# Potential E-Verify deal would give legal status to farmworkers

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Congressional Democrats hope to broker a deal with Republicans that would grant legal status to farmworkers currently in the country illegally but would require employers to verify the immigration status of all future hires.

Democrats hope the compromise could draw GOP support by forcing employers to use E-Verify, a federal online system, to ensure farmworkers are eligible to work, said David Shahoulian, the Democratic chief counsel on the House Judiciary Committee's immigration subcommittee, speaking at an immigration policy conference earlier this month in Washington, D.C. Farmers are not required to investigate claims of legal status in most states.

The potential agreement would give a path to citizenship to a large group of farmworkers for the first time since President Ronald Reagan's administration more than 30 years ago, when tougher enforcement was also added. Farmworkers would get deportation protection followed by eventual legal status if they keep working.

A Republican proposal last year would have offered only temporary visas to such workers in exchange for E-Verify, but it was voted down in the House.

**Many farmer workers are undocumented**

More than a third of the nation's one million agricultural workers are non-citizens, according to the U.S. Census Bureau's 2019 Current Population Survey. Guest H-2A farmworker visas now are available only for seasonal workers and require employers to transport workers in and out of the country and to provide housing.

The latest potential compromise follows years of discussion on Capitol Hill about how best to balance the needs of agriculture interests and those of their workforce. A bill has not yet been filed, but the proposal has some GOP support, Shahoulian said, including from some conservative Senate Republicans who are "rooting for it to get out of the House so they can at least get a look at it."

But overall the potential deal faces a tougher road in the Republican-controlled Senate — no Republican supporters have spoken out, though the libertarian Cato Institute said the proposal has merit.

"We are opposed to E-Verify in principle but as part of a compromise for legalization and more workers, it'd be a sacrifice worth making," said Cato policy analyst David Bier. Bier said he had heard that "a bipartisan group is close to a deal" on the proposal.

The plan is based on the "earned legal status" concept in a Democratic bill introduced earlier this year by California U.S. Sen. Dianne Feinstein and U.S. Rep. Zoe Lofgren that would require several years of documented farm work for deportation protection and eventual citizenship.

Some farmworker advocates are lobbying to grant farmworkers legal status without requiring future E-Verify checks, while some Republicans want mandatory E-Verify use without granting legal status to any current workers.

The American Farm Bureau Federation, which represents farmers and ranchers, declined to comment. Allison Crittenden, congressional relations director for the lobbying group, cited "sensitive discussions underway."

A position paper from the Farm Bureau last year said the group would consider mandatory E-Verify in exchange for granting legal status to current workers and a better guest-worker visa program.

U.S. Rep. Doug Collins of Georgia, the ranking Republican on the House Judiciary Committee, told *Stateline* he supports mandatory E-Verify for farmworkers but said "we should not, however, trade mandatory E-Verify for a bill that grants mass amnesty and a path to citizenship to agricultural workers and their families that are living here illegally."

He called the current proposal "a nonstarter for most Republicans and the communities we represent."

**'The least we can do'**

Ann López, director of the Center for Farmworker Families in Felton, California, said she supports the proposal to allow workers to stay legally, but without the E-Verify mandate, which she had not heard about. She said many workers on California's Central Coast, where farms depend on immigrant field hands for the fragile strawberry crop, live in fear.

"They constantly worry about their families being torn apart by deportation, so that would alleviate the threat," López said, referring to the proposal. "This is such essential work that this is the least we can do for people who are living in poverty and under horrible conditions."

The last time the nation granted similarly widespread legal status, in 1987, more than a million immigrants were designated "special agricultural workers." The deal was supposed to keep the farm labor supply intact in return for a law against "knowingly" hiring such workers in the future, but a 2003 study found that few of the workers granted legal status stayed in agriculture.

The program was stopped in 1988 after reports of widespread fraud, because papers declaring farmworker status were easily faked.

There have been numerous attempts since then to balance the needs of farmers, who depend on the labor, and those who want to discourage unauthorized immigration, said Philip Martin, an emeritus professor of agriculture and resource economics at the University of California, Davis.

Growers also would like to get easier temporary guest-worker visas with lower pay and fewer housing requirements, which may be part of the deal, Martin said.

**Mexican workers more fearful**

Farmworkers from Mexico are more fearful now than in years past about crossing the border and moving around in the United States because of increased immigration enforcement. In the late 1990s almost 80% of farmworkers in the country illegally migrated from job to job, according to a 2016 University of California, Berkeley, study. That number was down to 6% by 2016.

Dairy workers without legal permission in upstate New York tend to be young men from Mexico or Guatemala living alone and saving money to take home, in constant fear of deportation, said Camille Mackler, director of legal policy at the New York Immigration Coalition.

"They are subject to racial profiling and don't have driver's licenses, so to get into town [with a car service] would cost a day's pay and they usually just don't do it," Mackler said. "They just stay at home and work 12 to 14 hours a day, six days a week. It's an isolated and lonely existence."

Such year-round workers would benefit from guest-worker visas. Shahoulian, the Democratic counsel, said some "streamlining" of guest-worker visas was part of the congressional negotiations, but it's not clear whether year-round workers would get access to them.

**Differences among states**

The California Democrats' bill would provide a "blue card" to prevent deportation of farmworkers already here after 100 days of documented farm work over two years, and a path to full legal status and citizenship after three to five more years of farm work.

The conservative Center for Immigration Studies has criticized that bill as "massive farmworker amnesty" that "would only encourage further illegal immigration."

The center did not respond to a request for comment on the new proposal. Feinstein's press secretary, Adam Russell, said it was too early for his boss to comment, as the proposal was still being finalized.

Some states, including Mississippi, do require all employers to use E-Verify. Despite that, hundreds of immigrant poultry processing workers were arrested in August at seven plants across the state, some of them wearing ankle monitors indicating they were released from immigration custody at the border. State officials are investigating. Twenty-two states require E-Verify for at least some employers.

In the most recent data, Georgia had the highest rate of job screening with E-Verify in 2017, about 94% of all hires, partly because E-Verify compliance is tied to business licenses under state law. Pennsylvania was the latest state to add E-Verify requirements this month, though it applies only to the construction industry.