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Newhouse defends farm labor bill

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The farm labor bill, sponsored by U.S. Reps. Zoe Lofgren, D-Calif., and Dan Newhouse, R-Wash., has been criticized for not doing enough to reign in escalating farm labor and housing costs.

But Newhouse says the bill “goes a long way” toward controlling the rising minimum wage for H-2A-visa agricultural foreign guestworkers, known as the Adverse Effect Wage Rate or AEW.

He points to a Nov. 5 Cato Institute analysis that concludes had the bill been enacted in 1990 that by 2019 the national average AEW would have been 11% lower which would have saved H-2A farmers in 2019 about \$324 million in labor costs for H-2A workers alone.

The AEW has increased at a rate greater than inflation since 2001 and increased more than twice the rate of inflation in 2019. It was highly volatile among regions, increasing 23% in Colorado, Nevada and Utah in 2019.

The Farm Workforce Modernization Act, H.R. 5038, freezes the 2020 AEW at 2019 levels and limits the AEW to annual increases of 3.25% or 4.25% from 2021 through 2029 and sets limits and possible elimination beyond that.

Wild volatility is thereby eliminated allowing farmers to plan better and inflation is held down by rates being based on occupations instead of lower and higher skilled positions being lumped together, the Cato analysis said.

“Obviously, the legislation fails to stop all increases in the AEW, but it is a manifest improvement over the status quo,” Cato said.

Minimum wages would be set for the length of contracts, rather than allowing the U.S. Department of Labor to increase minimum wages part way through a contract as it did this year for blueberry and apple pickers in Washington.

The National Council of Agricultural Employers and the Washington state farm labor association, Wafla, have said there should be no AEW because the U.S. Department of Labor has failed to show any adverse effect of foreign worker wages on domestic wages. NCAE litigation speaking to that is on appeal.

USDOL could eliminate the AEW, NCAE says.

But legislatively it won't happen with Democrats in charge in the House, Newhouse said.

H.R. 5038 was introduced Oct. 30 and passed the House Judiciary Committee on a near party-line vote of 18 to 12 on Nov. 21.

Newhouse hopes for a full House vote before Christmas but concedes that's a challenge given the Democrats focus on impeachment of the president.

Dan Fazio, Wafla executive director, has called the bill "mean-spirited and anti-farmer" because bill sponsors refuse to add a provision allowing farmers to charge foreign workers for housing.

Newhouse said he supports allowing farmers to charge for housing but that it's a problem with Democrats.

Rep. Doug Collins, R-Ga., ranking member of Judiciary, says the bill fails to provide long-term stability in setting the AEW. He faults it for being a path to citizenship for an "unknown number of illegal immigrants (and families) who do some work in agriculture." He says it should include meat and poultry processing, forestry and aquaculture.

Newhouse said forestry doesn't want to be included in the H-2A program, that he's open to including aquaculture but that meat and poultry processing is complicated by involving another set of labor unions.

"I agree processing industries need to be addressed but the broader the bill the less the chances for success," he said.

As to a path to citizenship, Newhouse said a Republican bill in 2018 failed because it didn't adequately address the illegal workforce.

"I've heard clearly from farmers that I represent and around the country that the biggest thing they need is certainty of labor," Newhouse said. "When we have a large portion of the labor force without proper documents, we need to deal with it somehow."

The bill provides five-year, renewable work visas for illegals who have worked in agriculture at least 180 days over the last two years. They must work in agriculture 100 days a year to be eligible for indefinite renewals and will be able to cross the border whenever they want. After a number of years, they can apply for Legal Permanent Resident status and eventually for citizenship.