

Better Agriculture Resources Now (BARN) Act

Commonsense Reforms to H2A Visa Program

Introduced by Congressman Jack Kingston (R-GA), the BARN Act would provide much needed reforms to the H2A Visa Program. It was developed through grassroots consultation with those who work with the system every day.

The BARN Act:

- Shifts the administration of the H2A housing program from the Department of Labor to USDA Rural Development which is already involved in rural housing.
- Extends the definition of agricultural workers to the dairy and ranching industries for onsite positions.
- Allows farmers the option to attach an experience requirement on their H2A DOL job posting. Any previous work done while in the US illegally does not apply towards this experience requirement.
- Eliminates requirement for farmer to unnecessarily hire domestic workers after contract has started.
- Establishes a fair, new farm wage methodology setting a wage minimum at 115% of whichever is higher of federal, state, or local minimum wage.
- Reduces application period from current 45 days to 30 days, allowing farmers more flexibility in determining their labor needs.
- Expedites application process by deems approved any application which has not been acted on in 30 days. Approval only applies to the Department of Labor and does not apply to any other government agency.
- Makes the H2A visa a one year renewable visa, which is eligible for renewal once.
 - The H2A visa is portable only between H2A certified employers.
 - For contracts that are longer than one year, the employer must “re-test” the domestic labor market every year.
 - If worker experiences break in work of more than 60 days, the Visa is rendered void.
 - Worker must return to home country for at least two months at end of second year.

- Shifts housing requirements to a voucher system, allowing the use of existing housing rather than requiring employer to construct permanent housing.
- Establishes reasonable reforms on the Legal Services Corporation.
 - prohibits legal activism unless the alien is present
 - prohibits bringing civil action unless the counterparties have attempted mediation

 - prohibits entering H-2A employer property without pre-arranged appointments

 - requires respect of existing arbitration process and outcome if employer and employee have an existing arbitration arrangement
- Places new restrictions on H-2A participants.
 - makes worker who overstays his or her H-2A visa ineligible to reapply for 5 years

 - makes any applicant who commits fraudulent activity in connection with obtaining an H-2A visa permanently ineligible

 - makes any worker found committing a deportable offense while in the U.S. permanently ineligible

 - makes any employer who knowingly hires a worker with an expired H-2A visa or who knowingly facilitates fraudulent activity in connection with the H-2A process permanently ineligible from participation in the H-2A program and other work visa programs