

FARM WORKFORCE MODERNIZATION ACT

ENSURING A LEGAL AND RELIABLE WORKFORCE
FOR AMERICA'S AGRICULTURE INDUSTRY

Title I. Earned Legal Status for Certified Agricultural Workers

This title establishes a program for agricultural workers in the United States (and their spouses and minor children) 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 at least 100 days 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 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 10 workers on March 15, another 20 on April 15, and 10 more on May 15 as production ramps up, the employer must file three 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 Predictable and Granular Wages.** Rather than one wage determination for all agricultural labor, the bill sets wages more reflective of the primary occupation (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. **2022:** One-year wage freeze—i.e., 2022 wages would be pegged off 2021 rates.
 - ii. **2022-2030:** 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 up to one additional percent.
 - iii. **Beyond 2030:** Wages could not decrease by more than 1.5% or increase by more than 3.25%, and the Secretaries of Ag and Labor will establish new wage methodology with input from stakeholders.
 - 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 prevents current farmworker 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 adopts prior compromises in which the Migrant and Seasonal Worker Protection Act (MSWPA) is expanded to protect H-2A workers, while effectively requiring 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.
 - 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. Although the program would be capped, the Secretaries of Agriculture and Labor would be able to increase visa caps if market conditions warrant such increases. Visas would be made available for both dairy and non-dairy needs.

Title III. Mandatory E-Verify for the Agricultural Sector

This title would establish a mandatory, nationwide E-Verify system for all agricultural employment, serving as the last necessary piece to ensure a legal workforce for the sector. The system would only be made mandatory for the agricultural sector, with a structured phase-in and guaranteed due process for authorized workers who are incorrectly rejected by the system.