



A bipartisan immigration bill that will help farmers

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There's no doubt America's major political parties are divided about immigration. But the House of Representatives will vote Wednesday on whether to advance a bipartisan bill—with support from dozens of both Democrats and Republicans—to make the system better for America's farmers and farmworkers. With farmers still reeling from the trade war, they want a win so that they can keep feeding this country (not to mention much of the world).

The Farm Workforce Modernization Act (H.R. 5038) would finally end the dominance of illegal employment of foreign workers in agriculture. First, it allows illegal workers to apply for an indefinite legal status. Second, it reforms the H-2A guest worker program to allow farms to fill open positions legally.

These reforms will help American farms compete in food markets around the world and reduce illegal immigration and illegal employment. In an effort at real compromise, the bill also requires farmers to check their hires' legal status through E-Verify.

The need for reform is clear. The Department of Labor estimates that about half of the farm workforce has no legal status at all—a share that grew quickly in the 1990s but has held steady for nearly two decades. Because such a substantial portion of their labor force work without proper documents—usually relying documents borrowed from legal friends and family—farmers face the constant threat of financial ruin if workers get caught.

Gebarten Acres, a New York dairy, lost workers it had employed for up to seven years when the federal government audited their papers last year. “We lost 20 people, half our workforce,” owner Greg Collier told a local paper. “It's just been horrible. The timing is bad.” Alliance Dairies Group of Florida had the same situation, and when it eventually replaced them, the U.S. workers kept quitting after just a couple of weeks.

H.R. 5038 ends this uncertainty. It allows foreign farmworkers to apply for a five-year legal status renewable for as long as the workers remain in agriculture. If they pay a \$1,000 fine, workers with at least 10 years farm work experience could receive legal permanent residence, allowing them to work anywhere, after four years. Other legalized workers would have to wait eight years to earn that path.

But the bill doesn't repeat the mistake of the 1986 “amnesty”—which legalized farmworkers but didn't adequately deal with how farmers would hire legal foreign workers in the future. H.R.

5038 would expand access to the H-2A program, which is what farmers use to hire foreign guest workers to fill open jobs. If we want illegal immigration to end, Congress has to guarantee farmers a better way to follow the law.

The H-2A program is already working to stop illegal employment. Regulatory improvements in the early 2000s made it easier for farmers to use. Farms went from filling about 50,000 jobs in 2005 with legal guest workers to nearly 260,000 in 2019.

This fivefold increase in guest workers corresponded with a dramatic drop in illegal immigration—mainly from Mexico. As more workers entered legally, fewer wanted to come illegally. Jose Bacilio, a Mexican avocado picker, told the Washington Post this year, “Most of my friends go with visas or they don’t go at all.” He explained that even though he hadn’t received one yet, he wouldn’t risk his chances by crossing illegally.

The problem is that the H-2A program only covers seasonal jobs. Farmers with year-round needs, like dairy and animal farms, are shut out. Naturally, this is where many of the recent border crossers are heading. The Farm Workforce Modernization Act would address this issue as well. It aims to create a year-round component to the H-2A program and a new streamlined permanent residence pathway for year-round farmworkers.

Unlike the normal H-2A program, the H-2A year-round program would have a cap, but the cap grows with the need, and the bill has procedures for setting aside the cap for emergencies.

The bill contains other reforms to the current H-2A program, streamlining applications and making the regulatory burden more bearable.

Critics say that the H-2A program displaces U.S. workers, but farms must offer every H-2A job to U.S. workers, and the Department of Labor recently found that U.S. workers take those jobs barely 6 percent of the time. Many of those hires showed up late—after the job started—and most ended up quitting shortly after.

Farms and downstream industries dependent on farms produce more than \$1 trillion in goods and services every year. America needs to stop leaving this critical industry to deal with labor shortfalls without an immigration system that works. Rarely do substantial numbers of both parties agree on anything, but they agree on this.

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