Laura Elizabeth Pohl

Farm Workers and Immigration Policy

Chapter 3

Recommendations

- Unauthorized farm laborers should have a legal means of being in the United States.
- An agricultural guest worker program should include support for rural development in migrant-sending communities of Mexico and Central America.

CHAPTER SUMMARY

FOR MORE THAN A CENTURY, AGRICULTURE HAS BEEN AN ENTRY POINT INTO THE LABOR MARKET FOR IMMIGRANTS IN THE UNITED STATES. Presently, close to three-fourths of all U.S. hired farm workers are immigrants, most of them unauthorized. Their unauthorized legal status, low wages, and an inconsistent and sometimes unpredictable work schedule contribute to a precarious economic state.

Immigrant farm workers fill low-wage jobs that citizens are reluctant to take. Attempts to recruit citizens for farm worker jobs traditionally held by immigrants have failed. In the absence of immigrant labor, farmers would be forced to shift to mechanized crops or stop producing altogether. Domestic production of fruits and vegetables—foods Americans should be consuming more of—could decrease significantly without immigrant farm workers.

In spite of the key role they play in U.S. agriculture, unauthorized immigrant farm workers labor under increasingly hostile conditions. The Agricultural Job Opportunity, Benefits and Security bill (AgJOBS) was developed cooperatively by farmers and farm worker advocates to address the status of farm workers. Public concern about unauthorized immigration by and large has held up prospects of enacting the bill into law.

The status quo is unacceptable. Farm workers should be able to work without fear of deportation, and farmers need a steady source of labor and assurances they will not lose access to workers they depend on. It is up to policymakers to help the public see the importance of immigrant farm workers to the U.S. agricultural system.

AgJOBS—or any agricultural guest worker program that recruits from Mexico or Central America—should include development assistance to reduce poverty in rural areas where these workers originate. Rural development can provide poor people with alternative sources of livelihood than migrating to the United States.

Laura Elizabeth Pohl

Maria's Story

Maria came to Florida *para salir adelante*—to get ahead. She arrived as a teenager in the mid-1990s, escaping a life of poverty on her family's Oaxacan corn patch.

Maria and her husband envisioned a future for their family that was out of reach in Oaxaca, one of the poorest states in Mexico. In south Florida, she worked seven days a week filling bins with squash, tomatoes, beans, and cucumbers. Neither of them enjoyed working in the Florida fields, but without papers it's all they could do. "That's why we came here—to work," said Maria, now 34 years old. "In the factories or restaurants they ask for papers, but in the fields no."

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Labor-intensive agricultural commodities, primarily fruits, vegetables, and horticultural products, account for 35 percent of the value of all U.S. crops.

Although their lives were not easy, for years they felt they were moving ahead. But in 2008, the country plunged into a deep recession and agricultural work in Florida grew scarce. "For the past few years, we are working only to survive," Maria said. To supplement their income, the couple would travel north to plant tomatoes during the Florida off-season. In 2010, Maria couldn't go because she was pregnant, so her husband went to Ohio alone. The family has not been together since.

Traveling by bus on his way back to Florida, Maria's husband was stopped by immigration officials and deported to Mexico. "He wants to return, but it's very difficult," she said. "They charge $4,000 to $5,000 to cross the border. This is money I don't have."

Maria's husband is now in Mexico working to raise the money to return to the United States, but to earn what it costs is difficult for a laborer without a formal education or marketable skills.

Maria thought about going back to Mexico. For her U.S.-born children, Mexico is an unknown and unappealing destination; they're American in every sense of the word. Despite Maria's full-time job, the loss of her husband's income means that Maria's daughters, who are citizens, depend on federal nutrition programs to ensure they have enough to eat. Maria herself relies on support from civil society organizations like the Farm Worker Association of Florida. She continues to work in the bean fields. For the sake of her children, she's going to stay in the United States and hope for the best.

71%

The percentage of hired farm workers who are immigrants.

36 years The average age of crop workers.

Number of unauthorized immigrants in the United States: 11.2 million

The Agricultural Workforce

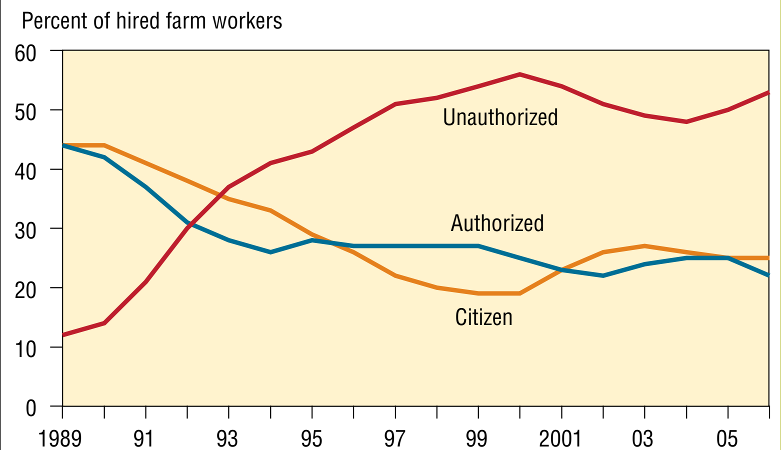
John Steinbeck's 1939 novel *The Grapes of Wrath* described the harsh working conditions of migrant farm workers from the Midwest. More than 70 years later, agricultural work in the United States is still often harsh and wages are low. But the composition of the farm labor force has changed. There are no more Okies. Instead, farm workers come from places like the Mexican states of Guanajuato and Michoacán. The majority of hired farm laborers in the United States are unauthorized immigrants (see Figure 3.1), and most unauthorized workers are from Latin America—particularly Mexico. Spanish is the lingua franca of farm labor; 71 percent of farm workers identify it as their primary language.[1]

U.S. agriculture has long been a point of entry into the labor market for immigrants, and the agriculture sector has been dependent on immigrant labor for more than a century. In the 1880s, 75 percent of seasonal farm workers in California were Chinese. In 1882, in response to pressure from working-class whites, Congress passed the first of a series of anti-Asian immigration laws that barred the entry of laborers from China. Field labor positions were subsequently filled by new waves of Asian immigrants: first Japanese and Filipinos, then laborers from British India. On the East Coast, French Canadians, Caribbean Islanders, and European immigrants, in addition to low-income native whites and African Americans, were part of the agricultural workforce.[2]

With the passage of legislation restricting immigration from Asia, farmers increasingly relied on a source of field labor that caused them much less grief. Mexico was a nearby source of workers, eager to escape poverty in their home country and often already familiar with farm work. The proximity of Mexico made it easier to expel these workers than Asians or Europeans.

During World War II, in response to reported labor shortages, the U.S. government made efforts to recruit Mexican farm workers. These efforts included a bilateral agricultural guest worker program which set the stage for the emigration of millions of Mexican agricultural workers (authorized and unauthorized) to the United States, both during and after the war.[3]

Figure 3.1 **Legal Status of Hired Crop Farm Workers, 1989-2006**



Source: USDA analysis of National Agricultural Workers Survey data, 1989-2006.

58% of all unauthorized immigrants to the United States are Mexican.

about ONE million Estimated number of crop and livestock workers who are unauthorized.

BOX 3.1 IMPORTING FARM WORKERS: FROM BRACERO TO H-2A

As World War II intensified, the need to produce food for the troops helped overcome public opposition to Mexican agricultural guest workers. The Mexican government was also initially reluctant to allow its citizens to work in U.S. agriculture, but the Mexican Labor Program—commonly known as the "Bracero Program"—became the official Mexican contribution to the war effort.[4]

The Bracero Program operated from 1942 to 1964. Between 1 million and 2 million Mexican agricultural workers participated in the program, some going back and forth across the border several times for a total of 4.5 million admissions of workers to the United States. During the war years, the program required the U.S. Department of Agriculture to provide the Mexican workers with the same safety and health protections as U.S. agricultural workers. Employers had to pay migrant workers the prevailing wage so as not to undercut domestic farm worker wages. Other worker protections were also included. But the U.S. and Mexican governments failed to comply with key parts of the agreement—at the expense of Mexican workers.[5] During the 1950s, the effect of the Bracero Program was to suppress farm worker wages.

Although the program was initially slated to end after World War II, U.S. growers used their political clout to advocate for the program's continuation, claiming that eliminating it would cause labor shortages and end in disaster for U.S. agriculture.[6] The program eventually ended in 1964, after 22 years, in the midst of the Civil Rights Movement and under pressure from organized labor, the U.S. Catholic Church, and Mexican-American organizations that denounced exploitation and abuse within the program.[7]

Growers' predictions of catastrophe did not come to pass. The end of the Bracero Program brought changes that increased efficiency and improved working conditions. Agricultural economist Philip Martin explains that in lieu of cheap and abundant labor, growers began to use modern human resource methods to ensure that farm workers were deployed more efficiently. The most effective workers on each crop were identified and assigned to work in their areas of expertise, which led to more consistent production. Both workers and growers benefited financially from the increase in productivity.[8] Martin describes the post-Bracero era as the "golden age" for farm workers.

July 1942:
The United States and Mexico agree to the Mexican Labor Program (Bracero Program) to bring Mexican agricultural guest workers to the United States to fill seasonal farm worker jobs.

National Museum of American History

July 1942

September 1942:
First Bracero workers enter the United States in El Paso, TX, en route to Stockton, CA, sugar beet fields.

December 1952:
Immigration and Nationality Act creates the H-2 temporary worker program used mostly by East Coast growers (primarily hiring Caribbean temporary workers) while West Coast growers continue to rely on the Bracero Program.

Oregon State University Archives

1956:
Annual Bracero admissions peak at 445,197.

BOX 3.1 IMPORTING FARM WORKERS: FROM BRACERO TO H-2A

The end of the Bracero Program also meant increased mechanization. An industry that relied on immigrant labor had to adapt when the flow of legal immigrant workers stopped. Martin explains what happened using the example of tomatoes produced for sauces and other processed foods. These process-grade tomatoes were harvested by Bracero workers during the early 1960s. Within a few years of the program's end, harvesting was mechanized, the industry expanded, and tomato prices decreased.[9]

Farm workers became increasingly unionized in the late 1960s and the 1970s, since growers could no longer prevent labor strikes by threatening to replace striking workers with Mexican participants in the Bracero Program. From the end of the program in the mid-1960s through the 1970s, most farm workers were U.S. citizens. In 1965, farm labor leaders such as César Chávez organized boycotts of goods produced by growers that did not cooperate with farm worker organizations. Most growers were not directly affected by farm worker unions, but many raised their wage rates to discourage unionization; during the 1970s, farm worker pay was raised well above the federal minimum wage.[10]

But the golden age didn't last. Beginning in the early 1980s, economic crises in Mexico caused a surge in immigrant farm workers in the United States. The H-2A Temporary Agricultural Program was created in 1986, partly as a response to the increasing numbers of unauthorized farm workers. Today, H-2A remains the only legal means of employing foreign agricultural workers. But it is unpopular with both growers and farm worker advocates. Growers say it is too cumbersome to meet the needs of seasonal agriculture, while advocates say that its worker-protection provisions are not enforced effectively.

In theory, the H-2A program places no numerical limit on guest workers. In practice, about 100,000 long-season farm jobs—10 percent of all such jobs—are filled through the program.[11] H-2A has been growing in recent years; more growers are using this legal channel in response to the pressure created by more aggressive immigration enforcement.

Oregon State University Archives

December 31, 1964:
Bracero Program ends with a total of 4.5 million admissions since the program originated 22 years earlier. By the end, 2 million Mexicans have participated in the program (some for multiple years).

November 1986:
Immigration Reform and Control Act (IRCA) divides the H-2 program into the H-2A agricultural program and the H-2B non-agricultural program. The vast majority of H-2A workers are recruited from Mexico.

2011:
In response to immigration enforcement pressures, the H-2A program increases to about 100,000 workers annually, 10 percent of all long-season farm jobs.

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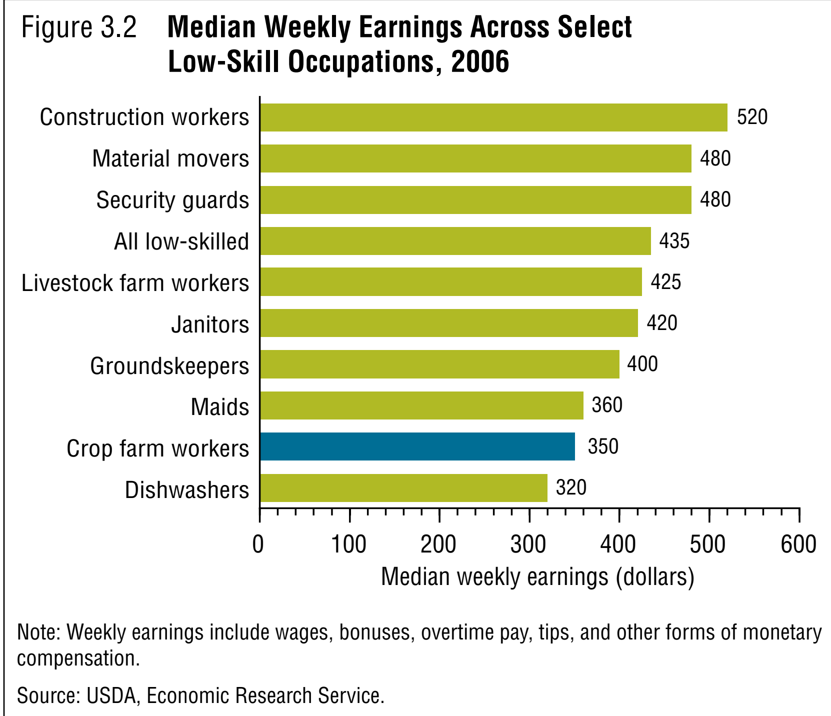
2011

"The Most Economically Disadvantaged Working Group in the United States"[12]

Three-fourths of hired farm workers are immigrants, mostly from Mexico.[13] About half of all U.S. hired farm workers are unauthorized immigrants.[14] Although immigrant farm workers have higher incomes in the United States than at home, they don't always escape poverty as they had hoped.[15] Hired farm work is among the lowest-paid work in the country.[16] In 2006, the median earnings of these workers—$350 per week—were lower than those of security guards, janitors, maids, and construction workers. Only dishwashers were found to have a lower weekly median income.[17] (See Figure 3.2.)



Note: Weekly earnings include wages, bonuses, overtime pay, tips, and other forms of monetary compensation.

Source: USDA, Economic Research Service.

Although the poverty rate of farm worker families has decreased over the past 15 years, it is still more than twice that of wage and salary employees as a group, and it's higher than that of any other general occupation.[18] A study commissioned by the Pennsylvania State Assembly found that 70 percent of the state's migrant farm workers live in poverty.[19] A 2008 survey in Washington state demonstrated the impact of poverty: 6 percent of farm workers reported being homeless—living in their cars or sheds.[20] In California, farm communities "have among the highest rates of poverty and unemployment in the state."[21] A study of Latino farm workers in North Carolina found that their level of food insecurity was four times higher than the general U.S. population. Nearly half—47 percent—of the Latino farm worker households in the study were food insecure; this proportion rose to 56 percent among households with children.[22] Another study found that 45 percent of all rural Latino families in Iowa were food insecure.[23]

A second cause of food insecurity—in addition to low wages—is the seasonal nature of some farm work. Families' average annual earnings decrease when laborers cannot find work throughout the year. In fact, farm workers' earnings average out to only about $11,000 a year.

Unauthorized legal status, low wages, and inconsistent, sometimes unpredictable work schedules add up to a precarious economic state.[24] In central Florida, where hurricanes and freezes can wipe out crops overnight, food insecurity is a perennial threat. In 2010, for example, a series of freezes destroyed the pepper, strawberry, and tomato crops that farm workers are needed for. "People are working a couple hours a day in some communities," said Bert Perry, a community organizer for the National Farm Worker Ministry in Florida.

Escalated immigration-law enforcement has injected fear into an already difficult economic situation. "There [in Mexico] we lived poor, but we lived peacefully," said a Mexican farm worker in Florida. "Here we live poor, but also in desperation." Fear sometimes deters farm workers from accessing nutrition and other federal programs they qualify for. In spite of their high poverty rates, 57 percent of all hired farm workers—a group that includes authorized as well as unauthorized workers—report receiving no public support.[25] Unauthorized farm workers, in particular, often rely on private organizations as their main source of support in emergencies.[26]

The Elusive Citizen Field Laborer

U.S.-born workers do not have much interest in farm labor, and it is not hard to understand why. Farm work is one of the most hazardous occupations in the United States.[27] Workers face exposure to pesticides and the risk of heat exhaustion, heat stroke, and/or repetitive stress injury. (See Box 3.2, next page.) Moreover, farm workers are not included in most minimum wage and hour guarantees. Most farm workers do not receive benefits, but some states with large numbers of farm workers, including California, Oregon, and Washington, provide wage and hour protections, as well as mandatory rest and meal periods over and above those mandated by federal law.[28]

Growers have a long history of successful advocacy for access to foreign agricultural labor. In the past, they have asserted—incorrectly—that without foreign workers U.S. agriculture would face disaster. But anti-immigration activists and some elected officials dispute the argument that U.S. citizens will not work as field laborers.

There is, in fact, ample evidence that U.S.-born citizens will not replace foreign-born farm laborers at any realistic wage. "There have been a number of efforts to recruit non-migrant workers ... and it has been very difficult to recruit and retain [them]," says Nancy Foster, president of the U.S. Apple Association. "Native workers do not show up for these jobs."[29]

Richard Lord

Most wine grapes are harvested mechanically but some ultra-premium wines still employ farm workers for hand picking.

In 2006, the Washington State apple industry launched a campaign to recruit U.S.-born field workers. State and county agencies set up advertising, recruitment, and training programs for 1,700 job vacancies. In the end, only 40 workers were placed.[30] Mike Gempler, executive director of the Washington Growers League, who helped run the recruitment program, said that the barriers to recruitment were simply part of the nature of farm work. "The domestic workforce ... found work that was inside, less physical, out of the sun. And [work] that wasn't seasonal so they didn't have to look for another job when the apples were off the tree ... [with] seasonal work you are always hustling to find the next job ... that's a stressor."

Following the 1996 Welfare Reform legislation, which required work as a condition of the new Temporary Assistance for Needy Families (TANF) pro-

BOX 3.2 A CASE FOR ENVIRONMENTAL JUSTICE

by Jeannie Economos
Farm Worker Association of Florida

Do we really know the hidden cost of the food that we eat? Savoring strawberries or an orange, we generally think we are eating healthy fresh produce. Concepts such as Parkinson's syndrome, cancer, birth defects, autism, and Lupus are the farthest thing from our minds. Yet these are some of the realities that could be awaiting farm workers after a lifetime, or even after just a few seasons, of exposure to the toxic pesticides and fertilizers used today in U.S. fields and orchards.

iStock

In addition to these long-term risks, the work that is vital to the production of our food also carries disproportionate risks of short-term health consequences. Hazardous and toxic pesticides can affect both workers and their families. Some of the immediate impacts of exposure to pesticides (within the first 12-24 hours) may include headaches, nausea, vomiting, dizziness, sweating, eye irritation, difficulty breathing, and skin rashes.

The Environmental Protection Agency (EPA) established the Worker Protection Standards to reduce the likelihood that farm workers would be directly or indirectly exposed to pesticides. But all too often, farm workers do not receive required training in pesticide health and safety protocols. The majority of farm workers today are immigrants who know little about their workplace rights and protections. Most speak limited English; this, coupled with fear of employer retaliation, may make them reluctant to discuss workplace dangers.

Organophosphates are chemicals commonly used in agriculture today, but they pose significant risks. One in particular, chlorpyrifos, has recently been linked to attention-deficit hyperactivity disorder (ADHD) in children. While chlorpyrifos has been banned for residential use, it is still approved for use in agriculture, and farm workers' children often play or work in the fields alongside their parents.

As recently as 2007, the EPA approved the pesticide methyl iodide for use in agriculture, although it is a known carcinogen and groundwater contaminant. Safer and healthier alternatives for pest control exist, but they have not been extensively studied or put into nationwide use. Until they are, farm workers will continue to be at serious risk from pesticide exposure.

Farm workers are often referred to as the "invisible ones." Though every one of us eats, few of us think about how and by whom our food was planted, tended, and harvested. And while there is information coming out regularly about the healthfulness of organic products, we hear virtually nothing about the health of families eking out a living in farm work while risking exposure to pesticides.

Jeannie Economos is the pesticide safety and environmental health project coordinator for the Farm Worker Association of Florida.

gram, Sen. Dianne Feinstein (D-CA) secured the passage of a program to place California's welfare recipients in farm jobs in the Central Valley. State and county workforce agencies and growers' associations collaborated to identify agricultural zones where welfare recipients could be channeled. But only a handful of potential participants were successfully recruited for farm labor.[31]

Miguel Baltazar Lorenzo (left) and Jesus Pulido Alejo sort and pack cherry tomatoes in Duffield, VA.

Manuel Cunha of the Nisei Growers League in California was involved in this recruitment drive. He explained, "There was a huge training program with the universities and the junior colleges to train these people [welfare recipients] in agriculture. Of 137,000 eligible workers, 503 applied and three actually went to work." Cunha echoed Gempler's comments on the barriers to recruiting citizens for farm work: "We are not going to train people in agriculture because it's seasonal and because it's too hard."

In short, there is no evidence that removing immigrants from farm labor would create job vacancies that unemployed citizens would fill. If immigrant farm workers were no longer available, growers would likely try to mechanize their crops or abandon labor-intensive agriculture, leaving the United States to fill the food gap with additional agricultural imports.

Farmers and Farm Workers

Even a cursory look at the intersection of the U.S. farm and immigration systems reveals a fundamental contradiction. While many farm operators depend on foreign labor, immigration law denies foreign workers legal status unless they arrive through the H-2A program. If a non-H-2A farm worker is in the wrong place at the wrong time, he or she can be expelled from the United States.

Growers have long urged authorities to look the other way as they employ a foreign-born, unauthorized workforce. But employers are now confronted with the possibility that using the E-Verify program for all new hires could become mandatory (see Box 3.3). With no viable alternative to immigrant labor, they are calling for reforms that would legalize their unauthorized workers.

The State Department has described poor working conditions on farms as "endemic," and the number of slavery cases involving farm workers demonstrates the extreme vulnerability of farm workers to the actions of those in positions of relative power.[32]

Florida has prosecuted several cases of abusive treatment of farm workers that met the legal definition of slavery. The Coalition of Immokalee Workers (CIW) played a key role in bringing these cases to light. Labor contractors, supervisors, and crew leaders are typically responsible for exploiting farm workers, although growers can use these intermediaries to try to shield them-

selves from charges of worker abuse by supervisors or of not intervening when abuse should have been suspected.

The most egregious abusers of immigrant farm laborers are sometimes unauthorized immigrants themselves. In one 2008 case, brothers Cesar and Giovanni Navarette and other members of their family—Mexican nationals—were found guilty of locking farm workers in trucks without running water or toilets, charging them $5 to wash using a garden hose, denying them pay, shackling them with chains, and slashing them with knives if they refused to work. Both Navarette brothers, as the leaders of this agricultural-worker slavery ring, pled guilty to charges of forced labor and other counts and received 12-year prison sentences.[33]

Not all relationships between farm workers and growers are adversarial. Many farm workers and growers have long-term relationships where both parties prosper. Today, farm worker advocates agree with growers on issues central to farm labor reform; both groups want a stable, legalized system of farm labor. Farmworker Justice, an advocacy organization based in Washington, DC, seeks to "empower seasonal farm workers" and finds itself working toward goals that growers also embrace. "[Growers] want access to their workforce without worrying about raids by Immigration, Customs and Enforcement (ICE)," says Farmworker Justice senior attorney Adrienne DerVartanian. California grower representative Manuel Cunha said that the increasing numbers of employment eligibility reviews conducted by ICE on farms have been "devastating to our industry."

BOX 3.3 E-VERIFY

Laura Elizabeth Pohl

E-Verify is an Internet-based system that enables employers to electronically verify the work eligibility of newly-hired employees. It was created during the Clinton Administration as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.[34] Currently, 216,721 employers are registered to use the E-Verify system voluntarily.[35]

The "Legal Workforce Act," introduced in the U.S. House of Representatives on June 14, 2011, by Rep. Lamar Smith (R-TX), would mandate the use of E-Verify by every employer in the United States.[36] The act could directly impact the 1 million to 1.5 million unauthorized farm workers in the United States, their families, and their employers.

Smith and his supporters say that the program will clear unauthorized immigrants from jobs that should be filled by unemployed legal workers. "It addresses the jobs crisis and provides needed jobs for those who want them," Smith says.[37]

Growers say that mandatory E-Verify will deny them a labor force. "If it were implemented it would be … economically ruinous," says Washington Growers League President Mike Gempler.

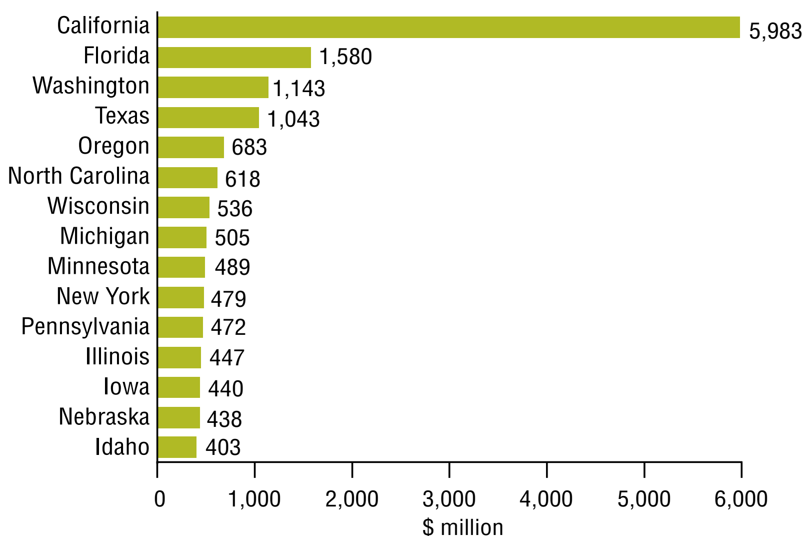
The bill allows growers to count returning seasonal workers, those hired in previous seasons, as current employees who don't need to be verified.[38] Although this would provide some workers with a legal means of working, it provides little comfort to them outside of work, where they would still be considered illegal and, accordingly, subject to deportation.

A Specialty Crop Sector on Edge

Fruits, vegetables, and horticulture make up a class of agriculture known as specialty crops. More than 75 percent of all hired farm workers in the United States work on these labor-intensive crops.[39] The $51 billion specialty crop sector is increasingly a source of export revenue for the United States; between 1989 and 2009, exports of high-value agricultural products, including fruits and vegetables, more than tripled.[40] (See Figure 3.4, next page.)

While California and Florida remain the largest specialty crop producers, specialty crops are grown across the country, and many states depend on them to bolster their economies.[41] (See Figure 3.3. for states who use significant farm labor.) In the following sections, we consider how immigration issues are playing out in two of these states, Michigan and Georgia.

Figure 3.3 **States with Highest Farm and Contract Labor Expenses, 2002**



Source: ERS analysis of 2002 Census of Agriculture data.

Michigan

Michigan is the second-most diverse agricultural state, after California, with commercial production of more than 200 commodities.[42] The resilience of its agricultural sector is particularly important for a state that has suffered long-term economic decline and job loss.

"Agriculture has been one of the real backbones [of the state's economy] as we've struggled with the manufacturing downturn," said Don Koivisto, director of Michigan's Department of Agriculture.[43] This is reflected in the state's population trends: while other Midwest states had shrinking rural populations, Michigan's rural population increased faster than its urban population during the three decades 1980-2010.[44]

Michigan's fruit and vegetable sector would be in peril without immigrant labor. According to a 2006 report from Michigan State University, crops using migrant labor comprised 58 percent of the total economic activity generated by the state's farm sector and related input supply industries. "Without migrant workers, some farmers would reduce output or leave the business," the report stated.[45]

Michigan growers describe the loss of foreign-born workers as a threat to their livelihoods. During a Senate Agricultural Committee Field Hearing held at Michigan State University in May 2011, Michigan Apple Association Chair Julia Rothwell said that if Michigan farmers do not have immigrants to harvest their crops, "we will cease to exist."[46]

This view is echoed by other Michigan fruit and vegetable growers, who are unequivocal about the importance of immigrant workers. "We're sweatin' bullets every day that they'll knock on the door and take our help away," said Charles Smith [a pseudonym], a third-generation specialty crop farmer. "We

Figure 3.4 **Major Fresh Fruit and Vegetable Exports, 2009**

Fresh fruits	Value ($ millions)
Apples	$753
Grapes	588
Oranges	345
Strawberries	325
Cherries	286
Grapefruit	185
Pears	153
Peaches	137
Lemons	110
Subtotal	$2,882
Fresh vegetables	
Lettuce & cabbage	$431
Tomatoes	179
Carrots	127
Onions	126
Potatoes	125
Broccoli	119
Subtotal	$1,107

Note: Includes only fresh fruits and vegetables with export value over $100 million in 2009.

Source: USDA, Economic Research Service.

rely on migrants. If they go away, we'll go back to growing soybeans. At that point, you are dealing with the same commodities they grow in Iowa ... with many thousands of acres when we have only hundreds of acres." When asked if he could switch to citizen workers instead of immigrants, Smith echoed other specialty crop growers around the country: "They won't do it." Frank Jones [also a pseudonym], a fourth-generation specialty crop farmer, relies on immigrant workers to grow strawberries, cantaloupes, cucumbers, and apples, among other crops, on his 1,200-acre farm. Jones said that if he lost access to his migrant workforce—about 200 seasonal workers—he'd switch to growing corn and soybeans. But even if he can make a go of it with new crops, the switch would harm his 12 full-time employees, all of whom are U.S. citizens that he employs to operate heavy machinery. "[They] will not have a job," said Jones.

According to farm worker advocates, small and medium-sized farmers like Smith and Jones are likely to treat their workers better than larger operations that employ farm workers. "[Problems are less common with] the family farms that have the same migrants coming back year after year ... they are good to their workers," said Theresa Hendricks, director of Michigan Migrant Legal Assistance.

Michigan farm worker Pasqual Hernandez said he earns $8 an hour and enjoys working in agriculture as his father did in Chiapas, Mexico. He sends some of his earnings to his family in Mexico for food and medicine, but he's unable to visit them. Like many immigrants, Hernandez planned to work in the United States for a couple of years, save up money, and return home. But the dangers of crossing the border have dissuaded him from going back, at least for now: "I changed opinions because I saw that a lot of people were going ... and there are some that do not return; they die in the desert."

Regardless of the quality of their relationships with their employers, the primary concern of most unauthorized farm laborers is their legal status. Among the states that employ large numbers of unauthorized farm workers, Michigan is one of the more hospitable, but the fear of being deported is pervasive here, too. "The biggest difficulty is the fear one has of being captured and being sent back to Mexico," Hernandez said.

Robert Sierra, a farm field manager, described the difference between being authorized and unauthorized to work in these terms: "Nothing is ever sure with the undocumented. You don't live peacefully; it's hard to sleep at night. You are fearful of investing in anything because if you are sent back to Mexico, all that you have saved for will stay here."

Research indicates that most workers stay in agriculture for 10 or fewer years. But some immigrant farm workers say that if the working conditions and pay are decent, they wouldn't want to do anything else. A much larger share of the population earns a living in agriculture in Mexico than in the United States—less than 2 percent of Americans work in agriculture. Many rural Mexicans, when they can't make ends meet, end up moving to Mexican

cities. But some opt to leave the country for the United States, and they often end up living and working in rural America.[47]

Sierra, 40, said he began working in agriculture at age 12 in Querétaro, Mexico. He came to the United States because he couldn't make a living in rural Mexico. "I have always been used to working in the fields and it's what I know best," he said. "You become accustomed to it. You feel you have more freedom than in construction or warehouses."

Georgia

Agriculture (which includes fishing, forestry, and hunting) is a $3.9 billion industry in Georgia. In 2009, fruits, nuts, vegetables, and ornamental horticulture—all heavily dependent on immigrant workers—accounted for 27 percent of the state's total farm income.[48]

In April 2011, Georgia passed one of the most aggressive state immigration enforcement laws. The legislation may seem like a resounding victory to those opposed to the presence of unauthorized immigrants in the state, but Georgia farmers see things much differently. "The worker shortage really translates into a monetary loss," said Gary Butler [pseudonym], a fifth-generation Georgia farmer, "about a 15-20 percent loss of revenues [for my farm]."

"There's no question that we've seen a pretty severe shortage," said Bryan Tolar, president of the Georgia Agribusiness Council. "Fifty percent of the labor force that we've relied on ... to get those fresh fruits and vegetables to the market [has left]." Georgia's growers have a history of alarmist rhetoric on the subject of labor shortages. In this case, Latino advocates in the state agree that the law has deterred immigrants from passing through the state, and they agree with growers' view that the law has led to an exodus of immigrants.

Laura Elizabeth Pohl

Between 1989 and 2009, the value of U.S. agricultural exports increased by 250 percent, while exports of high-value agricultural products, including fruits and vegetables, more than tripled.

In June 2011, possibly realizing the risk that farmers would lose a large part of their labor force, Georgia Governor Nathan Deal called on the state's commissioners of labor, corrections, and agriculture to connect unemployed people on probation with farms seeking workers. "This points to a complete out-of-touch perspective that some ... of our leadership in this state have with regard to the current immigration crisis," said Jerry Gonzalez, executive director of the Georgia Association of Latino Elected Officials.[49]

Some Georgia farm worker advocates say that Deal's plan and grower claims of a labor shortage are phony, both part of a time-honored strategy to ensure an oversupply of cheap and pliable labor. "I think it's a lot of hot air," said attorney Greg Schell of Migrant Farmworker Justice. "If these guys were really desperate ... all they need to do is to put the word out [for workers]." Schell, who works with farm laborers in neighboring Florida, said that his state has many unemployed *legal* farm laborers looking for work, but growers

prefer to continue hiring unauthorized laborers. Dawson Morton, a senior staff attorney for Georgia Legal Services, also said that growers' claim of a labor shortage was "a manufactured problem." "They could get H-2A workers," Morton said. "They just don't want to pay those wages."

Andrew Wainer

A worker at a packing warehouse in South Georgia.

Regardless of the ultimate impact of Georgia's new immigration law, the state's unauthorized farm laborers continue to work and live in limbo. Ernesto Alvarado, 40, has been a farm worker for 20 years, most of that time in Georgia. His family worked in agriculture in the Mexican state of Nuevo León before he came to the United States, and he's proud to do the work that most Americans refuse. "People who have papers don't want to work under the sun," Alvarado said. "We want to be strong in the heat, [strong] in our work."

But the emotional cost of living and working without legal authorization has been high. Alvarado said it's been 10 years since he's seen his parents in Mexico. Although Nuevo León borders Texas, Alvarado said the relatively short journey is too hazardous. "If I go over there, I can't come back," he said. "I don't care about the money, but you can die doing that trip."

AgJOBS: The Grand Compromise

In 2000, after decades of wrangling over the contours of an updated guest worker program, the Agricultural Job Opportunity, Benefits and Security bill (AgJOBS) was introduced in Congress. It has been periodically reviewed and debated—but it has not been enacted into law.[50]

Although the bill's details have changed—and are still being negotiated to reflect the changing political dynamics—AgJOBS reforms key parts of the agricultural labor system. The proposal is a compromise that follows years of negotiations between legislative adversaries—farm worker advocates and growers. Here we discuss two of the main components of AgJOBS:

Earned Legalization for Current Farm Workers

AgJOBS provides up to 1.5 million unauthorized farm workers with the opportunity to earn temporary legal immigration status—called a "Blue Card"—with the possibility of becoming permanent residents of the United States. In order to participate, workers must have two or more years of U.S. farm work experience before the passage of the bill. AgJOBS also offers workers an opportunity to legalize the status of family members.

Legalization would be contingent on workers' continuing to work in agriculture for three to five years (the requirement depends on how many days per year they are employed) after enactment of the bill. This part of the compromise would mainly affect unauthorized immigrants already living in the United States and working in agriculture—many of them for decades.

BOX 3.4 FARM WORK IS A SKILLED PROFESSION

by Ivone Guillen
Sojourners

At a July 2011 congressional hearing on "The Economic Imperative for Enacting Immigration Reform," Mayor Paul Bridges of Uvalda, GA, praised his state's farm workers. "The Georgia peaches, strawberries, blueberries, and many other fruits and vegetables they harvest end up on family dinner tables across the country. These crops are harvested by skilled migrant farm laborers who have harvesting down to a fine art."

The produce that most Americans find in their supermarkets looks fresh and tasty. Rarely do retailers sell fruit with bruises, even though bruises actually make no difference to the fruit's nutritional value. One reason much of the food Americans consume consistently looks so good is due to the skill of the farm workers who grade, pick, and package them.

The value-added to produce by farm workers comes in their skills in sowing, cultivating, and harvesting the crops. Techniques such as tree pruning and trimming require knowledge of how and when to use sharp tools like hand pruners to selectively remove parts of a plant or tree; done correctly, the techniques improve the plant's strength and health.

Different crops require a variety of techniques to be successful. For example, an orange orchard is maintained quite differently than a tomato field. When producing different crops, farm workers must understand how each is affected by soil quality, fertilizers, irrigation, and cultivating techniques.

The increasing use of machinery to improve productivity and efficiency requires additional skills. Farm workers operate machines that require agility, precision, and technical knowledge. During the processing and packing phase, farm workers must rapidly pack the fruits and vegetables to keep up with the conveyor belts and other equipment in the sorting facility.

Farm workers must regularly improve their skill set; agriculture is a competitive industry that requires workers' constant adaptation. There is no question: farm work is a skilled profession.

Ivone Guillen is the immigration campaigns fellow at Sojourners. She was an immigration policy fellow at Bread for the World Institute from September 2010 to September 2011.

Laura Elizabeth Pohl

Earned legalization would require that workers pay a fine and any back income taxes they owe. While working to earn a long-term legal immigrant visa, farm workers would be eligible for unemployment insurance and the Earned Income Tax Credit, which makes a tax refund available to qualifying low-income workers, but they would not be eligible for means-tested federal benefits such as the Supplemental Nutrition Assistance Program (SNAP), formerly food stamps.[51]

H-2A Guest Worker Reform

The AgJOBS bill includes a reformed H-2A agricultural guest worker program that would reinforce the program's status as the nation's only legal source of agricultural labor. According to agricultural economist Philip Martin, about 100,000 (10 percent) of the total 1 million long-season farm jobs are now filled through the H-2A program, up from about 30,000 in the mid-1990s.[52]

Under the bill's provisions, employer "attestation" would replace "certification" in the H-2A program, reducing the Department of Labor's (DOL) involvement in confirming employers' need for guest workers. Employers would assure the DOL that they have vacant jobs available, are paying minimum wage, and are complying with other H-2A requirements. DOL would review and approve employer attestations within seven days.[53]

Under the current H-2A program, growers are required to provide free housing for workers. AgJOBS would allow employers the alternative of paying a housing allowance to workers, provided that the governor of the state where a farm is located agrees that sufficient rental housing is available. Experts say that this allowance would result in an increase in wages of about $200-$300 a month, depending on local rental costs.[54] A housing allowance would provide farm workers with more options as to where to live, but it could also mean they spend more of their own income on housing.

Laura Elizabeth Pohl

Migrant workers rest after picking cucumbers all morning.

Under the current law, agricultural guest workers must be paid the "Adverse Effect Wage Rate" (AEWR), the state or federal minimum wage, or the local prevailing wage of their occupation, whichever of these is higher.[55] The current AEWR ranges from about $9 to $11 an hour.[56] AgJOBS would roll back the AEWR by $1-$2 and subject it to studies by government and independent commissions. If Congress did not agree on a new wage rate within three years of the enactment of AgJOBS, future raises would be tied to the Consumer Price Index and could rise by as much as 4 percent per

year.[57] If this happened it would increase the earnings of lower-paid farm workers, who are working at or near the minimum wage. The average wage rate of U.S. farm workers is $10.07 per hour.[58]

The Politics of AgJOBS

With both growers and farm workers on board for agricultural labor reform, the prospects for AgJOBS would seem good. At one time, the bill appeared to be headed straight for passage; a version of AgJOBS introduced in the Senate in 2000 had strong Republican support and was seen as the most likely immigration policy reform to pass.

But over the past decade, the opponents of immigration reform have blocked the enactment of AgJOBS. "Gradually the moderate Republicans that have supported AgJOBS have been weeded out of the Senate either by retirement or they've lost," says Rob Williams, project director of Migrant Farmworker Justice. "On the Republican side we had strong support ... [More recently] we haven't had a Republican [champion]."[59]

Another reason for delay is that AgJOBS has become part of a comprehensive immigration reform package, rather than remaining a standalone bill. Immigration reform components such as the DREAM Act and AgJOBS typically garner more public and political support than a broader comprehensive reform proposal because they focus on specific immigrant populations (youth and agricultural workers). "Ten years ago we were by ourselves [in advocating for AgJOBS] and then we became an element of comprehensive reform," said Williams.

The U.S. agricultural sector has a lot to lose from increasingly restrictive immigration legislation at the state and federal levels. Restarting immigration reform discussions in a sector where immigrants are most vital economically can provide a path forward for reform, so the AgJOBS bill would be a logical place to start the discussion. Both the dampening effect on immigration of the struggling economy and the reauthorization of the farm bill may provide added impetus for including immigrant farm labor in the broader discussion of agricultural policy.

Laura Elizabeth Pohl

Sherilyn Shepard, a farmer in Blackwater, Virginia, drops off crates of freshly picked cucumbers to the Appalachian Harvest packing house in Duffield, Virginia.

The Other Side of the Border

While immigration reform, including passage of AgJOBS, is a long-term struggle, there is potential to improve the H-2A program more expeditiously, making it work better for growers, farm workers, and immigrant-sending communities in Latin America. "This is the only option that we are seeing to improve things right now on the ground," said Diego Reyes, executive board member of the Farm Labor Organizing Committee (FLOC), a union affiliated with the AFL-CIO.

In spite of the abuses associated with the H-2A program, legal guest worker permits are sought after in Mexico and would-be farm workers can easily go into debt to obtain them. Although the H-2A visa officially costs

$231, workers can end up paying $400-$600 or more with paperwork, transportation, and fees paid to recruiters. This is a significant sum of money for rural Mexicans. In some cases, potential guest workers obtain loans at high interest rates to pay for the opportunity to participate in the program. By the time they arrive in the United States for their $9 an hour jobs, they may already be deeply in debt.[60]

Jeffrey Austin

Deported immigrants are dropped off by U.S. officials along the Arizona-Mexico border.

FLOC has pioneered a strategy to improve the H-2A program by creating a fairer recruitment process for workers in Mexico. On the U.S. side of the border, FLOC has established a framework that includes corporations, grower associations, and H-2A guest workers (represented by FLOC).

In 2004, FLOC used a corporate boycott to help get North Carolina growers who hire H-2A workers to agree to a contract that delineated workers' rights. It was the first-ever union contract for guest workers in the United States. After several more rounds of boycotts, the Mt. Olive Pickle Company and the North Carolina Growers Association (NCGA) also signed an agreement with FLOC. The NCGA hires Mexican H-2A workers, who are sent to the North Carolina farms that supply cucumbers to Mt. Olive.[61] When the contract was signed in 2004, the NCGA represented 1,000 farmers and 8,500 guest workers covered by the agreement.[62] The North Carolina agreement includes an arbitration process so that workers and growers can resolve disputes more efficiently.

The agreement goes beyond protecting the rights of H-2A workers in the United States: FLOC maintains a permanent office in Monterrey, Mexico, where it provides training and education for workers before they leave home. The program explains the rights and responsibilities of guest workers in the United States. FLOC's model is uncommon in its panoramic vision of addressing immigrant agricultural labor issues from both sides of the border.

Migration and Development

FLOC works on guest worker recruitment, education, and training issues on the Mexican side of the border—but it doesn't address the impact of the H-2A program on the Mexican communities that send these workers. In fact, this is one of the most under-analyzed parts of the H-2A program. It is rare for anyone, including the Mexican government, to raise the concerns of sending communities. The reasons Mexicans leave home to become farm workers in the United States are often not part of this or most other discussions of immigration reform.

But there are the beginnings of a framework that envisions the H-2A program as a way to benefit both growers in the United States and sending

communities in Mexico. The bi-national Independent Agricultural Workers' Center (CITA by its Spanish acronym) is pioneering such a model; it plans to integrate the H-2A program with Mexican rural development efforts.

Farm worker advocate Chuck Barrett founded CITA along the Arizona-Mexico border in 2007 to serve as a "matchmaker" between prospective Mexican guest workers and U.S. growers. For the past several years, CITA has been focused on helping workers on both sides of the border: in Mexico with the recruitment process, and in the United States with disputes between workers and growers.

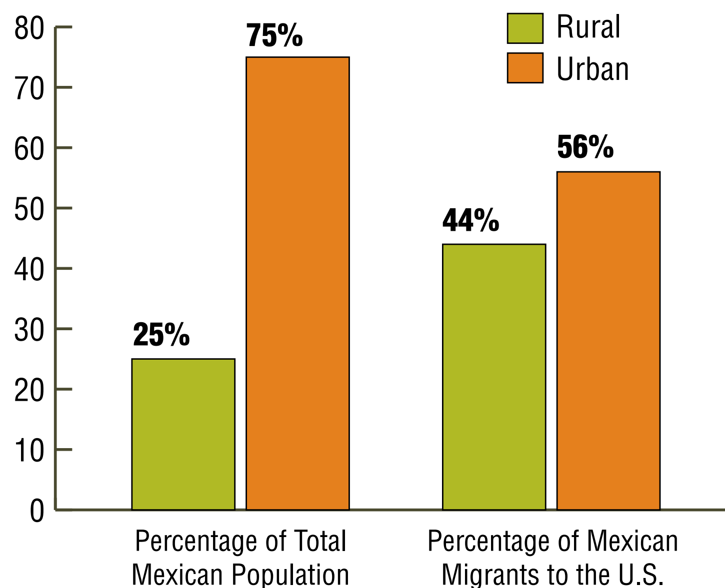
CITA helps growers recruit workers in Mexico and assists in getting growers' H-2A applications—which Barrett says are notoriously onerous—through the Department of Labor and other agencies. It also provides services to Mexican guest workers, including financial literacy information, low-interest loans to pay for guest worker visas, psychological counseling, and education on the guest worker system. In addition to the fees it earns from growers, CITA is supported by organizations such as Catholic Relief Services and the Howard Buffett Foundation.

Barrett is hoping to expand the CITA model to become self-sustaining in rural communities throughout Mexico, saying that this expansion would help Mexican migrant-sending communities obtain "some beginning of control over migration, replacing illegal out-migration with legal migration." According to this model, communities would be trained to facilitate employer petitions, prescreen workers, and expedite the visa process—all tasks for which U.S. growers now pay CITA a fee. "Because they would be doing the training and passport process ... they [Mexican rural areas] will get a portion to be used by the community to fulfill their own development objectives," Barrett said.

Marvin Garcia Salas, a farmer in Chiapas, Mexico, twice migrated to the United States to do farm work before returning home for good.

While Barrett—like almost everyone else—said that the H-2A program is dysfunctional, he also believes that its use will increase. "Whether people like it or not ... H-2A is going to be a growing process," he said. "Every version of AgJOBS includes an expansion of H-2A. I see the next couple of years as a window of opportunity to find alternatives ... that are fairer for the workers and more effective for the employers, and also lend themselves ... to connecting the migration process to the development process."

CITA's concept of connecting its H-2A employer services to rural development in migrant-sending Mexican rural communities is still on the drawing board. But based on the relationships they've forged through their outreach to growers and services to workers, Barrett and CITA executive director Janine Duron said that the program can be extended to the source of the immigrant farm worker issue—the poor Mexican communities that provide U.S. growers



Source: *Mexico-United States Migration: Regional and State Overview*, Mexico City: Consejo Nacional de Población, 2006.

with both unauthorized and H-2A farm workers. "It's an amazing relationship that can be built if you have reconciliation rather than adversity," said Duron.

Reducing migration pressures will require development and job creation throughout Mexico, but poverty and migration are particularly concentrated in the countryside. Although about a quarter of all Mexicans live in rural areas, 60 percent of Mexico's extremely poor people are rural, and 44 percent of Mexican immigrants come from rural communities (see Figure 3.5). Immigration reform and development assistance need to be linked, particularly for rural Mexico.

After decades of declining support, agriculture and rural development is now re-emerging as a vital development focus. The World Bank's 2008 World Development Report, *Agriculture for Development,* states, "Agriculture continues to be a fundamental instrument for sustainable development and poverty reduction."[63] Research has also found that agriculture is one of the best returns on investment in poverty-reduction spending.[64] Each 1 percent increase in crop productivity in Asia reduces the number of poor people by half a percent. This correlation also holds for middle-income countries such as Mexico.[65]

REGULARIZE AND RATIONALIZE FARM LABOR

by Philip Martin
University of California, Davis

It makes sense for farm policies to encourage more labor-saving mechanization—through research, for example—and to rationalize and regularize the farm-labor market. This would be in the best interest of everyone: farm workers and farmers, plus the rural areas of the United States and Mexico that farm workers have migrated to and from.

On a per-capita basis, nonmetro areas of the United States receive more government transfer payments than metro areas. In 2008, such payments made up 23 percent of nonmetro residents' incomes, versus 14 percent of metro income.[66] Unlike metro areas, which receive immigrants at both the top and the bottom of the education ladder, most of the newcomers in nonmetro areas have not finished high school. Immigrant parents hope their children will escape poverty in the United States, but the odds are not good.

If illegal migration were curbed and wages did not rise, more farmers might turn to the H-2A guest worker program, the only program currently available to hire legal foreign guest workers. Most farmers do not pay social security, Medicare, and federal unemployment insurance taxes on the earnings of H-2A guest workers—making guest workers up to 20 percent cheaper than U.S. workers. One way to rationalize and regularize the farm-labor market would be to levy payroll taxes on the earnings of guest workers.

The amount of money generated from payroll taxes on guest worker earnings would be significant—perhaps $1.2 billion a year. Half of this money could be used to support research on agricultural mechanization and the other half to support development of guest workers' areas of origin. This would have positive effects in both the rural United States and rural Mexico.

Research accelerated by additional resources from payroll taxes could promote rationalization and ensure that future guest workers have incentives to return to their areas of origin. This leaves the question—what should be done about the million or more unauthorized farm workers currently employed in U.S. agriculture?

Andrew Wainer

Immigrant workers sort apples at a warehouse in eastern Washington state.

There is no easy answer to this question of those now laboring in U.S. fields. The passage of the AgJOBS legislation would allow them and their families to become legal immigrants, meaning the United States would gain several million additional legal Mexican immigrants because families would be united here. AgJOBS would create a path to immigrant visas by requiring continued U.S. farm work, but this strategy goes against decades of experience that demonstrate that the best way to help farm workers increase their incomes is to get them out of agriculture.

AgJOBS would solve part of Mexico's rural poverty problem by transferring some poor people from rural Mexico to rural America. Given the failures of the Bracero program and 1986 immigration reforms, we need a new approach to immigration and agriculture.

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