

February 6, 2024

The Honorable Patty Murray  
Chairwoman  
Senate Committee on Appropriations  
S-128 The Capitol  
Washington, DC 20510

The Honorable Kay Granger  
Chairwoman  
House Committee on Appropriations  
H-307 The Capitol  
Washington, DC 20515

The Honorable Susan Collins  
Ranking Member  
Senate Committee on Appropriations  
S-128 The Capitol  
Washington, DC 20510

The Honorable Rosa DeLauro  
Ranking Member  
House Committee on Appropriations  
1036 Longworth House Office Building  
Washington, DC 20515

Dear Chair Murray, Ranking Member Collins, Chair Granger, and Ranking Member DeLauro:

We write regarding the annual modifications to the Average Effect Wage Rate (AEWR), which continues to financially burden our nation's agricultural producers who utilize the H-2A Temporary Agriculture Worker program (H-2A program). We urge you to include language in an upcoming appropriations package to freeze current H-2A wage rates at January 2023 levels and reinstate the 14-day delay between the AEWR rate posting and the implementation period.

Over the last year, the Department of Labor (DOL) amended the H-2A program numerous times to force unreasonable regulations on employers who utilize temporary and seasonal non-immigrant workers to perform agricultural labor in the United States. On March 30, 2023, DOL amended the methodology<sup>1</sup> for calculating the AEWR, without any stakeholder input.<sup>2</sup> H-2A employers are now faced with two AEWR changes annually, one each from the Farm Labor Survey and the Occupational Employment and Wage Statistics Survey. Following the AEWR calculation change, DOL issued a proposed rule<sup>3</sup> on September 15, 2023, removing the 14-day wage implementation period to require H-2A employers to immediately post the new rate when finalized. Subsequently, DOL published 2024 AEWR rates on December 14, 2023,<sup>4</sup> which increased the AEWR average rate by upwards of 5 percent from last year. The cost of labor is already one of the top expenses our farmers face, and DOL's burdensome requirements hinder their abilities to hire agricultural guestworkers and still make a profit.

The recent 2024 AEWR increase imposes significant financial strains upon employers who utilize agricultural guestworkers, yet many employers do not have another option as they depend upon the H-2A program for a reliable workforce. H-2A wage rates have risen annually for the past two decades and doubled since 2005. According to the American Farm Bureau Federation,

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<sup>1</sup> 88 FR 12760.

<sup>2</sup> American Farm Bureau Federation (2023). New H-2A wage rule set to crush family farms. <https://www.fb.org/the-zipline/new-h-2a-wage-rule-set-to-crush-family-farms>.

<sup>3</sup> 88 FR 63750.

<sup>4</sup> 88 FR 86677.

the new average AEW rate is approximately \$17.55/hr., with varying wages from \$14.53/hr. to \$19.75/hr., depending upon the geographical region.<sup>5</sup> Thirteen states face AEW increases of \$1.00/hr. to \$1.49/hr., while thirty states face increases of \$0.50/hr. to \$0.99/hr.<sup>6</sup> In comparison, the federal minimum wage is \$7.25/hr.,<sup>7</sup> less than half the cost of AEW in any state. Despite annual AEW increases, the H-2A program continues to experience record participation levels, with 378,513 positions certified in fiscal year 2023 across the nation.<sup>8</sup> As the demand for H-2A labor remains strong, employers who utilize the program generally agree that without additional labor from guestworkers, American producers could not efficiently plant or harvest crops.

Considering our nation's agriculture industry is dependent on foreign workers when domestic workers are unavailable to fill open positions in the farming industry, we must prioritize the ability of farmers to pay rising wages amidst record-high inflation and skyrocketing input costs. In addition to wages, employers must budget for acquiring, housing, and transporting guestworkers. In many states, receiving H-2A workers costs approximately \$1,000 in fees each, not including the wage rate and housing expenses incurred after arrival to the work site.<sup>9</sup> The recent changes to AEW disrupt an already damaged system and further inhibit farmers and producers from their task at hand – feeding, clothing, and fueling our great nation. Small, family-owned farms and specialty crop growers are among the most vulnerable to increased costs in the H-2A program and at the highest risk of closure. As expenses continue to rise, family-owned farms will be forced to close, leading to further consolidation in the agricultural industry. Any changes to the H-2A program should be subject to thorough and insightful action by Congress, not forced on producers by the executive branch. We must prioritize our farmers' needs for reliable labor through a flexible approach to the agricultural guestworker program, which provides both farmers and workers a level playing field.

To reiterate, we request the inclusion of language in an upcoming appropriations package to freeze current H-2A wage rates at January 2023 levels and reinstate the 14-day delay between the AEW rate posting and the implementation period. Thank you for your attention to this important matter.

Sincerely,



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Tommy Tuberville  
United States Senator



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James E. Risch  
United States Senator

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<sup>5</sup>American Farm Bureau Federation (2023). 2024 H-2A AEWs on their way (up). <https://www.fb.org/market-intel/2024-h-2a-awrs-on-their-way-up>

<sup>6</sup> *Id.*

<sup>7</sup> U.S. Department of Labor (2023). Minimum wage. <https://www.dol.gov/general/topic/wages/minimumwage>  
[https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A\\_Selected\\_Statistics\\_FY2023\\_Q4.pdf](https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2023_Q4.pdf)

<sup>8</sup> U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification (2023). H-2A Temporary Agricultural Program – Selected Statistics, Fiscal Year (FY) 2023.  
[https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A\\_Selected\\_Statistics\\_FY2023\\_Q4.pdf](https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/H-2A_Selected_Statistics_FY2023_Q4.pdf)

<sup>9</sup> Alabama Daily News (2023). In labor shortage, more Alabama farms turn to guest worker visas. <https://aldailynews.com/in-labor-shortage-more-alabama-farms-turn-to-guest-worker-visas/>



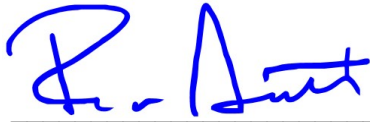
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Kevin Cramer  
United States Senator



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Roger Marshall, M.D.  
United States Senator



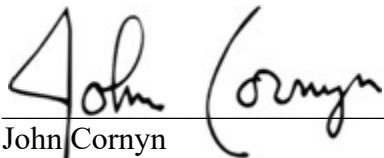
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Rick Scott  
United States Senator



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Thom Tillis  
United States Senator



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John Cornyn  
United States Senator



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Ted Budd  
United States Senator



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Mike Braun  
United States Senator



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Cynthia M. Lummis  
United States Senator