The 'Temporary Worker' Plan

We could have two disasters in one

by Juan Mann

The so-called "temporary worker" scheme currently lurking in Congress could be a knockout punch for the American worker and one of the most prolific illegal alien amnesties of all time.

Under the ludicrously misnamed "Border Security and Immigration Improvement Act," H.R. 2899 and S. 1461 conceal a deadly one-two punch against America: a massive scheme to import new foreign workers into the United States, and an amnesty plan for illegal aliens already in the United States.

This lunacy is the brainchild of three Arizona Republicans – House members Jim Kolbe and Jeff Flake, and Senator John McCain. The bills were introduced in the House and Senate on July 25. And as of early August, the Bush Administration is showing support.

"The president was enthusiastic about the bill," said Kolbe. "He is supportive and told us to take the legislation up with his staff." [*Bush says he supports Kolbe-McCain-Flake immigrant worker bill*, Aug. 11, 2003, David Pittman, *Tucson Citizen*].

The plan adds two new visa categories to the existing laundry list of non-immigrant visas in section 101(a)(15) of the Immigration Act. It creates a new visa process under section 218A of the Act, and amends section 251 of the Act.

The plan will allow an apparently unlimited number of brand-new foreign workers under a new H-4A category, and will grant new H-4B visas - also apparently unlimited – to illegal aliens and to visa over-stayers who are already working in the United States without authorization.

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Here's a handy memory aid for the proposed new visas:

> H-4A visa – "The Foreign Worker Importation Act of 2003."
>
> H-4B visa – "The Illegal Alien and September 11th Hijacker Adjustment Act of 2003."

The H-4A aliens will be new arrivals who apply for their visas at U.S. consulates abroad in order to take pre-arranged jobs in the United States that Americans supposedly won't do – or won't do for what the employers are willing to pay, more accurately.

The H-4A applicants will miraculously apply and be hired for American jobs while they're still in their home countries, and while Americans are unemployed at home. Amazing, isn't it?

Successful H-4A applicants will be imported for three years, renewable for another three years. Corporations employing more than 500 workers can get in on the H-4A action for a one-time fee of $1,000. Smaller companies can buy the privilege of importing foreign workers for even fewer pieces of silver – $500. Each lucky H-4A alien will pay an additional application fee, to be determined later.

After getting a foot in the door with non-immigrant status, the next step for these newly-minted non-immigrants will be to file for permanent residence through the very same employer or perhaps through a new-found family member.

And after seven years with a "green card" – *voila*! – United States citizenship.

Non-immigrant visas are intended for foreign tourists, students, diplomats, journalists, crewmen, nurses, artists, entertainers, language students, cultural exchange visitors, and certain of their spouses and children. The visas allow foreign nationals into the country legally for limited purposes, without resorting to sneaking in through someone's ranch, or in the trunk of a car.

Whether any non-immigrants ever actually leave the United States is another story. But under this new "temporary worker" plan, non-immigrants who let their status expire (along with those who never had status in the first place) can apply for an H-4B visa and become legal again.

Amazingly, the H-4B visa program is reserved for illegal aliens only. It snubs the law-abiding student and tourist to reward scofflaws who take American jobs without authorization. Being illegal is a *requirement* for the H-4B visa!

Illegal aliens who claim to have been living and working illegally in the United States prior to August 1, 2003, can apply for a three-year H-4B visa for $1,500. And if they can't afford the $1,500 fee all at once, Secretary Tom Ridge's friendly Department of Homeland Security will extend them credit at market rates – honest! [H.R. 2899, Sec. 4 (a) – "Sec. 251 (b)(2)(B)(ii)"]

The three-year H-4B visa allows aliens and their willing American employers an extension for as long as it takes to change status over to the H-4A category. And once the former illegal aliens cleansed by their H-4B visa make the jump over to the H-4A status, the clock starts all over again. As newly-minted H-4A aliens they'll get three more years of employment, renewable for yet another three years, increasing their chances of finding a way to petition for permanent resident status.

But who will get the H-4B visa amnesty?

Remember the September 11th terrorists who came to the United States claiming to be foreign students, but never attended class – or were "tourists" who just disappeared?

If the jihad fanatics managed to find willing H-4B employers, they would have been eligible to change back to legal non-immigrant status under this insane plan. They also could have prolonged their stay even longer by adjusting again from H-4B to H-4A.

But the H-4B "Illegal Alien and September 11th Hijacker Adjustment Act" gets even worse. The H-4B visas throw a gigantic monkey-wrench into the already ludicrous and delay-ridden Immigration Court system of the Executive Office for Immigration Review – EOIR.

Thanks to the H-4B amnesty, aliens will be able to stop their deportation proceedings, file for a three-year visa, and walk out of Immigration Court with lawful status all from the very same process that was supposed to be deporting them!

Stopping deportation proceedings for illegal aliens sure looks, walks and talks like an amnesty.
Here's the smoking gun:

> *Notwithstanding* ***any provision of the Immigration and Nationality Act****, the Secretary of Homeland Security* ***shall not order any alien to be removed*** *from the United States, if the alien is in exclusion, deportation, or removal proceedings under* ***any provision of such Act*** *and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application. [H.R. 2899, Sec. 4 (a) – "Sec. 251 (d)(2)"]*

And if an alien's H-4B application gets denied someday due to criminal grounds of inadmissibility in the Immigration Act – who cares! They've just successfully tied up their own deportation proceedings for an eternity while waiting for their fellow 8.4 million illegal alien workers to have their H-4B adjustment applications decided too.

To the bill's credit, H-4B visas technically would not be available to aliens listed in Sections 212(a)(2), (3), and (4) of the Immigration Act. These sections cover aliens who have committed "crimes involving moral turpitude" (various types of fraud or thievery), drug crimes, prostitution, national security grounds, terrorism, Nazi war crimes, or aliens likely to become a "public charge."

But just because these Section 212(a) grounds are on the books, it doesn't mean they're going to be enforced.

If aliens lie on their H-4B applications, there is little an examining officer can do to find out if a benign-looking student is really a foreign agent or an aspiring terrorist. Those who use their real names that happen to be listed in known databases will be stopped. But chances are that few jihadists would ever mark the "terrorist" box on a visa application.

And if the illegal aliens can't "prove" they were present in the United States working illegally before August 1, 2003, no problem! They'll have the chance to just phony-up some documents like millions of their brethren did for the prolific 1986 amnesty give-away.

If the great "green card" amnesty of seventeen years ago was any indication, interviewing all the H-4B visa applicants coming out of the woodwork is going to take some time. International banker Eduardo Aguirre's crack team at the former INS – now the Bureau of Citizenship and Immigration Services – will be ready for the deluge, right?

But who cares if the deportable aren't deported anytime soon when there are so many jobs to be done for minimum-wage, right?

Unfortunately, the deliberate non-deportation of aliens in the federal immigration bureaucracy is nothing new. The H-4B visa is just one more below-the-radar amnesty program, and yet another get-out-of-jail-free card in the ongoing permanent amnesty that is the Justice Department's EOIR Immigration Court.

But the story won't end here. The H-4A and H-4B visas are also just one more example of the alarming trend of allowing huge numbers of foreign nationals to live and work legally in the United States, while leaving them in a bureaucratic limbo of government processes without actually passing out "green cards."

With "non-amnesty" amnesties now in vogue, the non-immigrant visa has become an avenue of choice for "regularization" of the illegal. The recent "V" visa category for illegal alien line-jumpers follows in the footsteps of the Section 245(i) stealth amnesty give-aways of the late 1990s.

The recent LIFE Act – with its "late-amnesty" and "V" visa category – the "Child Status Protection Act," and Section 245(i) relief were all non-deportation amnesties for any illegal aliens with available petitioning relatives in the United States. The "temporary worker" scheme just picks up where they left off.

Just as the previous programs effectively non-deported any alien who had someone available to file immigrant petitions for them, the H-4B visa will non-deport anyone who can find an employer willing to file a newly-created non-immigrant visa for them. Then H-4B aliens then make the jump over to the H-4A pipeline, and buy even more time to find a pathway to permanent resident status … all while living and working in the United States.

If all of these aliens are given some type of status, and none of them are going to be deported, it sure sounds like amnesty to me.

Expect a great blast of hot air to the contrary from the pro-immigration establishment soon. But don't say you weren't warned. •

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