

Senator Charles E. Grassley

Questions for the Record

Thomas A. Nassif

1. There has been much discussion about moving the H-2A program from a certification process to an attestation process.
 - a. What are the problems you face or see with the certification process?
 - b. Do you support or oppose an attestation process whereby employers who bring in foreign workers would have to “attest” that they’ve tried to find or hire an American first? Please explain.

We support the attestation process. The only legal agricultural worker program (H-2A) supplies roughly 60,000 seasonal workers each year, only 2-3% percent of farm employers’ needs. The program has become virtually unworkable, with arbitrary delays and denials during the certification process, leading to workers not showing up when they are needed to pick perishable crops.

The administrative processes for obtaining H-2A approval are more daunting than ever. Most employers simply never attempt to use the program and those that do must navigate a gauntlet of obstacles. The process is unnecessarily complicated and labor intensive.

Approvals are often issued late notwithstanding statutory deadlines. The delay is compounded by DOL’s continuous demands for wording modifications in the certification process which often inconsistently apply or misapply the regulations.

While an attestation process is certainly superior to a certification process, as long as the Labor Department maintains administration of the H-2A program, the H-2A program will remain dysfunctional.

2. There has been a great deal of support to make E-Verify a staple in every workplace. I have been a champion of the system since it was created in 1996. There are many employers in the agricultural sector that use it. It is my hope E-Verify will be made mandatory for all employers, virtually replacing the paper I-9 process. My question is about functionality. The system is web-based. It's free. It's easy to use. What recommendations do you have for Congress to make sure E-Verify works even better for all sectors of the economy and for all businesses, regardless of size?

In order for E-Verify to work for agriculture, it must be used in conjunction with a program that allows agriculture to have a stable legal workforce. There is no such program at present. A high percentage of the harvest labor, labor on dairy farms and in nurseries is not in our country legally, although they all have documents that appear proper. E-verify will remove most of these workers from the farms and there will be no way to replace this skilled workforce. A program must be adopted that will provide legal workers to our farms and nurseries. Without these farm workers, Americans that have jobs supporting farms will also lose their jobs. American agriculture will be forced to move out of the United States.

3. Senator Feinstein mentioned a proposal that would allow undocumented workers in the agricultural sector to obtain a "blue card" and stay lawfully in the United States as long as he or she continued to work in agriculture. Senator Feinstein also proposed putting biometric markers on the "blue card".

- a. Do you support the biometric "blue card" idea proposed by Senator Feinstein?

Yes

- b. If biometric "blue cards" were required of undocumented ag workers in the United States, who should be forced to incur the costs for a biometric reader that would presumably be required of employers?

The "blue card" would be read by law enforcement authorities who already have and use readers. The agriculture employer would use the information on the card for e-verify. If the e-verify system works, then the "blue card"

will work with it. If the e-verify system does not work, the “blue card” will still be available to law enforcement personnel. It does not appear there will be additional cost of any significance.

4. Many proponents argue that amnesty for those illegally here is the only viable solution to our immigration and workforce shortage problems. They claim that foreign workers are doing jobs that Americans just won't do. On the other hand, some would argue that if you legalize the undocumented workers here now, human nature will encourage those workers to get out of agriculture and do a job that is safer, cleaner, and easier. If Congress were to legalize those working currently in agriculture, how would we deal with the future labor problems if such workers moved up the economic chain and away from agricultural work?

We have suggested programs to provide a source of legal workers for farms and nurseries. They include existing workers as well as new workers. We have not suggested amnesty. Our suggestion requires workers to remain in agriculture for a temporary period and then to return home. This requires a program that allows a way for farm workers to come and go legally. Knowing of your support for agriculture, and your views on illegal immigration, this approach is consistent with your views.