

July 20, 2021

The Honorable Dick Durbin
Chairman
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

Dear Senators Durbin and Grassley,

Farmers rely on skilled, reliable employees to produce food, fuel and fiber, and have long advocated for smart policies that provide stability for the agriculture workforce while also reforming the existing H-2A guestworker program. As the nation's largest general farm organization, the American Farm Bureau Federation (AFBF) appreciates the opportunity to share our viewpoint regarding proposals seeking to address the immigration status of farmworkers.

While AFBF recognizes that the documentation status of farmworkers is an issue facing our industry that must be resolved, we must not forget the critical need to address long-standing inadequacies in our nation's H-2A guestworker program as well. Failing to pass substantive guestworker reform could intensify our nation's ongoing agricultural workforce shortage, placing our nation's food security at risk.

Numerous U.S. farms saw a turnover in their workforce following the Immigration Reform and Control Act of 1986 (IRCA). As a result, many farmers turned to the H-2A program to meet their employment needs. While the H-2A program is a lifeline for growers who seasonally need workers but cannot find them domestically, it is an expensive and bureaucratic program that would not be used if other labor options were available. Since IRCA, agriculture's labor shortage has worsened, forcing more farmers to utilize the H-2A program. This is evident in the more than 350% growth in the number of H-2A certified positions in the last 10 years.

Considering that growth, an ag labor solution must address agriculture's most pressing problems with the guestworker program, including program access and cost concerns. Under current law, the H-2A program is not available to farmers with year-round employment needs, such as those engaged in dairy, livestock, or mushroom farming. Additionally, as technology has modernized agricultural practices, farmers have found new ways to grow crops year-round, but these operations often do not fit within the rigid, seasonal parameters of the existing H-2A program.

Costs associated with the H-2A program must also be addressed in any solution put forward by the Senate. The requirement to pay H-2A workers the adverse effect wage rate, in addition to providing free housing and transportation to H-2A employees, jeopardize the economic viability of farms throughout the United States. The adverse effect wage rate is calculated based on data gathered in the Farm Labor Survey conducted by USDA. This approach leads to volatility and uncertainty. For example, in 2019, the AEW for Colorado, Nevada and Utah increased 23% in

one year. The increases in the AEWL have also far outpaced the rest of the U.S. economy. Since 2010, labor costs reported by the farm labor survey have increased nearly 40%, while the wage growth across the broader U.S. economy has only increased 25% in the same time frameⁱ.

Farmers' concerns with the AEWL are not only about predictability but also a matter of economic competitiveness. While farmers need certainty regarding the adverse effect wage rate, they also need to ensure their businesses can remain open. For many farmers who use the H-2A program, especially on small- and medium-sized farms, the program costs are already too high. AEWL increases far outpace the revenues for labor-intensive crops grown on their farms.

For example, while the AEWL has increased 20% on average over the last five years, the revenues for fruits and nuts have only increased 1%, while revenues for vegetables and melons have declined by 5%. This scenario is creating incentives for the offshoring of food production, which presents a national security concern. These production shifts are already occurring. Just last year, the production of carrots, iceberg lettuce, onions, oranges, potatoes and strawberries diminished by approximately 160 million pounds compared to 2019, while imports of those same products increased 177 million pounds, a 44% increaseⁱⁱ. Without reforms to address the costs to produce food using legal, H-2A labor in the United States, this production imbalance will increase, resulting in the U.S. becoming dependent on foreign countries for our food supply.

As Congress considers proposals regarding farmworkers' immigration status, we must keep H-2A guestworker reform at the forefront of these conversations. AFBF implores Congress to work in a bipartisan manner to address concerns regarding the immigration status of existing farmworkers and reforms to the H-2A guestworker program. As American farmers and ranchers already face a workforce shortage, Congress must recognize the dangers of incomplete, shortsighted agricultural labor reform initiatives.

Sincerely,

A handwritten signature in cursive script that reads "Zippy Duvall". The signature is written in black ink and is positioned below the word "Sincerely,".

Zippy Duvall, President

ⁱ <https://www.fb.org/market-intel/certainty-and-stability-for-aewr>

ⁱⁱ Chenarides, L, Richards, TJ, Rickard, B. COVID-19 impact on fruit and vegetable markets: One year later. *Can J Agr Econ* 2021; 1– 12. <https://doi.org/10.1111/cjag.12272>