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THE H-2A VISA PROGRAM: ADDRESSING FARM LABOR SCARCITY IN NORTH CAROLINA

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Agricultural labor availability in the United States has diminished considerably in recent years. Some decades ago, farmers had access to a stable number of laborers for their farms every season. Workers would show up at the farms asking for jobs and if there was a need for more people - particularly around harvest season - they would bring relatives quickly and easily. Wages were lowered by the labor abundance.

The Farm Labor Supply Problem

Today, the farm labor situation is different. Farmers across the country have been experiencing problems getting enough workers in the fields, wages have gone up and the problem worsens every year. In some cases, growers have had to sort workers to different tasks, reduce the size of their farms, discard produce and increase wages. The problem of farm labor scarcity not only affects producers; it also has the potential to threaten the nation's food security. While the production of some crops has been increasingly mechanized, some of the most consumed fruits and vegetables in the United States need to be harvested by hand and are very labor intensive.



Multiple factors have caused the reduction in the supply of farmworkers. First, an increase in border enforcement has limited the number of people entering the U.S. (a non-negligible fraction of workers are undocumented). Likewise, some immigrant workers have decided to voluntarily return to their home countries. For example, according to the Pew Research Center, more Mexicans are now leaving than coming to the U.S. (Gonzalez-Barrera, 2015).

Second, increased internal immigration enforcement has hindered workers' mobility within the country, lowering the farm labor supply by limiting the number of "follow the crop and shuttle" workers who travel across states harvesting different crops based on the season. Third, the decrease in new inflows of workers has resulted in no replacement of the current aging workforce, which is less able to perform physically intensive tasks. Fourth, economic growth in Mexico and other countries has discouraged people to work in agriculture at home or move to the U.S. For the reasons above, use of the H-2A program to bring foreign agricultural workers legally to the U.S. is gaining popularity at a fast pace.

Farm Labor Demand in North Carolina

Agriculture plays an important role in the economy of North Carolina. Agriculture and agribusinesses combined are the leading economic sectors in the state, where more than 150 different commodities are produced. Several of the most economically important of these commodities - including sweetpotatoes, Christmas trees, strawberries, flue-cured tobacco, and poultry - are all labor-intensive, so access to a steady farm labor force is fundamental for the economy of the state.

The problem of labor scarcity is also present in North Carolina. The number of migrant workers traveling from neighboring states like Florida and Georgia has shrunk substantially, and many farmworkers who

migrated ten or more years ago have settled down to seek working opportunities for their American-born children outside of agriculture. In addition, cities like Raleigh and Charlotte are experiencing rapid growth thanks to millennials attracted to the state by its educational quality and job opportunities like the Research Triangle Park. This increase in newcomers has created a dynamic real estate market resulting in new construction projects, with developers competing for workers previously employed in agriculture. Data from the



Bureau of Labor Statistics shows that in 2020, the mean hourly wage of a farmworker in the state was \$12.63 (\$26,280 annually), compared to the construction worker average hourly wage of \$15.70 (\$32,660 a year). The rise in the demand for construction and the pay premium in that sector relative to agriculture is encouraging workers to transition away from working in the fields.

Origin and Growth of the H-2A Program

The decline in the supply of farmworkers in the United States has been partially offset by the substantial growth in the H-2A program, which allows employers to bring people from other countries to work on farms in the U.S. in compliance with immigration law. The H-2A program has its origins in the 1952 Immigration and Nationality Act, which created the H-2 visa category for unskilled workers coming from abroad to perform temporary jobs (an unskilled job is one that does not require technical

training or formal education above a high school diploma). In 1986, the Immigration Reform and Control Act split this category in two: H-2A and H-2B. The H-2A program allows farmers to bring non-U.S. citizens to work in agriculture with no cap on the number of individuals allowed to enter through the program. The H-2B category is for non-agricultural work like landscaping and groundskeeping and is capped (the cap in 2020 was set at 66,000 people). The first H-2A visas were issued in 1992 after some additional regulations introduced an eligible countries list from which workers may originate. As of 2021, H-2A workers constitute roughly 10% of the crop farm labor force in the US. The top U.S. commodities that employ H-2A workers are berries, apples and tobacco.

As shown in *Figure 1* below, the demand for H-2A visas has grown steadily since the program began. In 1992, less than 6,500 visas were issued by the U.S. government. Since then, the number has grown considerably. In 2020, more than 200,000 visas were issued, almost 100,000 more than in 2015. North Carolina has consistently ranked among the top five states demanding H-2A workers. *Figure 2* (next page) shows that more than 21,000 H-2A positions were certified in North Carolina in the last three years. The program is also robust in Georgia, Florida, Washington, and California. Likewise, the number one employer of H-2A workers nationwide for almost two decades has been the North Carolina Growers Association (NCGA), which hired more than 10,600 workers in 2019. Most workers are brought by employer associations and other farm labor contractors that charge a fee to deal with all the necessary legal requirements and immigration rules. For this reason, the program is mainly used by large-sized farms that can afford to pay this additional cost. (For a more detailed look at North Carolina numbers, see the NC Cooperative Extension Fact Sheet *The H-2A Visa Program in North Carolina*, available at <https://content.ces.ncsu.edu/the-h-2a-visa-program-in-north-carolina>.)

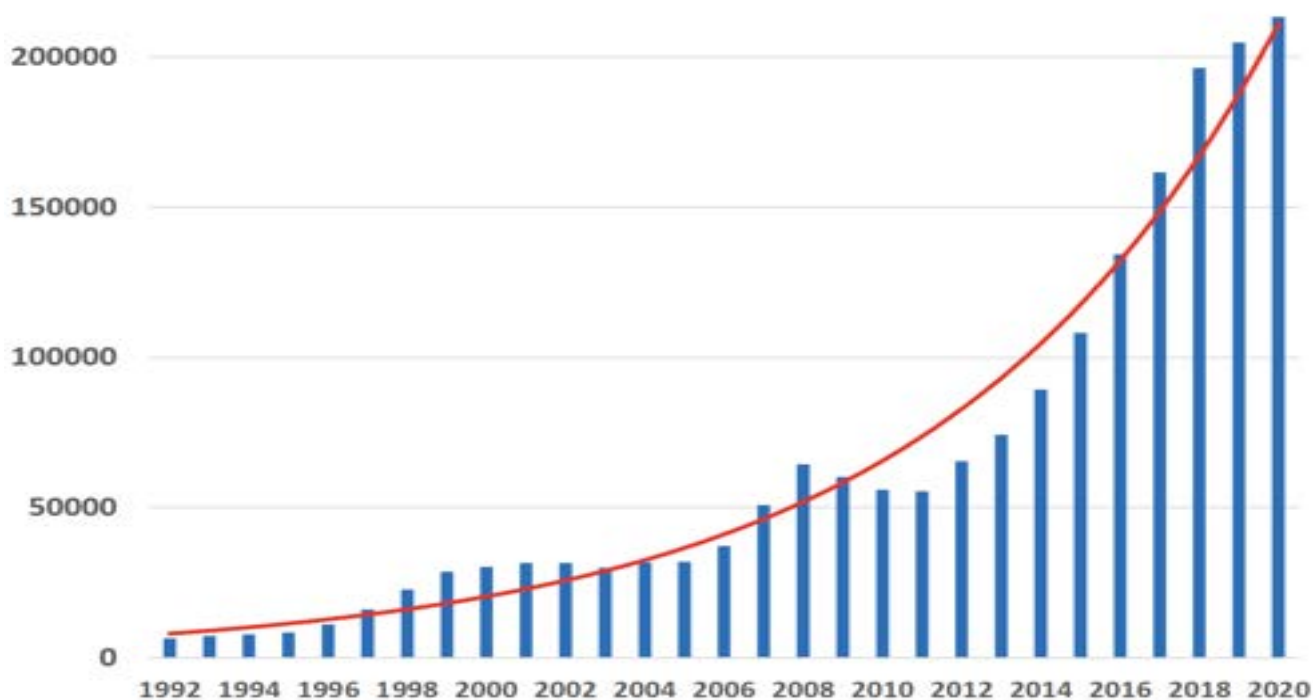


Figure 1. H-2A Visas Issued Per Year: 1992-2020 (Source: Congressional Research Service)

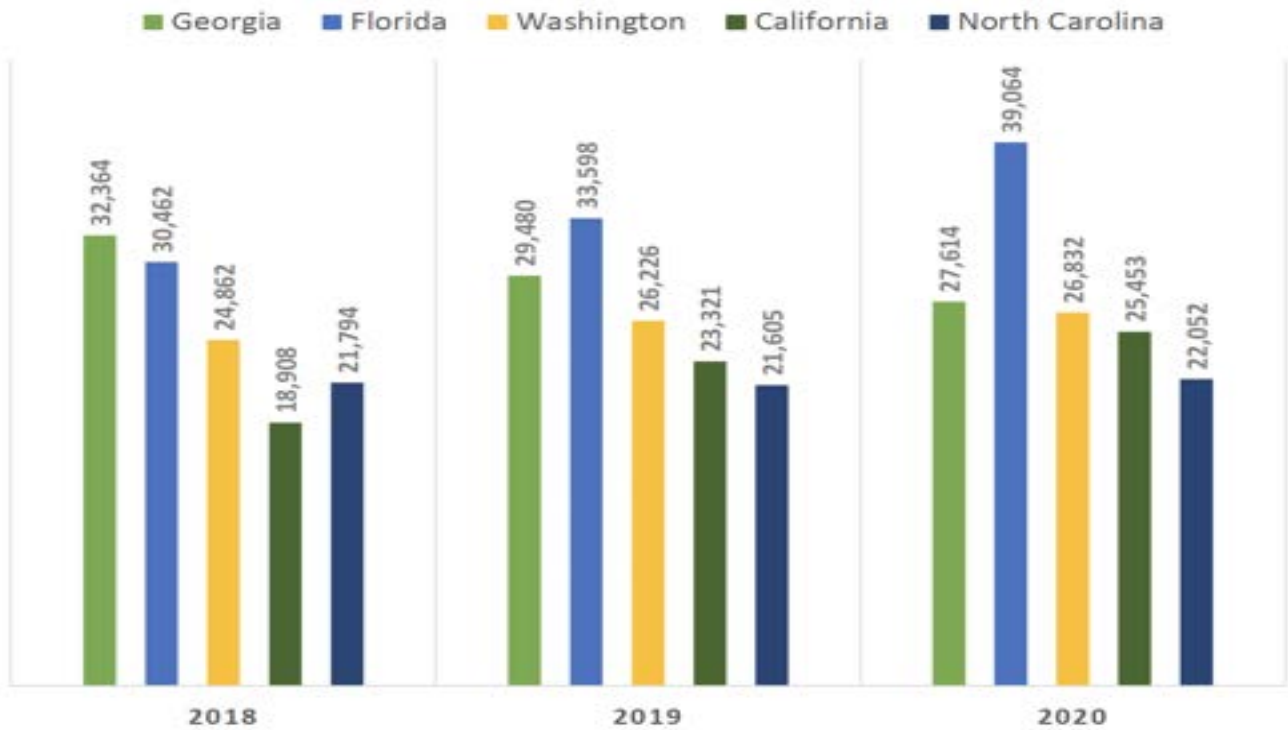


Figure 2. H-2A Positions Certified in 2018-2020: Top Five States (Source: Author's calculations with U.S. Department of Labor data)

H-2A Hiring Process and the AEWB

Figure 3 shows the necessary steps that an employer must follow to bring a worker with an H-2A visa. First, the farmer (or farm labor contractor) must apply for the position to be certified by the Department of Labor. The employer has to show that no U.S. workers were found to be capable, willing and available to perform the job. If the certification is granted, the next step is to submit a petition to the Department of Homeland Security (DHS) demonstrating that the position offered is seasonal or temporary in nature. An H-2A worker can be admitted to the U.S. up to one week before starting employment, and has up to one month to leave the country after the job ends. An employer can request to extend the employment time of a given H-2A worker in increments of up to one year, but the total amount of time that a worker can hold an H-2A visa consecutively is three years. If DHS approves the petition, the worker can apply for a visa and be later admitted at a port of entry. In addition to following the process described above, employers must provide their H-2A employees with housing, transportation and workers' compensation insurance. The transportation requirements

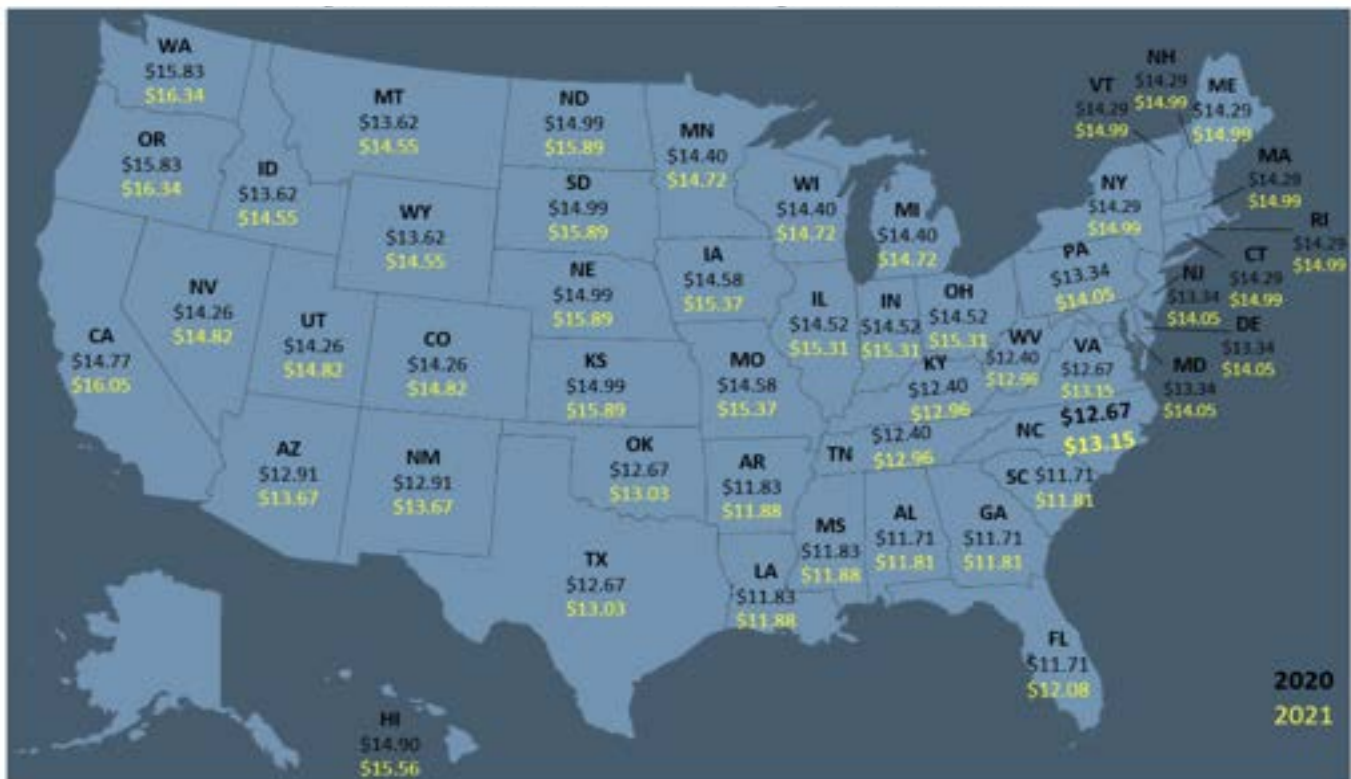


Figure 3. Process to Hire an H-2A Worker (Source: Congressional Research Service)

include paying the costs of each worker’s travel to and from their country of origin at the start and end of the relationship, as well as travel between the worker’s living facilities and the worksite. Employers pay their H-2A workers at least the highest of the following wages (Osti et al., 2019):

- a minimum wage known as the Adverse Effect Wage Rate (AEWR)
- the prevailing wage
- the prevailing piece wage
- the wage agreed upon a collective bargain or
- the federal or state minimum wage

According to the Department of Labor, the AEWR is meant to ensure that employing an H-2A guest worker will not negatively affect the wages of similarly qualified individuals employed in related jobs. The wages differ by state but are generally set to a level above the minimum wage. The AEWRs are calculated as the average hourly earnings of non-supervisory field and livestock laborers in each state during the previous year. The values are determined using surveys conducted by the U.S. Department of Agriculture (the Farm Labor Surveys) during January and April (published in May) and July and October (published in November). The information released each November includes annual data based on quarterly estimates of employment and wages. As seen in *Figure 4*, the AEWRs increased in every state between 2020 and 2021. In North Carolina, the AEWR was \$12.67 in 2020 and \$13.15 in 2021. As a comparison, the minimum wage in the state in 2020 was \$7.25.



Mitigating Labor Scarcity in the Years Ahead

The decline in immigration from Mexico and the associated reduction in the agricultural labor supply in the United States are not expected to change in the foreseeable future. Despite the increase in H-2A visas, these workers only account for a small fraction of the agricultural workforce in the U.S. Consequently, it is likely that the problem of farm labor scarcity will only worsen in the following years. However, there are actions that can be taken to mitigate the severity of the problem in the short and long run. One option for farmers is to consider implementing the “4-S” approach (satisfying, stretching, substituting, and supplementing) for sustaining a reliable workforce and continuing to produce without problems (Martin, 2018).

Satisfying workers is necessary to retain them. One way to do it is by providing additional benefits that can include low-cost health care to workers and their families, end-of-the-season benefits (monetary and non-monetary) and training that can increase the skill set of workers and make them more productive. Monetary incentives include cash bonuses whereas non-monetary benefits are associated with public recognition of the best workers and social activities to build rapport among coworkers.

Stretching the workforce means boosting the productivity of the current workers by facilitating their job as much as possible. For example, the introduction of machines like conveyor belts that reduce the distances that workers need to move when harvesting increases their productivity. At the same time, while the number of agricultural workers has declined, the total number of hours worked by the current labor force could be increased if the working conditions were improved. Facilitated and less strenuous activities may allow workers to work longer hours, and an aging labor force may be more inclined to continue doing less physically demanding farm work.

On the other hand, investments in labor-saving technologies to substitute machines for workers is a process that has already begun, with more mechanization efforts on the horizon. However, robots are far from ready to dominate the fields. Farm activities require managing biological systems, where many complex variables must be considered. The state-of-the-art robots in agriculture are only able to perform standardized procedures in which few contingent decisions are made on the spot. Likewise, adopting new technologies often requires changing the infrastructure of the farm and high upfront costs. While robotics would not eliminate the need for labor completely, adoption would shift labor needs to fewer and more specialized workers.

Lastly, supplementing the current farm labor force is an important way to keep the agricultural labor supply at pace with the increase in demand for high-quality agricultural crops. As noted above, a significant fraction of the current farmworker population is undocumented. Although this population is in decline, hiring undocumented labor poses a risk for farmers and workers, so it remains necessary for employers to attract people to work in U.S. agriculture legally. This is precisely what the H-2A program does. It is not surprising at all that this program has grown substantially in the last decade, and the upward trend in the use of H-2A workers will likely continue for many years. Despite high demand, the program has been criticized for being overly bureaucratic and expensive. Both problems could be addressed by immigration policies intended to simplify the existing rules and adapt the system to the current needs of farmers and workers.

An improved H-2A program is essential for the future of agriculture in North Carolina and its rural communities. With a reliable supply of farmworkers, the food and agricultural sectors in the state will remain competitive and continue to expand, for the benefit of all North Carolinians.

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