

**THE AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND
SECURITY (AGJOBS) ACT OF 2005 (S. 359/H.R. 884)**

Table of Contents

AILA Issue Paper

- AgJobs—We Need Reform to Achieve a Stable and Legal Agricultural Workforce

Questions & Answers on the AgJobs Act

S. 359—Cosponsors by State

H.R. 884—Cosponsors by State

Recently Published Articles on the AgJobs Legislation:

- [Farm Workers Due Justice](#) (*Op-ed*, Orlando Sentinel, February 23, 2005)
- [Farmworker Bill Makes Sense](#) (*Editorial*, Visalia Times-Delta, February 15, 2005)

Model letters in support of the AgJobs legislation can be found on “Contact Congress/Media” under the Advocacy Center on both InfoNet and AILA.org.

AGJOBS — WE NEED REFORM TO ACHIEVE A STABLE AND LEGAL AGRICULTURAL WORK FORCE

THE ISSUE: Our immigration laws fail to account for the economic and social realities confronting the United States. Nowhere is this fact more evident than in agriculture, with the shortage of legal, documented agricultural workers in the U.S. having reached crisis proportions. According to a conservative estimate by the Department of Labor (DOL), over 50% of the U.S.' 1.6 million agricultural workers are undocumented foreign nationals. Private estimates run to 75% or higher. These individuals work grueling jobs to put food on our table, yet they remain unable to assert the most basic rights and protections.

Bipartisan legislation introduced during the 109th Congress, the Agricultural Job Opportunities, Benefits, and Security (AgJobs) Act of 2005 (S. 359/H.R. 884), takes a two-pronged approach to achieving a stable and legal, agricultural work force. The legislation's long-term focus is on streamlining the H-2A guest worker program to make it more practical, secure and fair, while short-term relief is provided through an earned adjustment program. The bill thus recognizes that immigration reform must include both a legal means by which employers can hire foreign workers in the absence of available U.S. workers and a means to legitimize the status of those immigrants already present in the U.S. who have been supporting our economy with their labor. The AgJobs Act was introduced on February 10, 2005 by Senators Larry Craig (R-ID) and Edward Kennedy (D-MA), and on February 17 by Representatives Chris Cannon (R-UT) and Howard Berman (D-CA). AILA strongly supports passage of this measure in the 109th Congress.

BACKGROUND: The bipartisan AgJobs legislation is the product of a landmark agreement between business, immigrant, agriculture, labor, civic and faith-based groups to fix long-standing problems with agricultural labor policy. The goodwill and cooperation between all parties on this issue can provide a model for addressing future labor force challenges and other difficult policy issues.

The AgJobs Act would reform the H-2A process so that agricultural employers unable to find American workers would be able to hire needed foreign workers. Furthermore, the legislation provides a reasonable mechanism for undocumented agricultural workers to earn legal status, as more fully discussed below. These two key elements are the cornerstone for the comprehensive immigration reform for service sector workers so urgently needed to address this nation's economic and security interests.

Long-term relief via a streamlined H-2A program: The legislation would streamline the outdated and unworkable H-2A foreign agricultural worker program while preserving and enhancing key labor protections. Currently, agricultural employers who cannot hire a sufficient number of domestic workers are required to undergo a complicated, lengthy, uncertain, and expensive process to demonstrate such shortage to the government. Only then are they permitted to arrange for the hiring of temporary nonimmigrant guest workers. Indeed, the current H-2A program is so difficult to navigate and expensive that it places only about 40,000-50,000 guest workers per year—a mere 2 to 3% of the estimated total agricultural work force. In fact, a General Accounting Office (GAO) study found that the DOL missed statutory deadlines for processing employer applications to participate in the H-2A program more than 40% of the time. Moreover, workers without the proper documentation must live in the shadows and are vulnerable to severe exploitation.

The bipartisan AgJobs Act would replace the current bureaucratic nightmare for both employers and prospective workers with a “win-win” solution. A streamlined “attestation” process similar to the one used in connection with the H-1B program would speed up the certification of H-2A employers and the hiring of needed workers. H-2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. American consumers also would benefit from a safe, stable, American-grown food supply rather than having to rely increasingly on foreign imports. The AgJobs Act would bring about the comprehensive reforms needed to stabilize the current agricultural labor crisis and would ensure a future workforce for the labor-intensive U.S. agricultural sector.

Short-term relief via an earned adjustment program: The bipartisan AgJobs Act, in the short-term, would provide relief through its earned adjustment program under which undocumented agricultural workers would be eligible to apply first for temporary resident status based on their past work experience, and then to become permanent residents upon satisfying prospective work requirements. To be eligible for the program, individuals would have to demonstrate that they performed agricultural work in the U.S. the lesser of 575 hours or 100 work days during any 12 consecutive months within a designated 18-month period. Eligible applicants would be granted temporary resident status while they work towards the permanent residence requirements.

Workers would be eligible to apply for permanent residence status if they meet the following requirements: performed at least 2060 hours or 360 work days (but in no case less than 2060 hours) of agricultural employment during the six-year period beginning after the date of enactment, including at least 240 work days or 1380 hours during the first three years following adjustment to temporary status, and at least 75 days or 430 hours of agricultural work during each of three 12-month periods in the six years following adjustment to temporary resident status. Eligible individuals would have to apply for adjustment to permanent resident status no later than seven years after the date of enactment.

Legislation from the 108th Congress: During the previous Congress, lawmakers from both the House and the Senate introduced other agricultural reform bills in addition to AgJobs, but these measures fell far short of the AgJobs measure. Those bills, sponsored by Senator Saxby Chambliss (R-GA) (S. 2185, 108th Congress) and Representative Bob Goodlatte (R-VA) (H.R. 3604, 108th Congress), would each have revised some aspects of the outdated H-2A temporary agricultural worker program, but both failed to include an earned adjustment component and contained other unworkable provisions that AILA opposes. By failing to provide both a solution to the vast undocumented population currently working in America’s agricultural sector, and a means to bring these workers out of the shadows and under the review of our government, those alternative proposals missed an important opportunity to increase our nation’s security efforts and protect our food supply.

AILA’S POSITION: AILA strongly supports the passage during the 109th Congress of the bipartisan AgJobs bill. This legislation is not only a plus for workers and employers, but also represents a major step towards reforming an immigration system that is out of whack with reality. The bill’s provisions would constitute a positive gain for both workers and employers by creating a stable labor force and a useable program through which future workers can legally enter.

Why this bipartisan legislation is good for America: It is in the national security interest of the U.S. to know who is working in food production and to have an effective means of monitoring these essential workers. This legislation provides that capability. With the enactment of AgJobs, an estimated 500,000 workers would be brought out of the underground economy and scrutinized by our government as they begin the process toward legal status. Moreover, future guest workers under the H-2A program would be screened and monitored to address security concerns. Encouraging

people to come out of the shadows and be reviewed by our government will enhance our security by allowing our government to focus on the people who mean to do us harm rather than on those who cross our borders to fill our labor market needs.

Earned adjustment does not equal “amnesty”: Critics of this legislation have misleadingly dubbed its earned adjustment program an “amnesty program.” This is not the case. Under the bill, workers would not only have to demonstrate past work contributions to the U.S. economy, but also make a substantial future work commitment to earn the right to remain in this country. Moreover, the AgJobs’ earned adjustment program would be a one-time opportunity for workers already present in this country who have a significant U.S. work history, so it would not encourage future unauthorized migration.

Moreover, while the legislation focuses on the unique needs of the agricultural sector, its dual-pronged approach sets the stage for much-needed comprehensive immigration reform encompassing other sectors of our economy. To fully address our economic, humanitarian and security needs, such reform must include: an earned legalization for undocumented immigrants living and working in the U.S.; a new worker program that would legalize future flows of essential workers; and a reduction of the backlogs in family-based immigrant visas.

QUESTIONS & ANSWERS ON AGJOBS

Questions & Answers on the Agricultural Job Opportunities, Benefits, and Security (AgJobs) Act of 2005 (S. 359/H.R. 884)

1. How Would AgJob's Earned Adjustment Program Operate?

The AgJobs Act creates an earned adjustment program for undocumented agricultural workers who would be eligible to apply first for temporary resident status based on their past work experience, and then to become permanent residents upon satisfying prospective work requirements. To be eligible for the program, the individual must demonstrate that he or she performed agricultural work in the U.S. the lesser of 575 hours or 100 work days during any 12 consecutive months in the 18-month period ending on December 31, 2004. The application period would begin on the first day of the seventh month after enactment and would run for 18 months. Eligible applicants would be granted temporary resident status while they work towards the permanent residence requirements.

After acquiring temporary resident status, workers may be employed in non-agricultural occupations, as long as they meet their agricultural work requirements. While in temporary resident status, workers may select their employers and switch employers.

If the worker performs at least 2060 hours or 360 work days (but in no case less than 2060 hours) of agricultural employment during the six-year period beginning after the date of enactment, including at least 240 work days or 1380 hours (but in no case less than 1380 hours) during the first three years following the bill's enactment, and at least 75 days or 430 hours (but in no case less than 430 hours) of agricultural work during each of three 12-month periods in the six years following the bill's enactment, the worker may apply for permanent resident status. Eligible individuals must apply for adjustment to permanent resident status no later than seven years after the date of enactment.

Aliens granted temporary residence under this program who fail to fulfill the agricultural work requirements for permanent residence, or who fail to apply for such status before the expiration of the application period, are subject to removal. Similarly, an alien's temporary resident status may be terminated and adjustment denied if the Secretary of Homeland Security determines that such status was the result of fraud or willful misrepresentation, if the alien commits an act that renders him or her inadmissible, or if the alien is convicted of a felony or three or more misdemeanors while in temporary resident status.

2. What Provision Does the Legislation Make for the Spouses and Minor Children of Temporary Resident Agricultural Workers in the Earned Adjustment Program?

During the period of temporary resident status, the worker's spouse and minor children who are residing in the United States may remain here, but are not employment authorized. The spouse and minor children may adjust to permanent resident status when the worker adjusts to permanent resident status.

3. May Aliens Granted Temporary Residence Under the Program Travel Outside of the United States?

Yes. During the period of temporary resident status, the agricultural worker is employment authorized, and can travel abroad and reenter the United States in the same manner as an alien lawfully admitted for permanent residence.

4. What Reforms Does the Legislation Make to the Current H-2A Temporary and Seasonal Agricultural Worker Program?

The AgJobs Act streamlines the existing H-2A foreign agricultural worker program while preserving and enhancing key labor protections. Employers seeking to employ H-2A foreign workers in seasonal jobs (10 months or less) must file an application and a job offer with the Secretary of Labor. If the application and job offer meet the requirements of the program and there are no obvious deficiencies, the Secretary must approve the application. Employers must seek to employ qualified U.S. workers prior to the arrival of H-2A foreign workers by filing a job order with a local job service office at least 28 days prior to the date of need and also authorizing the posting of the job on an electronic job registry. In addition, employers must make reasonable efforts to contact former U.S. workers to fill the position and, no later than 14 days before the date of need, must advertise the job opportunity in a publication likely to be patronized by agricultural workers. Emergency provisions allow the Secretary of Labor to waive the recruitment provisions where there is insufficient time before the date of need, and the need could not reasonably have been foreseen.

H-2A foreign workers are admitted for the duration of the initial job, not to exceed 10 months, and may extend their stay if recruited for additional seasonal jobs, to a maximum continuous stay of three years, after which the H-2A foreign worker must depart the United States. Prior to reapplying for admission as an H-2A worker, the individual must remain outside the United States for a continuous period equal to at least 1/5 the duration of the alien's previous period of authorized status as an H-2A worker, including any extensions. A special exception is provided for shepherders, who may be admitted for a period of 12 months, with extensions permitted for a maximum continuous stay of three years.

H-2A foreign workers are authorized to be employed only in the job opportunity and by the employer for which they were admitted. Workers who abandon their employment or are terminated for cause must be reported by the employer, and are subject to removal. H-2A foreign workers are provided with a counterfeit-resistant identity and employment authorization document. Like the existing H-2A program, the reformed H-2A program as envisioned by the AgJobs Act provides for temporary, seasonal labor and contains no mechanism for adjustment to permanent status.

5. What Labor Standards Are Provided for in the Bill?

All workers in job opportunities covered by an H-2A application must be provided with workers' compensation insurance, and no job may be filled by an H-2A worker that is vacant because the previous occupant is on strike or involved in a labor dispute. If the job is covered by a collective bargaining agreement, the employer must also notify the bargaining agent of the filing of the application. If the job opportunity is not covered by a collective bargaining agreement, the employer is required to provide additional benefits, as follows. The employer must provide housing at no cost, or a monetary housing allowance where the Governor of a State has determined that there is sufficient migrant housing available, to workers whose place of residence is beyond normal commuting distance. The employer must also reimburse inbound and return transportation costs to workers who meet employment requirements and who travel more than 100 miles to come to work for the employer. The employer must guarantee employment for at least three quarters of the period of employment, and assure at least the highest of the applicable statutory minimum wage, the prevailing wage in the occupation and area of intended employment, or a reformed Adverse Effect Wage Rate (AEWR). If the AEWR applies, effective on the date of the bill's enactment and continuing for three years thereafter, the AEWR will not be higher than that existing on January 1, 2003. If Congress fails to enact a new wage rate within three years, the AEWR will be indexed to the change in the consumer price index, capped at 4 percent per year beginning on the first March 1 that

is not less than three years after enactment. Employers also must meet specific motor vehicle safety standards.

With regard to the Earned Adjustment Program, workers alleging that they have been terminated without cause and deprived of qualifying days of work are entitled to arbitration. If the arbitrator rules in favor of the worker, the decision can result only in a credit of work days or hours but cannot be used for any other purpose in any other litigation. In addition, since workers in the Earned Adjustment Program will be treated as non-H-2A workers, they are covered by the principal federal employment statute for farm workers—the Migrant and Seasonal Agricultural Protection Act of 1983.

6. What Enforcement Mechanisms are Included in the Bill?

The Secretary of Labor is required to provide a process for filing, investigating and disposing of complaints, and may order back wages and civil money penalties for program violators. The Secretary of Homeland Security may order debarment of violators for up to two years. H-2A workers are provided with a limited federal private right of action to enforce the requirements of housing, transportation, wages, the employment guarantee, motor vehicle safety, retaliation and any other written promises in the employer’s job offer. Either party may request mediation after the filing of the complaint. State contract claims seeking to enforce terms of the H-2A program are preempted by the limited federal right of action. No other state law rights are preempted or restricted.

7. Is the AgJobs Legislation an Amnesty Program?

No. Under the bill, workers would have to demonstrate past work experience and would have to make a substantial future work commitment to earn the right to remain in this country. Moreover, the AgJobs earned adjustment program would be a one-time opportunity for workers already in present in this country who have a significant U.S. work history, so it would not encourage future unauthorized migration.

8. Why Not Simply Maintain the Current Agricultural Guest Worker Program?

The current agricultural guest worker (H-2A) program is outdated and unworkable, seriously impacting the ability of agricultural entities to secure and maintain a legal workforce. Currently, agricultural employers who are unable to hire sufficient numbers of domestic workers for their operations are required to undergo a complicated, lengthy, uncertain, and expensive process of demonstrating such shortage to the government. Only then are they permitted to arrange for the hiring of temporary nonimmigrant guest workers. Indeed, the current H-2A program is so difficult to navigate and expensive that it places only about 40,000-50,000 guest workers per year—a mere 2 to 3 percent of the estimated total agricultural work force. A General Accounting Office study found that the Department of Labor missed statutory deadlines for processing employer applications to participate in the H-2A program more than 40% of the time. Moreover, workers without the proper documentation must live in the shadows and are vulnerable to severe exploitation.

The AgJobs Act would replace the current bureaucratic nightmare for both employers and prospective workers with a “win-win” solution. A streamlined “attestation” process similar to the one used in connection with the H-1B program would speed up the certification of H-2A employers and the hiring of needed workers. H-2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. American consumers also would benefit from a safe, stable, American-grown food supply rather than having to rely increasingly on foreign imports. The AgJobs Act would bring about the comprehensive reforms needed to stabilize the

current agricultural labor crisis and would ensure a future workforce for the labor-intensive U.S. agricultural sector.

9. How Does this Legislation Make Us Safer?

Once enacted, the bill's provisions are a positive gain for both workers and employers by creating a stable labor force and a useable program through which future workers can legally enter. With the enactment of this legislation, an estimated 500,000 workers would be brought out of the underground economy and would be scrutinized by our government as they begin the process toward legal status. Moreover, future guest workers under the H-2A program would be screened and monitored to address security concerns. By encouraging people to come out of the shadows and be reviewed by our government, this measure will enhance our security by helping us know who lives and works within our borders, thereby allowing our government to focus on the people who mean to do us harm rather than on those who cross our borders to fill our labor market needs.

10. Who Supports the Agricultural Job Opportunity, Benefits, and Security Act?

The AgJobs Act is supported by a bipartisan group of Senators and Representatives. Joining Senate sponsors Larry Craig (R-ID) and Edward Kennedy (D-MA) are an additional 33 cosponsors, including 16 Democrats and 17 Republicans. On the House side, 14 cosponsors have joined original sponsors Chris Cannon (R-UT) and Howard Berman (D- CA) in support of the bill, including 7 Democrats and 7 Republicans.

In addition, the AgJobs Act also is supported by a variety of agricultural groups, including the American Farm Bureau Federation, the National Council of Agricultural Employers, the American Nursery and Landscape Association, along with dozens of other agricultural groups. Many business and labor groups also support the legislation, including the U.S. Chamber of Commerce and the Essential Worker Immigration Coalition, a coalition of over 30 national businesses, trade associations, and other organizations. In addition, along with the American Immigration Lawyers Association, other groups supporting the AgJobs Act include the AFL-CIO, the League of United Latin American Citizens (LULAC), MALDEF (Mexican American Legal Defense and Educational Fund), the National Council of La Raza, the National Immigration Forum, the United States Conference of Catholic Bishops, the United Farm Workers, and the William C. Velasques Institute (WCVI).

The broad-based support for this measure is also evident in the press. Most recently, a February 15, 2005 *Visalia Times-Delta* editorial stated: "AgJobs deserves a shot. It would end the hypocritical nature of farm labor, in which we condemn workers as illegal while at the same time use them for their work...It would allow farm workers to come out of the shadows of an underground economy and the stigma of being lawbreakers." A January 14, 2004 *Seattle Times* editorial stated: "AgJobs is a smart start, a pilot project even, for the necessary larger conversation about immigration reform." The *New York Times*, in a January 12, 2004 editorial, urged: "[President Bush should put] his shoulder behind the AgJobs package that already has strong support from business, labor, Republicans and Democrats." And, a December 24, 2003, editorial in the *Palm Beach Post* stated: "[AgJobs] also could improve guest-worker programs to guard against smuggling and abusive conditions outlined in the *Post's* recent series on migrant farmworkers." The *Miami Herald* stated in an October 20, 2003, editorial: "Congress needs to approve the Agricultural Job Opportunity Benefits and Security Act, which promises to benefit growers as well as farmworkers. President Bush would do the nation a great service by reengaging in a once-promising immigration dialogue..." In an October 13, 2003, editorial, the *Modesto Bee* stated: "[The AgJobs bill] also recognizes a stark reality. Not enough American citizens are willing to work in agriculture. American agriculture needs these immigrant workers." The *Los Angeles Times*, in an October 1, 2003 editorial, observed: "When

conservative Republicans and liberal Democrats, big farmers and union activists agree on something, it's worth noting. When their consensus concerns as complicated and freighted an issue as immigration reform, there's even greater reason to think something worthwhile is stirring." Finally, the *Denver Post*, in a September 28, 2003 editorial, advised: "We encourage lawmakers to pass [AgJobs] as a positive step toward national immigration reform that begins to address the reality of the overall immigration situation and goes even further to address the deeper underlying problem, poverty and exploitation of low-income workers."

11. How is S. 359/H.R. 884 the First Step toward Comprehensive Immigration Reform?

The AgJobs Act addresses both the near- and the long-term needs of the agricultural sector by taking a two-pronged approach to achieving a stable, legal, agricultural work force. The legislation's long-term focus is on streamlining the H-2A guest worker program to make it more practical, secure and fair, while short-term relief is provided through the bill's earned adjustment program. Thus the bill recognizes that immigration reform must include both a legal means by which employers can hire foreign workers in the absence of available U.S. workers and a means to legitimize the status of those immigrants already present in the U.S. that have been supporting our economy with their labor. While the legislation focuses on the unique needs of the agricultural sector, its dual-pronged approach sets the stage for much-needed comprehensive immigration reform that targets principally the service sector of our economy. Such global reform would require three components: legalization for undocumented immigrants living and working in the U.S.; a new worker program that would legalize future flows of essential workers; and a reduction of the backlogs in family-based immigrant visas. Comprehensive reform is absolutely necessary to fully address our economic, humanitarian and security needs.

AGJOBS HOUSE CO-SPONSORS

H.R. 884—COSPONSORS BY STATE

15 Total (8 Democrats, 7 Republicans)

California

Berman (D-Calif.)

Costa (D-Calif.)

Nunes (R-Calif.)

Radanovich (R-Calif.)

Solis (D-Calif.)

Arkansas

Florida

Diaz-Balart, L. (R-Fla.)

Diaz-Balart, M. (R-Fla.)

Putnam (R-Fla.)

Illinois

LaHood (R-Ill.)

Massachusetts

McGovern (D-Mass.)

Minnesota

Peterson, C. (D-Minn.)

New York

Reynolds (R-N.Y.)

Oregon

Hooley (D-Ore.)

Texas

Jackson-Lee, S. (D-Texas)

Reyes (D-Texas)

AGJOBS SENATE CO-SPONSORS

S. 359 COSPONSORS BY STATE

34 Total (17 Democrats, 17 Republicans)

Alaska

Stevens (R-Alaska)

Arizona

McCain (R-Ariz.)

California

Boxer (D-Calif.)

Colorado

Salazar, K. (D-Colo.)

Connecticut

Dodd (D-Conn.)
Lieberman (D-Conn.)

Florida

Martinez (R-Fla.)
Nelson, Bill (D-Fla.)

Hawaii

Akaka (D-Hawaii)

Illinois

Durbin (D-Ill.)

Indiana

Lugar (R-Ind.)

Kansas

Brownback (R-Kan.)
Roberts (R-Kan.)

Massachusetts

Kennedy, E. (D-Mass.)
Kerry, J. (D-Mass.)

Michigan

Levin, C. (D-Mich.)

Minnesota

Coleman (R-Minn.)

Mississippi

Cochran (R-Miss.)
Lott (R-Miss.)

Montana

Burns, C. (R-Mont.)

Nebraska

Hagel (R-Neb.)
Nelson, Ben (D-Neb.)

New Jersey

Lautenberg (D-N.J.)

New Mexico

Domenici (R-N.M.)

New York

Schumer (D-N.Y.)

Ohio

DeWine (R-Ohio)
Voinovich (R-Ohio)

Oregon

Wyden (D-Ore.)

Pennsylvania

Specter (R-Pa.)

Rhode Island

Chafee (R-R.I.)

Utah

Hatch (R-Utah)

Vermont

Leahy (D-Vt.)

Washington

Cantwell (D-Wash.)
Murray (D-Wash.)

ARTICLES ON AGJOBS

Farm Workers Due Justice

Orlando Sentinel (Florida)

February 23, 2005

Op-ed

By Bishop Wenski

In the United States today, there are close to 2 million farm workers who harvest agricultural crops in America's fields. These workers pick fruits and vegetables in California, Florida and other agricultural states; apples in the Northwest and parts of New England; and peaches and tobacco in the Southern states. They work on poultry, dairy, and livestock farms in the Midwest and parts of the Southwest. In Central Florida, they work in citrus and ornamental ferns.

Farm labor has long been considered one of the most dangerous occupations in the nation, with workers exposed to pesticides, long hours exposed to the elements and unforgiving machinery. Even so, farm workers historically have been excluded from the protection of certain labor laws that other U.S. workers enjoy. Moreover, more than one-half of farm workers in this country are undocumented, which makes them further subject to exploitation and abuse. Those who are U.S. citizens or are otherwise legal are unable to organize effectively and assert their basic rights in the workplace. Because of the seasonal and migratory nature of their work, farm workers often are separated from their families for long periods of time.

In many ways, the situation of farm workers in our nation today is no different than that chronicled in Edward R. Murrow's famous and powerful 1960 documentary, *Harvest of Shame*, which first brought the plight of farm workers to the attention of the nation.

Despite these injustices, farm workers continue to work hard and remain indispensable to the U.S. agricultural industry and to the food production from which we all benefit.

President Bush and our elected officials have an opportunity to improve the situation of many farm workers in this country by enacting the Agricultural Job Opportunity, Benefits and Security Act of 2003 -- AgJobs (S. 359), recently re-introduced by Sen. Larry Craig of Idaho and co-sponsored by Florida Sens. Mel Martinez and Bill Nelson. The legislation, a bipartisan initiative that would legalize a number of farm workers across the nation, represents a positive first step in bringing some measure of justice to those who labor in U.S. agricultural fields.

The legislation is not an "amnesty," as traditionally understood, but requires undocumented workers to work in farm labor for a specified time in order to "earn" permanent residency for themselves and their families. In the meantime, they are able to obtain temporary residency and move freely between here and their homeland. The legalization path will enable these undocumented workers to "come out of the shadows" and assert their basic rights in the workplace, creating an environment that will benefit U.S. and foreign-born farm workers in this country.

Passage of this legislation should mark the beginning, not the end, of fixing our immigration system that the president himself acknowledged as broken last year. Further steps toward reform should include other immigrant workers in industries such as construction, service, and other sectors who also should be given a chance to obtain work visas and to earn, through their work over time, permanent residency.

The U.S. Catholic bishops look forward to working with the president and Congress in the months ahead to achieve an immigration reform that provides remedies for legal status for those already here, and that discourages illegal entry by providing avenues for people to apply to come and work legally and by streamlining the admissions' process for family reunification.

Much has to be done to make our immigration system more just for the immigrant worker and more responsive to labor needs of the American economy. Passage of the AgJobs bill is a good start.

Farmworker Bill Makes Sense
Visalia Times-Delta (Visalia, CA)
February 15, 2005
Editorial

Those who work here ought to be able to stay here.

Immigrants willing to work here at jobs Americans won't take should be able to stay and eventually become citizens, even if they came illegally.

That's the premise of a bill introduced last week in Congress, the Agricultural Jobs, Opportunity, Benefits and Security Act, also known as AgJobs. This is the third try for AgJobs, shot down in 1999 and 2003, even though it has bipartisan support in Congress and the support of 400 farm and labor groups from the United Farm Workers to the U.S. Chamber of Commerce.

They believe it is superior to the current guest-worker program, because AgJobs recognizes the reality: Undocumented immigrants are already here and working at farm labor, as many as 500,000 in California alone. Deport them and you need to find 500,000 willing workers.

Some people don't want to accept that reality, but we are not among them. As long as immigrants are productive and making their own way, they ought to be allowed to stay here, even if they arrived illegally.

That's going to be a sticking point, because AgJobs essentially offers current undocumented workers amnesty: If farm workers can prove they have worked at farm labor 100 days in the past year, they can stay temporarily and continue to work. If they can prove they worked a total of 360 days over the next six years, they can be granted permanent residency status. Then they are eligible to pursue citizenship.

If that seems to reward lawbreaking, so be it. The law is already being flouted by employers and workers alike in a corrupt system that victimizes both.

The current guest worker program, known as H-2A, permits immigrants to work here, as long as they return to their countries of origin. It offers no incentive to workers, especially those who are already here illegally. H-2A has been in place for two years and has accomplished little. Employers don't use it because the red tape is too thick. Workers don't use it, because they don't want to come here to work, then get sent back to Mexico.

AgJobs deserves a shot. It would end the hypocritical nature of farm labor, in which we condemn workers as illegal while at the same time use them for their work. It would give those workers hope and an incentive to improve their station. It would take away the responsibility of law enforcement

from farmers. It would allow farm workers to come out of the shadows of an underground economy and the stigma of being lawbreakers.

AgJobs accomplishes two more things: It deals with the reality of the present situation, and that is that immigrants, legal or not, are willing to do jobs Americans won't for the chance to prosper here.

And it rewards work. Those willing to accept that contract ought to be able to count on the payoff in the end.