



## FARMWORKER JUSTICE

### **Legislation Would Grant Temporary Work Authorization for Year-Round Farmworkers – but Not Immigration Status -- and Expand H-2A Program to Year-Round Work**

On May 16, 2019, Rep. Chris Collins (R-NY), introduced the “Helping Labor Personnel on Farms Act” (HELP Farms Act), H.R. 2801. This House bill seeks to expand the H-2A temporary foreign agricultural worker program within two years to year-round jobs in both agricultural and non-agricultural industries, including dairy, livestock, sheepherding, beekeeping, meat and poultry processing, seafood processing, packing, and equine related work. The H-2A program by law is currently limited to agricultural jobs that are seasonal. For the period preceding this expansion of the H-2A program, the bill would grant a temporary, non-renewable work authorization for a two-year period to undocumented workers in certain non-seasonal agricultural jobs. The bill would also allow spouses and unmarried children under the age of twenty-one to be included in the employee’s application. After those two years, however, workers and their families would have to either return home or be subject to deportation. Year-round employers would then be able to use the H-2A visa program, which will have been expanded to include non-seasonal and non-agricultural jobs.

**Rep. Collin’s bill would broaden qualifying work under the H-2A program to a large number of year-round jobs, weakening the bargaining power of farmworkers.** The H-2A program focuses on temporary or seasonal farm jobs lasting less than a year (with some limited exceptions). The need for the H-2A program is often justified by the alleged lack of people who want seasonal jobs due to the preference for year-round work and year-round income. Congress should not expand the scope of the H-2A program to year-round jobs. Employers at year-round jobs - whether in agriculture or other sectors - should be improving wages and working conditions to attract and retain workers rather than relying on guestworkers as their revolving workforce. This bill would encourage employers to bring in year-round H-2A workers, displacing the current labor force, which includes many undocumented immigrants who deserve an opportunity for immigration status and citizenship. H-2A workers are vulnerable to abuse because of their visa restrictions, while undocumented workers, desperate for work due to competition with guestworkers, would also be exploitable.

**The bill would only provide temporary residency for workers who have continuously worked for their employer for a two-year period preceding their application.** The proposed temporary two-year residency would only be available to those who have been continuously employed by their employer in a non-seasonal agricultural occupation during the two years preceding their application. Workers who are detained but fulfill the work history requirement are also eligible to apply (as long as they have not been convicted of certain felony charges). In addition to only benefitting a specific pool of agricultural workers, the bill would primarily serve as a benefit for employers with year-round jobs. The bill does not propose any cap on the number of workers that employers could sponsor.

**The bill does not provide an opportunity for workers to convert to a permanent immigration status or citizenship.** The bill would only provide certain workers with a temporary residency for a two-year period with no opportunity to renew, obtain a “green card” or apply for citizenship. The bill does not address what will happen to these experienced and dedicated workers after the two year-period is over. While the bill does permit spouses and some unmarried children to receive the temporary status, they also will not be able to renew or adjust their status. The likely result is that most workers will have worked for the same employer for years and will then have to either return to their home countries or revert to being in the U.S. in undocumented status - a status which government agencies will then be aware of given their prior application for the two-year temporary residence. Once back in undocumented immigration status, these experienced workers could then face competition from guestworkers hired by their employers under the newly expanded H-2A program.

**Conclusion:** The so-called HELP bill is not meaningful immigration reform. The solution to the agricultural industry’s reliance on immigrant workers should be to respect the contributions and humanity of those workers by providing immigration reform with a path to immigration status and citizenship for undocumented farmworkers. If additional workers are truly needed for year-round sectors like dairy, then farmworkers and their families should be offered a real immigration status that allows them to do their work without fearing for their freedom or safety. In addition, farmworkers should be attracted and retained through improved wages and working conditions as well as granting farmworkers the same labor rights other occupations possess. Rep. Collins’ bill lacks the solutions that are needed and would inflict great harm on both current and future workers on U.S. farms and ranches.