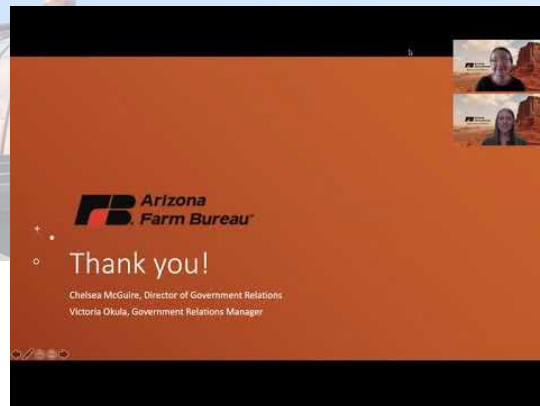


While You Were Working

A PUBLICATION OF THE ARIZONA FARM BUREAU GOVERNMENT RELATIONS TEAM

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Labor, Labor Everywhere (But Not A Solution In Sight)

Chelsea McGuire, Government Relations Director

For those who work in agricultural labor policy, it's been quite the week.

With Democrats controlling both the White House and Congress, we expected that the next four years would likely provide a meaningful opportunity to address agriculture's labor needs. That was confirmed when, in the very first days of his administration, President Biden released a framework for a comprehensive immigration reform plan. But what we didn't expect is that we would have two major labor and immigration reform bills dropped within the administration's first 100 days.

U.S. Citizenship Act

On Thursday, the language of legislation centered around Biden's immigration reform framework was officially released. The 353-page bill would provide an expedited three-year path to citizenship for undocumented farm workers, including immediate eligibility for permanent residency. (For non-farm workers, the path to citizenship would take eight years.) But the act doesn't include any changes to the fundamentally flawed H-2A program, nor does it provide a way to make H-2A visas valid for year-round work. The only major labor reform

included in the bill is an elimination of the federal minimum wage and overtime pay exemptions for farmworkers, something that Farm Bureau policy unequivocally opposes.

Farm Workforce Modernization Act

But have no fear: we have another flawed bill on the horizon that will deal specifically with ag labor. And this time, it's one we are all too familiar with. In the last week, we learned that the Farm Workforce Modernization Act, which was first introduced in late 2019, will likely be re-introduced within the next few weeks. This bill also contains a path to citizenship for undocumented farm workers, as well as a 3-year pilot program for H-2A visa portability that would allow H-2A visa holders to transfer from employer to employer as the harvest season progresses. Unfortunately, though, that's about where the good news about that bill ends.

The bill continues to attach agricultural labor wages to the flawed Adverse Effect Wage Rate (AEWR). It also expands significantly legal recourse in federal court for agricultural workers against their employers for alleged workplace mistreatment. Though it does expand some H-2A visas to year-round work, the cap for the

Labor (cont'd)

year-round visas is laughably low: only 20,000 total employees, and 10,000 of those are reserved for the dairy industry.

Given the fact that the bill contains no significant changes to overcome its challenges, the AFBF Board of Directors has reaffirmed its prior position: it does not support the bill and reserves the right to pursue changes and improvements to its provisions. Theoretically, these changes would be made in the Senate. But this time around, the path forward for making those changes is far less clear.

While the Democrats' strategy for passing either of these bills is still unknown, it's highly unlikely that a standalone ag labor bill would pass parallel to the President's major priority immigration bill. Instead, we expect that the U.S. Citizenship Act, if it gains traction, will attract other immigration-related topics (labor reform, DACA, etc.). But there is also talk that Democrats would rather pass a series of piecemeal reforms, rather than attempt a comprehensive package. And underlying all this uncertainty is the fact that the majority has been using the budget reconciliation process to pass legislation without the filibuster-proof 60 vote threshold, which just adds further procedural confusion to the mix.

Reform to our immigration and guest worker program is long overdue. Farmers and their employees need a system that provides long-term stability. Workforce shortages have been one of the greatest limiting factors for growth in U.S. agriculture, and it's time we find a solution that works for all. Unfortunately, neither of these bills represent that solution, and would actually put us even further behind.

In short, please check on your National Affairs Coordinator. She may need a hug.

Bills from This Week		
Bill	Explanation	Status
S1224/H2372: Agricultural Nuisance (Sen. Kerr/Rep. Dunn)	Limits the class of plaintiffs who can bring a "nuisance" lawsuit against an agricultural operation; requires that the plaintiffs live within a certain radius of the operation and requires that the nuisance be based on a violation of local, state, or federal laws or regulations. Also limits the damages that a successful plaintiff can be awarded by precluding the award of punitive damages.	Passed House and Senate committees on party lines; stakeholders are working on language for a floor amendment to address concerns raised in committee hearings and subsequent meetings.
H2525: Cage Free Eggs (Rep. Kavanagh)	Would require that all eggs raised AND sold in Arizona be from hens raised in cage-free systems. Imposes a requirement for cage-free systems by 2025.	Passed House committee 6-5, with only two Republican members voting yes. Working with members of both parties to make sure our concerns are known prior to next week's caucuses.
H1734: Agricultural Property Reclassification Notice (Sen. Kerr)	Requires that notification of any change in the tax classification of agricultural property be mailed to the property owner via certified mail. Notification must explain the reason for the reclassification and the property owner's options for appealing the decision.	Passed Senate committee unanimously.