

# COMMUNICATING ABOUT AGRICULTURAL LABOR REFORM

## Information Toolkit



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## Introduction

*“The time is long overdue for our nation to have a comprehensive agricultural labor plan that works for all sectors of agriculture and across all regions of our nation.” –AFBF President Bob Stallman*

Farm workers’ labor is needed to produce much of the food we enjoy and the crops that bring billions of dollars each year into our nation’s economy. A workable, affordable and efficient agricultural labor program has been a goal of Farm Bureau’s for more than a decade.

Existing federal agricultural workforce programs are not meeting farmers’ needs. More than 61 percent of respondents to a survey conducted by North Carolina Farm Bureau indicated that they have had difficulty hiring qualified, domestic employees. Nearly 54 percent have had difficulty retaining qualified employees. Without a legal, stable supply of labor, U.S. farmers are challenged by worker shortages, lost crops and the inability to produce crops at a price that can compete with imported food. The American public faces the loss of economic activity from U.S. food production, as well as the risk that more of their food will come from countries with fewer food safety rules.

Over the last decade, various immigration or agricultural labor reform proposals have been introduced in Congress. However, those proposals often fell short or created other problems for agriculture. Some would have allowed current farm workers to transition to legal status without ensuring a future flow of farm workers. Some would have set up a program for new workers without giving current workers an opportunity to participate. Some proposals were focused on solving just one part of the immigration reform puzzle, such as enforcement, when a comprehensive solution was needed. Meanwhile, the political environment made it all but impossible to pass even these inadequate measures.

Now, several agricultural groups, working together as the Agriculture Workforce Coalition, have outlined the elements of an agricultural labor plan that works for all of agriculture. Thanks to their efforts, meaningful reform and creation of a workable plan are possible. And members of Congress are showing the leadership needed to achieve that goal.

Legislation introduced in Congress in 2013, and the bipartisan support for the solutions proposed, represents the best chance in years to have an agricultural labor program that really works.

The Agriculture Workforce Coalition proposal includes most of Farm Bureau’s agricultural labor principles, such as:

- Creation of a new agricultural visa program that gives employers and employees the flexibility to agree on the employment terms that work for them

- Stability via an agricultural visa that lasts at least three years and can be renewed
- A way for farm workers who are in the U.S. illegally to apply for legal status as they continue working in agriculture
  
- Enforcement and verification to ensure that agricultural visa holders are here legally and, in fact, working on farms
- A requirement that visa holders return to their home countries when their visas expire, but allows employers to continue to recruit eligible workers
- An alternative to, and elimination of, the H-2A temporary and seasonal visa program, which simply has not met agriculture's needs
- A program that is available to all agricultural sectors, including dairy and livestock production

The American Farm Bureau Federation hopes this information toolkit will help you answer questions about the agricultural labor proposals that Congress is considering this year.

## **Frequently Asked Questions about Agricultural Labor and Immigration Reform**

### **What does agriculture need?**

There are certain types of farm work, such as weeding or picking produce for the fresh market, that machines just can't do as well as human hands. And farm work is challenging. Most Americans choose other types of work.

A survey by the California Farm Bureau last year found that 71 percent of tree fruit growers and nearly 80 percent of raisin and berry growers were unable to find enough employees to prune trees and vines or pick crops. This is a problem for all facets of agriculture, not just fruit and vegetable growers.

Workers from other countries have often filled the gap. However, for too long, farmers and ranchers have struggled to make sure that they have a legal, reliable supply of workers. Current federal programs and policies dealing with farm labor have resulted in a daunting, broken system, riddled with shortcomings that have resulted in labor shortages, lost crops and bureaucratic nightmares.

Farmers and ranchers need a new agricultural labor program that accommodates all of agriculture, is flexible both for employers and for workers and provides short- and long-term solutions.

National and regional farm groups have joined together in the Agriculture Workforce Coalition to create an agricultural labor proposal that makes sense for farmers, workers, our food security and national security.

### **Summary of AWC proposal:**

The crux of the Agriculture Workforce Coalition's plan for immigration reform is to establish a new visa program that would give employers and employees stability and flexibility into the future. The plan also includes provisions that would help maintain the current workforce that has contributed to our farms and communities. Both elements are necessary to provide a long-term, stable and legal workforce.

The new visa program builds on how the domestic market currently operates. Farmers would be permitted to offer workers either a contract or at-will work. Similarly, workers would be able to choose their form of employment. Whether hired under a contract or at-will, workers would be allowed to work for an employer for as long as the employer has a need—up to three years. This allows farmers who have year-round labor needs to use the program and avoids disruption to business operations. This program reflects real-life workforce challenges and provides both the flexibility and stability that most domestic workers enjoy. Our proposal would shift operation of the program from the Labor Department to the Agriculture Department, putting it where agriculture's needs are more likely to be understood.

Just as important, the plan would allow key workers—those who have been working in U.S. agriculture for a defined period, as well as those who are in management and other key positions at a farm—the ability to stay in the U.S. and continue to work in the agriculture sector.

### **Is this “amnesty?”**

No. Farm workers could apply for a legal status only after proving that they have worked in agriculture for years, paid taxes, kept out of trouble and paid a fine. This hardly lets anyone off the hook.

At the same time, farmers need to be able to keep their experienced workers—their trustworthy, right-hand men and women who have worked for them for years and know how to get the work of the farm done.

The reality is that a large percentage of farm workers are in the U.S. illegally, largely because Congress has failed to fix the shortcomings of the existing agricultural worker program. It’s time to deal with that reality. Our proposal offers a tough but fair solution for these workers and the farmers who rely on them. An important part of our proposal is verification that workers who get agricultural visas are, in fact, working in agriculture. We believe enforcement is an important part of the solution, both for farmers and for American workers.

### **Isn’t E-Verify the solution?**

E-Verify is a federal, online system to determine workers’ authorization to work in the U.S. That seems like a good idea, and it is...if there are legal and sensible ways for enough workers to enter the U.S. and work on farms. Unfortunately, that is not the case. Without a solution to that problem, simply cracking down on unauthorized workers leaves farmers holding the burlap bag.

If agriculture has a workable visa program, E-Verify can work as an enforcement mechanism. We are not opposed to E-Verify, as long as farmers have access to a stable supply of workers. Access and enforcement must go hand-in-hand.

### **Don’t foreign farm workers take jobs away from American workers?**

In fact, it’s the opposite. Immigrant workers take jobs that Americans don’t want. Agricultural work is hard, seasonal and often transitory. Most American workers are unwilling to take these jobs. Therefore, we have come to rely on an immigrant labor force.

Without immigrant workers, U.S. economic output would decline. Each of the 1.6 million hired farm employees working on American farms and ranches supports two to three full-time jobs further down the value chain in food processing, transportation, farm equipment, marketing and retail and other sectors. Without farm workers, thousands of U.S. workers who do have jobs—on farms, in food processing and in other fields—thanks to the output that immigrant workers produce would lose those jobs.

## **Can't farmers get the employees they need by paying higher wages?**

According to USDA's National Agricultural Statistics Service, average farm wages are around \$11 per hour, higher than the federal minimum wage. Farmers have tried to meet their workforce needs by paying higher wages or by increasing mechanization, if possible. However, these strategies threaten farmers' already narrow margins and increase input costs that cannot be passed on to consumers.

## **Why not just change the current ag worker program?**

The H-2A visa program currently allows for citizens of other countries to enter the U.S. to do seasonal or temporary work. The program at its core is very difficult for an employer to maneuver. The Labor Department has too often changed the rules of the program on the fly, making it unworkable. Farmers and ranchers have seen an increase in denials of their applications for workers. It can take so much time and bureaucratic red tape to get workers under H-2A, a crop could be rotting on the vine by the time workers show up to harvest it. A national survey conducted by the National Council of Agricultural Employers showed that administrative delays resulted in workers arriving on the job an average of 22 days after the date of need, causing an economic loss of nearly \$320 million in 2010 for farms that hired H-2A workers.

H-2A also does nothing to address the "commuter" issue—workers who live just across the Mexican border and go home each night and return the next day. And farms that need workers for longer periods, such as dairy farms, can't use the program because the work isn't temporary enough to qualify for H-2A.

In fact, there have been so many problems with H-2A that farmers have no confidence it can be a solution for the future. It's time for a new approach—one that farmers and workers will embrace. A program that is market-based and fair to workers and farmers. A program that accommodates year-round work. A program that truly meets agriculture's needs.

## **How do we secure our borders?**

One way to help secure the border is to create legal ways for agricultural workers to enter. If our government doesn't have to waste time and resources locking up farm workers, it can focus on preventing those with nefarious intentions from entering our country. We absolutely agree that America has to secure its borders. Creating a feasible agricultural worker program is a step in that direction.

As long as there is demand in the U.S. for farm workers and a supply of workers willing to cross the border, hard-working people will continue to enter the U.S. to earn a living for themselves and their families back home. Creating a legal way for them to do so through a new agricultural visa, and a way to know who they are and what they're doing while they are here, makes us more secure.

### **What's the status of the proposal?**

A compromise agreement has been reached between the Agriculture Workforce Coalition and the United Farm Workers. That compromise agreement is part of S. 744, the Border Security, Economic Opportunity and Immigration Modernization Act.

### **What is S. 744?**

S. 744, the Border Security, Economic Opportunity and Immigration Modernization Act, was introduced in the Senate April 16, 2013. The bill provides a comprehensive solution to immigration reform, including border security, immigrant provisional status, the DREAM Act, guest worker visa programs and future enforcement.

### **How would S. 744 increase border security?**

The intent of S. 744 is to achieve and maintain effective control in high-risk border sectors along the Southern border. This will be done in two ways:

- 1) Persistent surveillance in High Risk Sectors along the Southern Border; and
- 2) An Effectiveness Rate of 90 percent in a fiscal year for all High Risk Sectors along the Southern Border.

“Effectiveness Rate” definition: The number of apprehensions and turn-backs in a specific border sector, divided by the total number of illegal entries.

“High Risk Sector” definition: Border sectors where apprehensions are above 30,000 individuals per year.

### **Does S. 744 require farmers to use E-Verify?**

Yes, S. 744 requires employers to use E-Verify in all industries. The phase-in period is based on the size of a business, with large employers having to implement it before smaller employers are required to do so. However, agriculture is the last industry, regardless of the size of the business, mandated to implement E-Verify. Mandatory use of E-Verify for agriculture will begin four years after the date of enactment of the legislation. Once E-Verify is mandatory for agriculture, it will be that much more important that an agricultural visa program be in place.

### **Are adjusted workers covered under the Affordable Care Act?**

Under the bill, workers who adjust to legal status (Blue Card) would be provided healthcare coverage by an employer according to the general rules applying to other workers, as required by the Affordable Care Act. The one difference is that Blue Card workers would not be eligible for tax credits/subsidies to purchase insurance on a state exchange.

## **Broadly, what do the agricultural provisions of S. 744 provide?**

The bill introduced by the bipartisan “gang of eight” senators addresses both the short- and long-term workforce requirements of all of agriculture, for those producers with seasonal labor needs and those with year-round needs.

U.S. agriculture competes both domestically and internationally; agricultural worker shortages threaten our competitiveness and food security. The question is not whether foreign-born workers will be the ones harvesting many of our crops. The question is whether they will be picking those crops here in the U.S., or in other countries. To remain competitive, U.S. farmers need the stability of the earned legalization in the Blue Card program, as well as the future access to new workers that the Agriculture Worker Program, offered in S. 744, would provide.

The new agriculture worker visa program will provide the industry with long-term stability. The program has two work options:

- “At-will” visa employees have the freedom to move from employer to employer without any contractual commitment, replicating the way market forces allocate the labor force now.
- Contract visa employees commit to work for an employer for a fixed period of time, giving both parties increased stability where it is mutually preferred.

## **What are the key details of the Blue Card Program?**

Current undocumented farm workers would be eligible to obtain legal status through a Blue Card program. Here’s how the program would work:

- Agricultural workers who can document working in U.S. agriculture for a minimum of 100 workdays or 575 hours in the two years prior to Dec. 31, 2012, would be eligible to adjust to legal status.
- Agricultural workers who fulfill future Blue Card work requirements in U.S. agriculture, show that they have paid all taxes, have not been convicted of any felony or violent misdemeanor and pay a \$400 fine would be eligible for a Green Card. To be eligible for a Green Card, the workers must have:
  - Performed at least five years of agricultural employment for at least 100 workdays per year during the eight-year period beginning from the date of enactment; or
  - Performed at least three years of agricultural employment for at least 150 workdays per year during the five-year period beginning from the date of enactment.

## **What are the basic details of the new Agriculture Worker Visa program?**

- It establishes a new portable visa program with two work options: 1) an at-will-employment based visa, and 2) a contract-based visa program.
- The visa program is open to all sectors of agriculture without any restriction on an employer’s duration of labor need. (Under H-2A, work must be temporary or seasonal.)



- The H-2A program would sunset one year after the new visa program is enacted.
- The visa would be valid for three years and could be renewed one time only. After six years, the visa holder would have to return home for at least three months before reapplying.
- The new visa program would administered by USDA.
- An employer must register with USDA as a Designated Agricultural Employer or DAE.
- Employers must attest that they will follow the rules of the program.
- Employers must recruit U.S. workers by posting the job availability on the state workforce agency website no later than 60 days before the date of need and must advertise the offer for 45 days. The employer must hire qualified, ready, willing and able U.S. workers up to 15 days before the date of need.
- A worker would lose his or her status and be required to leave the U.S. if unemployed for more than 60 consecutive days.
- A contract worker who breaches an employment contract must depart the U.S. before he or she could accept another job with a U.S. employer.
- Contract employers are required to guarantee work for 75 percent of the contract period, with an exception for natural disasters such as freeze, flood and other weather-related destruction of crops.

### **Is there a cap on the new program?**

Yes, the political realities of this debate necessitated the inclusion of a cap. The Agriculture Workforce Coalition negotiated to ensure that there were safeguards to address employers' needs in the event of worker shortages and to ensure that the secretary of agriculture has the discretion to address long-term needs. Specifically, the bill provides a visa cap of 112,333 per year. The cap compounds: In the first year, there would be 112,333 visas; in the second year, there would be a total of 224,666 visas; and in years three through five the program is capped at 337,000 visas. The cap would be divided evenly by quarter in year one and would be based on quarterly historical need thereafter. The cap would carry over from one quarter to the next, but would not carry over a fiscal year. After five years, the secretary of agriculture would determine the cap on an annual basis using established criteria.

If the cap is filled during a fiscal year, an employer could petition the secretary to increase the cap. The secretary would then review objective factors to determine whether to increase the cap, and would have to issue a decision no more than 30 days after receiving a petition.

## **What is the minimum wage I'll be required to pay?**

As listed below, the bill establishes statutory wage floors for six occupational categories.

Established wage rates for 2016:

- Farmworkers and Laborers – Crop, Nursery and Greenhouse
  - \$9.64/hour
- Graders and Sorters
  - \$9.84/hour
- Dairy and Livestock
  - \$11.37/hour
- Agricultural Equipment Operators
  - \$11.87/hour
- Other occupational categories
  - The Secretary of Agriculture will determine the appropriate wage for First Line Supervisors and Animal Breeders.

Each base wage will increase annually by at least 1.5 percent but no more than 2.5 percent, as established by the Employment Cost Index (ECI).

H-2A wages: The Adverse Effect Wage Rate will be frozen for three years after enactment (or one year after the new program is operational).

## **Will employers be required to provide housing?**

Yes, all Designated Agricultural Employers will be required to provide housing or a housing allowance. The housing allowance is based on Department of Housing and Urban Development-established fair market rental rates for a two-bedroom dwelling, occupied by four individuals.

## **Will employers be required to pay for visa workers' transportation?**

It depends. All visa workers, whether under contract or working at-will, shall receive an allowance for inbound transportation from their home country to their first initial place of employment. However, at-will visa workers are not entitled to outbound transportation, and contract workers are only entitled to outbound transportation if they work for the same contract employer for 27 months in the three-year visa term.

## **My workers commute from their home country every day. Do I have to provide them housing or a housing allowance?**

If your job site is 50 miles or less from an international border, you will not have to provide housing or a housing allowance for that visa worker.

### **In the new program, can my visa worker sue me in federal court?**

Yes, workers under the new visa program are covered by the Migrant and Seasonal Agricultural Worker Protection Act, which provides that workers can sue their employers. However, if either party requests mediation (where a neutral third party assists in trying to settle the claim), the claim must go through mediation before the suit can proceed. If a visa worker elects to file an administrative claim with the U.S. Department of Labor, he or she cannot also sue in federal court for the same violation. The worker must choose one route or the other.

### **What are the legal ramifications for employers who find out they have an undocumented worker who is seeking legal status via the Blue Card program?**

The employer would be held harmless and, if needed, could assist an employee in attesting to his or her past work in agriculture.

### **How does the hiring of visa workers affect the U.S. workers or Blue Card workers I have on my farm?**

Employers must offer the U.S. workers no less than the same benefits, wages and working conditions (excluding the provision of housing or a housing allowance) that the employer offers or intends to offer to visa workers.

### **Do I have to pay employment taxes on visa worker wages?**

No, employers hiring visa workers will not be required to take out employment withholdings from visa workers' paychecks.

### **How can I get engaged in this issue?**

The first step in achieving comprehensive agriculture labor reform begins by educating lawmakers. Please let your senators and member of Congress know that, as part of immigration reform, you support establishing a new agricultural worker visa program that gives both employers and employees stability and flexibility, now and into the future.

Farm Bureau has created a website that will help farmers and ranchers share their stories with their lawmakers. We encourage farmers and ranchers to share their stories through a secure Web page at this link: <http://www.fbactinsider.org/share-your-story>. Also, check out the Farm Bureau FBACT Insider Agricultural Labor website (<http://www.fbactinsider.org/issues/agricultural-labor>) for news, background information and ways to let your senators and representative know that agricultural labor reform is important to you.

Also, visit the Agriculture Workforce Coalition's website to read what the press is saying and get the latest information from the coalition's members. The coalition's website is: <http://www.agworkforcecoalition.org/>.

## Messages

<b>General</b> <ul style="list-style-type: none"><li>• Agriculture contributes more than \$100 billion each year to our economy, thanks in large part to farm workers.</li><li>• Farmers and ranchers have, for too long, had difficulty in finding workers willing and able to work on farms and in fields. Agricultural employers reported more than \$300 million in losses in 2010 because of worker shortages.</li><li>• Agricultural labor reform isn't about whether foreign workers will grow and harvest our food. It's about whether they will do it here in the U.S., or in their home countries.</li><li>• Without immigrant farm workers, economic output would decline and thousands of U.S. citizens would lose their jobs.</li></ul>	<b>Agricultural Visa Program</b> <ul style="list-style-type: none"><li>• The proposed agricultural visa program lets farmers and ranchers hire the immigrant employees they need, when they need them.</li><li>• Employers and employees could choose between the stability of a long-term contract and the freedom for workers to work on other farms.</li><li>• The visa program ensures compliance with employee safety and compensation regulations.</li><li>• For current farm workers who do not have visas, the plan provides an adjustment in status that must be earned through work in agriculture.</li><li>• The new program would let workers work on farms year-round and would be available to all types of farms.</li></ul>
<b>Border Security &amp; Enforcement</b> <ul style="list-style-type: none"><li>• Current immigration and agricultural labor reform legislation would increase surveillance of high-risk areas along our southern border.</li><li>• E-Verify will only work if there is a legal means for a future flow of farm workers into the U.S.</li><li>• To earn eventual legal status, farm workers would have to prove that they have worked for several years in agriculture, paid taxes, kept out of trouble and paid fines. This is no "get out of jail free" card.</li><li>• One of the best ways to improve border security is to create a legal, workable way for farm workers to enter our country. If we don't have to waste resources locking up lettuce harvesters, we can focus on keeping those with criminal intentions out of our country.</li></ul>	<b>What You Can Do</b> <ul style="list-style-type: none"><li>• Let your senators and member of Congress know that you support legislation that addresses agriculture's labor needs.</li><li>• Log on to <a href="http://www.fbactinsider.org">www.fbactinsider.org</a> to learn more about the issue and take action.</li><li>• Tell your story. Visit <a href="http://www.fbactinsider.org/share-your-story">http://www.fbactinsider.org/share-your-story</a> and let us know how agricultural labor reform is important to you.</li></ul>

Comparison of House Agricultural Guestworker Act\*, sponsored by Rep. Goodlatte, and the Agricultural Labor Provisions in the Senate Immigration Reform Bill

\*AFBF has not taken a position on the Goodlatte bill. This information is presented for informational purposes only.

<b>Issue</b>	<b>Goodlatte Bill (H.R. 1773)</b>	<b>Senate Bill (S. 744)</b>
<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 agricultural 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, he must return to his home country or be considered out of status. He 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, he must return to his home country or be considered out of status. He 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 any 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 any agricultural or horticultural commodity in its unmanufactured state. For example, the packing of fresh produce would be included, but further processing would not.
<i>Program administration</i>	The guestworker program is administered by USDA with Department of Homeland Security handling the visa petitions. USDA would enforce the program.	The guestworker program is administered by USDA with DHS handling the visa petitions. The Department of Labor 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 U.S. worker who applies up to 15 days before date of need.
<i>Administrative costs</i>	Employers of jobs that are not seasonal (such as 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	The bill authorizes the creation of application fee and penalty systems both for workers and for employers. There are no similar Social Security and Unemployment Insurance tax provisions in the Goodlatte bill.

	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.	
<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 for the worker to return to his home country for three 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 his home country for three months, as with seasonal employment.	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 reapply.
<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 Corp.</i>	Workers are explicitly <u>not</u> eligible for legal assistance through the LSC.	Workers are eligible for all assistance through the LSC.
<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 as escalating for the next three years for farm laborers at \$9.17 per hour to \$9.64, for graders and sorters at \$9.37 to \$9.84, for dairy and livestock workers at \$10.82 to \$11.37, and for equipment operators at \$11.30 to \$11.87. After that, wages will increase annually as established by an Employment Cost Index, but will rise 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 under state law, insurance coverage for injury or disease resulting from the job equal to those of comparable employment under the state's Workers 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 Workers 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	While employers and employees must attempt mediation before going to court, the mediation is not binding and employees have full private right of action (or right to sue).

	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.	
<i>Employment guarantee</i>	Under the contract option, the bill requires employers to provide work for at least 50 percent of their contract.	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 visas, the bill places 10 percent of their wages into a trust fund to be paid at the U.S. Embassy in their home country.	No similar provisions.
<i>Current workforce</i>	Current illegal immigrants on the date of enactment of the bill may stay in the U.S. 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 the two years, they may remain in the U.S. legally by participating in the visa program once it operational.	Illegal immigrants who 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 on 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 five 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 visas per year with an 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 1, making 224,666 visas available in year 2 and 337,000 for years 3, 4 and 5. The cap is evenly divided by quarter (allows unused visas to carry over into next quarter, but not into 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 the cap to be increased, based on verifiable need. Workers participating in the Blue Card program (i.e. the current workforce) are exempt from the cap.

## Additional Resources

- Video: AFBF President Bob Stallman talks about importance of immigration reform for agriculture: <http://fbvideos.org/issues/labor/>
- North Carolina Farm Bureau Survey: <http://www.ncfb.org/pdf/2013NCAWPreport.pdf>
- Agriculture Workforce Coalition website: [www.agworkforcecoalition.org](http://www.agworkforcecoalition.org)
- American Farm Bureau Federation testimony: <http://www.agworkforcecoalition.org/wp-content/uploads/2013/03/Stallman-02262013.pdf>
- Sen. Dianne Feinstein statement on immigrant farm labor: <http://www.youtube.com/watch?v=RfFdFWz2uSU>