.crlaf.org/gworkers.htm>.

GRAMM SETS SIGHTS ON BELOVED LIB LAW

BUDGET: IT'S CATS VS. BLUE DOGS

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National Journal

THE WEEKLY
ON POLITICS AND
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Importing Dollars

**We are creating a new
Appalachia in America's
farming heartland.**

A SPECIAL REPORT
BY DICK KIRSCHTEN



Inviting Workers, Importing Poverty

CHANGES IN CALIFORNIA'S VAST AND FERTILE CENTRAL VALLEY
HAVE GROWERS ASKING FOR MORE FARMWORKERS AND
ACTIVISTS PREDICTING PERMANENT POVERTY.

BY DICK KIRSCHTEN ■



HELP WANTED:

Growers are turning to higher-profit, more labor-intensive crops as the price of water and irrigation rises.

FRESNO, Calif.—Nestled between the snow-capped Sierra Nevada and the coastal Diablo Range, the table-flat San Joaquin Valley is the very picture of fertile agricultural abundance. The southern arm of California's great Central Valley, it's the heart of the state's \$25 billion-a-year farming industry and the most productive crop-growing area in the world. This great productivity rests above all on one thing: cheap imported labor. California's cornucopia was and is made possible by a steady stream of migrants—Dust Bowlers from the Midwest in the 1930s, Chinese before them, and

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Mexicans and others after them. This endless supply of workers willing to do back-breaking labor in the 90- to 100-degree heat of the San Joaquin and Sacramento valleys for low piecework wages has given Americans some of the least expensive fruits and vegetables in the world for 150 years.

But California's huge population of poor agricultural laborers has never before meant a huge, permanent population of rural poor. Its field workers have traditionally comprised a population in transit, in both geographic and economic terms. Poor workers migrated into and out of the Central Valley in accord with the seasons, and they also migrated out of piecework and poverty and into better-paying, more-secure jobs.

Now, a great alteration is under way in the great valley. Changes in public sentiment, in law enforcement, and in the very nature of California agriculture are working together to create what many social welfare experts fear may become a new, Western Appalachia—a large, permanent culture of deep rural poverty, whose faces may change from one wave of immigrants to the next, but whose conditions never improve. The causes are complex:

- Anti-immigrant sentiment, in California and nationally, in recent years has had its effects. Responding to voter sentiment, Congress in recent years has pumped huge sums into tighter border enforcement and a crackdown on unauthorized foreign workers who use fraudulent documents. A perverse and unintended consequence of this crackdown may be to encourage illegal immigrants to stop migrating in and out of the U.S. and to stay here permanently. Because entering the country has become more costly—and so much more difficult—experts say that illegal immigrants who once moved annually back and forth across the California-Mexico border now tend to stay longer. Afraid they will never be able to get back into the United States if they leave, these immigrants are settling down in once-diverse rural towns that are becoming little more than dormitories for poor Hispanic farmworkers.
- Meanwhile, restrictions on federal welfare benefits for immigrants and their families have increased the burdens on the private charities that provide emergency aid, as well as on local governments, whose tax resources are dwindling in the face of increasing demands for public services. The result: a chronically impoverished population that is less and less able to turn to either state or private charity for more than the most temporary relief.
- Central Valley agriculture itself has changed, in a way that has heightened the demand for cheap labor. At the end of the infamous bracero ("seasonal laborer") program—which from 1942-64 shuttled, in all, some four million to five million temporary workers back and forth between the United

States and Mexico—many experts thought that mechanization would greatly reduce the future need for field workers. But just the opposite has happened. As state and federal water subsidies have ebbed, irrigation has become more expensive in the Central Valley, and growers have shifted to higher-profit crops, such as grapes and tree fruits, that are more labor-intensive than those grown before.

In sum, California (and therefore the nation) is more dependent than ever before on illegal immigrants to harvest its crops. "The reality is that right now, the Central Valley agriculture industry couldn't survive without illegal immigration," said a California state official who asked not to be identified.

Needing ever-greater numbers of cheap harvesttime laborers, the growers say they are finding ever fewer. Many report labor shortages—some say the shortages amount to tens of thousands of workers—during the peak harvest seasons, when workers are in greatest demand. Industry spokespeople argue that the lightly used temporary visa program currently available to the growers is too cumbersome and unworkable.

AS CALIFORNIA GOES . . .

The pressure of these combined effects on California's farming culture is leading to a much larger, cumulative change, a profound perceptual shift in basic attitudes toward immigrants and immigration. As an overarching answer to their labor woes, California's agricultural interests—following in the footsteps of high-technology employers, who recently won increased immigration quotas for temporary workers—are pushing a concept of immigration that is

more European than American: the concept of the immigrant not as future citizen, with all the mobility that this implies, but as the guest worker, allowed to enter only for limited stays and with no ability to climb to citizenship.

Instead of the Ellis Island model of American immigration—under which Americans assume foreigners come here and, over a generation or two, work themselves up the economic ladder to become middle class, or even rich—the country may be moving back toward a bracero-style system, under which the importation of workers is strictly regulated. Workers are imported as seasonally needed, and when no longer needed, they are—at least in theory—sent back home.

The new Californian approach is finding increasing favor with agricultural employers from other states. Bert Mason, an agricultural economist at California State University (Fresno), says that what strikes him as most interesting about the latest guest-worker debate is the broadening geographical base of support for the concept. Recent immigrants, many of them illegals, have moved into low-wage jobs across the United States, and employers are increasing-

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BROKEN CIRCLE:

Anti-immigration laws have made it harder for seasonal farmworkers to cross the U.S.-Mexico border in either direction.



ly reliant on them, notes Mason. California's preoccupation with imported labor is no longer unique.

Last year, growers from states across the country joined California in lobbying for a new federal guest-worker law that will allow the regulated importation of additional foreign workers, most of them from Mexico and Central America.

Perennially an issue ardently pursued by California farm interests, with some support from allies in Texas and Florida, the initiative this time around was spearheaded by Oregon's two Senators, with strong support from colleagues from Arkansas, Georgia, Idaho, Kentucky, Michigan, and North Carolina.

The growers were rebuffed after a similar attempt in Congress in 1996, but last year they surprised many observers by gaining Senate approval—by a lopsided vote of 68-31—of a measure that sponsors say could lead to a sixfold increase in agricultural guest workers, to perhaps 120,000 a year. The legislation died in conference, facing a White House veto threat and resistance from House opponents of increased immigration. The measure almost certainly will come up again this year.

STOP THE CYCLE

But not everyone in the Central Valley agrees with the growers that guest workers are the answer. Many local lead-

ers—mayors, union officials, academics—think the idea of importing more guest workers is pure folly. They fear that the valley is becoming a port of entry for poverty—a new, Western Appalachia, from which many families will never escape.

"We have one of the highest rates of unemployment in the state, and it is chronic, long-term unemployment that doesn't get much better, even during the peak of the harvest season," says Fresno County supervisor Juan Arambula. (For more about the burden on local communities, see p. 530.) Arambula and others scoff at the notion of a labor shortage in the valley. To them, the growers' real objection is to paying the decent wages that American workers demand. "The growers want to displace local workers with workers they can send back to Mexico," charges labor activist Dolores Huerta, who co-founded the United Farm Workers and helped end the bracero program in 1964.

Arambula, Huerta, and others in their camp note that the wealth generated in the valley accrues to relatively few of its residents. They cite figures that do seem to describe a culture of entrenched poverty: At least a third of the area's children live in poverty, and the prenatal care available for pregnant women is generally inadequate. Public assistance rates are high, and unemployment—even during harvest season—is often two to three times the state average. School dropout rates are worrisome, as is the incidence of crimes involving

young people. These real indicators of poverty put tremendous strains on local and state government, and on taxpayers.

Former Modesto Mayor Carol Whiteside, who is heading an effort to upgrade and diversify the region's job base beyond agriculture, says that some immigrants do make it up out of poverty, but that this does little to alleviate the chronic situation. "The people who come here have the lowest-level jobs, the fewest language skills, the least family structure and civic support," she said. "Then when they gain those things, they move on, and we are constantly backfilled by new immigrants" with the same problems.

Poverty, of course, is relative. Compared with life in rural Mexico or Central America, immigrants in the valley feel they have improved their lot; that's why they risk their lives to come to America. Despite per capita incomes as low as \$4,000 a year, farmworker families make ends meet by doubling up in homes with relatives or friends. Some earn extra income during harvest season by renting out sleeping space in sheds or garages to migrant workers. And legal immigrants can earn as much as 26 weeks of unemployment insurance benefits.

In a sense, the growers and the farmworker advocates are both right. The Central Valley has ever been thus—a constant magnet for workers from elsewhere desperate for jobs and willing to accept low wages, but bringing with them problems that are difficult for local governments to handle.

"These are never going to be very high-paying jobs, and they are never going to be very attractive to people who become permanent residents and get some education," says economist Mason. As people settle into towns, or leave the valley altogether in hopes of better jobs, growers will clamor for new field hands.

THE PROMISED LAND?

A Spanish-language television station's splashy billboard in downtown Fresno depicts a slice of apple pie and a dish of flan, the classic Hispanic custard. Add the two together, and you have "the best of both worlds," the advertisement's pro-diversity motto proclaims.

But researchers studying the impacts of immigration in rural California fear the opposite. The authors of a 1997 book, *Poverty Amid Prosperity: Immigration and the Changing Face of Rural California*, published by Washington's Urban Institute, contend that toughened border enforcement in the past decade has served to lengthen the stays of illegal immigrants who enter the U.S. to harvest crops.

A 1999 report by the Public Policy Institute of California, a nonprofit San Francisco-based think tank, notes that income inequality has grown faster in California, where immigrants

now make up 36 percent of the male work force, than in the rest of the nation. In California, from 1969-97, "the rich got a little richer, and the poor got a whole lot poorer," the report notes, adding that "immigration has disproportionately increased the number of low- and lower-middle wage earners."

Whiteside, who heads the Modesto-based Great Valley Center, a foundation-supported agency that seeks to bolster the region's economy, warns: "The Central Valley will either end up as a contributor to the state's economic development, or it will wind up as California's Appalachia."

In many respects, the valley, with its rich harvests and rapid and diverse population growth, bears little resemblance to the mined-out mountains and isolated, inbred Cumberland Plateau communities that inspired the Kennedy Administration's Appalachia anti-poverty crusade nearly four decades ago. But there also are parallels to the observations in Harry M. Caudill's 1962 book, *Night Comes to the Cumberland*, about a region that for 130 years had grown poorer because "the nation . . . siphoned off hundreds of millions of dollars' worth of its resources while returning little of lasting value."

Whiteside decries the loss of human resources: the "brain drain" caused by young residents' fleeing the valley after getting an education, and by the departures of "middle-aged Caucasian people who have lived here for decades or generations but have little confidence in the area's future, and plan to retire elsewhere."

What particularly galls many local leaders is that crops harvested in the valley are hauled elsewhere for processing, in

plants that provide higher salaries and more-stable employment than field work. "In the summertime, one of the lanes of Route 99, the valley's major north-south freeway, will be red from all of the tomatoes that fall off the tractor-trailer rigs," Fresno County supervisor Arambula notes.

Arambula likens the area to "a Third World country that exports its raw natural products to be refined elsewhere and have the earnings accrue to someone else."

Whiteside, an aide for seven years to former Republican Gov. Pete Wilson, agrees with Arambula's assessment. With the exception of E & J Gallo Winery Inc., no major corporations are headquartered in the valley. "We are everybody's branch office, which means that the fate of the region is controlled by outsiders, much as colonies historically have been run," she complains.

Although the valley's population is growing, she adds, that fact can be misleading. Much of the growth is driven by the development of bedroom communities, built on the fringes of the valley, for people who commute to jobs in cities along the coast and who contribute little to the local economic base other than low-paying service-industry jobs.



BEYOND CALIFORNIA:

Growers in other states, too, such as Texas, also see an increasing need for a new guest-worker program.



Arambula and Whiteside hope that they and other local officials can attract new industries, agriculture-related and otherwise, to provide better jobs and upward mobility for the valley's low-income residents. But there are plenty of doubters.

Ernest Velasquez, of Valley Catholic Charities of the Diocese of Fresno, says the region's powerful growers will fight to preserve the economic status quo. "It is not in the interest of agribusiness in the Central Valley to have highly paid labor," he notes. "The biggest fear of the landowners is to have someone come in and open up factories."

The status quo may be fine for the growers, but it's not a good deal for the average taxpayer, argues Velasquez, who served for nine years as Fresno County's welfare director. The problem is that farm work does not provide year-round employment. "The public pays a price for it, because when there are no crops to be picked, folks apply for whatever benefits they can qualify for."

HELP WANTED

The fact that Manuel Cunha Jr. is now president of the Nisei Farmers League tells a lot about California's farming history. Second-generation Japanese-Americans, or Nisei, whose parents were barred from owning land, became prosperous growers after World War II and formed their own trade association. In 1972, the group magnified its influ-

ence by opening its doors to all comers. Its membership now includes Anglos, Hispanics, even Laotian and Hmong truck farmers. Now, little more than a third of its 1,000 members are of Japanese descent.

Cunha, a former college professor of Portuguese ancestry, who became head of the league in 1995, is a highly vocal proponent of an expanded guest-worker program. He's made the rounds in Washington in support of a campaign coordinated by the National Council of Agricultural Employers, with lobbying advice from such Washington consulting firms as McGuinness & Williams, podesta.com, and Rick Swartz & Associates Inc.

During an interview in his Fresno office, Cunha presents carefully prepared charts illustrating the overlapping harvest seasons for his state's crops and insists that there was a shortage of 80,000 workers during the brief, but critical, raisin harvest in the Central Valley last September.

The growers' association executive speaks vehemently about the disinclination of many unemployed local laborers to do the hard work that immigrants willingly perform. Noting that "welfare-to-work" programs in the Central Valley have produced virtually no new agricultural workers, Cunha scornfully asserts that "Americans have lost their work ethic." He also complains about restrictions against the use of child labor in farming jobs that the Labor Department deems hazardous.

Such complaints go beyond California, however. The argument for a new guest-worker program got a well-publicized push last May, when the Immigration and Naturalization Service launched "Operation Southern Denial" during the peak harvest season for Georgia's hot new Vidalia onion industry. After just one day of raids, which netted fewer than two dozen undocumented workers, an outcry from growers and lawmakers forced the INS to back off.

As Sen. Larry E. Craig, R-Idaho, a leading guest-worker proponent, explained in a Senate floor speech last summer, such raids can devastate a harvest. "A single INS raid, netting a handful of illegal workers, can scare and clean out thousands of workers in surrounding counties," he declared. Noting that farmers have limited means to detect fraudulent identification papers, Craig said: "Employers in such cases typically have complied with the law. But, of course, the crops were left rotting in the fields."

Despite their worries, growers—especially those in California—have shown little interest in seeking temporary workers under an existing guest worker program called H-2A, under which only about 24,000 visas are currently issued each year. The principal complaint about the program is that bureaucratic red tape makes it unworkable. Farm interests say they are required to apply for visas too long in advance and that it is all but impossible to certify, as the program requires, that local workers are not available.

Current H-2A rules also require that employers participating in the program provide housing for workers and pay them at a premium rate known as the "adverse-effect wage." The pay differential is significant. Most California farmworkers, paid by how much they pick, get little more—and sometimes less—than the state-set minimum wage of \$5.75 an hour. But the "adverse-effect wage" for California this year has been set at \$7.23 an hour.

The Senate last year approved legislation to create a more user-friendly H-2A program. The bill's key features included a federal registry of authorized local farmworkers, which growers would have to exhaust before applying for visas to bring in temporary hands. Growers would also have to pay transportation expenses and provide either housing or a housing allowance. The measure lowered wages for temporary workers, however, to an amount equal to the local prevailing wage rate plus 5 percent.

Some experts believe it would be a good idea to have an expanded guest-worker program, provided that ways can be found to ensure decent wages and working conditions and to somehow guarantee that workers actually return to their country of origin. Because the workers' wives and children

presumably would stay behind, U.S. health care facilities and schools would bear less of a burden.

"We've created too many incentives for people to stay," says Demetrios G. Papademetriou, co-director of the International Migration Policy Program at the Carnegie Endowment for International Peace. "A pattern that was circular for generations has been interrupted because the cost of crossing the border has become prohibitive. We need to try to re-create incentives for people to go back and forth."

Agricultural economist Mason sees the issue as a matter of lesser evils. "These entry-level jobs have to be filled from somewhere, so let's give the guest-worker program a shot," he says. "It can't be any worse than the situation we've got now."

He argues that the current system, which operates "with a wink and a nod" toward the use of illegal labor, is inhumane. "You've got the poorest and most-recent immigrants—who are the most easily exploited—working in the worst situations. They are working for the worst employers, the worst *raileros* [transportation providers], and the worst farm-labor contractors."

TOO MUCH HELP ALREADY

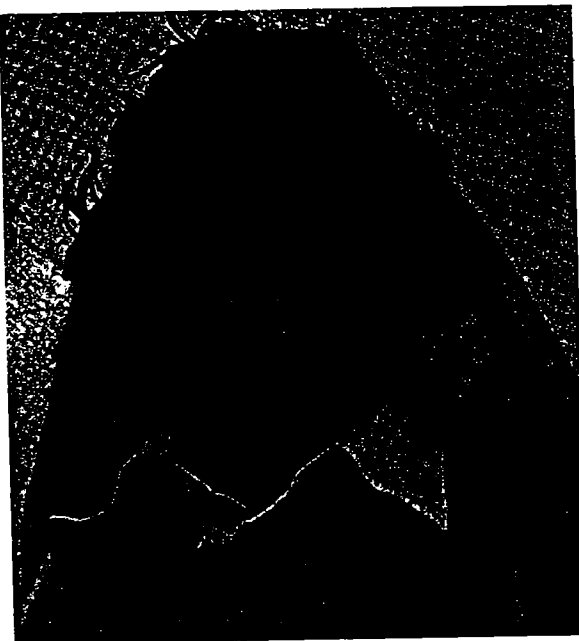
But opponents of a new guest worker system argue that the social costs of bringing more poor Central Americans into the country are too high. And they say that any labor shortage in the Central Valley is caused not by a lack of local workers, but by the horrible conditions to which growers subject workers—conditions that only workers from other countries, with even-worse wages and conditions, will tolerate.

That unemployment among legal workers is high is indisputable. A recent analysis by the California Rural Legal Assistance Foundation Inc., *Joblessness in the California Heartland*, indicates that 18 of the state's top agricultural counties—including 14 in the Central Valley—already have more potential workers than there are jobs. At the height of the 1997 growing season, for example, unemployment rates in all but one of the valley's counties exceeded the statewide average of 6.3 per cent. In most, it was twice that figure.

The U.S. Labor Department also says there is no shortage of agricultural workers. John R. Fraser, administrator of the department's Wage and Hour Division, acknowledges that sometimes getting agricultural workers to the right place at the right time is an obstacle, but he insists that "fundamentally, this is not a labor-shortage problem." Even allowing for the fact that an estimated 600,000 farmworkers are undocumented immigrants, Fraser insists there is an adequate supply of legal farm labor, "even during peak harvest months."

Fraser says that arguments for bringing in additional immigrant workers also ignore the consequences for the one

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WHAT FUTURE?:

California's Central Valley needs diversification if young people are to have a hope of climbing out of poverty.

million legal U.S. farmworkers who rely on this work for their livelihoods. More immigrants means that wages stay low, and agricultural wages have been stagnant for 20 years, he notes. That makes it more difficult for the legal workers to make a decent living and climb out of poverty. He cites studies indicating that legal farmworkers average only 26 weeks of work a year, which produces annual earnings of only about \$6,000. (The federal poverty line for a family of four is roughly \$16,000 a year.)

Huerta of the farmworkers' union, which has just 26,000 members under contract in California, out of an estimated total of 300,000 farmworkers, argues that the push for new guest worker legislation is designed to keep the labor market perpetually over-supplied and stymie the union's efforts to win bargaining rights. "The [expanded] H-2A bill would legalize what the growers are already doing," Huerta says. "They are saying, 'Reward us for the terrible treatment we give these people.'"

Last year, Fraser's agency conducted a spot survey of California raisin growers and found that 20 per cent of the growers who hire their own workers, and more than half of the farm-labor contractors who supply workers for growers, were paying less than the \$5.15-an-hour federal minimum wage, which is 60 cents lower than the state's required minimum wage.

Such inspections are comparatively rare, however. The Sacramento office of the U.S. Labor Department has just 20 wage-and-hour investigators to cover a 33-county area.

Enforcement of wage and working-condition laws, both state and federal, is woefully inadequate, says Fresno-based legal-aid attorney Jeffrey T. Ponting. "If they were to investigate every farm in the state of California, at the current rate they wouldn't get to every farm until 2056," he estimates.

Ponting also says that state enforcers pay insufficient attention to field sanitation requirements, letting labor contractors who fail to supply portable toilets get off with minimal fines. "Growers who pay a fair wage and provide toilets and cool ice water with individual cups don't have problems with labor shortages, even when harvesting has to be done in 106-degree heat," Ponting observes. "Workers will come back to them, year after year."

Noting that most field laborers are paid on a "piece-rate" basis, Ponting adds that even the most experienced pickers often have a hard time earning the minimum wage at prevailing rates. Fresno County supervisor Arambula agrees. "When I hear people say, 'We can't find enough workers,'

what I don't hear is, 'at these current wages and conditions.' " Noting his county's high unemployment and public assistance burdens, he called it "incomprehensible that we would consider bringing in large numbers of foreign workers under some expansion of the guest worker proposal."

Urban Institute immigration expert Michael Fix, one of the authors of *Poverty Amid Prosperity*, observes that while many underemployed immigrant workers are "stacking up in the small towns of the Central Valley," many others migrate to cities, where their economic fate does not always improve.

The Latino advocacy group National Council of La Raza reported in 1997 that 30 per cent of all Hispanics and 40 per cent of Hispanic children live below the official poverty line.

Hispanic work-force participation rates exceed those of both blacks and whites, but many Hispanics nevertheless continue to join the ranks of the working poor, notes Roberto Suro in his 1998 book, *Strangers Among Us: The Promise and the Peril of Latino Immigration*.

"The Latino poor are here, and they are not going to go away," Suro writes. "Unless new avenues of upward mobility open up for Latino immigrants and their children, America's underclass will quickly double, and over the course of a generation, it will double again."

Whether California's Central Valley, and to some degree its

cities, will become a permanent home for poverty is not a matter of small concern to Californians, or to state politicians. Many white and middle-class residents have been moving from California to neighboring states in recent years because they feel that California has already become too poor and too Hispanic.

For newly installed California Lt. Gov. Cruz M. Bustamante, a son of the Central Valley born to Mexican farmworker parents and the highest-ranking Hispanic in state government, the matter of bringing in guest workers raises serious questions. He's sensitive both to the concerns of his state's powerful agribusiness industry and to the potential social costs of a growing poverty population.

If there is to be a guest worker program to meet the labor shortages that occur in some seasons, the former assembly speaker said through a spokesman, there must be assurances that "the voters are not liable for the aftereffects." Bustamante said there are bound to be costs to such a program, and he wants to know how health care and housing for migrant workers will be paid for. "This is a zero-sum game," he noted. "Somebody is going to have to pay." ■

EUGENE RICHARDS



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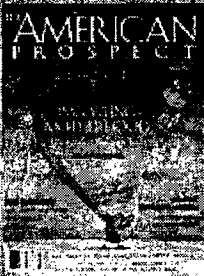
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VOLUME 11 ISSUE 3 December 20 1999

The Green Card Solution

T. Alexander Aleinikoff



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Who harvested the fruits, vegetables, and nuts that graced our Thanksgiving tables? Most Americans, taking a moment to think, would know that immigrant labor in American fields brought in this autumn's crop. The circumstances of these workers' lives, however, are less well-known. The stark reality is that more than half of all farm workers live below the poverty line and the vast majority have no health insurance. And despite a general economic boom and increases in industry productivity and revenues, the real wages of farm workers have continued to fall—as they have for the past 20 years.

The people who work in the fields tend to be invisible participants in American society, and often by their own preference: The overwhelming number of farm workers are migrants, many of whom are in the United States unlawfully.

While conditions in the fields have attracted the attention of neither the public nor the political candidates in this election cycle, important new legislation backed by major growers has recently been introduced in Congress. The pending legislation, now in the Senate, attempts to deal with problems that have bedeviled American agriculture and policy makers for years. It would seek to guarantee growers a stable foreign work force by easing wage, housing, and recruitment requirements in existing law regulating guest-worker programs. It would also provide an "earned amnesty," in which green cards are offered to illegal workers who toil in the fields for the next five years.

The debate over farm-labor policy has been polarized for years; there is, in fact, little chance that a political compromise will be reached before the 2000 elections. The result is not an unhappy one for the public at large. American

consumers pay a smaller part of their income for food than consumers in virtually all other developed countries. But if, as George W. Bush has reminded us, it is unfair to balance the federal budget on the backs of the poor, isn't it unfair to balance family food budgets on the backs of immigrant workers?

Laborers in the Fields

The primary cause of the bleak economic situation of farm workers is a dramatic oversupply of labor, fueled by high levels of undocumented foreign workers. Conservative estimates are that 50 percent of the seasonal agricultural work force is undocumented. That number probably rises to about 70 percent during harvest time. Huge increases in federal resources for border control have not noticeably stemmed the flow of undocumented workers, and Immigration and Naturalization Service (INS) enforcement efforts have for years given growers a virtual free pass. Recognizing the ready availability of undocumented labor, a 1997 General Accounting Office (GAO) report concluded that "[a] widespread farm labor shortage does not appear to exist now and is unlikely in the near future."

U.S. immigration law provides an avenue for the importation of legal temporary agricultural workers. The H-2A program, named for a subsection of the immigration code, has been on the books since 1986, with earlier versions dating back decades. But only a tiny proportion of immigrant farm workers arrive in the United States as H-2A workers. In 1998 about 35,000 of these guest workers were admitted, out of a peak farm work force of more than a million. (The majority enter the United States to work in the tobacco fields of North Carolina. Other H-2A workers pick apples and other fruits in the Northeast; some herd sheep.)

The reason for the relatively small number of temporary guest workers is obvious. Why should growers in the Southwest use a cumbersome federal program (which includes wage, transportation, and housing guarantees) when a plentiful supply of undocumented workers is readily at hand? Perhaps a serious federal enforcement effort in the fields could drive the growers to seek legal H-2A workers, but huge increases in federal resources in the past six years have largely gone to the border, not to interior enforcement. And the INS knows how to take a hint. When the INS raided the Vidalia onion fields in Georgia a year ago, members of Congress let the agency know that its efforts to stem illegal immigration had gone too far. The GAO reported in 1996 that less than 5 percent of 4,600 INS investigations completed that year involved employers in agricultural production or services. While the government has not released more recent data, nothing suggests that enforcement levels have increased.

The situation, according to the growers, is changing. They argue that border enforcement is beginning to have an

impact, and that even a few raids on fields can create significant concern because of the risk that the INS—somewhat like a tornado or a flash flood—could destroy a harvest with a well-timed enforcement action. More significantly, growers are receiving notifications from the Social Security Administration (SSA) telling them that many—sometimes most—of the Social Security numbers that they have submitted for their workers do not appear to be valid. The SSA reports are a part of a program intended to ensure the proper recording of Social Security contributions, not to enforce the immigration laws. But attorneys now tell growers that if they have "constructive knowledge" of illegal employment, they may be liable for penalties under immigration law.

While there is no current shortage of workers, growers are forecasting increased disruptions in the flow of labor down the road. Their current legislative proposal is an attempt to be prepared.

Legislative Stirrings

In earlier years, growers have asked for expansive temporary-worker programs that would permit the entry of large numbers of farm workers during harvest time. Opposition to such plans by the Clinton administration and farm-worker groups have led growers to adopt a more nuanced approach this time around. Front and center in the new legislation is a proposal to offer legal status to much of the undocumented farm labor force. The idea is that a legalization strategy can satisfy growers by creating a stable work force while also appealing to farm-worker groups.

Under the bill, foreign workers who have worked in agriculture for 150 days in the past year would be able to apply for a temporary legal status. If they remain in agriculture for five years, working at least 180 days each year, they will be eligible for green cards (technically, "permanent resident status"). It is estimated that a legalization program along these lines would bring legal status to perhaps 400,000 laborers, roughly half the undocumented farm workers currently estimated to be residing in the United States.

This would stabilize the work force. Workers with temporary status are likely to stay in the fields because their green cards depend on five years of agricultural labor. But growers argue that modifications in the H-2A program are needed as well, given the industry's need for large numbers of short-term workers at harvest time. (They further contend that in the long term, an expanded guest-worker program will be necessary once the legalized workers get their green cards and seek work outside agriculture.) The legislative package would make the H-2A program more favorable to growers by softening the formula for setting wages, permitting growers to meet housing requirements by paying a housing allowance, and changing procedures for testing domestic

Senate bill

*Smuts
Proposal
Extends to all
farmworkers.*

labor markets before foreign workers could be brought in. Growers have sought to make these changes politically palatable by extending the weakened H-2A protections to more farm workers—even those who are not part of the H-2A program.

Farm-worker groups have strenuously criticized the industry's proposals. They object to the legalization proposal as "indentured servitude" and assail the proposed weakening of standards in the H-2A program. They call for more effective enforcement of existing labor laws and for unionization.

The thrust and parry here are familiar. While all parties agree that the status quo is unacceptable, the two sides talk past each other. Farm-worker groups, invoking the legacy of Cesar Chavez, are essentially conducting a human rights campaign; the industry is talking about global competitiveness and the role of agriculture as one of this nation's leading export sectors. These perspectives admit little common ground. But might responsible policy makers find acceptable solutions?

"Indentured servitude"

The growers' goal of a stable, legal work force is appropriate, but it is not enough. The issue is how to achieve that goal in a way that moves toward relieving the staggering poverty of the largely alien work force that picks America's crops.

Workers' standard of living is directly tied to the wages and hours agricultural industries offer. Poverty results from low wages combined with chronic underemployment: Most farm workers average less than 30 weeks of work a year, at wages not much above—and sometimes below—minimum wage. The math here is easy, if dismal.

On the wage side, advocates argue for better enforcement of existing laws. They point to Department of Labor surveys showing significant violations of minimum wage rules (a 1998 study found that 20 percent of surveyed California raisin growers did not pay minimum wage). Furthermore, the federal minimum wage only applies to employers whose employees work at least 500 "man days" per quarter, a standard that may exclude as many as half of seasonal workers. Piece-rate systems common for some tasks may also produce wages below the minimum hourly wage.

Wages

But it is not clear that either extending or enforcing the minimum wage is the answer to farm-worker poverty. Whether or not the minimum-wage law applies to a particular grower, it appears from the data that the prevailing wage for most farm workers is, on average, at or above the minimum wage. To make progress, wages would have to be raised substantially.

Growers argue that wage increases are ultimately

counterproductive because U.S. goods are now competing in a world market. Higher labor costs, they contend, will price American goods out of the market and thus undermine farm-worker employment. The industry's arguments are common ones in this era of globalization. But there is no persuasive evidence that providing a living wage to farm workers will put U.S. producers at a competitive disadvantage. Indeed, agriculture's experience under the North American Free Trade Agreement suggests the contrary. A recent report from the Department of Agriculture shows a significant increase in fruit and vegetable exports to Mexico (as well as a substantial increase in imports from Mexico) in recent years. It thus appears that the higher wage scales for U.S. workers do not place U.S. goods at a competitive disadvantage—even in Mexico. Furthermore, even substantial increases in wages will produce only minimal increases in retail prices. This is so because wages paid to farm workers constitute a relatively small portion of the final retail price of agricultural products.

But action on wages can only go so far in an industry where there is not enough work for available workers. The key, it would appear, would be regulation of the supply of labor, which in this industry would mean effective enforcement of immigration laws. But neither growers nor farm-worker advocates support this option.

The growers' need for labor is highly seasonal and time sensitive. Enhanced INS enforcement would present a serious problem because it would threaten the removal of a large percentage of the work force at crucial times. Growers argue that they ought not be held responsible for an illegal work force because under the law they are entitled to hire workers with papers that appear to be valid. Given the ready availability of false documents that meet this test, a grower who complies with the law may nonetheless have a labor force that is predominantly illegal.

Farm-worker groups aren't in favor of increased INS vigilance, either. They argue that the costs of enforcement ought not to fall squarely on the workers who, despite a lack of status, have been performing labor that is highly valued (if underpaid).

Farm-worker advocates urge legalization as a preferred strategy. Legal status, the argument goes, gives workers the security to demand higher wages and better conditions, to complain to authorities about abuses, and to unionize. Growers, for different reasons, have signed on to a legalization proposal. The "earned amnesty" program in the pending legislation would provide a stable and legal work force—one that would not be disrupted by INS enforcement actions.

A legalization program might seem like a pipe dream in the current political climate, but anti-immigrant trends did not prevent Congress from enacting legalization provisions for

*Immunity
common
ground?
but different
method.*

tens of thousands of Central Americans and Haitians in 1997 and 1998. While any proposal for a blanket amnesty for undocumented workers may be beyond the political pale, programs aimed at particular groups may well succeed.

The problem in reaching agreement here is that growers and farm-worker advocates seek legalization programs that are fundamentally incompatible. Growers want to ensure that aliens granted status will stay in the fields—this accounts for their proposal that green cards will be available only to workers who work more than 180 days a year in agriculture for five years. Advocates seek immediate status in order to shift bargaining power and improve conditions. They argue that legalization on the growers' terms only reinforces grower power over workers, who will depend upon the good graces of employers to furnish them with work over many years in order to secure full legal status. Although grower representatives bristle at their opponents' use of the phrase "indentured servitude," it's not hard to see how the power dynamics would work. The grower proposal would provide an almost captive labor force for an unconscionable period of time. Furthermore, the requirement of 180 days of labor per year exceeds the number of days worked by a significant portion of the undocumented work force; so the growers' proposal would ultimately leave perhaps hundreds of thousands of farm workers currently in the United States without permanent legal status.

A Possible Compromise

Despite widespread agreement that the status quo is not acceptable, there is no agreement about what should be done and thus little likelihood that legislation will be enacted in this Congress. Advocates will not accept the legalization scheme presently contemplated by growers, but growers are unlikely to propose anything that cannot guarantee them a stable work force. And there will be no agreement on what should happen to the H-2A program, although it is possible that growers will be able to muscle through Congress some minor concessions. At that point, both sides may be able to declare victory—advocates because they have prevented a new temporary-worker program, growers because they have prevented any untoward changes in their wage structure—and they will go home and wait for the results of the 2000 elections. Meanwhile, hundreds of thousands of farm workers will continue to live in illegal status, working for wages that most American workers would not accept for themselves.

If both sides are willing to move from their well-entrenched positions, it is possible that a legislative compromise could be crafted. A legalization proposal should be the main focus—if it can lead to a steady work force for growers and better wages and conditions for workers.

A workable plan might be to grant green cards off the bat, conditioned upon continued work in agriculture for a short

*McConnell?
AM*

Compromise

period of time. The immigration law uses this approach in other areas. An investor who sinks \$1 million into a U.S. enterprise that creates 10 or more jobs is given a conditional green card. If the enterprise is still going two years later, the green card becomes permanent; if not, the investor is deportable. Similarly, alien spouses sponsored by citizens and immigrants get conditional permanent resident status. The conditional status is removed if the marriage survives for two years. By analogy, farm workers could be granted green cards, which they could use to find labor anywhere in agriculture. With the green card, they could sponsor close family relatives and be entitled to benefits and opportunities generally available to permanent residents. If they stay in farm work for two years, the conditional status should be removed. The legislation should also set the annual number of days of labor required at a level that most farm workers currently in the United States could meet.

Because there is no shortage of farm workers, a legalization program for workers already in the fields should give growers the legal work force they say they want. Under this plan, there would be no need for a new large-scale guest-worker program. Similarly, there would be no reason to weaken current H-2A protections—although steps still need to be taken to streamline the H-2A application process to ensure that short-term workers can be brought in during times of spot labor shortages.

Farm-worker advocates ought to be willing to see the plan as offering a status significantly better than "indentured servitude." Even if workers are committed to employment in the agricultural sector for two years, a green card provides important benefits as well as a sense of security.

The possession of legal status might or might not put upward pressure on wages. So long as there is a free flow of undocumented labor, wages are likely to stay low. Thus, an effective overall approach requires enhanced INS enforcement. The administration needs to foster discussions between growers and farm workers over what such an enforcement effort could look like. It should not include random raids on fields, which terrorize workers and disrupt production. Rather, once the legalization program is underway, the INS should conduct employer audits to identify workers who are not authorized to work. Employers could be directed to legal sources of labor—such as newly legalized workers. Reducing the supply of undocumented workers will have effects both on wages and on demand for legal workers, who will be more interested in jobs that pay better.

More serious enforcement of labor laws is also needed. Since 1986, Department of Labor wage and hour investigations in agriculture have been cut almost in half, despite the department's survey evidence that substantial minimum wage violations occur in the industry. There needs to be a commitment by Congress to increase enforcement funding

Compromise
marriage &
investor-plan
model

~~immigration~~
and sponsored
family

*

2 yr. Green
card

Administrative
enhanced
INS
enforcement

- enhanced
labor reform

and a commitment by the department to make agriculture a priority.

Another route to higher farm-worker incomes would be an increase in the Earned Income Tax Credit. This strategy may be more politically acceptable than direct action on the minimum wage because its impact comes in the form of reduced tax receipts (in a time of big surpluses) rather than higher prices at the supermarket.

EITC?
instead of
min. wage
(but probably
didn't pay anyway)

Together, these measures will put upward pressure on farm-worker wages and reduce the oversupply of labor. The longer-term result may well be the substitution of capital for labor in the fields. Some observers say that U.S. agriculture is "on the cusp" of significant mechanization. It is the present abundance of farm workers that is the main impediment to wider use of machines, according to some experts.

Mechanization
★

Would mechanization be desirable? The prime example here is the Florida sugar cane industry, which for years imported H-2A workers. In the late 1980s, several class action lawsuits were brought to enforce various provisions of H-2A contracts (including wage guarantees and transportation costs). Around the same time, the Department of Labor's tightened enforcement led to adverse publicity for the industry. Mechanical harvesters, which had been in use elsewhere for years, were improved for conditions in Florida. By 1995 the industry was completely mechanized. Today no cane cutters enter under the H-2A program. (And their capital investment has not put growers at a competitive disadvantage: In the past few years, Florida sugar cane crop yields per acre and overall production have increased—even as prices have fallen off a bit.)

Mechanization is an acceptable outcome when combined with a legalization program for current farm workers. Their green cards will give them access to the general economy as farm jobs decline. As the sugar cane example makes clear, mechanization will also undercut the need for large-scale temporary-worker programs.

The Power of Consumers

While a reasonable legislation package could be crafted, don't expect it to materialize before the current electoral cycle has run its course. This unhappy conclusion suggests that solutions may lie more in the hands of American consumers than in Washington.

To date, consumers have been conveniently absent from the debate, increasingly conscious of the benefits of a healthy diet, and benefiting from low fruit and vegetable prices but blissfully unaware of the conditions under which crops are produced. What is needed is a public education campaign that brings the basic facts before the American public. Such efforts have increased awareness about sweatshops in the United States; students have successfully protested the sale

of college merchandise produced overseas under substandard working conditions.

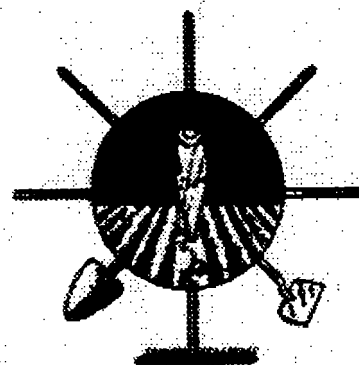
The Clinton administration could sponsor the development of a core set of labor standards, relating to wages, housing, safety, and sanitation. An energized public could demand that supermarkets not buy produce from growers who cannot certify that they meet the standards. The result might be a slight rise in the price of produce. But it is a fair guess that Americans would be willing to pay a bit more for fruits and vegetables to improve the lives of the hundreds of thousands of farm workers and their families who provide America's bountiful harvest while living below the poverty line.

Asm... (★)

Click here for information on the author
[T. Alexander Aleinikoff](#)

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FAX COVER SHEET

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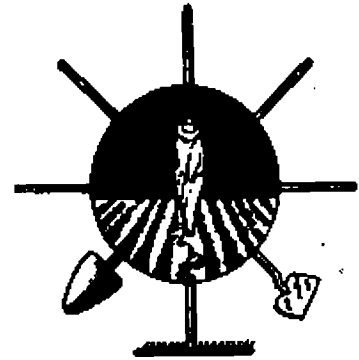
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Message:

Update on agricultural guestworker legislation.

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FAX COVER SHEET

TO: Farmworker supporters
FROM: Bruce Goldstein, Co-Executive Director
DATE: December 9, 1999
RE: Major magazine article on guestworker legislation

The magazine article on the agricultural guestworker issue in the new (Dec. 20) issue of The American Prospect by T. Alexander Aleinikoff is available on-line at:
<http://www.prospect.org/archives/V11-3/aleinikoff.html>

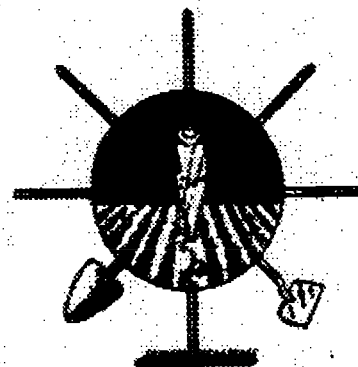
We view the article, "The Green Card Solution," as a helpful critique of the growers' demands and their new legislation introduced on October 27 by Sen. Gordon Smith and Sen. Bob Graham (S. 1814, S. 1815). Prof. Aleinikoff, who is with both Georgetown University Law School and the Carnegie Endowment for International Peace, rejects the growers' demands for a new adjustment guestworker program and for significantly reducing the wages and working conditions under the H-2A guestworker program.

However, we disagree with some of the recommendations. Most notably, we oppose his suggestion of a future-work requirement for farmworkers as a condition of obtaining immigration status. We believe that undocumented and H-2A farmworkers who prove past employment in U.S. agriculture should receive temporary resident status, that is a conditional green card, which converts to a permanent immigration status after one to two years. Aleinikoff proposes a compromise of a short period of temporary immigration status (rather than the growers' suggestion of a long period of a guestworker status) during which participants would be required to work a certain (modest) number of days in agriculture as the stepping stone to permanent status. Our view is that if agriculture wants workers to remain in agriculture, it should compete for them. Government should not force people to work at a dangerous job for low pay and no benefits – with little guarantee of labor law enforcement -- as a condition of staying in the country.

We also believe that his suggestion of greater INS enforcement will be used by employers against workers to thwart new efforts at labor organizing, rather than to actually control undocumented migration. If the INS is to enforce the law in agriculture, it should focus on the growers' rampant use of labor contractors ("crewleaders") who are retained by the growers largely to secure exploitable undocumented workers and attempt to evade responsibility as "employers" for labor law purposes. //

Fax to Irene Bueno

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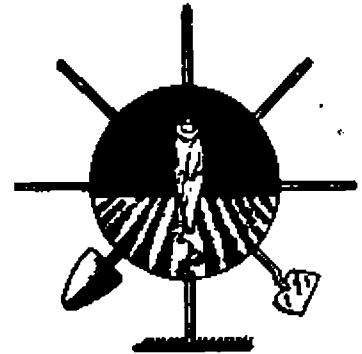
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13:42 JAN 14, 2000 #15007 PAGE 2/3
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M E M O

TO: A few farmworker advocates
FROM: Bruce Goldstein, Co-Executive Director
DATE: January 14, 2000
RE: Congressional report related to guestworker legislation

The Congressional Research Service in the Library of Congress has issued a CRS report for Congress entitled "Farm Labor Shortages and Immigration Policy," December 20, 1999. The author is Linda Levine. It does not appear to be online at this point.

By and large the report is helpful to farmworkers' arguments and certainly it is not helpful to the growers'. Essentially, it is attempting to answer the following assertion: "Growers contend that the sizeable presence of illegal aliens implies a shortage of legal farmworkers." The available evidence does not support their assertion. The basic conclusions include the following:

"At the present time, trends in the farm labor market generally do not suggest the existence of a nationwide shortage of domestically available farmworkers in part because the government's databases cover legal and illegal employment. (This finding does not preclude the possibility of spot labor shortages.) Hired and contract farm employment generally has declined, in sharp contrast to total U.S. employment during the 1990s. . . . **The unemployment rate of hired farmworkers has varied little and remains much higher than the overall average.** Underemployment among farmworkers is substantial. And, although two data series show different levels and trends in the wages of field workers, the data do concur that these employees earn about 50 cents for every dollar paid to other private sector employees."

More specifically:

"A combination of factors (e.g., aging and the availability of nonfarm jobs) likely has contributed to the decrease in SAWs' share of agricultural employment. [SAWs are those who were granted immigration status under the special agricultural worker program in the 1986 Immigration Reform and Control Act]. . . . Possibly the leading factor, however, is the substantial increase in the presence of illegal aliens."

"These [arguments by farmworkers and growers about the possibility of securing sufficient labor by raising wages, improving conditions, mechanizing some work, etc.] remain untested

arguments as perishable crop growers have rarely, if ever, had to operate without illegal aliens in their workforces."

"... the unemployment rate of hired farmworkers engaged in crop or livestock production (including contract labor) has been and remains quite high. **Between 11% and 13% of these workers were without jobs in the 1994-1998 period**, or at least twice the average unemployment rate in the nation. There also does not appear to have been an exodus of unemployed workers from farming since the mid-1990's as the number of hired farmworkers who lack jobs has not trended downward." In addition, unemployment rates in agricultural production counties "imply a surplus rather than a shortage of farmworkers."

High underemployment persists: "During FY 1995-1997, the typical foreign-born crop worker spent just 48.2% of the year performing farm jobs; the typical native-born crop worker, 35.3%. The remainder of the year, these farmworkers either were engaged in nonfarm work or unemployed while in the United States or they were abroad. This pattern also suggests an excess supply of labor . . . just 56% of farmworker held jobs in 1995 even in the peak employment month of July."

"NAWS data [DOL's National Agricultural Worker Survey, which will release a new report in February 2000] show that the number of days crop workers actually were employed on farms has diminished over time. . . . **Thus, the trend . . . appear[s] to suggest that a nationwide farm labor shortage is not at hand.**"

The USDA and DOL wage studies use different methods and reach somewhat different results, partly because USDA does not study wages paid to farmworkers hired through labor contractors, and USDA surveys employers while DOL (NAWS) surveys workers. Note: The USDA wage rates are higher, which tends to help raise the wage rates required under the H-2A program.

The USDA showed average hourly wages of field workers to be \$6.97 in 1998 and \$7.19 in FY 1999, reflecting a 33.3% increase between 1990-1998. **The NAWS survey showed average hourly wage rates in 1998 to be only \$6.18, an increase of only 18.2% during 1990-98.** The USDA shows farmworkers wages rising a little faster than the increase of average hourly wages for nonsupervisory employees in nonfarm sector (which was 27.7% during 1990-98), while NAWS shows it to be slower. "Nonetheless, field workers' pay hardly increased as a share of other workers' pay: at \$6.97 per hour in 1998, **field workers still earned little more than 50 cents for every dollar earned by other private sector workers.**" The latter finding -- that farmworkers' wages have not increased faster than other industries -- is also inconsistent with a labor shortage.

"In summary, indicators of supply-demand conditions generally are inconsistent with the

Irene Bueno

10/28/99 03:42:32 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: jacquelyn.f.vassanelli@usdoj.gov

Subject: Sen. Graham's legislation

Here's some background (press release and summary) on Graham's legislation. The text has not yet been posted.

S.1815

SPONSOR: Sen Graham, Bob (introduced 10/27/99)

Jump to: Titles, Status, Committees, Amendments, Cosponsors, Summary

TITLE(S):

OFFICIAL TITLE AS INTRODUCED:

A bill to provide for the adjustment of status of certain aliens who previously performed agricultural work in the United States to that of aliens who are lawfully admitted to the United States to perform that work.

PRESS RELEASE

-- For Immediate Release --

For more information call: (202) 224-3041

**GRAHAM, SMITH INTRODUCE BIPARTISAN SOLUTION FOR FLAWED FARM
LABOR PROGRAM**

Legislation Will Mean Progress for Farmers and Farmworkers

WASHINGTON -- Senators Gordon H. Smith (R-OR) and Bob Graham (D-FL) today introduced legislation that will reform and improve the troubled agricultural labor system for farmers and farmworkers. The bipartisan Agricultural Job Opportunity Benefits and Security Act of 1999 provides both short and long-term solutions to the current farm labor crisis.

The bill, backed by farmworkers and farmers, streamlines the current temporary agricultural guest worker program, known as H-2A, to make it more efficient. The bill also moves a largely illegal farm labor system to a legal system that ensures basic rights and protections for workers.

"This bill has attracted a remarkable collection of Republicans and Democrats who are trying to fix a human problem of epic proportions," said Smith. "The lack of guaranteed rights for workers and the lack of a legal, reliable work force for farmers led us to create this bipartisan solution. It will move

farm labor from an illegal, underground enterprise to a legal, humane system."

"Our nation's farmers and farmworkers have the important and difficult task of feeding families in the United States and around the world," said Graham. "This innovative legislation enhances benefits, working conditions, and protections for farmworkers while putting efficiency and technology to work for farmers. It moves U.S. agriculture into the 21st Century."

With 600,000 or more illegal agricultural workers in the United States, the Smith-Graham bill seeks to address the resulting problems faced by farmers, farmworkers and immigration control. In the short-term, the Smith-Graham bill gives undocumented agricultural workers who are already working in the United States the opportunity to "adjust" to legal status. This will provide farmers with a legal work force and give workers new benefits and protections.

As a long term solution to the farm labor crisis, the bill replaces the current H-2A program with a streamlined, more efficient worker registry that provides more benefits and protections for guest workers. The new, bipartisan legislation specifically changes the farm labor system by:

Allowing workers already in the US to earn legal status - To reduce the number of temporary guest workers needed and to immediately address the illegal worker crisis, workers who meet specific employment requirements are eligible for immediate, legal "adjustment of status." The workers who qualify for "adjustment of status" can earn permanent residency status in the US if they continue to meet specific employment requirements for five of the next seven years.

Improving and streamlining current H-2A guest worker program by creating a national registry for matching workers with jobs - To make the H-2A program more efficient for workers and employers, the bill creates a computerized registry system that ensures domestic, legal workers will be hired first for all agricultural jobs. Only after the Department of Labor (DOL) determines that a shortage of domestic workers exists could adjusted workers be recruited. If the DOL further determines that a shortage of adjusted workers exists, H-2A workers could then be recruited. H-2A workers can only be admitted after it is determined that a shortage of U.S. workers exists. This ensures that employers hire workers already in the US before recruiting temporary, foreign guest workers.

Enhancing worker protections, benefits and labor standards enforcement - This bill improves the inhumane working and recruiting practices victimizing current undocumented workers in the US. It gives all adjusted farmworkers the standard protections under US labor law that they lack as undocumented workers. The bill also provides H-2A workers with enhanced worker protections, including coverage under the Migrant Seasonal Agricultural Worker Protection Act. Under the new legislation, all labor protections included in the current H-2A program are preserved. The bill also ensures better wages, housing, and transportation for domestic workers.

THE AGRICULTURAL JOB OPPORTUNITY BENEFITS AND SECURITY ACT OF 1999

Providing Legal Status to Undocumented Farmworkers

To reduce the number of H-2A workers needed after enactment, utilize the skills of the existing agricultural work force and maintain immigration control, farmworkers who can prove

that they worked 150 days in agricultural work in the U.S. during the 12-month period prior to introduction of the bill may adjust their status to temporary nonimmigrants and eventually earn the right to become legal permanent residents.

Eligible workers would have to meet standards of proof to qualify.

Eligible workers who choose to participate could only work in agricultural employment during the qualifying period. They would be in nonimmigrant status during the qualifying period.

Eligible workers could be present in the U.S. and work no more than 10 months annually in the U.S. during the qualifying period, with the exception of those with U.S. born children.

Workers eligible for adjustment are free to select their employer and work anywhere in the U.S. in agricultural employment.

Eligible workers could earn the right to adjust to permanent residency by working in agriculture a minimum of 180 days annually in 5 of 7 years following their initial adjustment of status.

Making the H-2A Program Work for Farmers and Farmworkers

Innovation and Technology: the Agricultural Worker Registry

The labor certification process that is used to ascertain whether domestic workers are available to work in agriculture prior to the admission of foreign workers is antiquated and inefficient. Its use in the H-2A Program is over 50 years old. The Department of Labor has existing computer technology as part of America's Talent and Job Banks that can simplify and substantially improve upon the existing process. Under the bill, this technology would be modified to replace the old system with an Agricultural Worker Registry.

Any U.S. worker interested in agricultural employment would be able to call or walk into a local job service office and get listed on the registry by indicating the area, crop and length of time they would like to work in agriculture.

*Local
job service
office*

Any agricultural employer seeking workers could use the registry to list jobs available in specific crops, locations, and terms and conditions of employment. The registry would match workers and employers with comparable requirements.

match

Employers seeking H-2A workers would have to use the registry and hire all qualified and available U.S. workers before they could get permission from the Department of Labor to bring in temporary alien H-2A workers. H-2A workers would only be admitted if there were a shortage of U.S. workers.

Workers adjusted under the bill would have the choice of being listed on the registry. If they were listed on the registry, employers seeking H-2A workers would have to hire US workers, and if an insufficient number of U.S. workers were available, then hire adjusted workers in the area, before any H-2A workers would be admitted.

Workers hired off the registry by H-2A employers would receive the same premium wages and working conditions as H-2A workers.

Employers and the government would have to advertise the availability of the registry.

Employers would have to independently advertise for U.S. workers and recruit former U.S.

workers regarding employment opportunities.

Alien workers could not be used if the job for which they were sought was involved in a labor dispute. Alien workers could join unions.

Better Wages

Premium wage rate. Under the bill, U.S. and H-2A workers would have to be paid the prevailing wage rate plus a premium of up to 5% on prevailing wages that are less than the prior year's average hourly earnings of field and livestock workers for the state. In no case could a worker receive less than the federal, state, or local minimum wage level.

Better Housing and Transportation

Housing or limited housing allowance. U.S. and H-2A workers would have to be provided housing or a housing allowance. A housing allowance set by the U.S. Department of Housing and Urban Development could be provided in lieu of housing during the 3-year period after enactment, during which the implementing regulations and adjustment procedures would be implemented. Thereafter, an allowance in lieu of housing would be permissible only if the Governor of a particular state indicated that sufficient housing were available in the area of employment.

U.S. and Alien workers get transportation costs reimbursed. Inbound transportation is reimbursed if workers complete 50% of the contract work period and outbound transportation reimbursed if they complete the entire period of employment.

Better Labor Law Protections

Eligible workers would be covered by all U.S. labor law protections, such as child labor laws, occupational health and safety regulations, and wage and hour rules.

For the first time, H-2A workers would be covered under the terms of the Migrant and Seasonal Worker Agricultural Protection Act.

A commission would study the complicated problem of farm labor housing and make recommendations for long-term changes and improvements.

Studies of existing agricultural labor standards and enforcement would be conducted, including:

The relationship between childcare and child labor violations.

Field sanitation standards

Coordinated and targeted labor standards enforcement.

END

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October 28, 1999, Thursday, PM cycle

SECTION: Business News

LENGTH: 278 words

HEADLINE: Senators introduce guestworker reform program

DATELINE: WASHINGTON

BODY:

Hundreds of thousands of foreign migrant workers in the United States illegally could potentially qualify for legal status under newly introduced Senate legislation to overhaul the agricultural guestworker program.

The bill's sponsors, Sens. Gordon Smith, R-Ore., and Bob Graham, D-Fla., said the measure they introduced Wednesday would improve the lives of an estimated 600,000 undocumented farm workers while easing paperwork burdens on employers.

The chairman of the House Judiciary Committee's immigration panel termed the Smith-Graham proposal "unconscionable" because of its demand that the workers spend five more years in the fields to qualify for legal permanent residence.

"I will not be party to any plan that shackles illegal aliens in servitude with the hope of earning legal resident status," said Rep. Lamar Smith, R-Texas.

And the Farmworker Justice Fund, a Washington, D.C.-based migrant worker-advocacy group, said the legislation tilts too far in favor of farm interests.

Under the bill, undocumented workers who can prove they worked at least 150 days as agricultural laborers within the past year could immediately gain legal status as temporary nonimmigrants, Graham said. Those who do farm work for at least 180 days annually in five of the next seven years would be eligible to apply for legal permanent residence.

Beyond allowing hundreds of thousands of migrant laborers to legalize their status, the legislation would extend to them labor law protections that they currently lack, the Senate sponsors said. The bill also would ensure better wages, housing and transportation for domestic and foreign workers alike, they said.

LANGUAGE: ENGLISH

LOAD-DATE: October 28, 1999

12 of 51 DOCUMENTS

The Associated Press State & Local Wire
October 28, 1999, Thursday, AM cycle

SECTION: State and Regional

LENGTH: 672 words

HEADLINE: INS crows about its reduction of citizenship application backlog

BYLINE: By MICHELLE MITTELSTADT, Associated Press Writer

DATELINE: WASHINGTON

BODY:

The nation's immigration service on Thursday trumpeted its reduction in the mountain of citizenship applications awaiting review, saying average paperwork processing times of more than two years have been whittled to 12 months and are headed lower.

Seizing on a rare bit of good news for the perennially embattled Immigration and Naturalization Service, Attorney General Janet Reno and INS Commissioner Doris Meissner announced that the agency had processed 1.25 million citizenship applications in the fiscal year ended Sept. 30 - double the 610,547 handled a year earlier.

Appearing with Meissner at a news conference, Reno pronounced herself "very pleased and very proud" that the INS had met its goal for the fiscal year - and in the process has slashed wait times from the 28-month national average of a year ago to a 12-month average now.

"Citizenship is the foundation of nation building," Reno said. "It is the embodiment of America's values of liberty, democracy and equal opportunity. Making our citizenship program more and more efficient will help our country meet the challenges of the 21st century."

Although the immigration service still has a backlog of 1.36 million pending citizenship applications, Meissner pledged to reduce waiting times even more by next fall. "We're in a very solid position to meet this coming year's goal of reducing that national average to just six months," she said.

While welcoming the progress, the chairman of the House Judiciary immigration

subcommittee took issue with INS' counting procedures. Although wait times at some INS offices reach 28 months or more, the national average never exceeded 14 months, Rep. Lamar Smith said.

"The administration's claim to have cut in half the waits for citizenship applicants is a gross misrepresentation," said the Texas Republican, who is a persistent INS critic. ✓

INS managers stood by their figures, saying their processing time calculation provides the time a person filing an application today would be expected to wait. That assessment, they said, is more accurate than the benchmark Smith used, which looks at the agency's past track record in adjudicating claims.

The agency's traditional supporters on Capitol Hill offered praise for the trimmed wait times, but said INS still has much to accomplish.

"I would urge the INS to not spend too much time or energy slapping itself on the back," said Rep. Luis Gutierrez, chairman of the Congressional Hispanic Caucus' immigration task force. The agency still must deal with the backlog of 1.36 million applications, which the Illinois Democrat termed "intolerable."

Both Reno and Meissner took pains to stress that the speedier processing hasn't weakened the integrity of the citizenship system.

A 1995 effort to deal with the naturalization backlog caused the INS no end of grief after it was learned that sloppy procedures allowed tens of thousands of ineligible foreigners - including thousands with criminal pasts - to gain citizenship.

Besieged with a torrent of criticism from Capitol Hill and other quarters, INS revamped its entire citizenship program and added new safeguards. "We have very, very strict quality controls in place," Meissner said Thursday.

The service's naturalization struggles and accomplishments have come against the backdrop of an explosion in citizenship applications, Meissner noted.

Between 1993 and 1999, 6.4 million people applied for citizenship - a number higher than in the previous 37 years combined, she said.

After wading through 1.25 million applications last year, INS granted citizenship to 872,485 people. Naturalization applications, which had held relatively steady at less than 300,000 annually for three decades, began surging in 1995 amid changes to federal laws governing immigration and welfare policies.

After cresting in 1997, with nearly 1.6 million applications, the demand for citizenship has declined somewhat. Meissner estimated that some 720,000

applications will come in the fiscal year that began Oct. 1.

ION: State and Regional

LENGTH: 626 words

HEADLINE: Congressmen want repeal of immigration law allowing 'secret evidence'

BYLINE: By CATHERINE STRONG, Associated Press Writer

DATELINE: WASHINGTON

BODY:

United States immigration law that allows for the detention and deportation of immigrants without allowing them to see classified evidence against them should be repealed, several congressmen said Thursday.

Rep. David Bonior, R-Mich., and Rep. Tom Campbell, R-Calif., have introduced a bill that would rewrite the federal Immigration and Nationality Act so immigrants who are not American citizens are allowed to examine what "secret evidence" the government has in jailing them and cross-examine witnesses.

About 20 immigrants are being held in jail with classified evidence, most of them Arab Americans, according to the American Immigration Lawyers Association.

Earlier this month, a federal judge in New Jersey ordered the release of Hany Kiaraldeen, who was arrested 19 months ago for overstaying a student visa, then detained on suspicion of plotting to kill Attorney General Janet Reno.

Kiaraldeen, an Arab who had been jailed since March 1998, was never charged with a plot on Reno's life. But the government detained him and tried to deport him based on "secret evidence" that he was a threat to national security and a suspected member of a terrorist organization.

Bonior said Congress must repeal a portion of the 1996 antiterrorism law and other provisions of immigration law that make the use of secret evidence legal. Some 55 lawmakers are cosponsors of the bill and hearings on the issue appear likely in the House, Bonior said.

"There are still 20 others jailed under secret evidence, who have been denied due process, who are unable to plead their cases, who have not been charged with any crime or even been told why they are being held," Bonior said at a Capitol Hill news conference with four other lawmakers, Kiaraldeen and several Arab-American groups.

Campbell said the use of secret evidence was a violation of the Constitution's Fifth Amendment which says no person can be deprived of life, liberty or property without due process of law.

Kiareldeen said it was difficult to describe "how a human being feels to be deprived of basic rights."

"It is not a crime for someone to be an Arab, a Muslim," he said "We have the right to pursue our beliefs." Kiareldeen has testified that he is not a terrorist.

Arab-American groups said they believe immigrants of Arab descent are being unfairly singled out in the wake of the World Trade Center bombing in New York City.

Officials at the Immigration and Naturalization Service say they initiate only about a dozen cases using classified information each year. They said there are about 20 to 30 such cases now pending before immigration courts.

In most cases, classified evidence is used to keep immigrants in jail or deport them because the information provides evidence of links to terrorist groups, Justice Department spokeswoman Carol Florman said. The deputy attorney general must now approve using it.

No immigration cases have been prosecuted using the 1996 antiterrorist law, government officials said. Rather, long-established immigration law allows the use of classified evidence in immigration courts when national security concerns outweigh constitutional protections, the INS' Russ Bergeron said. Making the information public would compromise sources, and in some cases endanger lives, he said. What?

The immigrants are not U.S. citizens and usually have been charged with some other violation of immigration law and are seeking to remain in the United States, Bergeron said.

But members of Congress say the provision of the 1996 law is a problem and must be repealed.

Bonior, who has raised the issue with President Clinton, said "so many (lawmakers) have confessed to me that they were not aware of the provision in the 1996 act" when they voted on it. [] ?

LANGUAGE: ENGLISH
SECTION: PRESS RELEASE

LENGTH: 695 words

HEADLINE: FLAWED FARM LABOR PROGRAMS

BYLINE: GORDON SMITH , SENATOR , SENATE , SENS. G. SMITH, GRAHAM
INTRODUCE
BI-PARTISAN SOLUTION FOR

BODY:

FOR IMMEDIATE RELEASE OCTOBER 27, 1999 SENS. G. SMITH, GRAHAM
& TRODUCE
BI-PARTISAN SOLUTION FOR FLAWED FARM LABOR PROGRAM Legislation Will
Mean

Progress for Farmers and Farmworkers WASHINGTON- Senators Gordon H. Smith (R-
OR)

and Bob Graham (D-FL) today introduced legislation that will reform and improve the troubled agricultural labor system for farmers and farmworkers. The bipartisan Agricultural Job Opportunity Benefits and Security Act of 1999 provides both short and long-term solutions to the current farm labor crisis. The bill, backed by farmworkers and farmers, streamlines the current temporary agricultural guest worker program, known as H- 2A, making the system more efficient to use. The bill also moves a largely illegal farm labor system to a legal system that ensures basic rights and protections for agricultural workers. "This bill has attracted a remarkable collection of Republicans and Democrats who are trying to fix a human problem of epic proportions, said Smith. "Our bill will reform the agricultural labor market and restore dignity to the lives of thousands of farmworkers who have helped make the US economy the powerhouse that

it is today." "Our nation's farmers and farmworkers have the important and difficult task of feeding families in the United States and around the world," said Graham. "This innovative legislation enhances benefits, working conditions, and protections for farmworkers while putting efficiency and technology to work for farmers. It moves US. Agriculture into the 21st Century." With an estimated 600,000 illegal agricultural workers or more in the US, the Smith- Graham bill seeks to address the resulting problems faced by farmers, farmworkers and immigration control. In the short-term, the Smith-Graham bill gives undocumented agricultural workers, who are already working in the U.S. the opportunity to adjust to legal status, This will immediately provide farmers with a legal workforce and give workers the benefits and protections that come with legal status. As a long term solution to the farm labor s, the bill replaces the current H-2A program with a streamlined, more efficient worker registry at provides more benefits and protections for guest workers. The new bipartisan legislation specifically changes the farm labor system by: Allowing workers already in the US to earn legal status - To reduce the need for temporary guest workers and immediately address the illegal worker crisis, workers who meet specific employment requirements are eligible for immediate, legal "adjustment of status." The workers who qualify for adjustment of status"

can earn permanent residency status in the US if they continue to meet specific employment requirements for five of the next seven years. Improving and streamlining current H-2A guest worker program by creating a national registry for matching workers with jobs - To make the H-2A program more efficient for workers and employers, the bill creates a computerized registry system that ensures legal, domestic workers will be hired first for all agricultural jobs. Only after the Department of Labor (DOL) determines that a shortage of domestic workers exists could adjusted workers be recruited, If the DOL further determines that a shortage of adjusted workers exists, H-2A workers could then be recruited. H- 2A workers can only be admitted after it is determined that a shortage of US workers exists- This ensures that employers hire workers already in the US before recruiting temporary, foreign guest workers. Enhancing worker protections, benefits and labor standards enforcement - This bill improves the inhumane working and recruiting practices that victimize current undocumented workers in the US. It gives all adjusted farmworkers the standard protections under US labor law that they lack as undocumented workers. The bill also provides H-2A workers with enhanced worker protections, including better wages, housing and transportation benefits, and coverage under the Migrant Seasonal Agricultural Worker Protection Act. Under the new legislation, all labor protections included in the current H-2A program are preserved.

LANGUAGE: ENGLISH

LOAD-DATE: October 28, 1999

25 of 51 DOCUMENTS

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THE DALLAS MORNING NEWS

October 28, 1999, Thursday

KR-ACC-NO: DA-CAR

LENGTH: 770 words

HEADLINE: Fees for U.S.-Registered Vehicles Increase at Mexican Border

BYLINE: By Nancy San Martin

BODY:

EL PASO, Texas--People driving U.S.-registered vehicles into the interior of

Mexico have always been required to leave a deposit, usually by signing a blank credit card voucher and paying a \$ 12 service fee.

But a new proposal that would require the deposit to be made in cash -- as much as \$ 800, depending on the car model -- has created a stir among politicians and frequent travelers to Mexico. Though the cash fee is refundable upon the vehicle's return to the United States, many of those who will have to come up with the funds aren't happy.

"This is just another way for them to make money," said Vincente Nazario, an El Paso engineer who travels to Chihuahua, Mexico, on business at least once a month. "It's definitely unfair."

The new policy is scheduled to take effect Monday. It is expected to affect an estimated 35,000 people who drive into Mexico's interior to visit relatives during the holidays.

"Those of us with family go to Mexico to help them," said El Paso native Sylvia Torresday, 43, who has relatives in towns near Chihuahua. "We take them clothes and give them money. It's already expensive enough as it is. To have to pay more money, I can't afford it."

Mexican authorities say the measure is necessary to prevent people from selling U.S.-registered cars in Mexico, thereby avoiding paying Mexican duties on new car sales and creating registration confusion.

"We just want better control," said Carlos Herrerias of Mexican Customs in Ciudad Juarez, across the border from El Paso.

Concerned that the effort will cause more harm than good, U.S. lawmakers have drafted a letter asking Mexican authorities to reconsider.

"This law would create more unnecessary problems," said Kathleen Martinez, a spokeswoman for U.S. Rep. Silvestre Reyes, a member of the Congressional Border Caucus, which is spearheading the effort to overturn the measure.

"It's going to affect tourism into Mexico and on the border," Ms. Martinez said. "While the basis of the law is to crack down on illegal automobile sales in Mexico, the people they are trying to target will find a way to tag the deposit fee to their sales, and the people who are visiting their families will unfairly pay the price."

The proposed fee is \$ 400 for 1994 or earlier models; \$ 600 for cars produced from 1995 to 1998; and \$ 800 for models made this year or later. The permit is good for up to six months for U.S. residents.

By contrast, Mexican citizens driving into the interior of the United States must pay a nonrefundable \$ 6 for a permit that is good for up to one year. In order to obtain the permit, known as I-94, Mexican citizens must have a valid border crossing card or a Mexican passport with an approved visitor's visa.

In fiscal 1999, ending in September, 357,905 such permits were issued in the ports of entry in the El Paso District, which runs from the New Mexico-Arizona border to Presidio, Texas, said Adrian Macias, a spokesman for the Immigration and Naturalization Service in El Paso. The previous year, about 300,000 such permits were issued.

That means the United States earns about \$ 1.8 million each year in permit fees.

Mexican Customs authorities said travelers to the interior will no longer have to pay the \$ 12 service fee now required for the credit card deposits. They also will no longer accept bonds issued by Mexican firms, which are used by visitors who do not have credit cards. Those firms also charge service fees.

"We're just modifying the rule so people won't have to pay a service fee anymore," said Mr. Herrerias of Mexican Customs. "It's not going to cost them a penny, so long as they return with the car before the permit expires."

The new cash deposits will be made at a bank set up at each checkpoint and refunded by bank officials at the same checkpoint, Mr. Herrerias said. That means travelers to Mexico will be restricted to entering and leaving through the same border crossings.

"If they don't return the vehicle at the time it is due, they'll lose the deposit," Mr. Herrerias said. "They also have to go and come back through the same checkpoint, or they won't get their money back."

Mrs. Torresday of El Paso said she used to vacation in Mexico often. But her trips have become less frequent over the years.

"When I was younger, I used to like to visit Mexico a lot, but now, the way it is, I'd rather vacation in the United States," she said. "All they [Mexican authorities] do is ask for money."

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LANGUAGE: ENGLISH

JOURNAL-CODE: DA

LOAD-DATE: October 29, 1999

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1ST STORY of Level 1 printed in FULL format.

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AP Online

October 28, 1999; Thursday 06:17 Eastern Time

SECTION: Washington - general news

LENGTH: 281 words

HEADLINE: Changes to Guestworker Program Eyed

DATELINE: WASHINGTON

BODY:

Hundreds of thousands of foreign migrant workers in the United States illegally could potentially qualify for legal status under newly introduced Senate legislation to overhaul the agricultural guestworker program.

The bill's sponsors, Sens. Gordon Smith, R-Ore., and Bob Graham, D-Fla., said the measure they introduced Wednesday would improve the lives of an estimated 600,000 undocumented farm workers while easing paperwork burdens on employers.

The chairman of the House Judiciary Committee's immigration panel termed the Smith-Graham proposal "'unconscionable'" because of its demand that the workers spend five more years in the fields to qualify for legal permanent residence.

"I will not be party to any plan that shackles illegal aliens in servitude with the hope of earning legal resident status," said Rep. Lamar Smith, R-Texas.

And the Farmworker Justice Fund, a Washington, D.C.-based migrant worker-advocacy group, said the legislation tilts too far in favor of farm interests.

Under the bill, undocumented workers who can prove they worked at least 150 days as agricultural laborers within the past year could immediately gain legal status as temporary nonimmigrants, Graham said. Those who do farm work for at least 180 days annually in five of the next seven years would be eligible to apply for legal permanent residence.

Beyond allowing hundreds of thousands of migrant laborers to legalize their status, the legislation would extend to them labor law protections that they currently lack, the Senate sponsors said. The bill also would ensure better wages, housing and transportation for domestic and foreign workers alike, they said.

LANGUAGE: ENGLISH

AP Online October 28, 1999; Thursday

LOAD-DATE: October 28, 1999

3RD STORY of Level 1 printed in FULL format.

Copyright 1999 Stuart News Company
Press Journal (Vero Beach, FL)

October 28, 1999, Thursday

SECTION: A section; Pg. A16

LENGTH: 375 words

HEADLINE: SENATORS OFFER PLAN FOR ALIEN FARM WORKERS

BYLINE: JENNIFER MADDOX Press Journal Washington Correspondent

BODY:

WASHINGTON - Three senators reintroduced a controversial bill Wednesday that would grant amnesty to all undocumented farm workers currently working in the United States and place them on a national job registry for growers to use when they are looking for help.

The bill died in the House last year, but it did not have the amnesty provision.

"We believe this program is better for farmworkers," said Sen. Bob Graham, D-Fla., who is sponsoring the bill with Sen. Gordon Smith, R-Ore., and Sen. Larry Craig, R-Idaho.

Of the 1.6 million farm workers in the United States, more than 600,000, or about 38 percent, are undocumented, according to the General Accounting Office. Growers support the bill because they can be assured of hiring legitimate, documented workers through the national job bank.

"We should not have illegal workers. We should have a legal system," Smith said.

Critics of the bill are passionate in their opposition, however. Among them is the Labor Department, which would have to maintain the job registry. It would be impossible to keep track of all legitimate workers because of their transient nature, Labor officials have said.

And if growers cannot find someone through the job bank, the bill makes it easier for them to legally import workers from other countries.

"That would lower wages and reduce the recruitment of U.S. workers," said Bruce Goldstein, co-executive director for the Farmworker Justice Fund in Washington.

House Immigration Subcommittee Chairman Lamar Smith, R-Texas, also attacked the bill, saying the so-called amnesty provision would create another system of slavery. Under its provisions, a worker could not obtain legal residence status until he has worked in U.S. agriculture jobs for 180 days during each of five years within a seven-year period.

Press Journal (Vero Beach, FL) October 28, 1999, Thursday

"Amnesty shackles aliens to indentured servitude," said Rep. Lamar Smith, chairman of the House Immigration Subcommittee, which will have jurisdiction over a House version of the bill that will be introduced in the next two weeks. "This amnesty offer says that illegal agricultural workers must remain employed at backbreaking labor for five years to get their green cards. That is unconscionable."

LOAD-DATE: October 28, 1999

4TH STORY of Level 1 printed in FULL format.

Copyright 1999 Ventura County Star
Ventura County Star (Ventura County, Ca.)

October 28, 1999, Thursday

SECTION: News; Pg. A01

LENGTH: 692 words

HEADLINE: Illegal farm workers might achieve legality

DEBATE: Proposed law would give laborers five years work before obtaining green card.

BYLINE: From staff and wire reports

BODY:

Lawmakers on Wednesday formally unveiled an agricultural guest-worker plan that's been long in the making but still faces a rocky road.

The measure allowing illegal farm workers to achieve legal status is already dividing lawmakers in California and is getting a cool reception from some members of Congress whose backing is thought to be critical. Supporters conceded Wednesday they couldn't get anything passed until next year, even as they stressed the urgency of their cause.

"I think it would help farmers significantly in the Western United States, specifically because we have so many work shortages," said Rob Roy, president of the Ventura County Agricultural Association. "We've seen shortages in the Central Valley, here in the local citrus industry and the local strawberry industry."

As introduced in the Senate on Wednesday, the measure allows illegal immigrants who can prove they've worked in agriculture 150 days or more in the past year to obtain what amounts to temporary legal status. They could keep returning to the United States for five years so long as they worked in farming. After the five years, they could apply for a green card granting them permanent resident status.

Francisco Dominguez sees the five-year provision as a potential drawback to the proposal because it would keep farm workers from moving to better-paying jobs during that time.

"Most people want to move forward," said Dominguez, executive director of El Concilio del Condado de Ventura in Oxnard, which provides citizenship, employment assistance and other services.

House Immigration Subcommittee Chairman Lamar Smith, R-Texas, was strenuous in his opposition to the five-year requirement, saying it "shackles aliens to indentured servitude."

"This E offer says that illegal agricultural workers must remain employed at backbreaking labor for five years to get their green cards. That is

unconscionable," he said.

With the backing of dozens of farm groups, the legislation also radically overhauls an existing temporary worker program. This so-called H-2A program would allow growers much easier access to foreign workers in the event of a potential labor shortage.

Of the 1.6 million farm workers in the United States, more than 600,000, or nearly 38 percent, are undocumented, according to the General Accounting Office. Growers support the bill because they can be assured of hiring legitimate, documented workers through a national job registry that would be created.

Because the legislation would provide the chance for permanent resident status after five years, some refer to it as amnesty, which doesn't sit well with Rep. Elton Gallegly, R-Simi Valley.

Gallegly expressed adamant opposition to any plan involving amnesty when the idea began to circulate in Washington in June. He said Wednesday that guest-worker reform legislation might succeed, but he did not believe Congress would approve legislation that included amnesty.

"We had amnesty in 1986 to end the illegal immigration problem once and for all, and all it did was create a tremendous amount of additional illegal immigration (when the families of legalized citizens came to the U.S. illegally to join them) so to sell the Congress on amnesty, that particular provision would not fly," Gallegly said.

Roy stressed that the legislation does not provide amnesty for illegal workers, but rather a potential change in legal status that would have to be earned by working five years in the farm industry.

Bob Pinkerton, a lemon and avocado grower in the Santa Clara Valley and the president of the Ventura County Farm Bureau, said the current proposal provides only a short-term solution.

"In order to provide readily available labor we need a mechanism that will do something toward a long-term guest-worker type program," he said.

Senate backers of a guest-worker program last tried to attach the proposal to a must-pass federal spending bill, but gained only a veto threat from President Clinton. This time, Florida Democratic Sen. Bob Graham said the controversial proposal would march through the standard congressional hearing process.

LANGUAGE: English

LOAD-DATE: October 28, 1999

5TH STORY of Level 1 printed in FULL format.

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AP Online

October 27, 1999; Wednesday 19:04 Eastern Time

SECTION: Washington - general news

LENGTH: 581 words

HEADLINE: Changes to Guestworker Program Eyed

BYLINE: MICHELLE MITTELSTADT

DATELINE: WASHINGTON

BODY:

Hundreds of thousands of foreign migrant workers who are here illegally could potentially qualify for legal status under Senate legislation introduced Wednesday that would overhaul the agricultural guestworker program.

The bill's sponsors, Sens. Gordon Smith of Oregon and Bob Graham of Florida, said their measure would improve the hard-scrabble lives of an estimated 600,000 undocumented farm workers while easing paperwork burdens on employers.

The current situation, in which undocumented immigrants labor at agricultural jobs for meager pay and terrible living conditions, is "indefensible," said Smith, a Republican who teamed with Graham, a Democrat, to craft legislation much sought by agricultural interests.

"We feel we owe it to farmers and farmworkers alike to reform this shameful situation," Smith said.

But the chairman of the House Judiciary Committee's immigration panel termed the Smith-Graham proposal "unconscionable" because of its demand that the workers spend five more years in the fields to qualify for legal permanent residence.

"I will not be party to any plan that shackles illegal aliens in servitude with the hope of earning legal resident status," said Rep. Lamar Smith, R-Texas.

And the Farmworker Justice Fund, a Washington, D.C.-based migrant worker-advocacy group, said the legislation tilts too far in favor of farm interests.

"This is completely pro-grower and it is anti-worker," said fund official Bruce Goldstein. "It would relegate farm workers to a third-class status for the next generation. This would either perpetuate the status quo or make things worse."

In a conference call with reporters, the senators defended their proposal as fair, saying it would be unconscionable to retain the existing system that is

AP Online, October 27, 1999

rife with abuse and has both employers and laborers skirting the law.

"The only indentured servitude is the status quo," said Gordon Smith. He said his measure would allow undocumented workers already laboring in U.S. fields to "be here with the dignity of law, with enhanced benefits and with the ability to speak for themselves in a way that takes them out of the bondage they are now in."

Under the bill, undocumented workers who can prove they worked at least 150 days as agricultural laborers within the past year could immediately gain legal status as temporary nonimmigrants, Graham said. Those who do farm work for at least 180 days annually in five of the next seven years would be eligible to apply for legal permanent residence.

Beyond allowing hundreds of thousands of migrant laborers to legalize their status, the legislation would extend to them labor law protections that they currently lack, the Senate sponsors said. The bill also would ensure better wages, housing and transportation for domestic and foreign workers alike, they said.

"The farmers under our program are going to be paying a lot more money," Gordon Smith said. "But they are prepared to do that if they can come out of the shadows and operate in the light of day."

The legislation would streamline the existing guestworker program, supervised by the Labor Department, by creating a computerized national registry that would match workers with jobs. Foreign agricultural laborers would be hired only after the department determines there is a shortage of domestic workers.

Although the department offered no comment, Graham said the Clinton administration doesn't support the bill.

LANGUAGE: ENGLISH

LOAD-DATE: October 27, 1999

9TH STORY of Level 1 printed in FULL format.

Copyright 1999 Federal Information Systems Corporation
FNS DAYBOOK

October 27, 1999

EDITION: FINAL

SECTION: GENERAL NEWS EVENTS

LENGTH: 99 words

HEADLINE: EVENT: NEWS CONFERENCE - CONGRESS

TIME: 11:30 am

BODY:

SUBJECT: Congress hosts a news conference on introduction of the proposed Agricultural Job Opportunity Benefits and Security Act of 1999 to address the large number of illegal farm workers and address the shortfall of legal workers. Sen. Gordon Smith, R-OR; Sen. Bob Graham, D-FL; Rep. Richard Pombo, R-CA; Rep. Sanford Bishop, Jr., D-GA; Rep. Jim Kolbe, R-AZ; and Rep. Gary Condit, D-CA

LOCATION: Senate Radio-TV Gallery -- October 27, 1999

CONTACT: Mary Healy, 202-224-8329, or Chris Hand, 202-224-7999

LANGUAGE: ENGLISH

LOAD-DATE: October 27, 1999

10TH STORY of Level 1 printed in FULL format.

Copyright 1999 Times Mirror Company
Los Angeles Times

October 27, 1999, Wednesday, Home Edition

SECTION: Business; Part C; Page 1; Financial Desk

LENGTH: 737 words

HEADLINE: FARM WORKER AMNESTY MEASURE TO BE INTRODUCED;
CONGRESS: BIPARTISAN BILL THAT WOULD GRANT LEGAL STATUS TO UNDOCUMENTED
IMMIGRANTS IS BACKED BY GROWERS, WHO FACE LABOR SHORTAGES.

BYLINE: NANCY CLEELAND, TIMES STAFF WRITER

BODY:

In an indication of how far and fast immigration politics have changed, three senators today plan to introduce a bipartisan bill sought by growers that would offer a form of amnesty to many thousands of undocumented farm workers and expand the guest worker program.

The bill, to be introduced by Sens. Bob Graham (D-Fla.), Gordon Smith (R-Ore.) and Larry Craig (R-Idaho), would grant immediate legal status to all undocumented immigrants who could show they had worked in agriculture for at least 150 days in the last year--estimated by congressional sources at 500,000.

But the workers would be required to remain in agriculture for an additional five years before they could obtain permanent legal status, a highly controversial provision that has evoked opposition by Latino groups.

The bill also would create a registry of legal domestic workers available to growers and only after they exhaust that supply could they bring in foreign workers. And it would allow growers to provide those guest workers with housing "vouchers" rather than actual housing, as the current law requires.

California growers, who concede that at least half and possibly 70% of their workers are undocumented, have lobbied heavily for the bill in recent months. As many as 500,000 farm workers are employed in the state during peak harvest season.

But unlike previous attempts at guest worker reform, this proposed legislation has strong backing from growers across the country--a reflection of the tight labor market that is pulling workers into more stable jobs.

"We're pleased that finally we'll have a chance to debate a bill that addresses what we think everyone should see is a problem," said Jack King, national affairs director for the California Farm Bureau. "The question is how quickly we can get it to a vote. We're still hoping for this fall, but that could be tricky."

Los Angeles Times October 27, 1999, Wednesday,

By including the legalization provision, or "earned amnesty," growers had hoped to win over immigrant rights advocates. They also hired Rick Swartz, an immigration proponent and founder of the Washington-based National Immigration Forum, to reach out to congressional opponents of more liberal guest worker laws. But that attempt has met with little success so far, and Schwartz is no longer on the payroll of the National Council of Agricultural Employers.

Several immigrant and farm worker advocates--including the United Farm Workers and the Southwest Voter Registration Project--vowed to oppose any attempt to expand the current guest worker program, which has rarely if ever been used in California. Dolores Huerta of the UFW characterized the earned amnesty provision as "indentured servitude" and called for a blanket amnesty for all undocumented workers.

Huerta and other farm worker advocates also pointed to abuses that were rampant during more than two decades of the guest worker program started during World War II that became known as the Bracero program.

In an attempt to win over those interests, the senators planned to introduce a separate bill that contained only the earned amnesty provision. Growers said they would not back any legislation that did not reform the guest worker program.

"We've got to have both or we're dead," said Manuel Cunha, director of the Nisei Farmers League in Fresno.

A sweeping immigration reform law passed in 1986 provided amnesty for undocumented immigrants who could prove they had been in the United States continually for at least six years.

After intense lobbying by California growers, the time was shortened for agricultural workers. Critics said that left the agricultural component open to widespread fraud. More than 1 million workers qualified.

Just a few years ago, any mention of another amnesty program would have been ridiculed in Washington, but since then there has been a dramatic turnaround in the economy, and labor is at a premium. King said there were "spotty" shortages of farm labor in California that led to some crop loss, and he expects it will be worse next year.

The political climate also has changed dramatically, with Latinos taking on an increasingly important voice in electoral politics, particularly in California. A poll of Latino voters in California and Texas this last summer showed overwhelming support--about 87%--for a new amnesty, said Antonio Gonzalez, director of the Southwest Voter project, which conducted the poll.

LANGUAGE: English

LOAD-DATE: October 27, 1999

scale.

At Allergan, an Irvine, Calif.-based pharmaceutical and medical device company, dozens of high-tech jobs have gone unfilled because the INS office in Laguna Niguel, Calif., has been too overloaded to handle requests for months on end, said Brad Gary, vice president of government operations at the firm.

"It's very frustrating," Gary said. "We'd like to get them in and start work. We need these people to grow. But we're having problems getting them in."

Farm Worker Amnesty Bill To Be Introduced

By Nancy Cleeland

Los Angeles Times

In an indication of how far and fast immigration politics have changed, three senators plan to introduce a bipartisan bill Wednesday sought by growers that would offer a form of amnesty to many thousands of undocumented farm workers and expand the guest worker program.

The bill, to be introduced by Sens. Bob Graham, D-Fla., Gordon Smith, R-Ore., and Larry Craig, R-Idaho, would grant immediate legal status to all undocumented immigrants most of whom are Latino who could show they had worked in agriculture for at least 150 days in the last year estimated by congressional sources at 500,000.

But the workers would be required to remain in agriculture for an additional five years before they could obtain permanent legal status, a highly controversial provision that has evoked opposition by Latino groups.

The bill also would create a registry of legal domestic workers available to growers and only after they exhaust that supply could they bring in foreign workers. And it would allow growers to provide those guest workers with housing "vouchers" rather than actual housing, as the current law requires.

California growers, who concede that at least half and possibly 70 percent of their workers are undocumented, have lobbied heavily for the bill in recent months. As many as 500,000 farm workers are employed in the state during peak harvest season.

But unlike previous attempts at guest worker reform, this proposed legislation has strong backing from growers from Washington state to Florida a reflection of the tight labor market that is pulling workers off the fields and into more stable employment.

"We're pleased that finally we'll have a chance to debate a bill that addresses what we think everyone should see is a problem," said Jack King, national affairs director for the California Farm Bureau. "The question is how quickly we can get it to a vote. We're still hoping for this fall, but that could be tricky."

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A sweeping immigration reform law passed in 1986 provided amnesty for undocumented immigrants who could show they had been in the United States continually for at least six years.

Investigators Search for Clues in Plane Crash

By Eric Malnic

Los Angeles Times

MINA, S.D. Previous problems with valves like the one that may have failed, causing catastrophic decompression aboard Payne Stewart's executive jet, were reported Tuesday as federal experts began their investigation of the crash that killed the pro golfer and five others on the plane.

While the cause of Monday's crash probably won't be determined officially for months, National Transportation Safety Board investigators are focusing on the possibility that decompression disabled all six people aboard the Learjet 35 after it took off from Orlando, Fla.

The executive jet, probably on autopilot, flew another 1,400 miles across the Midwest at altitudes up to more than 44,000 feet before apparently running out of fuel. Air Force pilots who scrambled to escort the wayward plane after air traffic controllers were unable to make radio contact with the Learjet watched in horror as Stewart's plane spiraled downward before crashing nose-first into pastureland about a mile south of this tiny rural hamlet in northeast South Dakota.

Killed, in addition to Stewart, were the plane's pilots, Michael Kling and Stephanie Bellegarrigue, Stewart's agents, Robert Fraley and Van Ardan, and golf course designer Bruce Borland.

Officials say all six probably succumbed to high-altitude asphyxiation long before the plane struck the ground.

Aviation safety experts have suggested several scenarios that might have caused decompression, one of them involving a failure of the Learjet's outflow valve, a regulator designed to keep air pressure in the plane at the desired level usually about the same as in an unpressurized plane at an altitude of about 5,000 feet.

The Federal Aviation Administration said Tuesday that in 1994, pilots reported problems with the seals on some outflow valves on Learjets, including one failure that caused the nonemergency decompression of one plane.

The FAA issued an airworthiness directive in 1995 mandating repairs on the valves within 18 months and limiting the altitude of Learjets to 41,000 feet until the repairs had been completed.

These repairs apparently were made on Stewart's plane and officials said there were no reports of serious maintenance problems with the jet.

The officials said another possible scenario that could lead to decompression would involve the failure of an inside pressure bulkhead.

The Air Force pilots said they saw no damage on the Learjet, but the failure of an interior bulkhead or an outflow valve might not be visible from a plane flying alongside.

A third possible scenario involves the failure of the cockpit crew to activate the Learjet's main pressurization system prior to takeoff. When that happened on a Learjet in 1988, the two pilots the only ones on board were incapacitated shortly after takeoff from Memphis, and the plane flew on its own to Mexico before crashing. Both pilots died.

Noting that there still are several possibilities, NTSB Vice Chairman Robert Francis said Tuesday night that investigators "were having trouble figuring out how or if" the airworthiness directive about outflow valves applies to the current investigation.

But sources close to the investigation said the outflow valve from Stewart's jet was one of the key pieces of wreckage NTSB investigators were seeking Tuesday as they began to study the impact crater 10 feet deep, 40 feet long and 30 feet wide gouged in the earth of the gently rolling pastureland.

The main job Tuesday was the grim task of recovering the fragmented human remains, scattered throughout the debris-filled crater and around its perimeter.

Francis, who is overseeing the investigation, said NTSB experts

Top of page:

Col 1: Financial news feature. Moving at a later date with art.

Cols 2-6: Local schools story with art.

Above fold:

Cols 2-3: In a move that acknowledges the soaring importance of technology in the U.S. stock market, Microsoft Inc. and Intel Corp. are being added to the Dow Jones industrial average index along with phone giant SBC Communications and retailer Home Depot. (DOW-TIMES, moved).

Col 4: Britain's aristocrats, despite crying "treason" and threatening to act like football hooligans, agree to abolish the centuries-old right of more than 700 hereditary peers to sit and vote in the House of Lords. (BRITAIN, moved).

Col 6: Local police story.

Below fold:

Col 3: Americans are fatter than ever, with potentially disastrous consequences for their health, but injections of the recently discovered hormone leptin can help take some of the fat off, researchers say. (FAT-TIMES, moved).

Cols 5-6: When Patrick J. Buchanan quit the Republican presidential race Monday, Steve Forbes moved one step closer to uniting the Republican right against George W. Bush the cornerstone of his uphill bid to seize the GOP nomination. (FORBES-ASSESS, moving Wednesday).

Bottom of page:

Cols 1-2: The investigation of a remote Honduran air base the United States once used to supply and train Nicaraguan Contras prompts tales of torture and mass graves. (HONDURAS-CONTRAS, moving Wednesday).

Cols 4-6: News feature. Moving at a later date with art.

Nobody's Happy With the Mess at the INS

By Esther Schrader

Los Angeles Times

WASHINGTON Even by the customarily chaotic standards of the Immigration and Naturalization Service, this year has been a mess.

First the agency fell behind in implementing President Clinton's offer of temporary amnesty to Central Americans reeling from Hurricane Mitch, leaving tens of thousands stranded in the United States without permission to work.

Then the immigration service gave out 20,000 more visas to high-tech workers than the law permits. By mistake.

And then suspected serial killer Angel Maturino Resendiz was apprehended at the border by INS agents and released to Mexico even after police alerted the agency that he was a murder suspect. The agency said it didn't find his name in its files.

Add to the flubs the 1.8 million people waiting in line to become U.S. citizens, the children of immigrants who have become citizens waiting 30 months for green cards that they should, by law receive immediately, plus 3 million other people waiting for other immigration benefits, and it's no wonder immigrants throughout the United States pale at the thought of the agency.

Nowhere do the problems at the INS hit harder than in California, home to more new immigrants than any other state. Go to any INS office in the state, and you are likely to find long lines of people before daybreak, knowing that more than likely they will wait all day.

Stories of the INS losing fingerprints, misfiling paperwork and treating worried immigrants rudely have become as common as tales of Department of Motor Vehicles incompetence. And millions of illegal immigrants are living in the United States, easily eluding INS efforts to find and deport them.

"Everybody has something bad to say about the INS," said Mary Beth Sullivan, legislative counsel for the California Institute, a think tank that tracks federal legislation of interest to Californians. "It has gone progressively downhill. And they haven't done anything to clean up their act."

The situation at the agency is so bad that these days not even INS Commissioner Doris Meissner is willing to defend it.

"The first person who is advocating for a restructuring of the agency is the commissioner," said INS spokeswoman Maria Cardona. "She has said repeatedly that she is committed to changing the agency. She says the agency as it is now is not poised to grant the best service it can, and that it needs a restructuring so it is able to administer a coherent immigration policy into the next century."

But Washingtonians dismayed at the INS' performance part company over the issue of how to change the agency.

Since early this year, Rep. Harold Rogers, R-Ky., has pushed legislation that would split the INS into two bureaus within the Justice Department, one to enforce immigration laws and patrol borders, and another to handle the cases of legal immigrants. The Clinton administration opposes the legislation.

A Senate alternative, sponsored by Sen. Spencer Abraham, R-Mich., would preserve the agency's authority over border functions but streamline its management and give it a new name.

The fight involves more than bureaucratic turf. Critics say the fast-growing organization has become unwieldy and politicized; immigrant advocates fear that reformers want to reduce services for foreign residents and visitors.

"The services side of our immigration system should not be diminished or shortchanged," said Frank Sherry, director of the National Immigration Forum, a Washington lobbying group on immigrant rights. "But I don't think there is anyone out there who thinks the system we have is working well right now."

It's no wonder. The agency has doubled in size in five years, as immigration, both illegal and legal, has skyrocketed. For three years, auditors haven't been able to balance the INS books. After reviews of its 1998 budget, the agency still couldn't account for \$41 million. And hundreds of millions of dollars invested in new computers appears to have been mismanaged, according to the General Accounting Office.

The problems hit immigrants at all ends of the social