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Using FY 2027 appropriations to build a deportation-to-guestworker pipeline

House Republican appropriations legislation would expand H-2A and H-2B visa programs and cut farmworker pay

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Key Findings

- The House Appropriations Committee's fiscal year (FY) 2027 funding bill for the Department of Homeland Security would make major changes to the H-2A visa program for seasonal farm jobs and the H-2B program for low-wage jobs outside of agriculture.
- For H-2A, the bill would:
  - Open the program to year-round agricultural jobs, such as in greenhouses and on dairies, which employ over 400,000 U.S. farmworkers. Current regulations limit H-2A to temporary and seasonal work.
  - Allow employers to pay year-round H-2A farmworkers drastically lower wages, cutting pay by roughly $17,000 to $40,000 per year in key industries and states in 2027 and incentivizing farm operators to replace U.S. farmworker employees with much lower-paid H-2A workers.
- For H-2B, the bill would:
  - Raise the annual cap to at least 270,000 visas in FY 2027 (more than doubling the current cap that includes supplemental H-2B visas) and 300,000 total workers.
  - Reward employers for applying for as many H-2B jobs as possible each year, since doing so increases their cap exemption for the following year, likely driving exponential growth in the program.
  - Move 10,000 amusement park, carnival, fair, and circus workers from H-2B to a newly created P-4 visa, which has no numerical cap and questionable worker protections—further expanding the pool of exploitable workers in H-2B industries.
- These changes would drastically lower pay for all farmworkers and degrade labor standards for U.S. workers on farms and in industries like landscaping, construction, and hospitality. Employers would gain an exploitable workforce they can control, made up of workers with no realistic path to a green card or U.S. citizenship.

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Introduction and summary

In June 2026, Republican legislators in the House Appropriations Subcommittee on Homeland Security—the subcommittee tasked with funding the U.S. Department of Homeland Security (DHS)—proposed legislation to fund DHS for FY 2027, which was then considered by the full House Appropriations Committee. The bill includes several legislative riders that, if enacted into law, would make major changes to two temporary work visa programs, H-2A and H-2B. Those provisions would accelerate hiring and substantially expand the size and scope of the programs.[1] The full House Appropriations Committee approved the bill on a party-line vote with 34 Republican members voting in favor of reporting the bill to the full House of Representatives.[2] Nearly identical riders were passed in the House FY 2026 DHS appropriations bill, but were not included in the final FY 2026 omnibus bill that funded the federal government.

H-2A allows farm employers to hire migrant workers for seasonal and temporary agricultural jobs, while H-2B allows employers to hire migrant workers for temporary jobs in low-wage occupations outside of agriculture (including in landscaping, construction, hospitality, food service, seafood processing, and traveling fairs and carnivals). Both programs represent a flawed employment model that restricts workers' rights by giving employers control over their workers' immigration status.[3] Both undercut U.S. wage standards, lack adequate regulations and enforcement to protect workplace rights, and fail to provide workers with a pathway to becoming lawful permanent residents or U.S. citizens. If the House legislative provisions on H-2A and H-2B become law, they would greatly increase the number of workers in these programs and lower wages for hundreds of thousands of farmworkers by tens of thousands of dollars per year.

The Trump administration's unrestrained and indiscriminate immigration enforcement efforts and bureaucratic slowdowns have caused net immigration levels in the United States to turn negative for the first time in half a century.[4] Given demographic projections and the fact that nearly all prime-age workforce growth in the past 30 years has come from immigration,[5] it is becoming clearer that sustaining future economic and workforce growth will be difficult without policies that would expand pathways for immigrants. But those pathways must give workers full and equal rights in the workplace through immediate or eventual lawful permanent residence and a path to citizenship. Temporary work visa programs like H-2A and H-2B, often called "guestworker" programs, do not do that, and strong evidence shows they are degrading wages and working conditions for both migrant and U.S. workers.[6]

Efforts in Congress to expand H-2A and H-2B build on the Trump administration's own use of executive authority to expand both programs. Meanwhile, DHS's immigration enforcement agencies—Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)—now have $270 billion at their disposal to detain, deport, and terrorize immigrants across the country,[7] and temporary protections that provide lawful work authorization, like parole and Temporary Protected Status, are being terminated en masse. ICE and CBP have gone far beyond what their mandates and statutes allow, acting

as gestapo-like forces that racially profile people and disregard whether a person has a green card, a temporary protective status like DACA, or, in many cases, a U.S. passport.[8] The result is a shrinking workforce. Are measures to expand H-2A and H-2B an attempt to replace some of the foreign-born workers the economy is losing?

This report examines the provisions in the FY 2027 House Homeland appropriations legislation, which passed and was reported out of the House Appropriations Committee in June 2026, that would expand and modify the H-2A and H-2B visa programs, and estimates their impact. While the House Appropriations bill has not been voted on yet by the full House, with government funding set to expire on December 11, 2026, the bill is likely to be the starting point for negotiations on an omnibus bill to fund the government for the remaining 10 months of fiscal year 2027.

Both the Trump administration and Congress are working to create a deportation-to-guestworker pipeline

While this report focuses on congressional efforts to expand the H-2A and H-2B programs through the appropriations process, it is important to note that the Trump administration has already used its executive authority to expand the H-2A and H-2B visa programs: The Department of Labor (DOL) issued a regulation drastically cutting farmworker wages in October 2025 that the agency estimates will increase the size of the program from 383,000 to 515,000 jobs due to expanded hiring driven by lower labor costs for farm operators.[9] One of the administration's stated reasons for the DOL regulation is its own immigration enforcement. It expects to deport so many farmworkers that farm operators will lack sufficient employees to produce enough food, leading to higher prices for consumers, unless the deported workers are replaced with farmworkers hired from abroad through the H-2A program.[10] Then, in January 2026, after a lobbying push by H-2B employers, the Trump administration doubled the size of the H-2B program using discretionary authority Congress granted it in FY 2026 appropriations legislation.[11]

While the Trump administration and Republicans in Congress have embraced anti-immigrant rhetoric and adopted inhumane immigration policies, their efforts to expand work visa programs reveal that they recognize immigrant workers are an essential part of the U.S. labor market. The Trump administration is acknowledging that, without these workers, there will be negative consequences for the U.S. economy—many of which have already become evident, including a slowdown in employment and increased unemployment for U.S.-born workers.[12] The administration and Congress are effectively creating a deportation-to-guestworker pipeline. Migrant workers who are deported or lose their status and work permits are left with only one viable way to work in the United States: as guestworkers. And as guestworkers, they have few workplace rights because their employer owns and controls their status and ability to reside and work in the country.

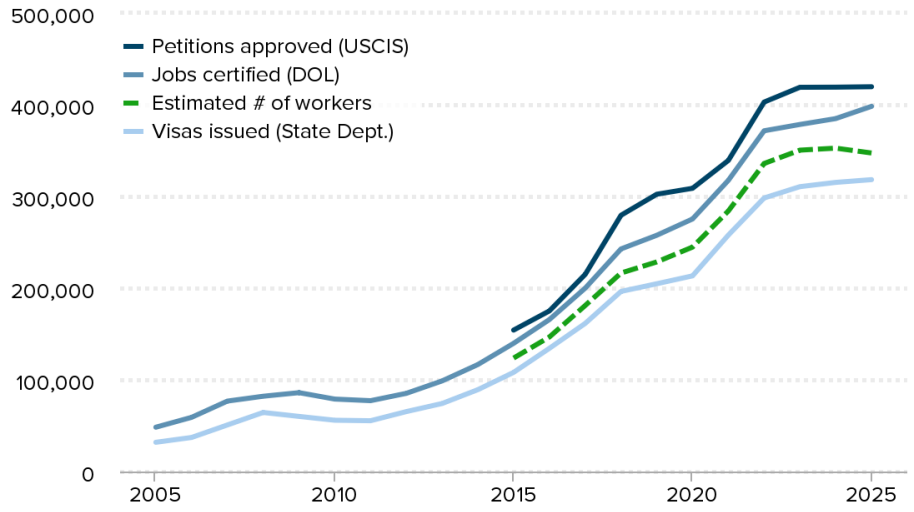
The H-2A program had 350,000 workers in 2025 and would be expanded to include 409,000 additional year-round jobs like dairy and livestock farming

The H-2A program is a visa program that allows employers to hire farmworkers from abroad for seasonal and temporary farm jobs, ostensibly when they can show that a U.S. worker is unavailable. The H-2A program accounts for a significant share of the total farm workforce, between 11% and 16% of total farm employment, and is a lobbying priority for the agricultural industry. The estimated size of the H-2A program in 2025 was nearly 350,000 workers (see **Figure A**).

Figure A

The H-2A visa program had 350,000 workers in 2025 and grew by 11x over the past two decades

H-2A jobs certified and visas issued, 2005–2025, H-2A petitions approved and estimated number of workers, 2015–2025



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Notes: All references to a particular year should be understood to mean the U.S. government's fiscal year (October 1–September 30). DOL stands for U.S. Department of Labor, State Dept. is the U.S. Department of State, and USCIS stands for U.S. Citizenship and Immigration Services, a subagency of the U.S. Department of Homeland Security. Estimated number of workers is calculated by adding the number of new visas in a given fiscal year to the number of approved petitions for continuing employment with the same employer and with approved petitions for change of employer. It is possible that some H-2A workers may have an approved petition for new employment in the same fiscal year as an approved petition for changing employers, which would lead to those workers being counted twice in the data. Approved amended petitions and petitions for concurrent employment were excluded from the calculation for total workers (but are included under total petitions approved).

Source: EPI analysis of Office of Foreign Labor Certification, OFLC Performance Data, H-2A Disclosure Data, U.S. Department of Labor; Bureau of Consular Affairs, "Nonimmigrant Visa Statistics" (PDF files for tables listed under "Nonimmigrant Visas by Individual Class of Admission" for fiscal years 2005–2024, and monthly Excel files under "Monthly Nonimmigrant Visa Issuance Statistics" for fiscal year 2025), U.S. Department of State; U.S. Citizenship and Immigration Services, H-2A Employer Data Hub, U.S. Department of Homeland Security.

The language adopted in Section 410 of the FY 2027 House Homeland appropriations bill would allow H-2A workers to be employed in year-round jobs—which is currently prohibited—expanding the scope of the program and allowing employers to hire H-2A workers for jobs on dairy, livestock, and poultry and egg farms, as well as in nurseries and greenhouses and other nonseasonal agricultural jobs. This would be a major change to H-2A and has long been a priority of agribusiness. In fact, a nearly identical legislative rider was first proposed by the same House committee almost a decade ago.[13] The Trump administration recently used sub-regulatory means to make a down payment on this change to H-2A, issuing a policy memorandum, which arguably stretches the bounds of the law: It instructs U.S. Citizenship and Immigration Services (USCIS) to begin approving petitions for H-2A workers who would be employed on dairies.[14] The memorandum still requires employers to prove the dairy-related H-2A position is of a temporary or seasonal nature, however. The USCIS memo is susceptible to legal challenges, whereas a statutory change would be more durable, as some industry representatives have pointed out.[15]

Data from the Quarterly Census of Employment and Wages show that there are approximately 409,000 year-round (full-time equivalent) jobs in agriculture. **Table 1** lists four of the major agricultural industries employing farmworkers year-round. The largest are greenhouse production and cattle ranching, which includes dairy jobs.[16] However, the true scope of jobs that could become eligible for H-2A under the vague language of Section 410 is unknown and potentially larger. Representatives of the agricultural industry could argue, for instance, that if Section 410 becomes law, eligible job categories should now include meat and poultry packing and processing, logging, equine, and aquaculture jobs, as well as various nonfarming jobs "performed by workers on agricultural operations." DOL and USCIS would ultimately decide how to implement their interpretation of the provision.

Table 1

There are 409,000 year-round jobs in agriculture

Average annual employment in selected major year-round industries in agriculture, 2025

NAICS	Industry	Employees
1114	Greenhouse, nursery, and floriculture production	168,970
1121	Cattle ranching and farming	164,832
1122	Hog and pig farming	26,556
1123	Poultry and egg production	48,534
	Total	408,892

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Notes: "NAICS" stands for North American Industry Classification System.

Source: EPI analysis of Quarterly Census of Employment and Wages (QCEW), Bureau of Labor Statistics, U.S. Department of Labor [2025 data] (data retrieved on October 26, 2026). Totals represent average annual employment in 2025 in the selected industries.

Expanding H-2A to include year-round occupations will dramatically lower wages for farmworkers

As noted above, the Trump administration's Interim Final Rule (IFR) from October 2025 set the H-2A Adverse Effect Wage Rate (AEWR) methodology at dramatically lower rates than the previous one.[17] Based on DOL's own estimates, the 2026 H-2A AEWR will result in a $24 billion pay cut for H-2A farmworkers over 10 years and, by reducing H-2A labor costs, encourage employers to expand the H-2A program to 515,000 jobs a year.[18] EPI has estimated that U.S. farmworkers will lose $2.7 to $3.3 billion in wages per year as a result of the Trump AEWR rule. In total, all farmworkers (U.S. farmworkers and H-2A farmworkers) will lose roughly $5 billion per year in wages thanks to this regulation from the Trump DOL.[19]

Under current regulations, H-2A farmworkers cannot be hired for year-round agricultural jobs.[20] Because farmworkers in these jobs work year-round, rather than seasonally, they generally earn higher wages that can sometimes approach a living wage. But if the FY 2027 House Homeland appropriations bill becomes law and allows employers to additionally use H-2A visas for year-round jobs instead of just seasonal and temporary ones, the required minimum wage employers would have to pay H-2A workers would be set by the same H-2A methodology used for seasonal crop farming jobs. As a result, farmworkers in year-round jobs would see significant pay cuts, to the tune of tens of thousands of dollars per year.

Table 2 shows a sample of some of the main year-round agricultural industries in major agricultural states, along with average annual employment in each (which together account for about 15% of the total year-round, full-time equivalent jobs in agriculture). Table 2 shows how much farmworkers earned annually on average in 2025 in those industries and states, and compares the annual earnings of farmworkers in 2025 with what H-2A workers would earn in 2026 or 2027 if they worked in the same jobs and were paid the corresponding 2026–2027 AEWR at Skill Level 1 for the entire year (40 hours per week for 52 weeks), minus the annualized amount that will be deducted from hourly wages for housing as permitted in the current AEWR methodology.[21]

The final column in Table 2 shows a few examples that illustrate the difference between what U.S. farmworkers working year-round in the selected industries earned in 2025 and what H-2A workers at Skill Level 1 would earn if they were paid the annualized AEWR in 2026 or 2027. Table 2 shows that the reduction in wages for H-2A farmworkers in year-round jobs could range from an annual pay cut of $17,500 for mushroom farming in California to over $43,000 per year for employment on poultry and egg farms in Texas.

Outcomes such as these—in which farmworkers paid the 2026–2027 AEWR would earn tens of thousands of dollars less than what U.S. farmworkers earned in major year-round jobs in 2025—are in violation of the spirit and letter of the AEWR and the H-2A statute. Yet they would become legal if the year-round H-2A provision in the House appropriations

Table 2

Farmworkers in year-round jobs will earn much lower wages if paid the 2026–2027 H-2A Adverse Effect Wage Rate

Average annual employment and wages in selected industries and states, and wage differentials between 2025 annual wages and annualized 2026–2027 AEWR at Skill Level 1

State	Industry	Average annual employment, 2025	Average annual wages, 2025	Annual wages, 2026–2027 AEWR after housing deduction*	Difference between annual H-2A wage and non H-2A
CA	Poultry and egg	2,474	$57,233	$35,152	-$22,081
TX	Poultry and egg	4,011	$60,972	$17,742	-$43,230
CA	Mushroom	1,536	$52,623	$35,152	-$17,471
PA	Mushroom	4,129	$51,441	$23,421	-$28,020
IA	Hog and pig farming	4,527	$55,525	$25,958	-$29,567
NC	Hog and pig farming	2,649	$52,986	$19,677	-$33,309
OK	Hog and pig farming	1,644	$53,738	$19,344	-$34,394
CA	Dairy cattle and milk	16,307	$58,401	$35,152	-$23,249
NY	Dairy cattle and milk	9,294	$52,405	$33,280	-$19,125
WI	Dairy cattle and milk	15,578	$45,806	$22,568	-$23,238

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Notes: Amounts are nominal and have not been adjusted for inflation. The annual wage rate based on an annualized Adverse Effect Wage Rate (AEWR), shown in the fifth column, is calculated by taking the 2026–2027 hourly AEWR for Skill Level 1 and subtracting the hourly housing deduction, and multiplying the total by 40 hours per week and 52 weeks. *For California and New York the hourly state minimum wage rates are higher than Skill Level 1 and thus set the AEWR. For both states, estimates assume that employers will not be permitted to subtract the housing deduction because it would set the AEWR below the state minimum wage.

Source: EPI analysis of Quarterly Census of Employment and Wages (QCEW), Bureau of Labor Statistics, U.S. Department of Labor [2025 data]; industry codes: 1123, Poultry and egg production; 111411, Mushroom production; 1122, Hog and pig farming; and 11212, Dairy cattle and milk production. H-2A Adverse Effect Wage Rate for fiscal year 2026 from Office of Foreign Labor Certification, Employment and Training Administration, H-2A Adverse Effect Wage Rates, see *Statewide 2026-2027 IFR AEWRs,* U.S. Department of Labor (data retrieved on October 26, 2026).

bill becomes law. This would hurt some of the most vulnerable and lowest-paid workers in the U.S. labor market and give farm operators a strong incentive to replace their U.S. farmworkers with H-2A workers because the latter cannot easily change employers and have their rights restricted and wages restrained via H-2A program rules—which also have the effect of insulating employers from free market forces that would lead them to improve wages and working conditions in order to attract U.S. farmworkers.

The size of the H-2B program would be set by a new methodology that will start at 270,000 in 2027 and grow exponentially

The H-2B program currently has an annual numerical limit (or "cap") of 66,000. Since FY 2016, Congress has passed amendments to annual appropriations bills that allow DHS to increase the number of visas available.[22] In the past four fiscal years, both the Biden and Trump administrations have used the full authority granted to the executive branch in the legislative riders, raising the total H-2B annual limit to 130,716 during FY 2023–2026.[23]

The FY 2027 House Homeland appropriations bill includes language in Section 409 that would establish a new methodology for setting the H-2B visa program's annual numerical limit to further increase the cap beyond the 130,716 during FY 2023–2026. The language of the bill states that for every employer who has had any H-2B positions certified in the past five fiscal years (2022–2026), the highest number that they had certified in those years will be the number of H-2B workers they may hire who will not count against the annual cap of 66,000. In other words, if an employer had 10 jobs certified in 2022, 15 in 2023, 20 in 2024, 100 in 2025, and 50 in 2026, they would be allowed to hire 100 H-2B workers in 2027 without them counting against the 66,000 cap. As the analysis below explains, the provision would result in a cap of nearly 270,000 visas in FY 2027.

Table 3 shows an estimate using 2021–2025 H-2B data that serves as a proxy for the estimated number of new H-2B workers who would be exempted from the cap in 2027, and the number of new H-2B workers permitted under the regular annual cap of 66,000. Altogether, the regular cap plus the supplemental cap for H-2B in 2027 would permit at least 269,617 new H-2B workers if the House Homeland appropriations legislation becomes law. That's more than double the size of the total cap in 2023–2026, and a 309% increase relative to the original H-2B cap of 66,000.

The annual caps and total number of workers will grow rapidly if Congress reauthorizes the same language in the rider year after year, as it has done with past H-2B riders. The rider in Section 409 incentivizes employers to apply to DOL for labor certification for as many H-2B jobs as possible every year because that will increase the size of their exemption from the cap for the following year. The resulting growth is likely to be exponential.

Table 3

The H-2B cap in 2027 will be 270,000 if House appropriations legislation becomes law

Estimated number of H-2B workers under regular and supplemental annual caps according to FY 2027 House appropriations legislation methodology

Elements of the H-2B annual cap, FY 2027	H-2B workers
Supplemental cap: Individual employer exemptions for highest number of H-2B jobs certified in past 5 years, 2022–2026*	203,617
Statutory annual H-2B cap (current law)	66,000
Total H-2B cap for 2027 if House Homeland appropriations legislation becomes law	269,617

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Notes: *The methodology for calculating the fiscal year (FY) 2027 H-2B supplemental cap outlined in language from the FY 2027 House Homeland appropriations legislation states that each employer that had an approved temporary labor certification from the U.S. Department of Labor in fiscal years 2022, 2023, 2024, 2025, and 2026 will receive an exemption from the H-2B annual cap in a number that is equal to the highest number of certifications received in one of those five years. As of the time of writing, the full FY 2026 data on H-2B labor certifications were not available; thus, the five fiscal years of 2021–2025 were used to estimate the total number of H-2B workers who will be exempt from the annual cap. (The total cap for the year is the original statutory cap of 66,000 plus the number determined by the methodology for the supplemental cap.)

Source: EPI analysis by Zane Mokhiber of H-2B disclosure data from the Office of Foreign Labor Certification, Performance Data, U.S. Department of Labor, for fiscal years 2021–2025.

Total number of H-2B workers could reach 300,000 in 2027 if House Homeland appropriations legislation becomes law

Despite the size of the H-2B annual cap, the total number of H-2B workers is always larger because some workers extend their status and some change jobs, but those workers are not counted against the annual cap. In FY 2025, when 64,716 supplemental H-2B visas were added to the statutory cap of 66,000 for the fiscal year, for a total cap of 130,716, there were a total of 166,823 H-2B workers (see **Figure B**).

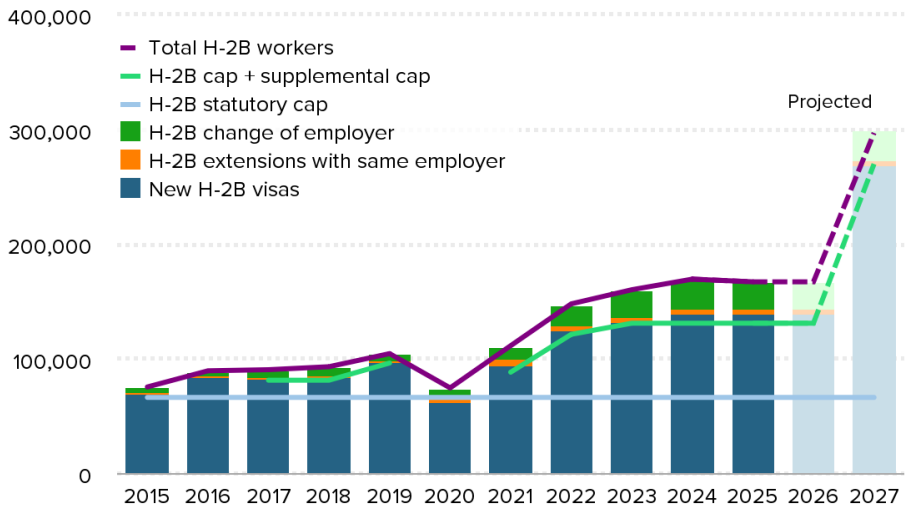
This was up from 75,122 total H-2B workers just a decade earlier. The nearly 167,000 H-2B total in 2025 included 139,736 H-2B workers with newly issued visas from the State Department, and 4,137 H-2B workers who had their employment extended with the same employer. An additional 22,950 were H-2B workers who changed employers. (The final totals in FY 2026 are likely to be similar to those in FY 2025 given the same cap methodology was in place.)

To get a better sense of the total number of H-2B workers who would be employed in 2027 if Section 409 of the House Homeland appropriations legislation is enacted into law, I estimated that the same number of workers who extended their status or changed jobs in 2025 would also do so in 2027, and added that total to the FY 2027 total cap of 269,617

Figure B

Total number of H-2B workers could reach 300,000 if FY 2027 House appropriations legislation becomes law

Estimated numbers of H-2B workers employed in the United States, fiscal years 2015–2025 and projected for 2026–2027, and the H-2B annual and supplemental caps



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Notes: "Total H-2B workers" represents the author's estimate based on the number of new visas issued by the U.S. State Department, plus the number of H-2B workers approved for continuing employment with the same employer (i.e., extensions of status), plus the number of H-2B workers with approved petitions to change employers, as reported in the USCIS H-2B Employer Data Hub. It is possible that some H-2B workers may have an approved petition for new employment in the same fiscal year as an approved petition for changing employers, which would lead to those workers being counted twice in the data.

Source: EPI analysis of data from U.S. Citizenship and Immigration Services, H-2B Employer Data Hub, U.S. Department of Homeland Security [data files for fiscal years 2015–2025]; and U.S. Department of State, "Nonimmigrant Visa Statistics" (PDF files for tables listed under "Nonimmigrant Visas by Individual Class of Admission" for fiscal years 2015–2024, and monthly Excel files under "Monthly Nonimmigrant Visa Issuance Statistics" for fiscal year 2025).

that would result from the new methodology in the legislation. This is also illustrated in Figure B, which shows the total number of H-2B workers from 2015 to 2025, and projections for 2026 and 2027. The annual cap plus the supplemental cap, together with H-2B extensions and job changes, would result in nearly 300,000 H-2B workers being employed in 2027—or 296,704 to be exact—which is a 78% increase relative to the number of H-2B workers who were employed in 2025 or estimated to be employed in 2026.

Close to 10,000 H-2B jobs would be moved to the P visa, a program with no worker protections and administered by DHS

The other notable change to the H-2B program in the FY 2027 House Homeland appropriations legislation is in Section 411, which would move H-2B fair and carnival workers, such as those employed at amusement parks, carnivals, traveling fairs, and circuses, to the P visa program. Section 411 would move those covered by the current P-4 visa—designated for spouses and minor children of P-1, P-2, and P-3 visa holders—to a new P-5 category and reassign the P-4 visa category to fair and carnival workers. The language in Section 411 appears to be a permanent statutory change, unlike Sections 409 and 410, which would only be in place during FY 2027 unless they are renewed in subsequent legislation for FY 2028 (and beyond). According to DOL, in FY 2025 there were 9,622 H-2B jobs certified in the "Amusement and Recreation Attendants" occupation, which is the most relevant occupation that would be moved to the P-4 visa. Unlike the H-2B program, there is no annual cap in the P visa program and the bill language does not apply the annual H-2B cap to the number of fair and carnival workers who could be employed with P-4 visas.

At present, the P visa is a little-known program intended for use by professional athletes and coaches, members of an internationally recognized entertainment group, or persons performing under a reciprocal exchange program or as part of a culturally unique program.[24] The P visa program has no wage rules or worker protections and is administered exclusively by DHS, which has no dedicated staff or expertise on worker rights.[25] This is extremely troubling, given that H-2B workers employed at fairs, amusement parks, and carnivals work grueling hours and in terrible conditions, making them some of the most exploited H-2B workers—as advocacy groups have pointed out.[26] These workers are often paid below the minimum wage and are not paid for overtime hours. Yet it is unclear if DOL would have any formal oversight role to ensure they are protected as P-4 workers.

The language in Section 411 states that employers hiring H-2B fair and carnival workers through the P visa "shall be subject to the same program requirements that govern the admission" of H-2B workers, but it does not give clear authority to DOL to administer the P-4 visa program, nor explicitly state that post-entry H-2B worker protections will apply to P-4 workers. (The current H-2B program and rules are administered and enforced by DOL.) The legislation further directs DHS and DOL to each separately publish regulations to implement H-2B fair and carnival workers being moved to the P-4 visa program within 180 days and to finalize them within one year. But there is little direction from Congress in the legislation on how the H-2B program requirements will be implemented and enforced. Will DHS publish identical regulations to DOL's H-2B rules and enforce them? Will DOL enforce the DHS regulations? Or will each play a role in enforcing the wage and worker protection regulations in the H-2B program? And will employers be allowed to begin hiring fair and carnival workers with P-4 visas before any regulations that include wage and worker protections are finalized?

The language in Section 411 reflects previously introduced legislation in the House and Senate during the 119th Congress: H.R. 2729, Carnivals are Real Entertainment Act (also known as the CARE Act), and a similar companion bill, S. 1281, Restoring Industry Development in Entertainment (RIDE) Act. However, the legislators on the House Appropriations Committee who support this amendment have provided no explanation or rationale for why it makes sense to create an entirely new process and set of regulations to move one of the biggest H-2B occupations from DOL into DHS—an agency that will be given primary responsibility over the P-4 visa and protecting fair and carnival workers, but that has no mandate or expertise on labor standards and employment laws. The most obvious explanation is that this legislative maneuver is simply a new way to expand the H-2B cap even beyond 270,000, in a way that gives fair and carnival employers an unlimited supply of workers who can be exploited and underpaid. It also generally seems absurd to put a low-paid traveling carnival worker into the same visa category—where there's no labor oversight—as a professional baseball player coming from abroad to sign a multimillion-dollar contract with a major league team, or a world-famous singer, dancer, or painter.

Republicans in Congress are using the appropriations process to avoid scrutiny and expand H-2A and H-2B, while the administration seeks to deport millions

Finally, for over a decade at least, Congress has repeatedly changed policy on temporary work visa programs through an opaque process: riders attached to annual appropriations legislation, like the ones examined in this report.[27] Riders that make policy changes are much more likely to pass without much public notice, debate, or pushback relative to dedicated legislation, since they are smaller parts of larger, must-pass legislation to fund the entire U.S. government. The significant changes proposed or passed for H-2A and H-2B visas in riders over the past decade have all pushed the programs toward the same direction: expansion, deregulation, and the watering down of worker protections, which benefits employers at the expense of U.S. workers and hundreds of thousands of migrant workers who will continue to see reduced wages and poorer working conditions.

Employers have a particular urgency to see riders that expand and deregulate the H-2A and H-2B visa programs, as the Trump administration arrests and deports workers at a breakneck pace and cancels temporary immigration protections that provided work authorization to millions.[28] Employers are making the case that H-2 visas are "a workforce issue, not immigration," as well as an essential service that must continue to function even during a government shutdown.[29] Given the FY 2026 and FY 2027 riders in the House Homeland appropriations bills, it's clear that a number of lawmakers and the Trump administration agree.

In effect, these legislators aim to create a deportation-to-guestworker pipeline, one where migrant workers who are deported or lose their status and work permit are left with only one viable option to work in the United States: as temporary migrant workers with few workplace rights because their employer owns and controls their ability to live and work in the country. Perhaps the legislator who is the most emblematic of the push to combine mass deportations with expanded guestworker programs is Rep. Andy Harris of Maryland, a Republican member on the House Appropriations Committee. Politico recently profiled him for leading the charge on the H-2A and H-2B riders in recent appropriations bills, highlighting also his strong support for President Trump's mass deportation efforts.[30] Apparently, for Rep. Harris, there is no irony in supporting Trump's removal of millions of employees who support the U.S. economy while simultaneously purporting to represent the interests of employers who say they don't have enough workers, and tirelessly working to expand low-wage guestworker programs. It's reasonable to ask whether the Harris strategy is to ensure that the only people from abroad who can work in the United States are those willing to be quasi-indentured to the employers that recruit them—and who accept that they will never become citizens able to fully participate in U.S. economic and political life.

The H-2A and H-2B programs need reform to improve labor protections and provide workers with a pathway to citizenship

The appropriations committees in the House and Senate should not use parliamentary tactics like provisions in appropriations bills to make changes to the H-2A and H-2B programs that would likely not pass in Congress through regular order. Instead, policymakers and the public must reject the harmful and unjustified proposals coming from Trump and Congress to expand programs that allow employers to underpay migrant workers and keep those workers indentured and controlled by employers.

Instead of pursuing a strategy that combines deportations with expanded guestworker programs, Congress should work with the executive branch to reform both the H-2A and H-2B visa programs in the following ways:

- Provide green cards to undocumented farmworkers and a path to a green card for farmworkers recruited from abroad through the H-2A program
- Rescind the October 2025 Adverse Effect Wage Rate and reinstitute the Farm Labor Survey conducted by the U.S. Department of Agriculture, which was previously used to set H-2A wages
- Prohibit H-2A visas, which are for temporary and seasonal jobs, from being used for year-round agricultural jobs like those on dairy and poultry farms and in greenhouses; workers from abroad who are recruited to fill year-round, permanent jobs must be granted a permanent status instead

- Provide H-2A and H-2B workers with new protections from retaliation and allow them to more easily change jobs
- Craft updated wage rules that protect U.S. wage standards for all workers in H-2B industries
- Provide H-2B workers with a quick path to a green card after being in H-2B status for 18 months
- Ensure U.S. workers seeking employment in H-2B occupations are adequately considered for open temporary and seasonal jobs by requiring employers to hire available U.S. workers and offer them housing and transportation
- Prohibit lawbreaking employers from hiring through the H-2A or H-2B programs by creating a screening and registration system

In addition, the Trump administration has tacitly admitted and shown through policy actions described in this report that migrant workers are making important contributions to the U.S. economy in key industries. Rather than continue to harm the economy through immigration enforcement, it should end its mass deportation efforts and reinstate humanitarian protections like Temporary Protected Status and parole for persons who have been stripped of them and lost their work permits.

Notes

1. For more background, see these two blog posts discussing the provisions on H-2A and H-2B that were passed in the FY 2026 House Homeland appropriations legislation: Daniel Costa, "Congressional Budget Amendment and New DOL Wage Rule Together Would Greatly Expand Work Visas for Farmworkers and Drastically Lower Their Wages," Working Economics Blog (Economic Policy Institute), December 5, 2025; Daniel Costa, "Rider in the House Homeland Security Appropriations Bill Would Increase the Number of Workers in the H-2B Visa Program by 113,000," Working Economics Blog (Economic Policy Institute), December 11, 2025.
2. For the legislative text, see H.R.9310 – Department of Homeland Security Appropriations Act, 2027, 119th Congress (2025-2026), placed on the Union Calendar on June 12, 2026. See also House Appropriations Chairman Tom Cole, "Committee Releases FY27 Homeland Security Appropriations Bill," Press Release, June 4, 2026; "Committee Approves FY27 Homeland Security Appropriations Act," Press Release, June 11, 2026; and for the roll call vote on the bill, see House of Representatives, Roll Call 15 in "Full Committee Votes," June 2026.
3. For more background on temporary work visas, their flaws, and proposed reforms, see Daniel Costa, *Temporary Work Visa Programs and the Need for Reform: A Briefing on Program Frameworks, Policy Issues and Fixes, and the Impact of COVID-19*, Economic Policy Institute, February 2021.
4. Laura Romero, "US, for 1st Time in 50 Years, Experienced Negative Net Migration in 2025: Report," ABC News, January 13, 2026.

5. William Frey, "America Is Turning 250. Here's How Immigration May Shape Its Future," Brookings Institution, June 25, 2026; see question 6 in Daniel Costa et al., "Immigrants and the Economy," in Immigration FAQ, Economic Policy Institute, April 2025.

6. See, for example, Daniel Costa and Ben Zipperer, "Trump's New H-2A Wage Rule Will Radically Cut the Wages of All Farmworkers: New Estimates Show Farmworkers Stand to Lose $4.4 to $5.4 Billion Annually Under DOL's Updated Adverse Effect Wage Rate," Working Economics Blog (Economic Policy Institute), November 26, 2025; Daniel Costa and Josh Bivens, The H-2B Visa Program Has Ballooned Without Being Fixed. Expanding It to Year-Round Jobs Like Meatpacking Would Lower Wages and Revenue: A High-Road Employment Strategy That Includes Green Cards Would Raise Wages and Spur Investment Instead, Economic Policy Institute, September 2025.

7. See, for example, Economic Policy Institute, The Cost of Deportations Calculator (interactive tool), accessed October 25, 2026; AFL-CIO and ACLU, Citizenship and the Affordability Agenda: A Path to Better Jobs, Higher Wages, and Prosperity for All, September 2026.

8. See, for example, Nicole Foy et al., "506 U.S. Citizens Detained," ProPublica, October 6, 2026.

9. See Exhibit 7 in Employment and Training Administration, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, U.S. Department of Labor, Interim Final Rule, DOL Docket No. ETA-2025-0008, RIN 1205-AC24, 90 Fed. Reg. 47914 (October 2, 2025).

10. See Lauren Kaori Gurley, "Trump Administration Says Immigration Enforcement Threatens Higher Food Prices," Washington Post, October 11, 2025; David Dayen, "Trump Labor Department Says His Immigration Raids Are Causing a Food Crisis," American Prospect, October 8, 2025; Employment and Training Administration, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, U.S. Department of Labor, Interim Final Rule, DOL Docket No. ETA-2025-0008, RIN 1205-AC24, 90 Fed. Reg. 47914 (October 2, 2025).

11. Chris Cameron, "Trump Officials Move to Double Number of H-2B Guest Visas This Year," New York Times, January 30, 2026. For more background on H-2B appropriations riders giving the executive branch authority to expand the program, see Daniel Costa and Josh Bivens, *The H-2B Visa Program Has Ballooned Without Being Fixed. Expanding It to Year-Round Jobs Like Meatpacking Would Lower Wages and Revenue: A High-Road Employment Strategy That Includes Green Cards Would Raise Wages and Spur Investment Instead*, Economic Policy Institute, September 2025.

12. See, for example, Daniel Costa and Ben Zipperer, "Unemployment Has Increased for U.S.-Born Workers in the Face of Mass Deportations: Trump's Draconian Immigration

Enforcement Is Harming All Workers," Working Economics Blog (Economic Policy Institute), April 3, 2026; Ben Zipperer, "Trump's mass deportations were sold as a major jobs program, but they're still failing to help U.S.-born workers," Bluesky, @benzipperer.org, September 4, 2026, 5:46 a.m.; Marcela Escobari, Ian Seyal, and Paul Beach, *Shock, Awe, and Economic Fallout: The Employment Effects of ICE Enforcement in U.S. Cities*, Brookings Institution, May 2026.

13. For more background, see Daniel Costa, "Proposal to Change the H-2A Program via Appropriations Would Allow Agribusiness to Fill Hundreds of Thousands of Permanent, Year-Round Jobs with Temporary Guestworkers," Working Economics Blog (Economic Policy Institute), October 25, 2017.

14. U.S. Citizenship and Immigration Services, Policy Memorandum PM-602-0200, Subject: *Guidance on Temporary or Seasonal Need for H-2A Petitions for Dairying*, June 17, 2026; see also discussion in Lauren Kaori Gurley, Mariana Alfaro, and Jarrell Dillard, "Trump Allows Dairy Farms a Path for Migrant Labor, Upsetting Anti-Immigration Camp," Washington Post, June 27, 2026.

15. Lauren Kaori Gurley, Mariana Alfaro, and Jarrell Dillard, "Trump Allows Dairy Farms a Path for Migrant Labor, Upsetting Anti-Immigration Camp," Washington Post, June 27, 2026. However, a statutory change made with an appropriations rider would presumably have to be renewed yearly. The H-2B riders that allow the executive branch to double the program with supplementary visas have been renewed every year since FY 2016, suggesting that once these riders make it into the bill, they are likely to be renewed as part of the yearly underlying bills.

16. The industries listed do not include the many year-round (or nearly year-round) jobs that can be found on crop farms, including equipment operators and supervisors. It's possible that up to one-third of the total 1.6 million full-time equivalent jobs in agriculture could be year-round.

17. The AEWR IFR has been challenged in federal court and vacated on procedural grounds, but the court left the current AEWR in place for the time being, with an order issued to DOL to issue a new AEWR methodology by December 30, 2026. What will result from a new methodology is an open question, but the possibility remains that the new rule could be similar to the current rule, if DOL fulfills the procedural requirements. For more background, see, for example, Office of Foreign Labor Certification, Employment and Training Administration, "OFLC Announces Updates to Implementation of the H-2A Adverse Effect Wage Rate Methodology for Non-Range Occupations Interim Final Rule; Compliance with District Court Order" (announcement), September 2, 2026, U.S. Department of Labor; Envoy Global, "Federal Court Orders DOL to Replace H-2A Wage Methodology," updated October 5, 2026.

18. See Exhibit 1 and Exhibit 7 in Employment and Training Administration, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, U.S. Department of Labor, Interim Final Rule, DOL Docket No. ETA-2025-0008, RIN 1205-AC24, 90 Fed. Reg. 47914 (October 2, 2025).

19. Daniel Costa and Ben Zipperer, "Trump's New H-2A Wage Rule Will Radically Cut the Wages of All Farmworkers: New Estimates Show Farmworkers Stand to Lose $4.4 to $5.4 Billion Annually Under DOL's Updated Adverse Effect Wage Rate," Working Economics Blog (Economic Policy Institute), November 26, 2025.

20. Except, arguably, for some positions in dairy as a result of the June 2026 USCIS memo; however, even employers hiring through that route must demonstrate that the need for the H-2A dairy worker is seasonal or temporary. U.S. Citizenship and Immigration Services, Policy Memorandum PM-602-0200, Subject: *Guidance on Temporary or Seasonal Need for H-2A Petitions for Dairying*, June 17, 2026.

21. The amounts have not been adjusted for inflation. The 2026 AEWR provides two "skill levels" for farmworkers, which are set at specific percentiles along the distribution of Occupational Employment and Wage Statistics wages surveyed. Skill Level 1 is the 17th percentile while Skill Level 2 is the median (50th percentile) of wages surveyed. For this calculation, I am only estimating the wage differentials for H-2A workers in year-round jobs who are classified by employers at Skill Level 1, which DOL estimates will account for 92% of all H-2A workers.

22. For a discussion of the first instance of H-2B riders in the FY 2016 appropriations legislation, see Daniel Costa, "The Substance and Impact of the H-2B Guestworker Program Appropriations Riders Some Members of Congress Are Trying to Renew," Working Economics Blog (Economic Policy Institute), June 17, 2016.

23. For more background, see discussion in Daniel Costa and Josh Bivens, *The H-2B Visa Program Has Ballooned Without Being Fixed. Expanding It to Year-Round Jobs Like Meatpacking Would Lower Wages and Revenue: A High-Road Employment Strategy That Includes Green Cards Would Raise Wages and Spur Investment Instead*, Economic Policy Institute, September 2025.

24. See U.S. Citizenship and Immigration Services information pages for P visa subcategories: P-1A Athlete, last updated March 26, 2026; P-1B A Member of an Internationally Recognized Entertainment Group, last updated January 24, 2025; P-2 Individual Performer or Part of a Group Entering to Perform Under a Reciprocal Exchange Program, last updated February 24, 2021; P-3 Artist or Entertainer Coming to Be Part of a Culturally Unique Program, last updated February 24, 2021; U.S. Department of Homeland Security.

25. While there is a requirement from USCIS that an appropriate labor organization be consulted and provide a written letter for a P visa petition, it is unlikely, but ultimately unclear, that this requirement will apply to the new P-4 category. Further, there is no DOL labor certification, no prevailing wage requirement, and no DOL enforcement of P visa program rules to protect workers.

26. See, for example, Centro de los Derechos del Migrante and American University Washington College of Law Immigrant Justice Clinic, Taken for a Ride: Migrant Workers in the U.S. Fair and Carnival Industry, February 2013.

27. Daniel Costa, *The H-2B Temporary Foreign Worker Program: For Labor Shortages or Cheap, Temporary Labor?*, Economic Policy Institute, January 2016; Daniel Costa, "The Substance and Impact of the H-2B Guestworker Program Appropriations Riders Some Members of Congress Are Trying to Renew," Working Economics Blog (Economic Policy Institute), June 17, 2016; Daniel Costa, "Proposal to Change the H-2A Program via Appropriations Would Allow Agribusiness to Fill Hundreds of Thousands of Permanent, Year-Round Jobs with Temporary Guestworkers," Working Economics Blog (Economic Policy Institute), October 25, 2017; Daniel Costa, *As the H-2B Visa Program Grows, the Need for Reforms That Protect Workers Is Greater Than Ever: Employers Stole $1.8 Billion from Workers in the Industries That Employed Most H-2B Workers Over the Past Two Decades*, Economic Policy Institute, August 2022; Daniel Costa and Josh Bivens, *The H-2B Visa Program Has Ballooned Without Being Fixed. Expanding It to Year-Round Jobs Like Meatpacking Would Lower Wages and Revenue: A High-Road Employment Strategy That Includes Green Cards Would Raise Wages and Spur Investment Instead*, Economic Policy Institute, September 2025.

28. See, for example, Daniel Costa, "Trump Attacks on Temporary Immigration Protections Like TPS Hurt the Economy and Strip Millions of Their Workplace Rights," Working Economics Blog (Economic Policy Institute), May 12, 2025; Carolyne Im and Mia Hennen, "Second Trump Administration Has Ended Temporary Protected Status for Most Immigrants Who Had It," Short Reads (Pew Research Center), August 12, 2026.

29. Andrew Kreighbaum, "Stalled Release of Seasonal H-2B Visas Puts Strain on Employers," Bloomberg Law, March 26, 2025; Nick Niedzwiadek, "DOL Brings Back Visa-Processing Staff as Shutdown Drags On," Politico Pro, October 31, 2025.

30. Jennifer Scholtes, "The Trump Ally Cracking Down on Immigration in Washington — and Bringing in Foreign Workers Back Home," Politico, April 12, 2026.