CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 25, 2014

H.R. 1773
Agricultural Guestworker Act

As ordered reported by the House Committee on the Judiciary on June 19, 2013

SUMMARY

H.R. 1773 would amend immigration laws to increase the number of noncitizens who could receive nonimmigrant (temporary) visas for work in agriculture. CBO estimates that enacting H.R. 1773 would increase the U.S. population by about 160,000 people in 2017, when the Department of Agriculture would begin issuing the new type of visa that would be created under the law, and about 400,000 people in 2024.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting H.R. 1773 would increase direct spending—because of the increased number of people in the United States—by about $2.1 billion over the 2015-2024 period. Additionally, CBO and JCT estimate that enacting H.R. 1773 would increase revenues by about $1.8 billion over the 2015-2024 period.

On balance, therefore, CBO and JCT estimate that the effects of H.R. 1773 on direct spending and revenues would increase deficits by about $0.3 billion over the 2015-2024 period. However, the bill would reduce on-budget deficits by $1.9 billion over the same period, while increasing off-budget deficits by $2.2 billion over that period. Pay-as-you-go procedures apply to the legislation because it would affect on-budget direct spending and revenues.

Assuming appropriation of the necessary amounts, CBO also expects that implementing the bill would have a discretionary cost of about $1.7 billion over the 2015-2024 period.

H.R. 1773 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). H.R. 1773 would impose private-sector mandates, as defined in UMRA, by requiring employers to deposit a portion of the wages of foreign agricultural workers into a federal trust fund. CBO estimates that the total costs for employers to comply with the mandates in the bill would fall well below the annual threshold established in UMRA for private-sector mandates ($152 million in 2014, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of H.R. 1773 are shown in Table 1. The costs of this legislation would fall within budget functions 150 (international affairs), 350 (agriculture), 500 (education, training, employment, and social services), 550 (health), 570 (Medicare), 600 (income security), 650 (Social Security), and 750 (administration of justice).

TABLE 1. SUMMARY OF ESTIMATED BUDGETARTY EFFECTS OF H.R. 1773

	By Fiscal Year, in Millions of Dollars											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015-2019	2015-2024
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	0	0	75	131	124	245	316	366	396	435	330	2,088
Estimated Outlays	0	0	75	131	124	245	316	366	396	435	330	2,088
CHANGES IN REVENUES												
Estimated Revenues	0	0	28	128	203	247	267	288	298	292	359	1,751
On-budget	0	0	107	321	468	558	600	620	638	654	896	3,965
Off-budget[a]	0	0	-79	-193	-265	-311	-332	-331	-340	-361	-538	-2,214
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Effect on the Deficit	0	0	48	3	-80	-2	49	78	98	143	-29	337
On-budget	0	0	-31	-190	-345	-313	-283	-254	-242	-219	-567	-1,877
Off-budget[a]	0	0	79	193	265	311	332	331	340	361	538	2,214
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	0	0	-37	-6	142	231	297	343	383	416	100	1,769
Estimated Outlays	0	0	-30	-12	113	213	284	333	375	410	71	1,686

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Note: Components may not sum to totals because of rounding.

a. Revenues from Social Security taxes are classified as “off-budget.”

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the beginning of fiscal year 2015, that the necessary amounts will be appropriated near the beginning of each fiscal year, and that spending will follow historical patterns for existing or similar activities. CBO also assumes that, under the bill, the Department of Agriculture would begin providing the new type of nonimmigrant agricultural visas at the start of fiscal year 2017.

Effects on the U.S. Population

H.R. 1773 would expand the definition of "agricultural labor and services" and replace the current H-2A visa program for agricultural workers with a new H-2C visa program that would increase the number of noncitizens who could lawfully enter the United States on a temporary basis.

CBO's estimate of the increase in population under the bill takes into account several factors, including the expected mortality of noncitizens and the likelihood that some noncitizens would remain in the country after their visas expire. The estimate of the increase in population also includes estimates of the number of children who would be born in the United States to foreign-born individuals who would not otherwise have been present here; as under current law, those children would automatically be U.S. citizens from the time of their birth.

Taking all of those factors together, CBO estimates that enacting H.R. 1773 would increase the U.S. population by about 160,000 people in 2017 when the Department of Agriculture would begin issuing H-2C visas. The number of H-2C workers in the country would increase by about 100,000 between 2017 and 2019 as additional workers enter the country. By 2024, CBO estimates that enacting H.R. 1773 would increase the U.S. population by about 400,000 people, including H-2C workers, their citizen children, and workers who remained in the country once their visas had expired.

Under current law, noncitizens may apply for and receive an H-2A visa to live in the United States and work in the agriculture sector for up to one year. There is no statutory limit on the number of H-2A visas that can be issued each year, though the State Department has issued an average of 58,000 visas a year over the last several years. H.R. 1773 would eliminate the H-2A visa program two years after enactment and replace it with an H-2C visa for agricultural workers. Significant aspects of the H-2C program are described below:

- An H-2C visa would be available for a broader spectrum of agricultural work than under the H-2A program, including all activities required for preparing, processing, or manufacturing a product of agriculture or fishing. Workers in those latter occupations are not currently eligible for H-2A visas.

- The H-2C program would be capped at 500,000 visas per year.

- H-2C workers could remain in the country for 18 months to 36 months, depending on the nature of their work, and could reapply for a visa after returning home.

- Employers of all H-2C workers would be required to withhold 10 percent of the workers' wages and place those amounts in a federal trust fund. Employers of some H-2C workers also would have to pay the equivalent of certain payroll taxes.

- H.R. 1773 would allow some noncitizens currently in the country without authorization to qualify for an H-2C visa. Employers would need to petition for the worker, the worker would need to leave the country before getting the visa, the visa would be good for a limited time, and the worker would face wage withholding as specified in the bill. Consequently, CBO estimates that few unauthorized residents would apply for and receive H-2C visas.

- One component of the H-2C program would allow workers to find employment with other approved employers, once their initial work contract with the petitioning employer was finished. That program would be contingent on subsequent legislation that would implement a nationwide employment verification system affecting all employers, and any budgetary effects would be assigned to such legislation.

CBO expects that the new categories of agricultural workers eligible for H-2C visas would result in an increase in the number of visas issued, but CBO does not expect that number to reach the cap (500,000 per year) authorized in H.R. 1773 over the next 10 years.

Immigration and Eligibility for Federal Benefits

The eligibility of noncitizens for many federal benefit programs is determined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and a host of program-specific laws. In brief, the eligibility of noncitizens who meet the programs' requirements not related to immigration, such as income and asset thresholds, is generally determined as follows:[1]

Earned Income Tax Credit and Child Tax Credit. Noncitizens with Social Security numbers that are valid for employment are eligible to receive the nonrefundable and refundable portions of the Earned Income Tax Credit (EITC). Resident aliens (noncitizens who live in the United States) are eligible to receive the nonrefundable and refundable portions of the child tax credit for qualifying children.

Medicaid and the Children's Health Insurance Program (CHIP). Nonimmigrants are not eligible for full Medicaid and CHIP benefits, except in certain cases. Under current law, states have the option to provide full Medicaid and CHIP benefits to certain groups of legal immigrants under the Children's Health Insurance Program Reauthorization Act of

1. For a more-detailed explanation of noncitizens' eligibility for those programs, see pages 25-32 of CBO's cost estimate (dated June 18, 2013) for S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act, as reported by the Senate Committee on the Judiciary on May 28, 2013.

2009. That law gave states the option to extend Medicaid and CHIP to children and pregnant women who are lawfully residing in the United States and who would not otherwise be eligible under PRWORA; 27 states and the District of Columbia currently provide such coverage. Citizen children born to immigrants are eligible for full Medicaid and CHIP benefits regardless of their parents' immigration status. For other noncitizens, Medicaid pays for a limited benefit that covers the cost of services necessary for the treatment of emergency medical conditions.

Health Insurance Subsidies. The Affordable Care Act (ACA) authorized the creation of insurance exchanges through which individuals and families who meet various requirements are eligible for premium assistance tax credits to cover some of the cost of purchasing health insurance and additional subsidies to reduce cost-sharing payments under those insurance policies. H.R. 1773 would specifically bar temporary agricultural workers from receiving subsidies for health insurance purchased through insurance exchanges created under the ACA. Citizen children born in the United States to temporary agricultural workers, however, would not be barred from receiving subsidies if they were otherwise eligible.

Other Programs. Children of nonimmigrants born in the United States also would qualify for the Supplemental Nutrition Assistant Program (SNAP), child nutrition programs, and Supplemental Security Income (SSI).

Direct Spending

Overall, CBO and JCT estimate that enacting the legislation would increase direct spending by about $2.1 billion over the 2015-2024 period (see Table 2). All of the direct spending effects are on-budget.

Earned Income Tax Credit and Child Tax Credit. JCT estimates that outlays for refundable tax credits would decline by about $900 million over the 2015-2024 period. The bill would prohibit most H-2C workers from claiming child or earned income tax credits, which are refundable. Although JCT expects that enforcement of that provision could be difficult, JCT expects that the temporary agricultural workers provided for under H.R. 1773 would claim fewer refundable credits than are claimed by current agricultural workers because of that prohibition.

Medicaid and the Children's Health Insurance Program. CBO estimates that spending on Medicaid, including spending on services for the treatment of emergency medical conditions, would increase by about $760 million over the 2015-2024 period under the bill. Because funding for CHIP is assumed to be constrained under CBO's baseline projections, all of those estimated costs would be for the Medicaid program.

Health Insurance Subsidies. CBO and JCT estimate that premium assistance tax credits and cost-sharing subsidies provided through health insurance exchanges would decrease, on net, by about $800 million over the 2015-2024 period. That amount consists of about a $700 million net decrease in outlays and a $100 million net increase in revenues.[2] The bill would prohibit H-2C workers from receiving health insurance subsidies through exchanges; accordingly, fewer agricultural workers would receive health insurance subsidies under H.R. 1773 than would under current law.

TABLE 2. ESTIMATED EFFECTS OF H.R. 1773 ON DIRECT SPENDING, BY PROGRAM

	By Fiscal Year, Outlays in Millions of Dollars											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015-2019	2015-2024
CHANGES IN DIRECT SPENDING												
Earned Income Tax Credit and Child Tax Credit[a]	0	0	0	-42	-83	-117	-150	-162	-167	-170	-125	-890
Medicaid and CHIP	0	0	28	53	71	89	107	123	138	154	152	763
Health Insurance Subsidies	0	0	-7	-51	-90	-102	-106	-110	-113	-114	-150	-695
SNAP	0	0	*	1	1	2	3	4	5	6	2	22
Supplemental Security Income	0	0	*	1	1	2	3	4	4	5	2	20
Child Nutrition Programs	0	0	0	0	0	0	0	0	1	3	0	4
Refund to Returning Workers	0	0	*	35	126	265	344	387	406	426	161	1,988
Administrative Expenses	0	0	56	135	97	106	115	120	122	125	288	876
Total Changes	0	0	75	131	124	245	316	366	396	435	330	2,088

Notes: CHIP = Children's Health Insurance Program; SNAP = Supplemental Nutrition Assistance Program.

Components may not sum to totals because of rounding; * = less than $500,000.

a. Estimate provided by the staff of the Joint Committee on Taxation.

2. The subsidies for health insurance premiums are structured as refundable tax credits; following the usual procedures for such credits, CBO and JCT classify the portions that exceed taxpayers' income tax liabilities as outlays, and the portions that reduce tax payments as reductions in revenues.

Other Benefit Programs. The changes in the U.S. population under the bill would lead to small increases in direct spending over the 2015-2024 period in SNAP, the child nutrition programs, and SSI. For those programs, the estimated budgetary effects primarily represent costs from additional children born in the United States. CBO estimates that increased spending for those other programs would total a little under $50 million over the 2015-2024 period.

Trust Fund. The bill would establish a trust fund for the wages withheld from H-2C workers and the taxes paid by employers for those workers (discussed below under the heading, “Revenues”). Some of the payments from the trust fund would be direct spending, while the remainder would be subject to annual appropriation.

Refund to Returning Workers. Under the bill, H-2C workers could claim the amounts withheld from their wages if they apply at a U.S. embassy or consulate in their home country within 120 days of the termination of their authorized stay in the United States. They would be required to show proof of identity and establish that they complied with the program’s conditions. CBO estimates that about three-quarters of all workers would depart the United States and return to their home country (20,000 in 2018, growing to 136,000 in 2024). We further estimate that about 95 percent of those workers would claim their withholdings within the 120-day period specified in the bill. On average, CBO estimates that each worker would be paid about $1,800 in 2018, with that figure growing to about $3,200 in 2024. Thus, CBO estimates that the Department of State would pay claims of $35 million in 2018 and about $2.0 billion over the 2015-2024 period.

Administrative Expenses. The taxes paid by employers would be available without the need for annual appropriations to pay the administrative costs of the Department of Agriculture, the Department of State, and the Department of Homeland Security (DHS). Some of those administrative costs would be covered by fees collected by the Department of Agriculture and DHS, as discussed below under the heading “Immigration Fees.” To the extent that the trust fund does not have sufficient funds to cover those expenses, CBO expects that the departments would use appropriated funds and later be reimbursed by the trust fund.

Under the bill’s provisions, the Department of Agriculture would have to register employers, review petitions filed by employers to hire workers, conduct investigations and random audits of employers, and maintain records relating to these activities. The Department of Labor (DOL) handles similar functions for the hiring of H-2A workers under current law. Based on costs reported by DOL for those activities, CBO estimates that enacting H.R. 1773 would cost the Department of Agriculture about $680 million through 2024.

To refund the wages withheld from workers, CBO estimates that the Department of State would incur one-time administrative costs of $5 million over the 2016-2018 period to set up systems and procedures necessary for the claims process and to train employees. CBO expects that the costs of processing each individual claim would be similar to the department's costs of processing visas, about $250 per person. After adjusting for inflation, CBO estimates that payments to the Department of State for administrative costs would increase direct spending by about $190 million through 2024.

Immigration Fees. The Department of Homeland Security currently collects fees to process applications for immigration services. Collections from those fees are classified as offsetting receipts (that is, a credit against direct spending) and are available for spending by DHS without further appropriation. In addition to DHS fees paid by employers of H-2C workers, the bill also would direct the Department of Agriculture to charge fees to designate firms as registered agricultural employers and to approve petitions to hire some H-2C workers. We expect the department would be able to spend those collections without further appropriation.

CBO estimates that additional fees collected by DHS and the Department of Agriculture under the bill would total less than $10 million in each year, nearly all of which would be spent in the same year. Accordingly, the net budgetary effect from collecting and spending the fees would be decreases in direct spending of less than $500,000 annually.

Revenues

JCT estimates that H.R. 1773 would, on net, increase revenues by about $1.8 billion over the 2015-2024 period (see Table 3).

The biggest effect on revenues would stem from a provision that would require employers of H-2C workers to withhold 10 percent of the wages they pay and transmit those amounts to the federal government. Those amounts, estimated by JCT to total about $3.6 billion from 2015 through 2024, would be deposited into the new trust fund described above and remitted to those H-2C workers after their authorized stay in the United States expired and if they applied at a U.S. embassy or consulate in their home country.

In addition, although certain wages paid to agricultural workers temporarily admitted into the United States would continue to be exempt from payroll taxes under H.R. 1773, employers of H-2C workers in jobs that are not of a temporary or seasonal nature would be required to transmit to the federal government an amount that the employer would have paid in payroll taxes had those wages been subject to payroll taxation. Those amounts, which JCT estimates would total about $2.5 billion over the 2015-2024 period, would also be deposited into the new trust fund, although such deposits would be used to reimburse certain federal agencies to cover expenses associated with administration of the H-2C program.

Furthermore, consistent with the conventional estimating assumption that overall economic activity would not change because of the legislation, the H-2C workers under

H.R. 1773 would be expected to largely replace other agricultural workers not possessing H-2A visas, many of whom have payroll taxes withheld under current law. Because H-2C workers would be largely exempt from payroll taxes, revenues from payroll taxes would decline, including an estimated decline of $2.2 billion over the 2015-2024 period in revenues from Social Security taxes, which are considered off-budget.

Other effects of H.R. 1773 would reduce revenues on net, JCT and CBO estimate, by about $2.1 billion over the 2015-2024 period. In particular, JCT estimates that revenues would decline on net by about $2.2 billion over the 2015-2024 period for several reasons: on-budget receipts from Medicare payroll taxes would be lower; higher corporate income tax deductions would reduce corporate income taxes; and net individual income tax payments would be lower as a result of a substitution of H-2C workers for other agricultural workers not possessing H-2A visas. Partially offsetting those reductions in revenues, CBO and JCT estimate that premium assistance tax credits would be lower, thereby increasing revenues by $0.1 billion over the 2015-2024 period (in addition to reducing outlays by about $0.7 billion over the 10-year period as discussed above).

TABLE 3. ESTIMATED EFFECTS OF H.R. 1773 ON REVENUES

	By Fiscal Year, in Millions of Dollars											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015-2019	2015-2024
CHANGES IN REVENUES												
10 Percent Withholding from Workers	0	0	105	291	421	501	539	556	572	590	817	3,575
Payroll Equivalent Tax on Employers	0	0	56	166	271	351	387	398	410	423	493	2,463
Social Security Payroll Tax (off-budget)	0	0	-79	-193	-265	-311	-332	-331	-340	-361	-538	-2,214
Other Taxes	0	0	-56	-144	-237	-310	-342	-350	-360	-374	-437	-2,173
Health Insurance	0	0	1	8	14	16	15	15	15	15	22	100
Total Changes	0	0	28	128	203	247	267	288	298	292	359	1,751

Note: Components may not sum to totals because of rounding.

Spending Subject to Appropriation

CBO estimates that substantial funds would remain in the trust fund (discussed above) after paying workers the amounts withheld from their wages and reimbursing the Department of Agriculture, Department of State, and DHS for administrative costs. H.R. 1773 would authorize the appropriation of those remaining amounts for DHS to apprehend, detain, and remove aliens unlawfully present in the United States. Assuming appropriation of those amounts, CBO estimates that implementing that provision would cost $2.0 billion over the 2015-2024 period.

As discussed above, the bill would eliminate the current H-2A program, which is administered by the Department of Labor and replace it with a new H-2C program, which would be administered by the Department of Agriculture. CBO estimates that the decline in workload at DOL would reduce costs by about $300 million over the 2015-2014 period, assuming that appropriations are reduced by the estimated amounts.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table. For pay-as-you-go purposes, only on-budget effects are included; thus, the decline in revenues paid into the Social Security trust funds are not included below.

CBO Estimate of Pay-As-You-Go Effects for H.R. 1773 as ordered reported by the House Committee on the Judiciary on June 19, 2013

	By Fiscal Year in Millions of Dollars												
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2014-2019	2014-2024
	NET DECREASE IN THE ON-BUDGET DEFICIT												
Statutory Pay-As-You Go Impact	0	0	0	-31	-190	-345	-313	-283	-254	-242	-219	-567	-1,877
Memorandum:													
Changes in Outlays	0	0	0	75	131	124	245	316	366	396	435	330	2,088
Changes in Revenues	0	0	0	107	321	468	558	600	620	638	654	896	3,965

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 1773 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act. The temporary visa program would increase the number of individuals eligible for Medicaid assistance. Since state governments pay for a portion of Medicaid, CBO estimates that state spending on the program would increase by about $500 million over the 2015-2024 period. Because states have significant flexibility to alter their programmatic responsibilities for Medicaid, those costs would not result from an intergovernmental mandate.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 1773 would impose private-sector mandates, as defined in UMRA, on employers of temporary foreign agricultural workers (also known as agricultural guestworkers). By replacing the current H-2A visa guestworker program with a new H-2C visa program, the bill would impose requirements on employers of agricultural guestworkers. Most of the requirements on employers of workers with H-2C visas would be equivalent to requirements under current law on employers of workers with H-2A visas. However, under the new visa program, employers of workers with H-2C visas would be required to withhold 10 percent of their wages and transmit those amounts to a trust fund operated by the federal government. Employers of workers with H-2C visas may incur some additional administrative costs to comply with this new requirement. The H-2C visa program also would reduce some of the existing requirements on employers of agricultural guestworkers (for example, it would eliminate some requirements for employer-provided benefits, such as subsidized transportation and free housing). In total, CBO estimates that the cost for employers to comply with the mandates in the bill would fall well below the annual threshold established in UMRA for private-sector mandates ($152 million in 2014, adjusted annually for inflation).

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