



FARM WORKFORCE MODERNIZATION ACT

Title I. Earned Legalization for Certified Agricultural Workers

- America's farmers and ranchers are in desperate need of a legal, reliable workforce
- This bill creates an earned path to legal status for our current agricultural workforce, requiring significant past and future work commitments, to ensure the stability of American agriculture.
- It includes strong biometric security for the current and incoming agriculture workforce.
- Current H-2A visa holders can remain in the program as they are now.

This title establishes a program for agricultural workers in the United States to earn legal status through continued agricultural employment and contribution to the U.S. agricultural economy.

1. **Initial Eligibility.** Applicants must show at least 180 days of agricultural employment over the last 2 years.
2. **Five Year Renewable Visas.** Qualified applicants are provided 5-year renewable agriculture visas. Individuals can renew their 5-year visas by working in agriculture each year. Those who have ag experience but do not meet the criteria for eligibility are provided the option of applying for H-2A visas.
3. **Option for Permanent Resident Status.** Individuals have the opportunity to but are not required to, earn Legal Permanent Resident (LPR) status. Those applying for LPR status must pay a \$1,000 fine and meet one of the following criteria:
 - a. If an individual worked in agriculture in the U.S. for at least 10 years before enactment, they must work an additional 4 years in agriculture after enactment before they can apply.
 - b. If an individual worked in agriculture in the U.S. for less than 10 years, they must work an additional 8 years in agriculture before being eligible to apply for LPR status.

Title II. Improving the H-2A Program

- This bill would improve the H-2A visa program to work for all of production agriculture.
- It would reduce the time and cost for growers who utilize the program, so they have access to a legal source of labor when they need it.
- It modernizes and applies caps to the out-of-control wage growth in the Adverse Effect Wage Rate (AEWR).
- It creates efficiencies in the processing of applications to ensure that growers and farmworkers are providing information in a timely manner.
- It pilots a portable visa to allow employers and farmworkers to respond more dynamically to labor needs.

This title reforms the H-2A program to provide more flexibility for employers, while ensuring critical protections for workers. The bill would focus on modifications to make the program more responsive and user friendly for employers.

1. **Single Portal for Filing.** Employers would now have a *single* filing process through an online portal, which DHS, DOL, and the State Workforce Agencies (SWAs) can process simultaneously, rather than three

distinct adjudications under the current system. This streamlining of these systems works toward reducing costs and processing time from 75 to 60 days.

2. **Single Petition for Staggered Needs.** Employers would now be able to file one petition reflecting staggered labor needs. For example, under the current program, if an employer needs 5 workers for tilling, another 10 workers for planting, and another 10 for harvesting, the employer must file 3 different petitions. This bill streamlines this process by allowing the employer to file one petition for all such workers.
3. **Streamlined Recruiting.** Employers would now be required to simply file a job posting on an electronic registry rather than filing newspaper print advertisements.
4. **Wage Reform.** The bill reforms H-2A wages to better reflect real-world wages, while protecting against sudden wage increases that disrupt employer planning and operations:
 - a. **More Granular Wages.** Rather than one wage determination for all agricultural labor, the bill disaggregates the wages for various agricultural occupations (e.g., crop workers, livestock workers, machine operators, graders, and sorters, etc). This will ensure that wage requirements better reflect the real-world wages paid to specific types of workers.
 - b. **Limiting Wage Fluctuations.** To prevent large fluctuations in wage rates, the bill caps wage increases and decreases, thus providing more stability and predictability to employers. Wages would be governed as follows:
 - i. **2020:** One-year wage freeze—wages will not increase in 2020.
 - ii. **2021-2029:** Wages could not decrease by more than 1.5% or increase by more than 3.25%. Exception: If the resulting wage is less than 110% of the Federal or state minimum wage, then the wage could go up by 4.25%.
 - iii. **2030 and Beyond:** Wages could not decrease by more than 1.5% or increase by more than 3.25%, and the Secretaries of Ag and Labor will determine a new wage structure through rule making.
 - c. **Limiting Mid-Contract Wage Increases.** Wage requirements would now apply for the duration of the contract, rather than potentially fluctuating mid-contract.
5. **Reducing Housing Costs.** The bill improves the availability of farmworker housing while lowering employer costs related to providing such housing.
 - a. **Preserving Existing Housing.** The bill adopts a Rep. Clay bill, which was recently reported unanimously out of Financial Services, to prevent current farmworkers and rural housing stock from serving other constituencies. Among other things, the bill authorizes \$1 billion to rehabilitate housing that is aging out of the USDA incentive program, thus reopening eligibility for rental assistance and preserving housing stock for farmworkers.
 - b. **Incentivizing New Housing.** The bill triples the amount of funding for the USDA 514 loan program and 516 grant programs, which provides 1% loans and grants, respectively, for constructing new housing. The bill would also reform eligibility criteria to expand the use of those programs in more expensive housing markets.
 - c. **Lowering Housing Costs.** The bill reduces grower costs related to housing by increasing funding for the USDA 521 rental assistance grant program, while also reforming eligibility criteria to expand the use of the program in more expensive housing markets.

6. **Reducing the Need for Litigation.** The bill requires mediation to resolve differences before lawsuits are instigated.
7. **Filling Year-Round Labor Needs.** The bill takes a two-pronged approach to meet year-round labor needs.
 - a. **Increased Access to Green Cards.** The bill dedicates an additional 40,000 green cards per year for agricultural workers. These visas can be used by employers to sponsor workers to fill unmet permanent agricultural labor needs. The bill also creates an option for H-2A workers to apply directly after completing 10 years of H-2A work in the United States. These 40,000 green cards will go a long way to meeting year-round labor needs and agriculture gets the first right of refusal.
 - b. **Temporary 3-Year Visas.** In addition, the bill creates a new, capped program for employers seeking to bring in temporary workers to fill year-round needs. The bill provides up to 20,000 H-2A visas per year (for 3 years) for dairy and other year-round agricultural employers and providing for emergency authority to add more visas if there is a significant labor shortage. The year-round H-2A cap will be able to increase or decrease up to 12.5% annually thereafter based on labor metrics. The bill also authorizes the Secretary of Labor and Secretary of Agriculture to determine whether to establish a numerical cap after 10 years.

Title III. Mandatory E-Verify for the Agricultural Sector

- This title would establish a mandatory, nationwide E-Verify system modeled off of the Lamar Smith/Ken Calvert E-Verify bills for all agricultural employment, serving as the last necessary piece to ensure a legal workforce for the sector.
- The bill would improve E-Verify for the whole country, but the system would be made mandatory only for the agricultural sector, with a structured phase-in and guaranteed due process for authorized workers who are incorrectly rejected by the system.