

Issue	Goodlatte Bill	Senate Bill
<i>Creation of New Visas</i>	The bill creates a two-pronged visa program that allows registered employers to hire foreign workers based on a contract or at-will. The at-will option would allow workers to travel from registered employer to registered employer without a contract. Both the employee and the employer would have the ability to terminate employment at any time. In order to ensure that workers under an agriculture visa do not seek nonagricultural employment, the at-will option will be contingent on the implementation of mandatory E-Verify. Workers must also initially enter the United States under a contract to ensure that they have work lined up, although that contract can be as short as a day. Should a worker be out of work for 30 days, they must return to their home story or be considered out of status. They may return to the U.S. once another job is lined up.	The bill also creates a two-pronged visa program that allows registered employers to hire foreign workers based on a contract or at-will. The at-will option would allow workers to travel from registered employer to registered employer without a contract. Both the employee and the employer would have the ability to terminate employment at any time. Should a worker be out of work for more than 60 days, they must return to their home country or be considered out of status. They may return to the United States once another job is lined up. While the at-will visa is not dependent on the implementation of E-Verify, the program is made mandatory for all employers in a separate part of the bill.
<i>Definition of Agriculture</i>	All activities described in the current H-2A program, including those defined in the Fair Labor Standards Act and the handling, planting, drying, packing, packaging, processing, freezing or grading prior to delivery for storage of ay agricultural or horticultural commodity in its unmanufactured state. In addition, this bill also covers food processing activities.	All activities described in the current H-2A program, including those defined in the Fair Labor Standards Act and the handling, planting, drying, packing, packaging, processing, freezing or grading prior to delivery for storage of ay agricultural or horticultural commodity in its unmanufactured state. For example, the packing of fresh produce would be included but any further processing would not.
<i>Program Administration</i>	The guestworker program is administered by USDA with DHS handling the visa petitions. USDA enforcing the program.	The guestworker program is administered by USDA with DHS handling the visa petitions. The DOL Wage and Hour division plays a role in enforcement.
<i>Recruitment requirements</i>	Employer must list job with state workforce agency for 30 days before date of need and there will be a link from the federal DOL website to all state workforce agencies.	Employer must post job with state workforce agency 60 days before date of need, and hire any qualified US worker that applies up to 15 days before date of need
<i>Administrative Costs</i>	Employers in jobs that are not seasonal (like dairy and processing) must pay the equivalent of federal Social Security and Unemployment Insurance taxes on wages that would be owed if the workers were subject to these programs. This does not apply for seasonal agricultural employers. Funds are used for administration of the program. A fee structure with maximum limitations is set in the bill to determine the cost for applications, as well as limitations on fines for violations.	The Senate bill authorizes the creation of application fee and penalty systems for both workers and employers. There are no similar provisions the Social Security and Unemployment Insurance tax provisions in the Goodlatte bill.

<i>Employer eligibility</i>	Any agricultural employer, including associations or cooperatives that register with USDA, are eligible to participate. The definition of agriculture is listed above and employers must reapply every three years. Only registered employers may hire these employees. Workers may also be shared under one contract among members of associations or cooperatives.	Any agricultural employer, including associations or cooperatives that register with USDA, are eligible to participate in the program. The definition of agriculture is listed above. Only registered employers may hire these employees.
<i>Visa Term</i>	For seasonal employment, the visa length is 18 months with a requirement to return for the worker to return to their home country for 3 months. For year-round employment, the initial visa term is three years with a three month touchback requirement (i.e. dairy and year-round processing). After that, the visa length is 18 months with a requirement to return to their home country for three months as with seasonal agriculture.	The visa term is three years, with a requirement for workers to return home for three months before reapplying. There is no limit to the number of times that workers can re-apply.
<i>Transportation</i>	The employer is explicitly not responsible for transportation costs.	Employers must compensate workers for the cost of one inbound trip. Contract workers also get one out-bound trip if contract is 27 months or more.
<i>Housing</i>	The employer is explicitly not required to pay for housing or a housing allowance.	Employers must provide either housing or a housing allowance. Calculations estimate this to equal approximately \$2 per hour on top of wages.
<i>Legal Services Corporation</i>	Workers are explicitly <u>not</u> eligible for legal assistance through the Legal Services Corporation.	Workers are eligible for all assistance through the Legal Services Corporation.
<i>Wages</i>	Minimum wages are set at the greater of the prevailing wage or the state minimum wage. Additional clarification is likely necessary to ensure that these wages are fair.	Language in the bill sets the wage escalating for the next three years for farm laborers at \$9.17 per hour to \$9.64, graders and sorters at \$9.37 to \$9.84, dairy and livestock workers at \$10.82 to \$11.37, and equipment operators at \$11.30 to \$11.87. After that, wages will increase annually as established by an Employment Cost Index, but will raise by at least 1.5 percent and no more than 2.5 percent
<i>Workers Compensation</i>	Employers must provide workers' compensation insurance based on applicable state law, or if the worker is not covered, insurance coverage for injury or disease resulting from the job equal to those of comparable employment under state's worker's compensation law.	Employers must provide workers' compensation insurance based on applicable state law, or if the worker is not covered under state law, insurance coverage for injury or disease resulting from the job equal to those of comparable employment under the state's worker's compensation law.
<i>Dispute resolution</i>	Growers may require as a condition of employment that workers are subject to binding arbitration and mediation for any grievances. Regardless, civil actions for damages cannot be brought unless a request for mediation has been made 90 days prior. Workers are given a private right of action, or right to sue.	While employers/employees must attempt mediation before going to court, the mediation it is not binding and employees have full private right of action (or right to sue).
<i>Employment Guarantee</i>	Under the contract option, the bill requires employers to provide work for at least 50 percent of their contract to workers.	Under the contract option, the bill requires employers to provide work for at least 75 percent of their contracts.

<i>Escrow Account</i>	To ensure that workers return to their home countries and do not overstay their visa, the bill places 10 percent of their wages into a trust fund to be paid at the US embassy in their home country.	No similar provisions.
<i>Current Workforce</i>	Current illegal immigrants on date of enactment of the bill may stay in the United States and lawfully work in agriculture for the two years leading to the implementation of the new program. If they have worked more than 100 days per year in each of these two years, they may remain in the United States legally by participating in the visa program once it is up and running.	Illegal immigrants that have worked a minimum of 100 days in the two years prior to the end of 2012 and have paid taxes, completed a background check and paid a \$400 fine are eligible for a renewable “blue card” visa allowing them to work in agriculture for five years. If they work for at least 100 days per year for five of the seven years beginning in date of enactment or 150 days in three of the five years following enactment, then they are eligible to apply for a green card. This ultimately makes them eligible to apply for citizenship before the option is made available for non-agricultural workers in the bill.
<i>Application Process</i>	USDA has 10 days to approve or reject a petition by employers for participation in the program – either as an at-will employer or for a specific contract. If there are deficiencies in the application, USDA must notify the employer within 5 days and then will have 10 days to approve or reject the corrected petition once it is received by the grower.	No time limit on the consideration of application
<i>Cap</i>	The bill includes a cap of 500,000 per year with emergency provision allowing an increase based on verifiable need. Those who worked in agriculture for 100 days per year in the two years before passage of the bill and enactment of the program are exempt from the cap.	The bill includes a compounding cap of 112,333 for year one, making 224,666 visas available in year 2 and 337,000 for years 3, 4 and 5. The cap is evenly divided by quarter (allow unused visas will carry over into the next quarter, but not into the next fiscal year). After year 5, the Secretary of Agriculture will determine an annual cap based on certain criteria. The bill includes an emergency provision to allow cap to be increased allowing based on verifiable need. Workers participating in the blue card program (i.e. the current workforce) are exempt from the cap.