

Rural Migration News

Blog 305

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U.S. Farm Labor Outlook

The US farm labor market employs about 2.5 million workers sometime during a typical year to fill 1.5 million full-time equivalent jobs (average employment). About 80 percent of hired farm workers, some two million, were born in Mexico, including 1.75 million who have settled in the US and 250,000 who work seasonally as H-2A workers for an average six months a year. Most of the settled Mexican-born workers arrived in the 1990s and early 2000s in their 20s, and are now in their 40s; half are unauthorized.

Farming has two major subsectors, crop and animal agriculture. Crop agriculture accounts for three-fourths of US farm employment and an even higher share of seasonal workers. Average crop employment has been relatively stable at 1.1 million over the past two decades, but a rising share of crop workers, 40 percent in 2020, are brought to farms by nonfarm crop support employers (NAICS 1151), over half of whom are farm labor contractors. About 80 percent of crop employment is covered by unemployment insurance.

US crop employment is 60 percent direct hire and 40 percent crop support. In California the ratio is 40-60, meaning that more workers have been brought to crop farms by crop support employers than were hired directly since 2010.

Farm production is concentrating on fewer and larger farms, and the marketing of many commodities is dominated by a few firms. Economics often assumes that many farmers produce identical corn, soybeans and wheat, and sell their crops in competitive markets where supply and demand determine prices, making farmers price takers in both input and output markets and

explaining why governments often support farm incomes.

Labor-intensive fruits and nuts, vegetables and melons, and horticultural specialties that include flowers, mushrooms, and nursery (FVH) crops are different from field crops such as corn or wheat in many ways. The 10 largest lettuce or mushroom growers, or the five largest marketers of avocados and berries, often supply a commodity year-round to supermarkets and food service firms by operating or purchasing in multiple locations. The 10 largest farms or marketers may account for half or more of total production or sales of a particular commodity.

For example, the 2017 Census of Agriculture reported over 25,000 US apple farms, but the largest 800 or three percent each had 100 or more acres of apples and collectively accounted for over 70 percent of US apple acreage; the 1,000 apple farms that each had sales of \$1 million or more accounted for two-thirds of US apple acreage. The COA reported over 1,100 lettuce farms, but the largest 67 or six percent that each harvested 1,000 or more acres accounted for over 80 percent of harvested lettuce acreage.

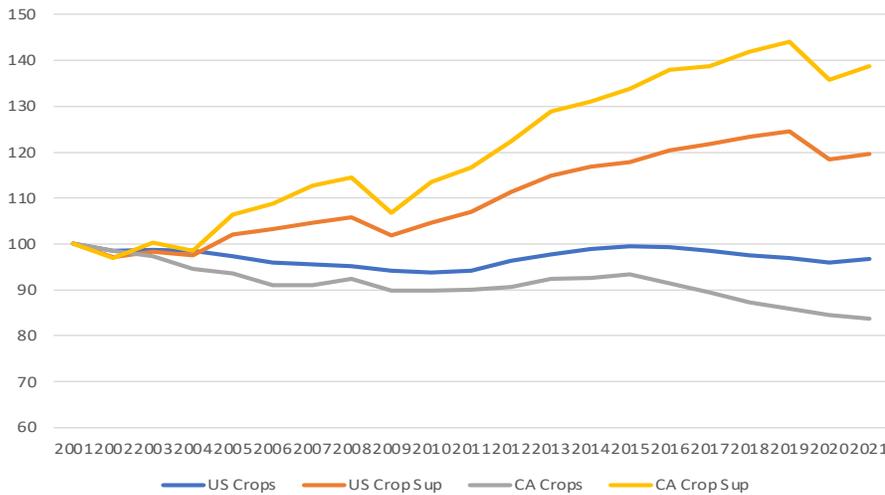
The production and marketing of many fresh fruits and vegetables is

80% of U.S. Hired Farm Workers Were Born in Mexico



Crop Farmers are Hiring Fewer Workers Directly and More Via Crop Support Firms

US and CA crop and crop support average employment (2001 = 100)



dominated by dozens of growers and marketers rather than tens of thousands. Marketers are concentrated in particular areas, as with fresh apples in WA and leafy greens in CA and AZ.

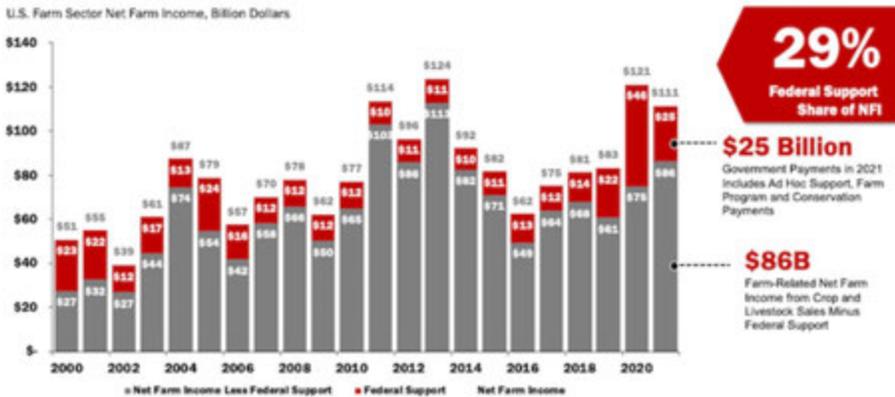
Labor Law

Federal labor laws enacted during the 1930s excluded agriculture, so that farm workers were not covered by the FLSA (minimum wages and child labor), NLRA (unions), and Social Security and UI legislation. The goal of farm labor reformers between the 1930s and the 1960s was to level the playing field between farm and nonfarm labor markets by removing agricultural labor law exemptions, at least for large factories in the fields or farms that received government subsidies.

Reformers succeeded in removing some of the agricultural exclusions from federal labor laws, although agriculture continues to be treated differently under child labor, UI, and other laws. After large-scale rural-urban migration and urban unrest in the 1960s, and when there was rapid labor-saving mechanization on farms, the federal government launched programs to help migrant and seasonal farm workers (MSFWs) and their children to get education, health care, and training so that they could obtain higher-wage non-farm jobs.

Government Support Provided Almost 30% of Net Farm Income in 2021

Net Farm Income w/ and w/o Federal Support



The Largest 10 Farms or Marketers can Account Half or More of a Commodity's Sales



Some states including California eliminated most farm-nonfarm differences in labor law, covering almost all farm workers under state minimum wage, UI, WC, and other labor laws and, more recently requiring that farm employers to pay overtime wages to farm workers on an 8/40 basis. Many other states have or are following California, including CO, NY, OR, and WA. California enacted an ALRA in 1975 that grants more

rights and privileges to farm workers and their unions than the NLRA.

Immigration

Immigration is a federal responsibility, and agriculture has often been treated differently under immigration laws. Between 1917 and 1921, and again between 1942 and 1964, Bracero programs admitted Mexicans to fill US farm jobs during “wartime emergencies,” but the programs were extended as employers became accustomed to guest workers and Mexicans became reliant on US earnings. The second Bracero program ended in 1964 as a form of civil rights for Hispanics after DOL concluded that the presence of Braceros reduced the expected growth in farm wages.

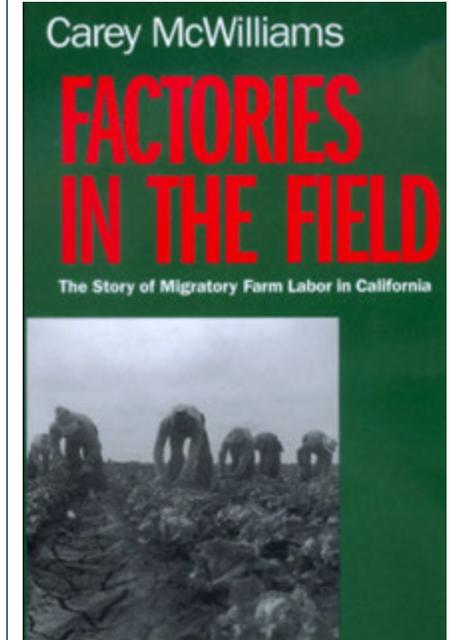
A separate H-2 program was included in 1952 immigration legislation that allowed all US employers anticipating too few US workers to fill seasonal jobs to be certified by DOL to recruit and employ guest workers. The H-2 program was small in the 1960s, 1970s, and 1980s, and the agricultural portion mostly involved up to 12,000 Jamaicans who hand-cut sugar cane in Florida and picked apples along the eastern seaboard.

The 15 years between the end of the Bracero program in the mid-1960s and rising unauthorized Mexico-US migration in the early 1980s was a “golden age” for US farm workers. These were the heyday years of the United Farm Workers, which won 40 percent wage increases for grape pickers in 1966 and for lettuce workers in 1980. However, internal UFW turmoil, political change in Sacramento, the exodus of conglomerates vulnerable to consumer boycotts from farming, and rising unauthorized migration combined to reduce real farm wages and the influence of the UFW in the 1980s.

The federal Select Commission (SCIRP) studied the “illegal alien” issue in the late 1970s and early 1980s and proposed the grand bargain at the heart of IRCA in 1986, viz, legalize unauthorized foreigners who had developed an equity stake in the US and impose sanctions on US employers who knowingly hired unauthorized migrants. Employers had to check the legal status of new hires to avoid fines, and the threat of sanctions was expected to close the labor market door to future unauthorized foreigners.

Legalization was controversial. Equity in the US was defined as being in the US at least five years for most unauthorized foreigners, but there was a special agricultural worker program for farm workers that required only 90 days of US farm work in 1985-86 to become an immigrant and eventually a US citizen. This “easy” SAW legalization program attracted 1.3 million applicants, including 1.1 million who were legalized, far more than the estimated 400,000 who had done the qualifying farm work. Fraud in the SAW program fueled a false documents industry that allowed unauthorized foreigners who arrived

Factories in the Field (1939) Argued that Workers on Large Farms Should be Protected by Federal Labor Laws



in the 1990s to present the work authorization documents required by I-9 forms, thus insulating employers from sanctions.

H-2A

IRCA modified the H-2 program by creating ag (H-2A) and nonfarm (H-2B) programs. Both programs require DOL to certify the employ-

The Big 4 MSFW Programs Spend About \$1 Billion a Year to Assist Farm Workers and Their Families



Governor Jerry Brown Signed the ALRA June 5, 1975

Calif. Gov. Brown Signs Historic Farm Labor Law

SACRAMENTO (AP) — Gov. Edmund Brown Jr. signed his landmark farm labor bill yesterday and said, "This is the beginning, not the end."

The Democratic governor said he hopes state-supervised, secret-ballot labor elections will bring stability and peace in California agriculture after a decade of violence.

But the 35-year-old governor cautioned Californians not to expect an instant solution to California's farm labor troubles.

"We shouldn't overstate what is going on here today. This is the beginning, not the end," Brown told a packed press gallery at the bill-signing ceremony.

"The inevitable struggles that are going to occur and must occur will go on in an equitable way. Let's set our ourselves on the back today. With a certain degree of humility, let's look to the future," Brown said.

The bill-signing marked the most spectacular achievement of Brown's five-month administration.

Brown's negotiations on the compromise bill eventually won him endorsements of major growers and California's two warring farm labor unions — Cesar Chavez' United Farm Workers and the Teamsters Union.

As he signed the landmark bill before television cameras and the standing-room-

only press gallery, Brown flashed a smile. But he was serious throughout most of the ceremonies.

The bill takes effect Aug. 26, in time to allow elections in two key fall harvests — the Salinas Valley lettuce crop and the San Joaquin Valley table grape crop.

Chavez has praised the Brown bill as "the best labor law ever." He has said he will demand elections under the new law early in September at E & J Gallo. Chavez said that could lead to the end of his nationwide Goliath boycott.

"Whatever tactics may have been employed in the past, what is required now is that the unions must win over the hearts and minds of farm workers," Brown said.

Brown said he believes the federal government should follow California's lead and enact a national farm labor law.

The Brown bill was endorsed by all major elements of California agriculture. But it only shifts the farm labor conflict to a new, and presumably more peaceful, arena, with state controls. It was clear that the battling in California agriculture is not over.

The new agriculture law outlaws recognition strikes, but it permits secondary boycotts by unions which that was recognition strikes. It also permits harvest-strike strikes.



'The Beginning'

California Gov. Edmund G. Brown Jr., center, talks with reporters in Sacramento after signing the landmark farm labor bill. Lt. Gov. Mervyn Dymally, left, and Assemblyman Richard Alatorre flank Brown. Alatorre was one of the law's chief authors. (AP Wirephoto)

The U.S. Admitted Almost 5 Million Braceros Between 1942 and 1964; 1-2 Million Mexicans Participated, as Many Returned Year-After-Year



er's need for guest workers to fill seasonal US jobs and to pay guest worker visa and transportation costs. The H-2A program is not capped and requires the employer to provide free housing and pay an AEWR, while the H-2B program is capped at 66,000 a year (with exceptions), allows employers to charge for housing, and requires payment of the prevailing wage for the job.

The East Coast farmers who were using the previous H-2 program resisted changes in IRCA, while

West Coast farmers who employed unauthorized migrants wanted a flexible program that did not require DOL certification or housing for guest workers. The number of farms with UFW contracts was shrinking, and California farmers feared that UFW supporters would apply for the jobs they were required to advertise, be hired and vote for the UFW, and leave the farms with union contracts. West Coast farmers also lacked housing for guest workers.

To satisfy western growers, IRCA included a replenishment or free-agent agricultural worker (RAW) program that would have issued portable work visas to guest workers. These RAW guest workers would have paid their own transportation costs to the US, found their own housing, and could have worked for any farm employer authorized to hire RAW workers. DOL and USDA were charged with measuring the supply of and demand for farm workers to determine the number of RAW work permits, which was zero because of the large-scale unauthorized migration after IRCA.

The unauthorized share of US crop workers, which was up to 25 percent in particular commodities in California and other southwestern states in the early 1980s, was over 50 percent throughout the US by the mid-1990s, as legalized and unauthorized Mexican workers spread to all states and commodities. Many newly legalized Mexicans moved from farm work to food processing, construction, and services to obtain jobs that offered higher wages and year-round work.

Farm employers acknowledged the rising share of unauthorized workers in the 1990s and advocated for another RAW-type guest worker program that would not require DOL certification, housing, and AEWRs. Congress debated several bills, but President Clinton in June 1995 threatened to veto any new ag guest worker bill: "I oppose efforts in the Congress to institute a new guestworker or 'bracero' program that seeks to bring thousands of foreign workers into the United States to provide temporary farm labor."

In 2000, the election of new presidents in Mexico and the US persuaded employer and worker advocates to agree on AgJOBS, a repeat of IRCA with several twists. AgJOBS

The UFW Won a 40 Percent Wage Increase in its First Grape Contract in 1966



IRCA's Grand Bargain: Legalize Unauthorized Foreigners and Impose Sanctions on Employers



went through several iterations in the two decades when it was the major vehicle for farm worker legalization and H-2A reform, but all versions followed the IRCA model of legalizing unauthorized farm workers and making it easier for farmers to hire H-2A workers.

The major differences between IRCA and AgJOBS legalization included requirements in AgJOBS that required legalized farm workers to continue to do US farm work for several more years before becoming immigrants and citizens. After several more years of US farm work, these legalized farm workers

and their family members in the US could become US immigrants. The H-2A program would have changed to eliminate DOL certification of an employer's need for guest workers, allowed farmers to provide a \$1 to \$2 an hour allowance to their guest workers that they would use to find their own housing, and frozen and studied the AEW. R.

AgJOBS was included in Senate-approved immigration reform bills of 2006 and 2013 that were not enacted.

The current ag immigration reform proposal is the Farm Workforce

Modernization Act approved by the House in 2019 and 2021. Like IRCA and AgJOBS, the FWMA would legalize currently unauthorized farm workers and make it easier for farm employers to hire H-2A workers. The FWMA would also require farm employers to use E-Verify to check the status of newly hired workers.

Under the FWMA, unauthorized workers would become Certified Agricultural Workers, a status that would allow their family members in the US to also obtain temporary legal status. CAWS would have to continue to do farm work to maintain their status, and could apply for immigrant visas after four to eight more years of farm work; their family members could also become immigrants.

The H-2A program would be modified to allow H-2A workers to fill year-round farm jobs on dairies, freeze the AEW. R. and study the need for a special minimum wage, and create a Portable Agricultural Worker (PAW) pilot program that would allow up to 10,000 foreigners a year to enter the US and work for a variety of farm employers for six years.

What Next

For the past three decades, US farm labor and immigration discussions have been dominated by proposals to legalize unauthorized farm workers and make it easier for farmers to hire guest workers. Meanwhile,

1. Farm employment stabilized at an average 1.5 million year-round equivalent including 1.1 million or three fourths in crop agriculture
2. The farm workforce stabilized at 2.5 million, with 80 percent of workers born in Mexico. Some 800,000 to 900,000 of the two million Mexican born workers are unauthorized, and 250,000 are H-2A workers.

IRCA Included a SAW Legalization Program and a RAW Replenishment Program

The Role of Guest Workers in U.S. Agriculture



AgJOBS Would have Legalized Unauthorized Farm Workers and Made it Easier for Farmers to Employ H-2A Workers

AgJOBS:

New Solution or New Problem?

An historic compromise between employer and worker advocates would legalize some currently unauthorized workers and make it easier for farmers to obtain guest workers, but may not fundamentally change the farm labor market.



3. There is less direct hiring of workers by crop farms, 60 percent of US crop workers are hired directly, and 40 percent of workers are brought to farms by crop support services such as farm labor contractors. FLCs account for almost half of H-2A jobs, and dominate among the largest 10 employers of H-2A workers.
4. The average hourly earnings of farm workers have been increasing faster than average nonfarm hourly earnings, narrowing the traditional ratio 50 percent gap. Average farm worker earnings of \$15 an hour in 2020 were 60 percent of the nonfarm \$25 an hour.

Unions and CBAs have been largely replaced by NGOs that educate and advocate for farm workers or certify farms as in compliance with labor, environment and other standards. Instead of workers electing union representatives to negotiate higher wages and benefits, these NGOs encourage consumers and produce

buyers to favor certified growers who have been audited to ensure that they satisfy labor and other standards.

Meanwhile, rising farm labor costs are prompting adjustments that include:

1. Labor-saving mechanization to replace hand workers and mechanical aids to make them more productive, including machines to shake blueberries from plants and robots to carry hand-harvested table grapes to packers.
2. More H-2A guest workers, many of whom are employed by FLCs who house them in urban areas and move guest workers from farm to farm
3. More imports of fresh produce from lower-wage countries such as Mexico, the source of half of US fresh fruit imports and three-fourths of US fresh vegetable imports

Other trends influencing the farm labor market in the 2020s include

more indoor or Controlled Environment Agriculture that makes some previously seasonal jobs year-round, more technology that requires more skilled workers, and increasing complementarity between production in the US and abroad, as when the same US-based producers and marketers produce and market berries and table grapes in the US and abroad.

With or without immigration reforms, the 2020s are likely to be marked by:

1. More Mechanization. Venture capital is supporting firms that seek ways to produce fresh produce with fewer workers, often by changing farming systems to facilitate the use of machines, as with high-density apple trees that form fruiting walls. Mechanical aids such as robots reduce the need to carry harvested produce, enabling fewer workers to accomplish more work. The result is fewer farm workers with more skills who earn higher wages.
2. More H-2As. Most of the fresh blood in the farm workforce is from legal Mexican guest workers who are in their 20s and 30s. H-2A workers are spreading to all US commodities and areas, and almost half are employed by FLCs who may move them from farm to farm.

H-2A expansion is contested, with farmers complaining the procedures are too complicated and costly and worker advocates alleging widespread violations of H-2A regulations and forced labor. The federal WHD, which enforces H-2A regulations, conducts about 1,000 ag investigations a year. The low probability of an investigation encourages some employers to develop business models that depend on violating H-2A regulations.

The FWMA is the Current Version of AgJOBS

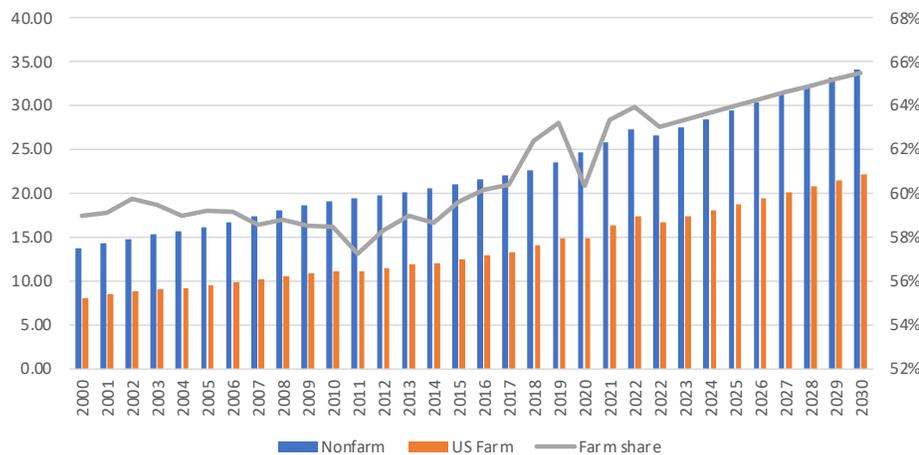
FARM WORKFORCE MODERNIZATION ACT

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



Average Hourly Farm Earnings of \$22 are Projected to be 65% of Nonfarm \$34 in 2030

Nominal farm and nonfarm hourly earnings, 2000-2030



The 2020s may see a new approach to labor law compliance. Instead of only the threat of penalties, good employer behavior could be rewarded by creating an ABC ranking system that allows A-rated employers to receive multi-year certification, self-inspect their housing, and offer multi-year visas to experienced H-2A workers. If larger H-2A users with HR departments to help them to understand and comply with

H-2A were given multi-year certification, smaller employers could use them to obtain H-2A workers, raising overall compliance levels. This is analogous to tighter pesticide regulations prompting smaller farmers to outsource pesticide applications to specialist firm

3. More imports. Over 60 percent of US fresh fruit, and 35 percent of US fresh vegetables, are imported. Mexico supplies half of US fresh fruit imports and

three-fourths of fresh vegetable imports from relatively large farms in northern and western Mexico that employ about 750,000 Mexican workers. This means that a total of 2.75 million Mexicans are employed on farms to produce fresh produce for Americans, including a quarter in Mexico. During the 2020s, the number of Mexican workers employed on Mexican farms that export is likely to rise while the number employed on US farms shrinks.

The farm labor market is being buffeted by changes that range from covid to technology to imports to changes in consumer preferences and in retailing and food service. These factors interact, sometimes in hard to anticipate ways. Past legislative efforts to deal with farm labor issues often had effects that were the opposite of what was intended, as with the ALRA that led to fewer farm workers being represented by unions and the IRCA which led to a higher share of unauthorized farm workers. How can the interactions of the factors affecting farm labor be understood so that the effects of proposed changes are better anticipated?

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