

**REGIONAL PERSPECTIVES ON AGRICULTURAL
GUESTWORKER PROGRAMS**

HEARING
BEFORE THE
SUBCOMMITTEE ON
IMMIGRATION POLICY AND ENFORCEMENT
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION

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FEBRUARY 9, 2012
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Serial No. 112-92

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REGIONAL PERSPECTIVES ON AGRICULTURAL GUESTWORKER PROGRAMS

THURSDAY, FEBRUARY 9, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION
POLICY AND ENFORCEMENT,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:06 a.m., in room 2141, Rayburn House Office Building, the Honorable Elton Gallegly (Chairman of the Subcommittee) presiding.

Present: Representatives Gallegly, Smith, Lungren, Gowdy, Ross, Lofgren, and Jackson Lee.

Staff Present: (Majority) George Fishman, Subcommittee Chief Counsel; Marian White, Clerk; (Minority) David Shahoulian, Subcommittee Chief Counsel; and Tom Jawetz, Counsel.

Mr. GALLEGLY. I call to order the Subcommittee on Immigration Policy and Enforcement.

Today we have a hearing on “Regional Perspectives on Agricultural Guestworker Programs.”

Good morning to all.

Today’s Subcommittee hearing represents our third hearing on the issue of seasonal agricultural labor and legislative proposals regarding a guestworker program. This is a complex issue which impacts not only foreign farm workers and agricultural employers but also U.S. workers, local communities throughout the United States, and, of course, the American taxpayer.

This is a critical issue to U.S. agriculture because real-world experience has shown that there are simply not enough Americans willing to work as migrant farm workers. The labor-intensive branch of agriculture—fruits, vegetables, and horticulture specialties—employs over 1.2 million individual farm workers a year.

Each year, farm workers are interviewed by the U.S. Department of Labor’s National Agricultural Workers Survey. The survey found that, over the 2007 and 2009 period, 48 percent of farm workers openly admitted being illegally in the country. The actual figure may be even higher, and the NAWS shows that 85 percent of first-time farm workers openly admit to being illegally in the country.

What options for legal workers do growers really have? Since 1986, the H-2A program has made visas available for temporary AG workers. However, 16 years ago, American agriculture told the Subcommittee that the H-2A program was “characterized by extensive, complex regulations that hamstring employers who try to use

it, and by costly litigation challenging its use when admissions of alien workers are sought.” They alleged that the Department of Labor was “implacably opposed to the program.”

Front and center in the growers’ minds was ensuring the availability of sufficient labor to meet crucial needs like harvesting whose timing varies with the weather. Unfortunately, timeliness has never been the H-2A program’s strong suit. Neither has realism about the availability of domestic labor. It seems that little has changed in the intervening 16 years.

The Bush administration’s Labor Department initiated a bold plan to revamp the H-2A program. The plan, which was later rescinded by the Obama administration, remade the program into an attestation-based system designed to streamline the regulatory process and speed up the availability of guestworkers for growers that faced labor shortage. It also was designed to make the costs of the program more manageable for the growers.

Even though these changes did improve the H-2A program, let me make it clear on one point. The H-2A program is not structured to meet the needs of the vast majority of agricultural employers in the United States. It simply is not flexible enough to provide an adequate supply of labor in a timely fashion to many growers, especially growers of specialty crops, across the country.

I look forward to hearing the testimony today of a diverse panel of witnesses who will provide their own assessment of the H-2A program and to discuss specific recommendations for an alternative guestworker program. It is my hope that this hearing will plant the seed for much-needed reform of our agricultural visa program.

And, with that, I would yield to my good friend, the Ranking Member from California, the number-one AG State in the United States, Ms. Lofgren.

Ms. LOFGREN. That is correct. Thank you, Mr. Chairman.

You are right, this is the third hearing before the Subcommittee specifically on our AG workforce. But, really, we have been talking about the issue for this whole Congress, in relation to Chairman Smith’s proposal to implement a mandatory E-Verify system. As Members of both sides of the aisle have made clear, without something to address the country’s agricultural workforce needs, mandatory E-Verify would simply destroy segments of our agriculture industry.

Looking back at the numerous hearings we have held on this issue over the last few years, I think that critical facts are sometimes ignored. We all know that crops like corn, wheat, and soy are not the issue here. The biggest problem is with seasonal, labor-intensive fruit and vegetable production. When it comes to such farming, we don’t just need a workforce, we need an experienced workforce. And even an experienced workforce is not enough; we need a fast, flexible, and experienced workforce.

Farmers do their best to plan harvests, but unusual rises or dips in temperature or humidity can suddenly move up a harvest, giving growers just days or even hours to pick valuable crops. Planned harvest schedules often go right out the window. The grower must find experienced workers with the right skills immediately or lose his or her crops.

Luckily, such a fast, flexible, and experienced workforce exists in America today. Those workers have helped make American agriculture a resounding success. For those who believe in the power of the free market, this is a prime example of that power.

Technological advancement may get all the attention, but America has long been an agricultural powerhouse. Agriculture continues to be a major sector of our economy and a primary U.S. export. In fact, we export so many more agricultural products than we import that the sector is regularly the largest in which we see a trade surplus.

Yet Congress has long ignored the needs of labor in this sector. For decades, we have rightfully been educating and training our children for work in other areas. And at the same time, our immigration laws have made it all but impossible to fill the resulting void with foreign, legal workers. Despite a need for millions of workers, some on a permanent basis, our immigration laws have made only 5,000 green cards available per year for people without bachelor's degrees. That is 5,000 per year to be shared not just by agricultural employers but also by landscapers, restaurants, hotels, and many other industries who hire such workers.

The H-2A temporary worker program hasn't done the job either. Any employer will tell you that the program is just too slow and bureaucratic for fast-moving harvests. A recent survey by the National Council of Agricultural Employers found that 72 percent of H-2A users reported that their workers arrived 22 days, on average, after the date of need. So it is no surprise that the program is used so sparingly, reaching the high-water mark of 64,000 visas in 2008.

In that environment, is it any wonder that market forces worked their magic to pair up willing employers and willing workers? Let's be honest here, the government essentially left farmers with no choice but to hire undocumented workers. And everyone, including the government, looked the other way as workers came in to fill the jobs that our country desperately needed filled.

So what do we do now? Do we accept responsibility for creating this mess, recognize that we have an experienced workforce that has been providing critical services to the country for years, provide a way for them to obtain legal status and continue to help this country succeed? Or do we, as some suggest, attempt to throw out this entire experienced workforce and import millions of new workers through a government-controlled program that has never worked in the past?

I have mentioned it before, but I need to mention it again. How can anyone think that the answer to our labor needs is to deport over a million agricultural workers who are already here—workers who have experience, who know where to go, what to do, when to do it—just to ship in millions of new government-approved workers every year, year after year after year?

The proposals essentially ask taxpayers to spend billions to deport the experienced workers, only then to require America's farmers to shoulder the costs annually of bringing in millions of new workers. It doesn't make sense. It won't work.

We already know the result in those States where action has been taken—tremendous loss. We have seen a preview in Georgia

and Alabama because of their new immigration laws. University of Georgia estimates that because of resulting worker shortages in just seven key berry and vegetable crops, Georgia and its growers will suffer up to \$391 million in direct and indirect losses every year. And a professor at the University of Alabama estimates that Alabama will face between \$2 billion and \$11 billion in annual economic losses. Is this what we want for American agriculture?

I think we need to face facts. The law has been broken for decades, failing to meet the needs of entire industries, particularly AG. People took matters into their own hands. Yes, the workers came without obeying the rules, but almost every fruit and vegetable farmer in the country also broke the rules. The government essentially let it all happen. We are all at fault. We need to recognize that and do what is right for the country, and we can't allow ideology to trump common sense.

So, with that, Mr. Chairman, I would yield back.

Mr. GALLEGLY. I thank the gentlelady.

And the good news is, we have this hearing this morning. The bad news is, the bells just went off and we do have votes. We will get back as quickly as possible. We may lose some Members along the way, but this will be an important thing to have on the record, and we will recess until such time as needed to get back from, as quickly as possible, from the intervening votes.

So, with that, we stand in recess, hopefully for not more than about 35 or 40 minutes. Thank you.

[Recess.]

Mr. LUNGREN [presiding]. At this time, the Chair would recognize the Chairman of the full Committee, the gentleman from Texas, for a statement.

Mr. SMITH. Thank you, Mr. Chairman.

The agriculture industry needs to hire hundreds of thousands of seasonal workers each year to help put food on Americans' tables. However, many workers with better options choose to work elsewhere. That is why many illegal immigrant farm workers who received amnesty in 1986 soon left the fields for other jobs in the city. As the President of the American Farm Bureau has stated, any new amnesty, such as AG jobs, would have the same result. Because of this, U.S. employers often face a shortage of available American workers to fill seasonal agricultural jobs.

There is no numerical limit to H-2A temporary agricultural work visas, yet half of farm workers remain illegal immigrants. Why don't more growers who have heavy demands for seasonal agriculture labor make use of the program? Well, in 2008, the Department of Labor concluded that the vast majority of growers, "find the H-2A program so plagued with problems that they avoid using it all together."

This Subcommittee held a hearing last year in which witnesses described what was wrong with the H-2A program. Growers believe that the Labor Department, which largely administers the H-2A program, is hostile to them and the program. Growers are also troubled by the great cost of using the H-2A program, especially the "adverse effect wage rate." Growers have to build free housing for their guestworkers.

America needs an agricultural guestworker program that is fair to everyone it impacts: American growers, farm workers, consumers, and guestworkers. A program must provide growers who want to do the right thing with a reliable source of legal labor. It must protect the livelihoods of American workers and the rights of guestworkers. And it must keep in mind the pocketbooks of American families.

I have introduced legislation, the American Specialty Agriculture Act, that accomplishes these goals. It establishes an H-2C guestworker program responsive to the needs of American growers and maintains strong policies to protect citizens and legal workers. And it does so without the fraud-ridden mass amnesty for illegal immigrant farm workers that failed in 1986.

Let me highlight some of the provisions of the bill. First, the bill puts the Agriculture Department in charge of the H-2C program. Second, in order to minimize red tape, the bill streamlines the process for H-2C workers by making it attestation-based, just like the H-1B program for high-skilled workers.

Third, the bill requires growers to pay H-2C workers and American workers the prevailing wage, as required in other guestworker programs. Fourth, the bill allows growers to provide a housing voucher instead of actual housing, which can prove extremely burdensome for growers who may need foreign workers for only a few weeks a year.

Fifth, the bill opens up the H-2C program to dairies and other agricultural producers that cannot use the H-2A program because they employ workers year-round. Sixth, the bill allows growers to include binding arbitration in contracts with H-2C workers in order to forestall abusive and frivolous litigation.

I am also pleased that the report of Georgia Agriculture Commissioner Black finds that my bill, "institutes an H-2C program that will be responsive to the needs of America's specialty growers." And I look forward today to hearing perspectives from both coasts on how best to write and implement an agricultural guestworker program. We must put policies in place that help ensure American growers can keep growing our crops and our economy.

Thank you, Mr. Chairman. I yield back.

Mr. LUNGREN. I thank the Chairman for his statement.

And I might say, I enjoy sitting here because it is the first time I have seen that there is an override button where I can cancel all other microphones while activating my own.

Mr. SMITH. You are not supposed to know that.

Mr. LUNGREN. I never knew that was here, but—

Ms. LOFGREN. Before you do that, Mr. Chairman, could I ask unanimous consent to put the statement of Congressman Sam Farr into the record?

Mr. LUNGREN. Absolutely. Without objection, so ordered.

[The prepared statement of Mr. Farr follows:]

**Prepared Statement of the Honorable Sam Farr, a Representative in
Congress from the State of California**

Chairman Gallegly, Ranking Member Lofgren and Members of the Subcommittee, As the Judiciary Subcommittee on Immigration Policy and Enforcement reviews immigration reform proposals, I urge you to consider the impact that policy changes would have on the California agricultural industry and the workers they employ.

As Members of Congress, we must enact immigration policies that are tough, fair and practical.

Successful immigration reform must establish a system that turns those who are willing to work hard and play by the rules into taxpayers, paying their fair share. We need a system that has common sense rules for who and how many people we let in legally, so we don't flood the labor market in hard times, but that allows businesses to hire the workers they need.

With these principle in mind, I am concerned that the acute shortage of agricultural workers across our districts has not been adequately taken into consideration. I believe that any immigration reform legislation *must* provide farmers, ranchers and agricultural producers with a stable and legal workforce. For every job created on a farm, many more non-farm support jobs are created in the supply chain of distribution. Yet California's farmers, who are responsible for billions of dollars of economic activity every year, continue to face significant barriers to finding a legal and stable workforce. The ideal solution would be the rapid passage of legislation like AgJOBS.

I am concerned that some interim immigration reform proposals would create even more devastating labor shortages for growers. It is short-sighted to think mandatory worker verification methods, like E-Verify, are the sole solution to our country's illegal immigration issues. Further, we should not impose additional barriers to legal workers who are willing to work hard and play by the rules. It would risk the economic vitality of the entire American agricultural industry and fail to accomplish true immigration reform.

I believe the time for immigration reform is long overdue, but we need to find the right balance between ensuring American citizens have the best chance of finding a job while also ensuring our agricultural industry has an adequate and stable workforce for years to come. I stand ready to work with you to accomplish this goal.

Mr. LUNGREN. And I ask unanimous consent that the statement of Tom Nassif, president and CEO of Western Growers; the statement of Maureen Torrey Marshall of Torrey Farms of New York; and the statement of Dale Foreman, chairman of the U.S. Apple Association, be included in the record as well.

Without objection, so ordered.

[The material referred to follows:]

Prepared Statement of Tom Nassif, President and CEO of Western Growers

Chairman Gallegly, Ranking Member Lofgren and members of the committee, thank you for the opportunity to submit this statement. Western Growers Association is an agricultural trade association headquartered in Irvine, California. Western Growers members are small, medium and large-sized businesses that produce, pack and ship almost 90 percent of fresh fruits, nuts and vegetables grown in California and approximately 75 percent of the fresh fruits, nuts and vegetables grown in Arizona. In total, our members account for nearly half of the annual fresh produce grown in the United States, providing American consumers with healthy, nutritious food.

I submit this statement in support of the proposal introduced by Representative Lungren, H.R. 2895. Representative Lungren's proposal goes a long way towards addressing the unique labor concerns of agriculture. Unfortunately, if such a proposal does not accompany mandatory E-Verify legislation, the concerns facing the largest agricultural state will have been ignored, precipitating greater crisis in the future.

Sadly, legislation which is being touted as a job creation measure will have the opposite effect in communities where seasonal agriculture plays a central role. My statement will lay out the importance of agriculture to the U.S. economy, unique concerns and challenges our industry faces, and the need to move forward on a solution to the current labor crisis.

AGRICULTURE IS CRITICAL TO THE HEALTH OF THE U.S. ECONOMY

Studies conducted by the University of California Davis, demonstrate that every California agricultural job creates two non-farms jobs in our economy, and every farm dollar generates an additional \$1.27 for the California economy. Nationwide, the Department of Labor reported that 24 million jobs, a full 14 percent of all people employed in the United States, are supported by the U.S. food and fiber industry.

Not only is agriculture's role in maintaining a safe and secure food supply vital to our economic recovery, it is critical to the strength of rural America. Western Growers members and their employees are members of the very communities in which they grow, pack, and sell products. In 2009, when the California water crisis forced us to fallow 500,000 acres in the Central Valley, thousands of farms jobs were lost, and rural non-farm businesses supported by these jobs suffered. Some communities realized unemployment levels of 40 percent.

Without an agricultural worker program that is workable, growers in California, Arizona, and across the country will eventually face similar predicaments. Securing a legal workforce is not a new challenge for agriculture. We've been working towards this goal for more than 15 years. But in the face of no immigration reform, a diminishing labor supply, threats due to I-9 audits and ICE raids, and now E-Verify legislation emerging at the state and the federal levels, it is clear that U.S. agriculture will be decimated without a workable mechanism to hire and continue to employ the labor we need.

DEMOGRAPHICS OF U.S. AGRICULTURAL WORK FORCE

There are about 1.8 million people who perform hired farm work in the United States. Approximately 1.2 million or more of these people are not authorized to work here. Studies demonstrate that for a variety of reasons including the seasonal nature of the work, the difficulty of the work, and the skill level required for many agricultural jobs, unemployed Americans are unwilling to work in the labor intensive agriculture sectors—produce, dairy, nursery, livestock. The labor force in each of these sectors is overwhelmingly made up of foreign born employees.

In the late 1990's, at the insistence of Senator Dianne Feinstein, a multi-county welfare-to-farm-work program was launched in California's Central Valley. Regional unemployment ran 9 to 12 percent; in some localities, unemployment exceeded 20%. State and county agencies and grower associations collaborated to identify cropping patterns, labor needs, training, transportation, and other factors impacting employment levels. Out of over 100,000 prospective "welfare to work" placements, three individuals were successfully placed. In the aftermath of the program, several employment agencies stated—in writing—that they would no longer seek to place the unemployed in seasonal agricultural work because it suffered from such a low success rate, and that seasonal agriculture was "not a fit" for these individuals.

In 2006, in Washington State, a tight labor supply for the cherry harvest was a warning sign of a looming labor shortage for the much larger apple harvest. Again, state and local agencies teamed up with grower associations to conduct an advertising blitz and provide special training on how to safely pick apples without harming their market value or damaging the trees' future productivity. In that program, over 1700 workers were sought; roughly 40 were successfully placed.

In 2007, the North Carolina Farm Bureau Federation set up a statewide hotline for job seekers, and advertised it in print and on radio. North Carolina needs roughly 60,000 crop and livestock workers each season. Two calls were received; one was from a grandmother who felt that farm work would do her grandson good.

In 2010, the United Farm Workers Union launched the "Take Our Jobs" campaign. A media blitz which included national coverage. As of mid October, which generally marked the end of the growing season and the campaign, 10,021 people

had inquired about jobs in the fields, yet only nine people had taken jobs in the fields. Most of them quit after a few days.

Some might be tempted to consider wage rates as an additional factor that might discourage unemployed American workers from seeking agricultural jobs, but the facts do not bear this out. According to an October 2011 USDA farm labor analysis, wages for field workers averaged \$10.54 per hour. American workers do not seek nor stay in farm jobs, even today with unemployment hovering at 8.3 percent. The fact is the majority of farm jobs in this country must be filled by foreign workers.

CHALLENGES TO A SECURE, STABLE WORKFORCE

Even before the challenge of E-Verify legislation, the need for a workable agriculture labor program could not have been more clear.

In California, a state with no E-Verify legislation pending, and across the country, agricultural employers are facing an increasingly difficult time finding a sufficient, stable workforce due to the existing federal enforcement-only work authorization laws.

As you know, the Immigration Reform and Control Act (IRCA) mandates procedures for employers to verify the employment eligibility of their workforce. Failure to comply with IRCA can lead to substantial civil penalties and, in some cases, criminal charges. However, employers are prohibited from questioning the documents the employee presents if they appear to be valid. When the Department of Labor conducts workplace audits the employees' work authorization is scrutinized and run through DHS databases, often times with severe consequences for agricultural employers.

The Obama Administration has made enforcement of IRCA a priority. In 2011, the federal government initiated 2,338 employer audits, up dramatically from past years, made more than 150 criminal arrests and levied more than \$7 million in fines on employers.

Agriculture and food processing are among a select group of industries that are receiving the most attention.

In March of 2011, 85 percent of a California wholesale nursery's year round workforce—more than 70 employees—had to be terminated at the peak of their Mother's Day floral season when DHS determined their work documents were "suspect."

THE IMPACT OF E-VERIFY

State

The existing challenges we face in securing a stable workforce will pale in comparison to the devastating impact of E-Verify legislation in the absence of a workable labor program.

State E-Verify laws are being enacted or considered across the country. The state of Georgia offers a glimpse into the future for the nation if E-Verify were to be imposed without a farm worker program. There, passage of a state law including E-Verify has led to farm labor shortages as high as 30 to 50%. Field workers are simply avoiding the state and Georgia growers and producers lost \$75 million in production. An economic impact model indicates that the lost fruit and vegetable production resulted in an estimated \$103.6 million reduction in total goods and services produced on a state wide basis and over 850 full time jobs. A repeat of 2011 level labor shortages for a full year, could result in production losses of \$184 million and 1,512 jobs. And as described above, the economic misery resulting from lost production and lost payroll is also being felt in the community-based businesses that serve farms and farm workers.

Reports from Georgia are being replayed now in Alabama, which passed an even stricter E-Verify measure. If states are the laboratories of policy formation, the Congress should take note of these examples before enacting federal legislation without a workable solution for agriculture.

The trends in California, which I noted does not have E-Verify legislation in place, are already startling. Our members, and other specialty crop producers across the country, are looking to foreign countries as they make plans to expand their businesses and create additional jobs there, not here. I have members who have

moved portions of their operations out of the United States, not because the cost of getting product to market is less in other countries, but because of the uncertainty surrounding the labor supply in the United States. In foreign countries there are local populations able and willing to work in the fields. We are moving production to where the labor force is located and where the regulatory burdens allow us to continue in business, competing with global producers.

In the absence of a workable ag labor program, E-Verify not only promotes the movement off shore of what was once U.S. production, it is a jobs killer for rural America. When the incomes and taxes generated by farmers and employees leave a community, seed and fertilizer companies and distributors are impacted. Tractor and other equipment dealerships suffer. The decreased demand for packing and processing is injurious to the suppliers of packaging and processing equipment and their employees. Banks and storefronts close, and communities are imperiled.

Right now, the only program we have available to us to secure with certainty legal workers is the H-2A or temporary agricultural guest-worker visa program. As has been well-documented, it is utterly failing the agricultural industry including Western Growers members.

For example, H-2A is used to address only 2-3 percent of U.S. agriculture's labor needs. And even then, a 2011 nationwide study of H-2A users commissioned by the National Council of Agricultural Employers that was presented to the House Subcommittee on Workforce Protections last September, reports that 72 percent of workers arrived late, on average, 22 days after the date of need. In 2010, employers in the H-2A program reported \$320M in losses due to their inability to get the workers they needed or to get workers when they were needed.

The Department of Labor appears, at best, indifferent to agriculture's needs. The Western Growers members who farm in Yuma, Arizona hire Mexican H-2A workers who live in Mexico and commute to work. Many of these H-2A employees prefer to return home after each work day. These employees decline to use the approved housing that is required to be provided to them by the growers under H-2A regulations. Despite repeated requests for an adjustment to the requirements, the Department of Labor has taken the position that employers must make the housing available for the H-2A commuters *prior* to obtaining employer H-2A certification, regardless of whether the H-2A workers intend to use it. This imposes a significant cost on the growers without affording any benefit to the intended H-2A worker beneficiaries.

H-2A is administratively burdensome, implemented ineffectively, and is too unresponsive and inflexible to meet the labor needs of U.S. agriculture.

It is also unduly punitive. DOL seeks damages in the hundreds of thousands of dollars for minor technical violations of the program, including payment of $\frac{3}{4}$ of the wages workers would have earned if they had worked an entire season. This requirement applies even if the workers voluntarily quit the first few days of the season, but the grower notifies DHS of the workers' departure more than two work days after they have left the job site.

The Department of Labor also appears to target growers who use H-2A (with wage and hour investigations). 8 percent of H-2A employers report that they were audited before they participated in the program, but 35 percent report being audited since entering the program.

As noted earlier, the H-2A program is used by a small percentage of agricultural employers. We are talking about the need for a program that will work for the remaining 96 percent of us and the greater than one million people we need to hire each year.

Federal

At the federal level, mandatory E-Verify legislation, H.R. 2885, was passed by this committee in September 2011.

Similar to the state E-Verify laws, in the absence of an agriculture worker program, H.R. 2885 will deprive farms across America of a majority of their existing skilled workforce, as well as new employees willing to fill these jobs.

In H.R. 2885, agricultural employment is singled out for unique treatment with respect to the hiring process. The positive aspect of this provision is that it recog-

nizes the special challenges agriculture faces. Unfortunately, the bill does not provide the needed solution to this challenge—a workable labor program.

Agriculture is provided with an extended period before employers are required to E-Verify their employees. This 36-month extension does little to provide us with relief, however. As soon as the IRS sends an employer a notification of non-matching wage and earning statements or the Social Security Administration or Department of Homeland Security sends a No-Match letter, the employer arguably has constructive knowledge that the employee is not work-authorized. If the no-match cannot be resolved, the employee must arguably be terminated. We are left without certainty about our work force.

Moreover, with DHS conducting an unprecedented number of audits of employer I-9 records, which, as noted above, often result in the termination of a large number of key employees, agriculture could be singled out for such audits during the 36 month deferral period. Other businesses will have already had to comply with E-Verify. Again, we are left without certainty about our work force.

Pending E-Verify legislation introduced in the Senate, S. 1196, is even worse for agriculture than the House proposal. There is no recognition of the challenges for agriculture imposed by E-Verify legislation. Under the Senate plan, all employers would be mandated to use E-Verify one year after enactment and it would eliminate a provision retained in the House bill, the agricultural commercial-off-the-shelf (COTS) exemption for agricultural products under current federal procurement regulations. Elimination of this exemption would make it nearly impossible to source U.S.-produced meat, milk, fruit, and vegetables for the school lunch program and U.S. military.

STEPS TOWARD A SOLUTION

In order to move us closer to a solution to meet our labor needs, we must consider a new approach to an employee visa program: one that resembles the current labor market. The number of visas would be determined by the number of employer requests for workers on a monthly and annual basis and would vary year-to-year based on market conditions.

It would eliminate the contractual tie of the current H-2A program, benefiting employees and employers. A workable program would also provide farm workers with the same protections, no more, no less, than U.S. workers with respect to all employment related laws and employment taxes. Thus there would be no reason for an employer to prefer a temporary foreign worker over a U.S. worker. The perception of such preference is often a criticism levied at temporary worker visa programs. In reality, employers generally prefer to hire local workers first rather than rely on long distance migrants.

It is also imperative for this program to address, not only the need for future employees, but also the need to retain our experienced employees, the people who are already here. Our farms could not function without these valuable farm employees; yet most work without proper immigration status. Any to attempt to address the farm labor problem in this country needs to provide a vehicle for these law-abiding, high skilled, hard-working and valuable immigrants to continue working in agriculture legally. This is critical to ensuring a stable agricultural labor force.

CONCLUSION

The labor emergency affecting American agriculture threatens not only farmers and rural communities' livelihoods; it puts at risk our stable and reliable food supply. If there are indeed 1.2 million or more falsely documented workers in agriculture and they were no longer able to work, then the 2 nonfarm jobs that they create will also be lost. That is a loss of 3.6 million jobs.

The workforce willing to grow and harvest crops exists, but it exists in other countries. Ensuring a stable and legally authorized farm workforce is about growing jobs in the United States, promoting economic activity in both rural and urban communities. It's also about avoiding a dependency on foreign food supplies. With less domestic production, more food will have to be imported, compromising the safety and security of our food supply since only 1-2% of imported food is inspected.

There is not a person in our country that is not connected to this problem. If you eat fresh produce, drink milk, grill steaks or purchase plants for your yard, you are benefiting from the hard work of a foreign agricultural worker. And do not forget that 90% of those working in this country illegally are employed in other industries, not agriculture.

Based on the experiences of ad hoc state implementation of E-Verify laws, we know that enforcement at the federal level, without a workable labor program for agriculture, would be devastating to farmers throughout the United States and the entire U.S. economy, as jobs are permanently lost.

I urge the Members of this Committee who are concerned about the survival of agriculture in your states to work together and reach out to your colleagues to craft a workable bipartisan solution to this important economic issue.

Foreign workers will harvest the produce Americans eat. The question is whether they will do so in the United States or abroad. E-Verify legislation in the absence of a workable agricultural labor program will answer this question, and it will not be in the best interest of America.

On behalf of Western Growers, I am appreciative of this Committee's willingness to examine the labor crisis facing U.S. agriculture. The impact of the labor market uncertainty has resulted in the competitive disadvantage for U.S. specialty crop production. We look forward to working with you to do something about it.

Statement of Maureen Torrey Marshall, Torrey Farms, NY

**Before the
House Judiciary Subcommittee on Immigration Policy and Enforcement
Hearing on “Regional Perspectives on Agricultural Guestworker Programs”
February 9, 2012**

Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I am Maureen Torrey Marshall, owner of Torrey Farms, located near the small town of Elba, New York. Thank you for the opportunity to provide a written statement for your hearing on our industry. I respectfully request that you add my statement to the official hearing record. As a leader in the agricultural industry, I am a past chairwoman of the United Fresh Produce Association, past chairwoman of the USDA Fruit and Vegetable Advisory Committee, and a current director of the Produce Marketing Association (PMA).

Torrey Farms, Inc. is a 12th generation farm. Our family has been farming in Genesee County, New York, for over 200 hundred years and has expanded over the years to over 11,000 acres. Torrey Farms is primarily a fresh market vegetable farm and we also grow processing vegetables and grains for rotation and for a dairy farm we purchased 15 years ago.

As is the case with specialty crop, dairy, and livestock farms across the U.S., Torrey Farms is struggling with a diminishing supply of available farm labor, and increasing immigration enforcement. Furthermore, the only labor safety net for agriculture, known as the H2A Program, is challenging and full of pitfalls. If E-Verify that was approved by the Judiciary Committee last fall moves forward and becomes law without inclusion of smart and effective provisions to ensure access to an adequate and properly authorized farm workforce, agriculture will lose a majority of its skilled and experienced workforce. Much of our highest-value agricultural production – the heart of our economy in western and upstate New York and much of the United States – will be captured by foreign competitors ranging from Canada to Chile to China. We as a nation stand to lose several million on-farm and farm-dependent jobs, many of which are held by Americans like my children and extended family and residents of our rural communities.

Let me tell you from my own experience how local economies shrivel when high-value agriculture is lost or shifts into lower-value activities. Two and a half years ago Torrey Farms decided to take 1000 acres out of fresh-market, high-value vegetable production and to instead plant field corn and wheat because we were unsure about the labor supply, both domestic and H2A. Corn and wheat are much lower-value crops which can be planted and harvested by machine.

This single farm management decision had major implications for our farm’s payroll, and as a result for our community. To produce 1000 acres of onions, for example, our farm would employ approximately 50 people year-round, for planting, harvesting and packaging, with a payroll of around \$2.5 million dollars, plus providing housing, utilities, a 401(k) plan, and health insurance to those that qualify. By sharp contrast, our farm’s payroll to produce 1000 acres of

Statement of Maureen Torrey Marshall
 February 9, 2012
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mechanized corn is about \$70,000 a year, which covers two employees engaged in two weeks of planting and two weeks of machine harvesting.

Opportunities for marketing the crop abound but we will convert back to the 1000 acres of specialty vegetables only if we are sure of a stable available workforce. Plans to build a new packing facility have been put on hold for too many years while we have tried to find a solution for our labor needs. We use the H2A program and work with the NYS Department of Labor to secure all the labor we can. Still, every day you pray that you will have all your employees when you need them to plant, harvest, and pack your crop.

In payroll alone, this one management decision on our farm represents a reduction of over \$2.4 million in local economic activity. Much of this payroll would end up circulating in the local community, being spent at grocery stores, restaurants, Laundromats, appliance dealers, and elsewhere. Our farm itself also spends significantly less on inputs needed to farm, so local businesses suffer. Also, the hospitals, non-profits, and community colleges look for yearly financial support from the agricultural community. These financial donations don't flow freely as they once did.

Legal labor shortages, a failed H2A program, and hostile enforcement targeting the agricultural sector are driving farm level decisions that are sending negative economic impacts rippling through communities. So I wasn't surprised to hear the story of Paul Bridges, the Republican mayor of the small town of Uvalda, Georgia, in the heart of that state's onion and specialty crop production region. After Georgia passed its Draconian law, Bridges watched his local economy go into a tailspin. Farm labor shortages and farm management decisions to cut back or substitute crops had a devastating effect on his local economy, and that effect will be a lasting one unless a solution is found. A colleague has termed what happened in Georgia "economic self-mutilation by state legislation." Indeed. In our case, cutbacks and crop substitutions on our farm are hurting us, and hurting small businesses in our area that depend on our farm's purchases and our employees' spending. Many will be hurt and some may not survive.

Maybe E-Verify would create jobs for Americans somewhere, but certainly not in agricultural areas, and certainly not in New York. Farm Credit East, which provides farm lending and financial services to farms in New York, New Jersey, and much of New England, has recognized the serious threat to local jobs and rural economies posed by the current enforcement-only approach to immigration. They have conducted a series of economic analyses that show what is at risk in these states. I am attaching a copy of their most recent report; for New York alone, they forecast that enforcement-only (meaning, mandatory E-Verify, audits, and/or other worksite-focused enforcement) poses the following threats in our state:

- Approximately 1049 New York farms are at severe risk of closing or curtailing activities;
- These farms have annual sales of roughly \$1.5 billion, **and represent a third of New York's total agricultural output;**

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February 9, 2012
Page 3

- **10,510 year-round on-farm jobs could be eliminated**. This number does not include seasonal jobs, nor does it include the jobs of farm owners;
- **23,685 off-farm but farm-related jobs are at risk**, jobs that are mostly held by U.S. citizen New Yorkers.
- These farms operate over 900,000 acres of cropland, some or much of which would likely be converted to other uses;

Please pay attention to these numbers! We cannot afford to lose tens of thousands of jobs in our rural areas. I don't think America can afford that either.

In terms of job creation, we have one ray of hope in our area. There are plans to build several new yogurt-making plants. But it takes milk to make yogurt, and it will take growth in our dairy industry. Yet, no one seems to have stopped to think about who will milk and manage the cows on our dairies, which are already stressed and short of labor as a result of hyperactive Border Patrol enforcement and ICE audits.

Farmers like myself are willing to do whatever we need to in terms of employment verification, but we need a system that meets agriculture's unique needs and challenges. Most importantly, we need better programs to ensure legal labor. We need more than just fixes to H2A, which I have used. It is a quagmire. We need options that are more flexible and realistic. We need options for seasonal needs, and for year-round needs like those in dairies. They must be passed before, or as part of, E-Verify. If you fail, you will be destroying jobs, destroying farms, destroying economic activity, and ensuring that our children and grandchildren are ever more dependent on other nations to put basics like milk, fruit, and vegetables on our tables.

Thank you for considering these views and proceeding with wisdom and balance.



News Release

FOR IMMEDIATE RELEASE:
February 9, 2012

For more information, contact:
Mark Gedris, Director – Membership & Communications
mgedris@usapple.org
800.781.4443

USApple Urges Congress to Act on Agricultural Labor *USApple Chairman Dale Foreman Submits Testimony to House Judiciary Committee*

Vienna, VA – In testimony submitted today to the U.S. House Judiciary Committee, U.S. Apple Association Chairman Dale Foreman strongly urged Congress to find a solution to the agricultural labor challenges currently facing apple growers throughout the United States. This morning, the House Judiciary Committee held a hearing on Regional Perspectives on Agricultural Guestworker Programs. USApple was asked to provide background and examples of how current laws and regulations are having a negative impact on the domestic apple industry.

In his testimony, Foreman, an apple, pear and cherry grower from Wenatchee, Wash., noted some of the difficult situations that arose this year. “In 2011, we experienced the worst labor shortages I have ever seen. Tragically, we did not have nearly enough workers. The situation grew so dire that in early October we ran radio ads throughout our area asking for workers and offering them up to \$150 per day to help us pick our apples. Even with the barrage of radio ads, we were only able to recruit 3 additional pickers. We needed over 100.”

“The need for a reliable, skilled and legal workforce in the apple industry is paramount,” noted Nancy Foster, president and CEO of USApple. “As Dale noted in his testimony, a permanent solution to these labor challenges needs to be reached. Our industry and much of the nation’s food supply are at risk if Congress doesn’t act.”

In addition to presenting the Committee with real-world examples of how the labor shortage is harming the apple industry, Foreman also described how the Government program designed to help the situation is failing. “Some in our industry have begun turning to the H-2A guestworker program, but that brings problems of its own. Apple growers in New England and New York who have utilized the program for twenty, even thirty years, are having their applications rejected for the first time.”

“USApple is an active supporter of agricultural labor reform,” added Foster. “We will continue to advocate for a solution on behalf of the apple industry and educate Members of Congress on the important role agriculture plays in our Nation’s economic health.”

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The U.S. Apple Association (USApple) is the national trade association representing all segments of the apple industry. Members include 40 state and regional apple associations representing the 7,500 apple growers throughout the country, as well as more than 400 individual firms involved in the apple business. USApple’s mission is to provide the means for all segments of the U.S. apple industry to join in appropriate collective efforts to profitably produce and market apples and apple products.

Phone 800-781-4443, Fax 703-730-0843
Web site www.usapple.org, 8293 Old Courthouse Road, Suite 200 • Vienna, VA 22182-3316 USA



February 9, 2012.

The Honorable Lamar Smith
Chairman, House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC

The Honorable John Conyers
Ranking Democrat, House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC

Dear Chairman Smith and Ranking Member Conyers:

Thank you for holding this important hearing regarding agricultural labor.

My name is Dale Foreman and I am an apple, pear and cherry grower in Wenatchee, Washington. Apples are the largest cash crop in Washington with an annual wholesale value of over \$1.4 billion. My wife and I began growing fruit in 1981. Our three children grew up in the fruit business and now all of them, and their spouses, have come back to help us run the ranch.

The 2011 growing season brought a sizable crop and weather conditions pushed back our harvest by a few weeks. As a result, we experienced the worst labor shortages I have ever seen. Last year our operation grew millions of apples. Our apples were sold in all 50 states and exported around the world. We had over one thousand employees during the year. Tragically, we did not have nearly enough workers. The situation grew so dire that in early October we ran radio ads throughout our area asking for workers and offering them up to \$150 per day to help us pick our apples. Even with the barrage of radio ads we were only able to recruit 3 additional pickers and we needed over 100. There simply were no pickers who were not working. While there were plenty of unemployed people in the area, picking is hard work and most people who are collecting unemployment have no desire to lift heavy picking bags full of apples all day long.

The consequence of an insufficient work force is that many apples were picked past their prime. We had many acres of apples that were not picked until early November. These apples should have been picked two or three weeks earlier, but with limited pickers we simply couldn't get the job done. By the time these "late picked" apples were harvested they were no longer suitable for the fresh market and had to be sent to the juice company for processing. This was a financial

Phone 703-442-8850
Toll-free 800-781-4445
Fax 703-790-0845
Web site www.usapple.org

8233 Old Courthouse Road, Suite 200 ■ Vienna, VA 22182-3816 (USA)

disaster as the price of a high quality crisp fresh apple is approximately .48 per pound to the grower whereas the price of a juice apple can be as low as .05 per pound to the grower. Some apple growers were forced to leave otherwise good apples on the trees because they did not have enough labor to pick them.

In late October, Washington Governor Gregoire declared an emergency and deployed prisoners to pick apples in nearby Grant County. The growers paid \$22 per hour to these workers whose productivity was only about 50% of that of experienced workers. This is because the work is highly skilled. If you don't pick each apple correctly, the fruit can become bruised, damaged and less marketable. You can also harm the tree's productivity for the following season and beyond.

I write today not only as an apple grower from Wenatchee, but also as Chairman of the U.S. Apple Association. Our leaders met in DC last month to chart our legislative priorities for the year. Labor, immigration issues and concerns regarding mandatory E-Verify came out overwhelmingly on top. These are not just Washington State problems or west coast problems. Labor overall is a national crisis and it affects the smallest and largest growers equally. Whether you need five workers or 500, the simple truth is that without reliable harvest workers your crop – and investment – is lost.

The U.S. apple industry works hard to produce the best apples in the world. We take pride in the new varieties we have developed and the tasty, nutritious product that we deliver to consumers in the U.S. and across the globe. We are a nearly \$2.5 billion industry with over 7,500 commercial growers nationwide, most of whom are multi-generational family operations.

Fruit production is a labor intensive business. Labor accounts for approximately 50% of the cost of producing apples. It is physically demanding, skilled work that is highly seasonal and does not attract enough U.S. born workers to get the job done. Without migrant workers who have stepped in to fill these positions, we would not have enough workers to prune, thin or pick our crop.

Over the years, the invention of dwarf trees, bulk bins, and packing house automation have allowed us to work more efficiently, but nothing has changed the fundamental fact that apples still need to be manually pruned and hand-picked. We could lose a large portion or even a whole crop if willing and able pickers are not available. This cannot be equated to freezing out in the spring because we can minimize our inputs going forward from the freeze date. At harvest time, all but the picking costs have been invested. Our lines of credit are fully utilized. We have a leveraged investment that must be converted to cash. If we lose apples to the ground due to a lack of pickers, we could easily be forced to liquidate part of the farm to pay our lenders.

This past year, apple growers on the east coast reported that the new immigration laws in Georgia and Alabama resulted in fewer workers willing to travel north and a labor force that was down by about 20% for apple harvest. This caused the crop to be picked 3-5 days late resulting in lower quality fruit and a substantial reduction in return to the grower. Even growers who had sufficient labor watched as their neighbors struggled, aware that next year that could easily happen to them.

In the summer of 2009, there were widespread reports of workers fleeing western New York just before harvest started as a result of overzealous enforcement practices. The Border Patrol and local law enforcement pulled drivers over and asked for immigration papers rather than license and registration, and were staking out health clinics and Catholic Church parking lots during the Spanish Mass. These practices began under the Bush Administration and have continued under the Obama Administration.

Some in our industry have begun turning to the H-2A guestworker program, but that brings problems of its own. Apple growers in New England and New York who have utilized the program for twenty, even thirty years, are having their applications rejected for the first time. They are being rejected for using "white out" and rejected for requiring that workers have experience. Growers won a lawsuit last summer on the experience issue but the Department of Labor (DOL) is not applying that decision to other states and now says that it does not apply to the new season.

Another grower has always opted to pay by the hour instead of piece rate because he has found that it results in more careful picking and higher quality fruit. This grower owns a farm market and this business model works for him. Last year, the officials at DOL rejected his application stating that he must pay piece rate. He won this case on appeal but DOL is ignoring the Judge's ruling. Since when does a government bureaucrat know better than a business owner what skills and attributes are required for a given position?

A Virginia grower in my industry used the H-2A program with some success until he received referrals from Puerto Rico (considered domestic workers under the program). When they arrived, most had no intention of staying for the season or even working for part of it and they were pretty upfront about it too, one worker explained "I'm a jazz musician so I'm headed to DC."

The bottom line is that in order for the apple industry and other industries ranging from berries to vegetables to dairy to survive, in Washington and nationwide, we need a legal, reliable, stable and skilled workforce. Farms will convert to low-value grain crops or fail altogether. We will export jobs; we will import food.

The guestworker bills that have been introduced would offer some improvements to the very badly broken H-2A program. No doubt these improvements would be welcomed by growers currently in the program or those wishing to enter the program. However, none of these bills goes far enough to ensure an adequate, able and legal supply of workers in the face of mandatory E-Verify. In order to be successful, any legislation must address the current workforce. The current H-2A program supplies about 5% of the agricultural labor force. Those outside of H-2A equal nearly a million workers and a very large percentage of them are undocumented. To attempt to tackle this extremely complicated and delicate issue without addressing this fact is ignoring reality.

As a businessman, I believe in the free market and the powers of individuals, not government. We need an agricultural labor program that reflects those principles and not one that is mired in government bureaucracy and red tape.

My wife and I are hopeful that this orchard business we have worked so hard to build up will be a viable business for our children and our grandchildren. Without a solid skilled dependable work force, we simply cannot continue in the fruit business. If our country becomes reliant on imported fruits and vegetables our country's food safety will be at risk. Please help us by creating a solution to the problem and provide us the opportunity for an adequate, reliable and legal agricultural workforce.

Thank you for the opportunity to share the apple industry's perspective on this important issue.

Sincerely,

Dale Foreman
Chairman, U.S. Apple Association

Mr. LUNGREN. We have a distinguished panel of witnesses today. And we are very fortunate that we got our votes done so we can actually be uninterrupted now before Members might have to return to their districts.

Each of the witnesses' written statements will be entered into the record in its entirety. I would ask that each of you attempt to summarize your testimony in 5 minutes or less. And to help you stay within that, we have those beautiful timing devices next to you. When the light switches from green to yellow, you will have 1 minute to conclude your testimony. When the light turns red, it signals that the witness' 5 minutes have expired.

We are not as difficult as—well, I won't say difficult—we are not as precise as the Supreme Court is. If you have ever had an opportunity to argue before the Supreme Court, you are instructed that when the red light comes on, you are to stop in mid-syllable unless you are addressing a specific question of a member of the Supreme Court. We don't do that here, but we would like you to try and follow that 5 minutes as much as possible.

Let me introduce the witnesses.

Mr. Gary Black: Mr. Gary Black serves as commissioner of the Georgia Department of Agriculture. He began his career with the Georgia Farm Bureau in 1980 as a field representative, later served as coordinator for the State Young Farmer Program. In addition, he served as president of the Georgia Agribusiness Council for 21 years as well as co-managing the Georgia Food Industry Partnership. The commissioner earned his bachelor's degree in agricultural education from the University of Georgia.

Our second witness will be Mr. Paul Wenger. Mr. Paul Wenger is currently serving his second term as president of the California Farm Bureau Federation. In addition to serving as a member of the Federation board, he chaired the Water Advisory Committee. In 2011, Mr. Wenger was elected to the American Farm Bureau Federation board of directors. He is a third-generation farmer and earned his bachelor's degree from Cal Poly, San Luis Obispo.

Our third witness, Mr. Lee Wicker, is deputy director of the North Carolina Growers Association, the largest H-2A program user in the Nation. Prior to this position, he worked for the North Carolina Employment Security Commission as the technical supervisor for farm employment programs and the statewide administrator for the H-2A program. Mr. Wicker has been growing flue-cured tobacco with his family in Lee County, North Carolina, since 1978 and graduated from the University of North Carolina at Chapel Hill.

Our fourth witness is Mr. Bruce Goldstein. Mr. Goldstein is president of Farmworker Justice in Washington, D.C. He has substantial experience regarding the H-2A temporary foreign agricultural worker program. Prior to this, he worked as a labor and civil rights lawyer in southern Illinois and became a staff attorney at Farmworker Justice in 1988. He received his bachelor's degree from Cornell University and his law degree from Washington University in St. Louis.

Gentlemen, thank you very much for your testimony. We are looking forward to it. And if you would proceed in the order in which I introduced you and attempt to keep your remarks to about

5 minutes. Your full comments—that is, written, submitted comments—will be included in their entirety in our record.

Mr. Black?

**TESTIMONY OF GARY W. BLACK, COMMISSIONER,
GEORGIA DEPARTMENT OF AGRICULTURE**

Mr. BLACK. Thank you, Mr. Chairman.

Chairman Smith, Ranking Member Lofgren, ladies and gentlemen of the Committee, and ladies and gentlemen who are in attendance at this very important hearing today, I am deeply honored to serve as Commissioner of Agriculture for all farmers and all consumers in Georgia, a State that is very rich in agricultural heritage and diversity.

I first discussed this guestworker reform issue in this type of subcommittee forum with three Vidalia onion farmers in 1997. Our gracious host for that day was Congressman Sonny Bono. Witnesses like me have come to this hall and dozens of others on this historic Hill for generations. We lay problems at your feet, snap photos, and then return home. The ritual has become an industry in and of itself. People share their problems with me, too. We can articulate problems very easily, but crafting solutions requires more effort.

America's well-documented illegal immigration problem has reached a fevered pitch. Some argue that illegal immigrants are a drain on resources. Others insist that illegal immigrants are so woven into society that their absence would cripple some areas of skilled labor. Nonresident immigrant laborers, those of legal and illegal status, harvest crops, milk cows, gin cotton, and maintain landscapes. We know this to be true, but for a generation, solution-searching discussions have lingered on the horizon, much like a summer afternoon cloud bank, producing lightning, thunder, and wind but no rain. It is time that we work together to break this drought.

I salute you, Mr. Chairman, and Congressman Kingston, my good friend, and other Members who have demonstrated great courage in proposing 21st-century solutions to America's much-maligned guestworker program. Legal service reform, housing vouchers, and transferring authority to USDA are ideas that warrant immediate consideration. These proposals and others, though, must not compete with but be complemented by mandatory E-Verify, in my view.

Opponents have long shouted at each other in this stadium for too long. It is time that we leave the grandstands and suit up on the field of play with the mutual goal of solving the labor problems in American agriculture. Agriculture is not alone in this arena, but I suggest that we could provide the laboratory.

Mr. Chairman, your hearing shows this progress, and new bills indicate interest. Let's embrace this opportunity by considering a multitude of ideas.

As a component of guestworker reform, I suggested to your Senate Subcommittee counterparts last fall a penalty-based work authorization permit. Following a limited sign-up period, those who would come forward would be subjected to enhanced oversight and stiff penalties, including a substantial monetary penalty, a bio-

metrically secured agriculture-only permit, immediate deportation for violations of permit requirements, forfeiture of previously paid Social Security benefits, waiver of future Social Security benefits withholdings, with both portions being dedicated to a required market-based health insurance product, and fierce employer sanctions immediately following the end of the sign-up period.

Mr. Chairman, this puzzle has many pieces, and the economy of your hearing does not allow for each to be thoroughly examined, but I back up my plea with more detail in my written comments and in the 189-page document* that we were required to submit to our legislature just this past month. My goal is to stretch the balloon in such a way that it will not return to its current shape, because the status quo is highly unacceptable.

Many retailers feature a green, red, orange, and yellow bell pepper 24/7. In Georgia, we can grow these varieties from June to October. Yet, without a 21st-century guestworker program that includes many of the initiatives that are contained in pending legislation, an idea similar to those that I have discussed, I see no way for farmers to meet the future consumer demand with domestically produced peppers and other agricultural products.

We need a legally documented workforce and a reliable management system to ensure integrity. I would be delighted if this could be achieved by neighbors hiring unemployed neighbors. Farmers routinely tell me, "I will hire all local, drug-free, sober, reliable, skilled farm workers in my community. Please tell me where I can find them." I laud the aspiration, but I loathe to tell you that it escapes reality.

I ask you, as respectfully as I know how, to act with haste. Many think this is impossible in 2012, but, Mr. Chairman, I am prepared to work with any Member to prove the critics wrong. American farm families, our domestic food system needs our help now.

Thank you, and God bless you for what you do.

Mr. LUNGREN. Thank you very much, Mr. Black.

[The prepared statement of Mr. Black follows:]

*See Appendix.

Judiciary Committee
Subcommittee on Immigration Policy and Enforcement
United States House of Representatives
Hearing on
“Regional Perspectives on Agriculture Guestworker Programs”
Testimony of
Gary W. Black
February 9, 2012

Mr. Chairman and Ranking Member Lofgren, Members of the Subcommittee, thank you for the opportunity to appear before you today to talk about the agriculture industry’s need for a viable guestworker program.

With over a \$68 billion impact, agriculture is the leading industry in Georgia, employing one in seven Georgians. We lead the country in production of poultry, pecans, and peanuts. Cotton, peaches, fresh market vegetables, blueberries, and ornamentals are also prominent in our agricultural portfolio. Also, it is important to note that the famous Vidalia onions, a labor intensive vegetable, can only be found in our state. Needless to say, Georgia has a vested interest in making sure our agricultural employers have the manpower necessary to effectively run their operations.

During the legislative session of 2011, the Georgia General Assembly passed into law House Bill 87, the “Illegal Immigration Reform and Enforcement Act of 2011.” This legislation directed the Georgia Department of Agriculture (Department) to conduct a study of the labor needs of Georgia agriculture. The Department fulfilled this statutory requirement by facilitating town hall meetings, farm tours, and a scientific survey. Although the provided timeframe allowed for eight months of study, the results supported the need for federal reform.

The survey revealed statistics specifically addressing the need for agricultural guestworker reform. Twenty-six percent of survey respondents reported a loss of income due to the lack of available workers. Although only 26 percent reported losses, these losses estimated in the excess of \$10 million. Further analysis of this statistic suggests those in the fruit and vegetable industry experienced the greatest losses. Over fifty percent of respondents who produce blueberries, cabbage, cantaloupe, cucumbers, eggplant, peppers, squash, tobacco, and watermelon reported income losses in 2011 due to lack of workers. The survey also found that while 52 percent of the respondents did not have issues finding fulltime labor, 21percent did. Poor economy, loss of revenue, poor worker retention, and lack of workers were listed as major reasons for hiring fewer workers in 2011. Similarly, 48 percent of respondents found their part-time workforce to be about the same over the last five years while 20 percent reported their workforce was smaller.

Through qualitative and quantitative research, producers expressed both concern and frustration with the eligibility requirements of H-2A. In response to why producers do not use the H-2A program, 40.1 percent said the question was not applicable to their operation. Many respondents felt that H-2A was too expensive and too complicated. Over twenty six respondents were not familiar with the program, and almost 17 percent said they had heard negative things about the H-2A program. Survey respondents indicated that it was not difficult to retain experienced workers once hired, but it was somewhat difficult

to find experienced workers to hire. In regards to wages, all of the respondents reported paying their fulltime and part-time workers at or above the federal minimum wage. Several paid as high as \$15.00 an hour, well above minimum wage.

Shortly after the legislation was signed into law, producers began reporting labor shortages. During the month of June, the Georgia Labor Commissioner, Mark Butler, worked with various agricultural associations to place unemployed Georgians in these positions. Even with unemployment rates hovering around ten percent, this task was not as easy as it would seem. For example, one Georgia producer shared he had one employee that worked half a day one week and two half days the next week. This employee earned a total of \$119. The employee walked off the job and did not return though plenty of work was available. In addition, the employee filed an unemployment claim, and the producer received notification that the employee was eligible for \$235 weekly benefits for seventeen weeks. The producer filed a timely appeal, and it was finally determined that he was not responsible. In addition to harvesting his crops to earn a living, the producer had to take time to ensure he was not held financially responsible for the employee's irresponsibility. We have heard similar complaints from producers regarding the fifty percent rule of H-2A. I do not believe employers should bear this unnecessary burden as they try to create jobs and stimulate our economy. Producers would rather employ Americans, and this aspiration should not be overlooked. Unfortunately, the immediate reality trumps those aspirations.

Simultaneously, the Department worked with Governor Deal and the Georgia Department of Corrections (Corrections) to develop a pilot program utilizing probationers to fill Georgia's agricultural labor needs. Two producers participated in this program - one with a large farm and one with a small farm. The larger farmer was originally sent 58 probationers to help with his harvest. By combining the probationers with his existing workers, he could accurately compare their productivity. He found the probationers to be half as productive as his other workers, and he even switched to two shifts in hopes of preserving energy. The smaller farmer needed 10-20 workers a day to pick squash and cucumbers. Out of 104 probation workers, this farmer eventually found 15-20 reliable workers. There were some obvious challenges with using probation labor, and the two producers found that the probationers were unable to harvest at the same rate as the other workers. At the end of the day, both producers agreed that the program had potential to meet the niche needs for farmers desperate for workers.

Additionally, Corrections is working to establish a transitional inmate workforce program for agriculture - a program that has worked well for other industries in the past. Corrections officials believe they can offer opportunities for nonviolent offenders with skills developed by working in the prison farm system. Agricultural producers would qualify for the Work Opportunity Tax Credit (WOTC) which can be as much as \$2,400. The WOTC is 25 percent of qualified first-year wages for those employed at least 120 hours and 40 percent for those employed 400 hours or more. This program is strictly voluntary, and no one is required to participate.

The final report provided three major recommendations to Georgia's Governor, Lieutenant Governor, and Speaker of the House. First, and foremost, agricultural guestworker reform must start with the federal government. From expanding eligibility to exercising common sense in writing rules for the antiquated program, only the federal government can make this program useful for farmers. It is yet to be seen if H-

2A can be rebranded to fulfill the needs of 21st century agriculture, but reforming the archaic program must be a near term priority.

Secondly, the study indicated a need for improved and expanded education and outreach to the agricultural industry about state and federal labor recruitment programs. Over 20 percent of survey respondents were unfamiliar with this option for hiring workers. Additionally, another 16 percent had heard negative things about this program, suggesting that the program is not popular. Other comments suggested that the program is too expensive and too difficult to enter into, which could also be addressed to some extent with education and outreach efforts. This study indicates opportunities for improving relationships between the agriculture community and Georgia Department of Labor for worker recruitment issues. Again, education and outreach to this group could have a positive impact and help provide a better resource for growers.

The third and final recommendation highlighted the need for more research to thoroughly comprehend Georgia's agriculture labor needs in relation to HB87. Research should include but not be limited to tracking employment patterns, crop production cycles, labor needs by commodity and worker concerns. The benefits of additional research will provide the state with a central repository of unbiased agriculture labor data, the capability to measure impacts of labor programs, and the ability to respond to future policy needs of the state.

We commend Chairman Smith, Congressman Kingston, and other Members demonstrating courage by proposing solutions to the maligned H-2A program. Legal service reform, housing vouchers, expanded eligibility, and transferring authority to USDA are ideas that warrant immediate consideration. These proposals and others must not compete with, but should be complimented by mandatory e-verify, in my view.

Regretfully, a large number of illegal immigrants are working in agriculture today. In testimony before a Senate subcommittee last fall, I introduced a suggestion for a penalty-based work authorization permit. Following a limited signup period, those workers who come forward would be subjected to several stiff penalties: a \$10,000 fine payable over five years and a mandatory purchase of a biometrically secure, "agriculture only" work permit at a cost of \$500 annually. In addition, he or she would face immediate deportation for violating the requirements of the permit. Permit holders should be required to forfeit prior social security withholdings. Future social security withholdings, both employer and employee contributions, should be dedicated to a required market-based health insurance product. A program of this nature should require fierce employer sanctions immediately following the end of the signup period. Our country needs a legally documented workforce and a reliable management system to ensure integrity.

Finally, Departments of Agriculture at the state level maintain operational memorandums of understanding with a host of federal agencies. Under these agreements, state specialists conduct inspections for food safety, environmental protection, and other regulatory services required under federal law. Having the regulatory responsibility closer to the citizenry is more efficient and provides greater accountability. Several H-2A reform proposals currently before the Congress call for moving the H-2A program from the USDOL to the USDA. Building on successes of existing state and federal partnerships, State Departments of Agriculture should be considered as cooperating partners in the administration of a federal guest worker program.

It cannot be contested; the success of Georgia's agricultural industry rests on a legal workforce upon which producers may rely. In my view, it is not just a labor issue but also a food safety issue. We need to make sure we know who is on our nation's farms, and we need to make sure that America does not become reliant on third world countries to put food on the family tables across this country.

Mr. LUNGREN. Mr. Wenger?

**TESTIMONY OF PAUL WENGER, PRESIDENT,
CALIFORNIA FARM BUREAU FEDERATION**

Mr. WENGER. Good morning, Chairman Smith, Congressman Lungren, Ranking Member Lofgren, and distinguished Members of the Committee.

I am here today because farmers and ranchers across the Nation are in critical need of a solution that provides an effective, reliable, legal workforce to cultivate and harvest our crops and tend to our livestock. In California alone, we rely on 400,000 employees during peak season. Nationally, it is estimated that the agricultural workforce consists of 1.83 million hired workers. Some have estimated that as much as 50 to 70 percent of the hired workers are not authorized to work in the United States.

Agriculture is a very diverse industry. Different regions produce different commodities with widely varying weather, cultivation, and harvest times. These diverse needs cannot be addressed through a one-size-fits-all single program solution. It is not a problem confined to agriculture in the Northeast, southern border States, or western States. This is not just a problem for large farmers. According to the United States Department of Agriculture, 60 percent of hired farm labor is hired by farms with annual sales less than a million dollars.

Last year, this Committee approved a bill that would make E-Verify mandatory for all employers regardless of size or industry. However, it offered no solution to address the unique challenges that a national E-Verify mandate will create for agriculture. E-Verify without a workable, economical way to ensure a legal agricultural workforce will send American agricultural production, and the additional off-farm jobs that are created by it, to other countries.

Farmers throughout the United States have tried innovative solutions to secure a domestic labor force. All have failed, and not because we don't pay enough or offer enough benefits. Rather, Americans, through habit and education, have progressed beyond agriculture to other occupations, and Americans no longer have the desire for agricultural work. Agriculture is a lifestyle occupation. Many farmers see their children moving to other occupations, and I can speak from experience with three sons. Two are home farming with me, and one has decided to move on to other things.

Agriculture needs a timely solution that fills the gap between the currently legally authorized workforce and the agricultural needs of the Nation. It is estimated agriculture employs between 900,000 and 1.2 million unauthorized workers with special skills and abilities.

Any solution must address the following: First, a workable solution must deal with the industry's ongoing need for a future workforce. Because much agricultural work is seasonal, intermittent, and physically demanding, agriculture does not attract a domestic workforce. Secondly, most producers have not been able to use the H-2A program, but let me be clear: We strongly support an overhaul to help those that have been able to utilize it.

I respectfully request that the study released by the National Council of Agricultural Employers illustrating the major flaws of the H-2A program be submitted into the record. Even if H-2A could be substantially improved, reform of that program alone cannot stabilize the farm labor situation.

Mr. LUNGREN. Without objection, that report will be entered in the record.

[The report referred to follows:]



TECHNICAL REPORT 11-67

H-2A Temporary Agricultural Employee Program

November 2011

Prepared for

National Council of Agricultural Employers
8233 Old Courthouse Rd, Ste 200
Vienna, VA 22182
703-790-9039

Submitted by:

Danna L. Moore, Ph.D. and
Kent Miller, M.A.
on behalf of SESRC

SESRC

Social & Economic Sciences Research Center (SESRC)
PO Box 644014
Washington State University
Pullman, Washington 99164-4014
Telephone: (509) 335-1511
Fax: (509) 335-0116
<http://www.sesrc.wsu.edu>
sesrc@wsu.edu

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H-2A Temporary Agricultural Employee Program

DATA REPORT 11-66
NCAE11 #SC188
October 2011

Prepared for

National Council of Agricultural Employers
8233 Old Courthouse Rd, Ste 200
Vienna, VA 22182
703-790-9039

Submitted by

Danna L. Moore, Ph.D.
Principal Investigator

Prepared by

Kent Miller, M.A.
Study Director

Social & Economic Sciences Research Center
PO Box 644014; Wilson Hall 133
Washington State University
Pullman, WA 99164-4014
509-335-1511
509-335-0116 (fax)
SESRC@wsu.edu
moored@wsu.edu kjmiller@wsu.edu

H-2A Temporary Agricultural Employee Program, November 2011
 SESRC Data Report 11-66

SESRC Project Profile

| | |
|--------------------------------|--|
| Title: | H-2A Temporary Agricultural Employee Program (NCAE11—SC188) 11-67 |
| Objectives: | The primary purpose of the survey is to gather information about what agricultural employers think works and what does not work with the existing H-2A program |
| Abstract: | H-2A Temporary Agricultural Employee Program, October 2011 This mixed-mode survey contacted agricultural employers to find what works and what does not work with the existing H-2A program. Respondents were initially contacted by mail and asked to complete a questionnaire regarding the H-2A program. After three mailing contacts, non-respondents were then contacted by phone to improve survey response. At each contact, respondents had the option to complete the survey online. Overall, 517 respondents completed or partially completed the questionnaire (332 mail completes, 54 phone completes, 5 partially completed by phone, 91 web completes, and 35 partially completed by web). This resulted in a response rate of 44.9%. |
| Time frame: | June – September 2011 |
| Contract with: | National Council of Agricultural Employers |
| Agency Contact: | Carol House |
| Contract Number: | Not Applicable |
| Funding Source: | National Council of Agricultural Employers |
| Contract Amount: | \$45,256 |
| Principal Investigator: | Danna L. Moore, Ph.D. |
| Study Director: | Kent Miller, M.A. |
| SESRC Acronym: | NCAE11 |
| SESRC Number: | SC188 |
| Data Report Number: | 11-67 |
| Deliverables: | Data Report, SPSS data set, SPSS listing, open-ended remarks |

H-2A Temporary Agricultural Employee Program, November 2011
 SESRC Data Report 11-66

Project Accountability

SESRC is committed to high quality and timely delivery of project results. The following list identifies the SESRC team members responsible for particular elements of this project.

| Staff Member | Areas of Accountability | Elements of Project |
|---------------------|---------------------------------|---|
| Danna L. Moore | Principal Investigator | Assurance of survey research protocol, sample design, project and instruments design, final report for the contract |
| Rita Koontz | Administrative Services Manager | Administration of contract with Washington State University |
| Kent Miller | Study Director | Project management and coordination of survey tasks, data report preparation |
| Marion Schultz | Data Collection Manager | Supervision of interviewers, daily reports, assuring quality of interviews |
| David Schultz | Data Analysis | CATI, Web Management, data cleaning data management |

H-2A Temporary Agricultural Employee Program, November 2011
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SESRC Professional Staff

All of the work conducted at the Social & Economic Sciences Research Center is the result of a cooperative effort made by a team of dedicated research professionals. The research in this report could not have been conducted without the efforts of interviewers and part-time personnel not listed.

Principal Investigators and Study Directors

| | |
|-----------------------------|--|
| John Tarnai, Ph.D. | Director |
| Don A. Dillman, Ph.D. | Deputy Director for Research & Development |
| Danna L. Moore, Ph.D. | Associate Director |
| Kyra Kester, Ph.D. | Sr. Research Associate, Olympia |
| Candiya Mann, M.A. | Sr. Research Manager |
| Rose Krebill-Prather, Ph.D. | Research Associate |
| Arina Gertseva, Ph.D. | Research Associate |
| Kent Miller, M.A. | Study Director II/Mail Survey Manager |
| Thom Allen, B.A. | Study Director II/Special Programs Manager |
| Yi-Jen Wang, M.A. | Study Director |

Administrative Support

| | |
|----------------------|-----------------------------------|
| Rita Koontz | Department Administrative Manager |
| Jessanne Price, B.S. | Fiscal Analyst II |
| Jaime Colyar, B.A. | Fiscal Specialist I |
| Lisa Brooks, B.A. | Research Associate, Olympia |

Data Collection and Interviewer Supervision

| | |
|----------------------|-----------------------------|
| Marion Schultz, M.A. | Data Collection Manager |
| Maria Carrillo, B.A. | Research Survey Supervisor |
| Tony Hernandez | Research Survey Supervisor |
| Tobin Dubuc, B.S. | Research Survey Supervisor |
| Pat Slinkard | Social Scientific Assistant |

Data Management, Analysis, and Network Support

| | |
|--------------------------|--|
| Nikolay Ponomarev, Ph.D. | Sr. Research Programmer/Database Architect |
| Bruce Austin, M.S. | Information Systems Coordinator/Data Analyst |
| Leona Ding, M.S. | Information Systems Coordinator/Data Analyst |
| Vincent Kok, B.A. | Information Systems Coordinator |
| David Schultz, B.S. | Information Systems Coordinator/Data Analyst |
| Dan Vakoč, M.S. | Information Systems Coordinator/Data Analyst |
| Jack E. Ambrose, B.S. | Systems Analyst/Programmer |

Survey Overview

During the summer of 2011, the Social & Economic Sciences Research Center (SESRC) at Washington State University implemented a mixed-mode survey for the National Council of Agricultural Employers (NCAE). The primary purpose of the survey was to gather information about what agricultural employers think works and what does not work with the existing H-2A program. The H-2A program is a "temporary agricultural program that establishes a means for agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the U.S. to perform agricultural labor or services of a temporary or seasonal nature."¹ The results will be used by NCAE to inform the United State Congress and other stakeholders of what helps and what hinders agricultural producers within the current program.

The Social & Economic Sciences Research Center worked together with representatives of NCAE to finalize and format the survey instrument. The final questionnaire had seventy-one questions and 209 variables. It is divided into the following sections 1) Application for H-2A Workers for 2010, 2) Denials and Partial Certifications, 3) Critical Dates and Timing Issues, 4) Domestic Workers, 5) Petitions to the U.S. Customs and Immigration Service and Consular Processing, 6) Economic Impact and Cost, 7) Enforcement Issues, 8) Your Perspective, and 9) Operation Description. The questionnaire was designed to be administered either by mail, by web, or by phone.

Agricultural employers who applied to use the H-2A program in 2010 were eligible to participate in the study. A sample of these employers was drawn by NCAE and provided to SESRC. The list was stratified by commodity group and the "outcome" of the application (fully certified, partially certified, denied, or withdrawn). Within strata, the records were sorted by region, work state, and the number of workers requested. A systematic stratified sample of size 1443 was selected from the population of 7424 applications. A sample weight was defined so the results could be presented as representing the entire population.²

Potential respondents were contacted initially by mail and asked to complete either a paper or web-based questionnaire. Respondents who did not respond by either of those modes were then contacted by telephone. Overall, 517 respondents fully or partially completed a

¹ <http://www.dol.gov/compliance/guide/taw.htm>

² Sample weighting is "a procedure employed in connection with sampling whereby unites selected with unequal probabilities are assigned weights in such a manner as to make the sample *representative* of the population from which it was selected." Babbie, Earl. 1986. *The Practice of Social Research (4th Ed.)* Wadsworth Publishing Co. page 560.

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questionnaire (332 mail, 91 web, 35 partial web completes, 54 phone, and 5 partial phone completes) resulting in a response rate of 44.9%.

Selected results from the project are presented in the following sections. All findings are presented with the weighted results to represent the entire population from which it was selected.

For convenience, a copy of the paper questionnaire is included at the end of this report.

Section 1. Application for H-2A Workers for 2010

The first section of the questionnaire asked about whether or not agricultural employers submitted an application to participate in the Department of Labor's H-2A program in 2010 along with other questions such as if an agent was used in the application process, the final certification decision and the number of workers requested and certified.

Ninety-five percent of respondents indicated that they had submitted an application to participate in the H-2A program in 2010 confirming that we were surveying the correct respondents (Q01).

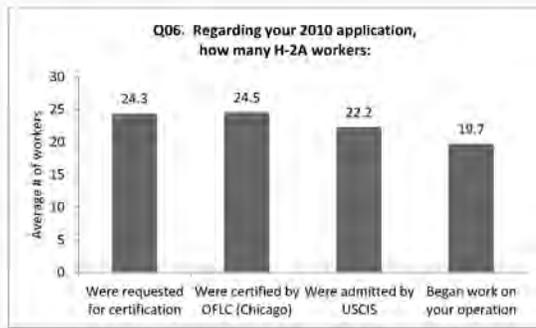
Two-thirds of respondents (67%) indicated that they submitted a single application. Of the remaining 33%, the average number of separate applications submitted was 2.98 (Q02, Q03).

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Most respondents (90.6%) reported that the final certification was Certified – Full. One percent of applications were withdrawn and only three percent were denied (Q04).



Agricultural employers requested approximately 24.3 workers for certification. On average, approximately 24.3 workers were certified by OFLC (Chicago). Of those, 22 workers were admitted by USCIS and 20 began work on their operation (Q06). The fewest workers requested was zero and the most was 1,500.



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| | Mean | Median | Mode | Minimum | Maximum |
|--|------|--------|------|---------|---------|
| Q06A Regarding your 2010 application, how many H-2A workers: Were requested for certification | 24.3 | 6 | 2 | 0 | 1500 |
| Q06B Regarding your 2010 application, how many H-2A workers: Were certified by OFLC (Chicago) | 24.5 | 6 | 2 | 0 | 1500 |
| Q06C Regarding your 2010 application, how many H-2A workers: Were admitted by the U.S. Customs & Immigration Service (USCIS) | 22.2 | 6 | 2 | 0 | 1500 |
| Q06D Regarding your 2010 application, how many H-2A workers: Began work on your operation | 19.7 | 5 | 2 | 0 | 1500 |

Three-quarters of the 2010 applications were initially fully certified (Q09)

Section 2. Denials and Partial Certifications

Section 2 of the survey asked about applications that were denied or only partially certified. It asked for the reasons for the Notice of Deficiency and the participants' response—revise and resubmit, appeal, or no appeal.

The main reason given for the Notice of Deficiency was "Small errors or inconsistencies in the paperwork" (23.5%). This was followed by "other" reasons (9.5%), "Requirement for work experience" (3%), "Productivity standards" (2.1%), "Hourly wage too low" (1.2%), "Piece rate wage too low" (0.9%), and "Requirement for background check" (0.5%) (Q10). Some of the "Other" responses include:

| |
|--|
| <i>Need didn't meet the criteria</i> |
| <i>area of intended employment</i> |
| <i>Not told.</i> |
| <i>housing mix-up</i> |
| <i>Felt there was local people who could fill position</i> |
| <i>Accepted Migrant Application</i> |
| <i>Said we'd hired adequate local labor.</i> |
| <i>Needed to be LLC.</i> |
| <i>RECRUITMENT PROOF MISSING</i> |
| <i>We didn't offer housing.</i> |
| <i>Want us to advertise in 4 additional states.</i> |
| <i>Didn't go home every three years</i> |

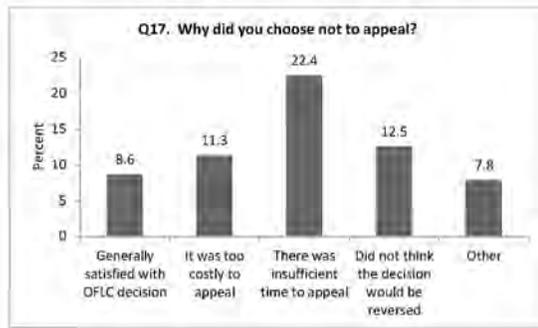


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Nearly nine out of ten responders (89%) indicated that they revised and resubmitted the application for reconsideration. Of those resubmissions 79% were Certified – Full, 8% were Certified – Partial, and 13% were denied (Q11, Q12).

Of the 11% of respondents who did not resubmit the application for reconsideration, 28% appealed the ruling to an administrative law judge (Q13). Over half (54%) were decided by the judge. 13% were resolved before the hearing and one-third (32%) had some other outcome (Q15). Of the cases with the judge's decision, 79% of the OFLC decisions were reversed and the case remanded for processing. The rest (21%) had the OFLC denial upheld by the judge (Q16).

People who did not appeal gave the following reasons: "There was insufficient time to appeal" (22.4%), "did not think the decision would be reversed" (12.5%), "it was too costly to appeal" (11.3%), "generally satisfied with OFLC decision" (8.6%), and "Other" (7.8%) (Q17).



Section 3. Critical Dates and Timing Issues.

One of the most important sections of the questionnaire dealt with dates and timing. Since timing is critical for many aspects of agricultural production, it is imperative that employers have an adequate work force available when it is most needed to harvest the crops, work with the animals, or prepare for specific seasons or events. In this section, new variables were created to determine the number of days between the dates entered by the respondent.

| | Variable definition | Mean | Median | Mode | Minimum | Maximum |
|---------------|--|-------|--------|------|---------|---------|
| DOLdays | the number of days between the filing date with DOL (Q18b) and the final decision date (Q25) | 38.3 | 36 | 21 | 0 | 156 |
| USCISdays | the number of days between the petition date with USCIS (Q26) and the approval date (Q27) | 14.2 | 9 | 7 | 0 | 87 |
| DecideToStart | the number of days between the final DOL decision date (Q25) and the start date of need (Q19 or Q22, if Q21=1) | 23.4 | 27 | 30 | 0 | 77 |
| LateDays | the number of days between when workers started work (Q28) and the start date of need (Q19 or Q22, if Q21=1) | 16.2 | 7 | 0 | 0 | 228 |
| LengthOfNeed | the number of days between the start date of need (Q19 or Q22, if Q21=1) and the end date of need (Q20 or Q23, if Q21=1) | 189.3 | 228 | 0 | 0 | 1096 |

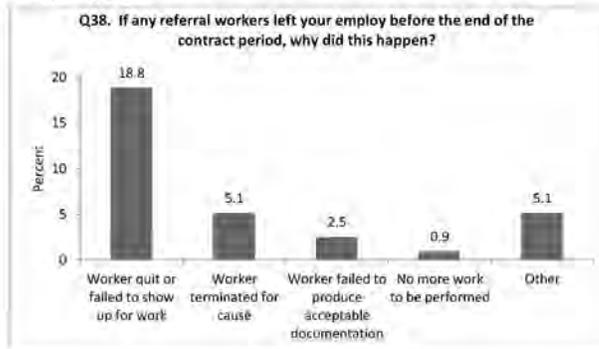
It took about five weeks, on average, (38.3 days) between the initial filing date (18b) and the final decision date (Q25) (DOLdays). Roughly two weeks (14.2 days) passed between the petition date with USCIS (Q26) and the approval date (Q27) (USCISdays). About three weeks (23.4 days) would pass between the final DOL decision date (Q25) and the start date of need (Q19 or Q22, if Q21=1) (DecideToStart). The number of days between when workers started work (Q28) and the start date of need (Q19 or Q22, if Q21=1) was just over 2 weeks, averaging 16.2 days (LateDays). 80 cases have a Latedays value of zero. 262 cases have a Latedays value greater than zero.

Section 4. Domestic Workers

One of the challenges that agricultural employers face is the ability (or inability) to find domestic workers. This section of the questionnaire asked about the respondent's interaction with state workforce agencies and the referral candidates received from those agencies.

On average, employers contacted about 1 ½ state workforce agencies (Q29). From these contacts they received an average of almost six workers (5.9) but about half (3.0) of these referrals were received after the "date of need" (Q30, Q31). Three workers (3.0) accepted a job with the employer and began work on the operation (3.8) (Q35, Q36). Only one referral workers (0.86) on average worked through the entire contract period (Q37).

If any referral workers left before the end of the contract period, the main reasons were: "The worker quit or failed to show up for work" (18.8%), "the worker was terminated for cause, other than a failure to show up" (5.1%), "other" reasons (5.1%), "worker failed to produce acceptable work authorization documentation" (2.5%), and "no more work to be performed" (0.9%) (Q38).

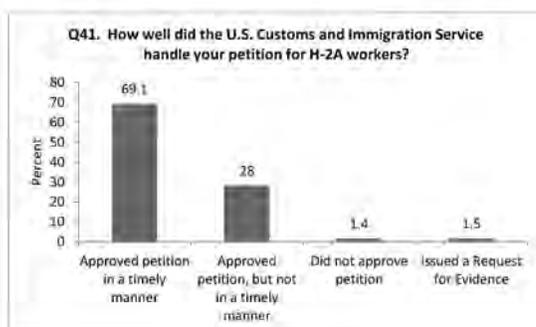


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Section 5. Petitions to the U.S. Customs and Immigration Service and Consular Processing

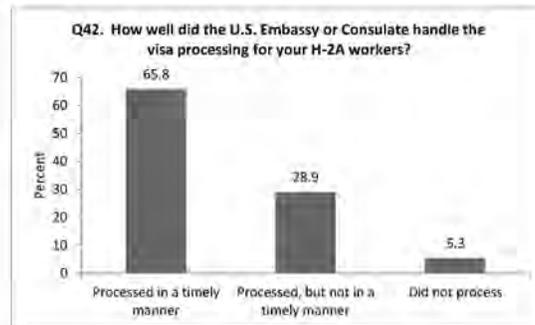
As part of the process to hire H-2A workers, employers work with the U.S. Customs and Immigration Service (USCIS) and the U.S. Embassy or Consulate to obtain visas for individual workers. This section of the questionnaire asked how well these agencies did.

Respondents reported that the USCIS approved 97% of the petitions with over two-thirds (69%) of those approved in a timely manner. Over one-quarter (28%) of petitions were approved, but not in a timely manner. Only 1.4% of petitions were not approved (Q41).



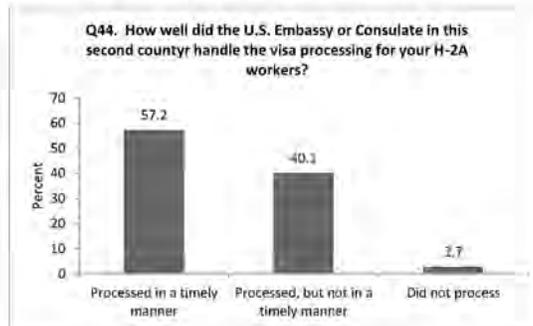
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The next question asked how well the U.S. Embassy or Consulate handled the visa processing for H-2A workers. Two-thirds (65.8%) said the visas were "processed in a timely manner" but over one-quarter (28.9%) were "processed, but not in a timely manner". Five percent of the respondents indicated the embassy "did not process" (Q42).



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Over forty percent (42.5%) of respondents indicated that they used the U.S. Embassy in a second country to process the visas for additional H-2A workers (Q43). Over half (57.2%) of the visas were processed in a timely manner but it should be noted that this is a lower percentage than the question asking about the U.S. Embassy overall: 40% of visas processed in a second country were not processed in a timely manner (Q44).



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Section 6. Economic Impact and Cost

Another important section of the questionnaire dealt with the costs associated with using the H-2A program. On average about 44 hours were spent in the administrative process by agricultural employers to obtain H-2A workers (Q45). Additionally, a vast majority (86.8%) of respondents indicated that they hired an agent to do some or all of the application/appeal process. The reasons for hiring an agent were: 1) that the process is very complex (70.6%), 2) the agent is more cost effective (46.3%), 3) to help protect against liability (41.5%) and 3) other reasons (7.1%) (Q47).



The economic loss (in dollars) due to the inability to get the workers needed for the agricultural employer averaged \$59,493 for the 172 respondents who answered this question (Q48). Of those 172 respondents, 114 indicated that they had no loss and 58 said that they had a loss. Overall, the total loss indicated by the weighted data is \$146,844,087.

| | Mean | Median | Mode | Minimum | Maximum | Sum |
|---|----------|--------|------|---------|-------------|---------------|
| Q48 What was the economic loss (in dollars) | \$59,493 | 0 | 0 | 0 | \$1,500,000 | \$146,844,087 |

Respondents could also write a response if they felt they had some other type of injury to the operation. The following are just a few examples of what was written:

| |
|---|
| Our workers were delayed in coming to work and therefore trees leafed out so we could not dig them. None suffered. However without H2A I would be out of business. Impossible to calculate (timing is everything in agriculture) Management had to work more hours but still unable to keep up with duties. |
| Additional recruiting/stress I was not told the wage rate had changed and was fined 10,000 in back pay and fines related to H2A contract Loss of quality due to men arriving 30 days late. Weather conditions prompted an above-average influx of fruit to ripen simultaneously. There was an additional need for harvesters above and beyond those hired through H2A and domestic referral. There isn't a mechanism for acquiring quick (less than one week lead time), unexpected help as well as help for shorter periods of time (i.e. two to three weeks) through H2A. We were forced to leave a significant portion of the crop in the field with losses over \$200,000. Fresh produce is so highly perishable, harvest windows must be immediate. With not enough employed or locally/domestically available to harvest at exactly the right time, the fruit quickly became overripe, no longer good quality. We had to abandon entire blocks of blueberries as a result. |
| Losses are hard to calculate |
| Crops set back unknown cost. |
| Replaced local workers that did not respond with H2A workers. |
| Grew less fresh market products. |

The economic loss (in dollars) to the operation because the workforce was not available at date of need was the next question in the survey (Q49). 196 respondents answered this question and reported an average of \$58,719 in economic loss. Of those 196 respondents, 121 indicated they had no loss and 75 said that they did have a loss. Overall, the total loss indicated by the weighted data is \$165,764,299.

| | Mean | Median | Mode | Minimum | Maximum | Sum |
|--|----------|--------|------|---------|-------------|---------------|
| Q49 What was the economic loss (in dollars) because the workforce was not available at date of need? | \$58,719 | 0 | 0 | 0 | \$2,000,000 | \$165,764,299 |

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Some respondents wrote about other types of injury to the operation. Below is a sampling of the other types of injury to the operation because the workforce was not available at the date of need.

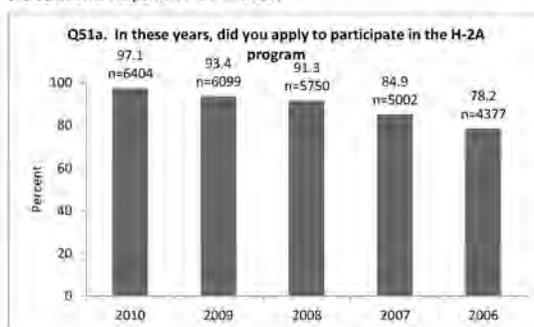
| |
|---|
| <p>Early winter snow storm Seriously behind in pruning and digging trees.</p> |
| <p>We weren't able to cultivate or dig our trees because it was a month too late and the sap had gone up in trees. In 2011, economic loss was substantial- because we were not certified for slots if we hired domestic workers, even though they did not work through the contract.</p> |
| <p>Lost sales and customers. State Dept. was unable to interview workers at initial consulate requested so group was split up between two consulates over three different days more than doubling the costs of transporting the workers and causing a delay in harvesting. HZA WORKERS DO ACCEPT THE PETITION WORK AND ARE MORE COMMITTED THAN EVER TO PERFORM ALL JOB DUTIES FOR WHICH THEY ARE HIRED, UP TO THE END OF THE WORK PERIOD. WHEN WORK IS OVER, THEY ARE MORE THAN HAPPY TO BE TRANSPORTED TO THEIR HOME COUNTRY AND RETURN TO THEIR FAMILIES. Too difficult to calculate for 2010.</p> |
| <p>We bring our H2A people in during pruning which is not very time sensitive giving us front end flexibility. By the time our time critical (harvest) activities are occurring, our crew is well in place. They arrived a week late - (Season was earlier than normal) Fresh market apples sold for juice! Was behind in getting all apples picked and quality was reduced, even in fresh fruit that made it as fresh fruit.</p> |

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Section 7. Enforcement Issues

NCAE was also interested in enforcement issues by the Wage and Hour Division of the Department of Labor so a section of the questionnaire was dedicated to finding this information. Most of the questions in this section dealt with audits. The following tables show the responses to the questions pertaining to audits conducted by the Wage and Hour Division.

Initially, respondents were asked if they participated in the H-2A program in the years 2006 to 2010. Over the course of the years, the number of responders answering yes, increased nearly 20 percent from 78.2% in 2006 to 97.1% in 2010 (Q51a). It appears that the H-2A program has become more popular in the last 5 years. However, we cannot definitively say this is true because the survey was not conducted in the previous years and we do not know who the additional responders are in 2010.



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The next question (Q51b) asked if the respondents had been audited by the Wage and Hour Division of DOL in the years from 2006 to 2010. The number of audits increase from 2006 (6.7%) to 2009 (13%). 2010 showed a slight dip to 12.6%.



A reasonable conclusion is that the number of audits has increased proportionally to match the increase in H-2A participation shown in Q51a. However, when we divide the percent of participants in the program by the percent who were audited, we find that the ratio declines from 2006 (11.7) to 2010 (7.7).

| Year | 2010 | 2009 | 2008 | 2007 | 2006 |
|----------------------------------|------|------|------|------|------|
| Ratio (Participation/ % audited) | 7.7 | 7.2 | 9.1 | 10.6 | 11.7 |

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Respondents, who answered that they had been audited, were then asked if it was a paperwork only audit (Q51c). Following the previous trends, the number who answered that it was a paperwork only audit increased each year from 2006 to 2010, nearly doubling from 5.8% up to 10.1%

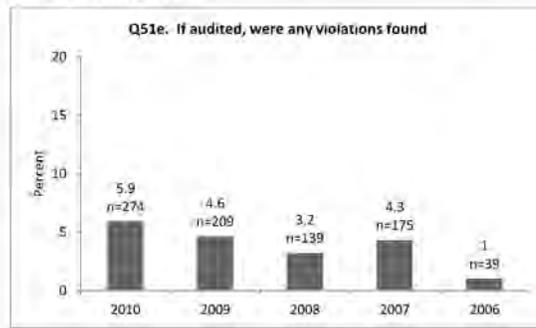


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In the next question, respondents responded if an investigator came to their place of business (Q51d). Again, this finding rose steadily from 2006 (6.9%) to 2009 (13.3%) before dropping somewhat to 12.2% in 2010.

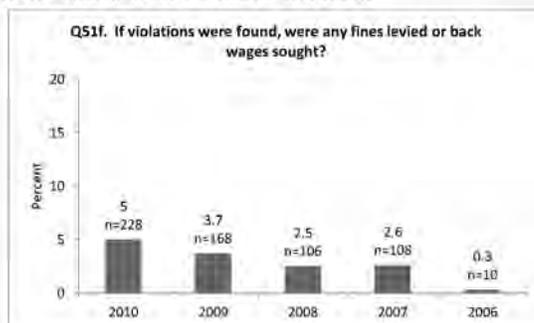


"If audited, were any violations found" (Q51e) was the next question in the list. Except for 2006 (1%) this number stays fairly consistent, hovering around 5% with the highest percentage (5.9%) reported in 2010.

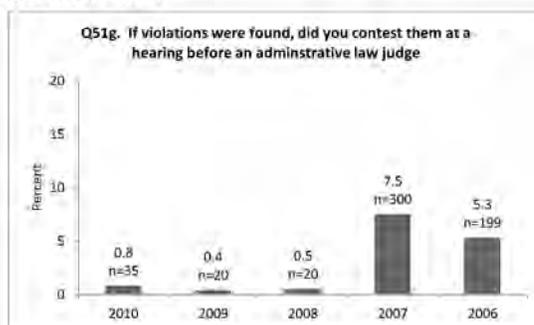


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The responses regarding fines being levied (Q51f) parallels the responses to the previous question about violations found. The highest percentage of fines or back wages sought occurred in 2010 (5%) and the lowest in 2006 (0.3%)



In 2010, 2009, and 2008, less than 1 percent of respondents said that they contested findings of violations at a hearing before an administrative law judge. This is substantially lower than both 2007 (7.5%) and 2006 (5.3%). A change in rules, requirements, or regulations could explain the decrease after 2007.



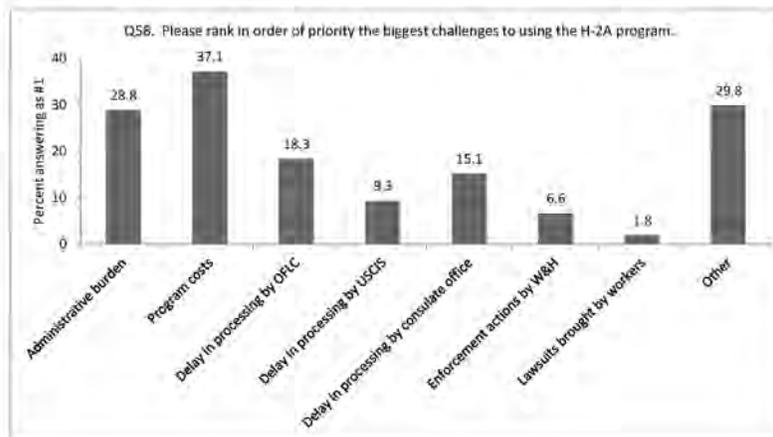
H-2A Temporary Agricultural Employee Program, November 2011
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On average, respondents to the survey indicated that they have been audited less than one time (0.83) since they began participation in the H-2A program (Q54). Only 4% have indicated that they have been sued in court by workers regarding matters related to participation in the H-2A program (Q55).

Section 8. Your Perspective

The eighth section of the questionnaire asked about the respondent's perspective and opinion regarding the H-2A program. It started off by asking how many years they had been farming and how many years they have been involved in the H-2A program. On average, respondents have been farming about 37 years (Mean=37.18, Median=34.00, Mode=30) and have been using the H-2A program for about 11 ½ years (Mean=11.49, Median=9.00, Mode=5) (Q56, Q57).

Respondents were also asked to rank the biggest challenges to using the H-2A program. The item receiving the most responses as the largest challenge was: 1) program costs (37.1%). This was followed by 2) Other reasons (29.8%), 3) administrative burden (28.8%), 4) delay in processing by OFLC (18.3%), 5) delay in processing by the consulate office (15.1%), 6) delay in processing by USCIS (9.3%), 7) enforcement by W&H (6.6%) and 8) lawsuits brought by workers (1.8%) (Q58).



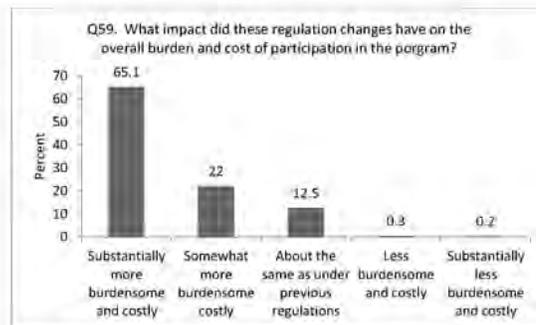
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Some of the other reasons listed are:

| |
|---|
| Having to hire sorry US workers |
| Department of Labor wages too high. |
| Labor costs too high. |
| Complexity and transparency of the OFLC and USCIS as to what stage the process is at. |
| Lack of clarity in directions throughout the process, especially if using online application. |
| Numerous U.S. referrals who truly do not want the job. When the work gets hard they all will leave every time. |
| Over regulation and unrealistic wage rates. |
| Having to verify and re-verify and re-verify with every agency. |
| Inconsistency in application from year to year. Unknown workforce for future planning. |
| High wage |
| 50% rule |
| the uncertainty of getting workers |
| Referrals - 50% rule |
| OED not willing to work with the employer |
| Excessive increase in required wages well in excess of minimum wage. |
| The uncertainty involved with not knowing exactly how many employees I may have to hire because of the 50% rule |
| 50% rule/handling of referrals |
| Lawsuits and threats brought by Farm worker Justice Program. |
| Uncertainty of wage rates and regulations; they change annually |
| quality of workers received |
| Stress factor. |
| These issues are more applicable to Western Range Association. My agent |
| Mandated wages are not affordable! |
| Laws are unfair and outdated |
| Unqualified referrals |
| Stipulation on work types allowed and not allowed. A \$ is a \$. |
| REGS ARE TOO COMPLEX. NEED TO MAKE THEM STRAIGHT FORWARD AND CLEAR TO EMPLOYERS |
| they keep changing the rules |

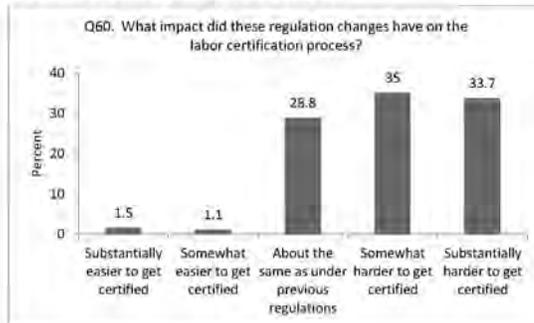
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Three questions were also asked about the new regulations that became effective for H-2A applications with "date of need" beginning in June 2010. Two-thirds of respondents (65.1%) indicated that these new regulations are "substantially more burdensome and costly". About one-quarter (22.0%) say the new regulations are "somewhat more burdensome and costly". Less than one percent of respondents indicated that the new regulations are "less" or "substantially less burdensome" (Q59).

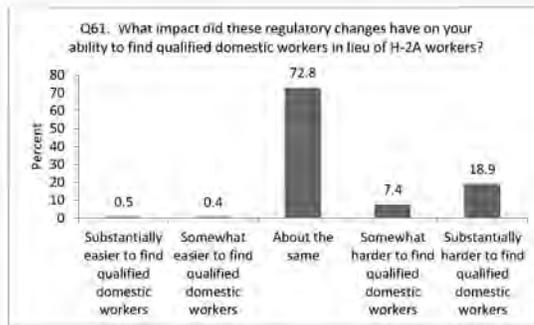


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Almost seven out of ten respondents marked that it is "somewhat" or "substantially harder" to get certified under the new regulations (Q60).



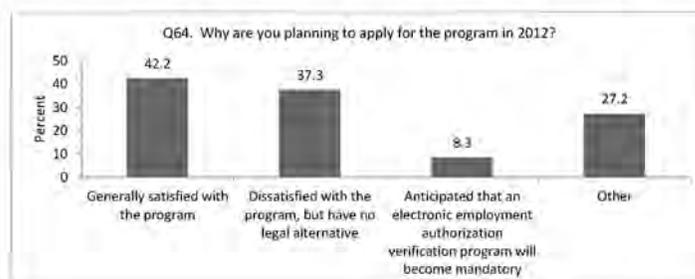
The majority of responses (72.8%) indicate that under the new regulations it is "about the same in their ability to find qualified domestic workers". However, nearly one-fifth (18.9%) say that it is "substantially harder to find qualified domestic workers in lieu of H-2A workers" (Q61).



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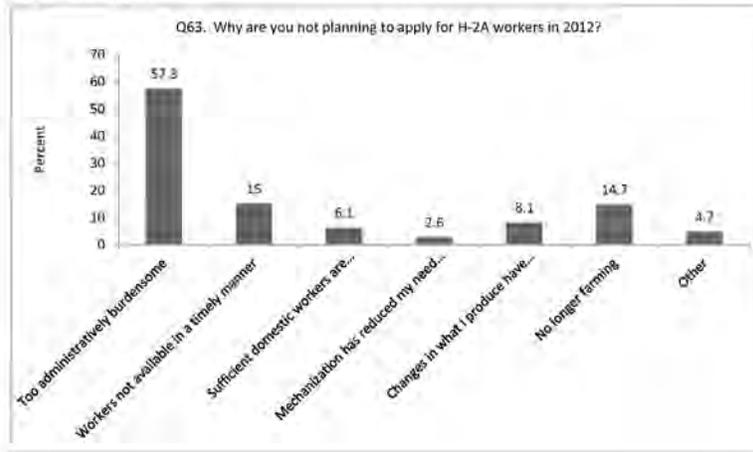
Nearly all (89.2%) of respondents are planning to apply for H-2A workers in 2012. The main reasons are that they: 1) are generally satisfied with the program (42.2%), 2) feel they have no legal alternative (37.3%), 3) other reasons (27.2%) and 4) anticipate that an electronic employment authorization verification program will become mandatory (8.3%) (Q62, Q64). The table below lists some of the Other responses.

| |
|--|
| Can't get U.S. workers |
| Cannot find temporary local employees that show up everyday and work. |
| Americans don't want to work! |
| Infrastructure in place |
| Lack of willing/qualified available workers. |
| Wages too high. |
| Only guys that will do hard manual labor. |
| The only successful way to fulfill our workforce needs to ensure a 100% legal workforce. |
| American don't want to work these jobs |
| Dissatisfied with costs but only option to find and hire legal workers. |
| Domestic workers not available/ no alternative. |
| Lack of good seasonal workers |
| There is no willing qualified or able work force |
| Would go out of business without it. |
| Only workers to perform work |
| Can't get US employees to apply for work |
| No domestic workers, our only option. It is not much of one though |
| Have infrastructure in place. |
| Have no choice. |
| U.S. work force not competent. |
| Need H-2A workers to harvest our crop - US workers do not want these types of jobs. |



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Respondents who are planning not to apply for H-2A workers in 2012 say mainly that the program is too administratively burdensome or costly (57.3%). Workers are not available in a timely manner (15%) and no longer farming (14.7%) are also frequently cited reasons to not apply in 2012 (Q63).



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Another of the most important questions asked respondents to rate their overall satisfaction with the H-2A program as it is currently administered. One-fourth (26.4%) responded that they are "not at all satisfied". 21.4% are "slightly satisfied" and 37.7% are "moderately satisfied". The "very satisfied" category was selected by 10.4% of respondents and 4.1% indicated "completely satisfied" (Q67).



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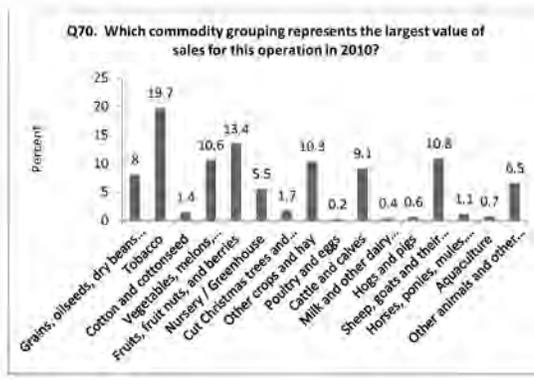
Section 9. Operation Description

The final section of the questionnaire asked three questions about the grower's operation which can be used to determine where the H-2A program is administered differently for different sizes and types of farming operations. The distribution the operation size shows enough of an even split among the four categories that it will lend strength to future analyses (Q69).



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Table Q70 shows the breakdown of commodity groupings for this study. Tobacco has the most respondents (19.7%). That is followed by Fruits, fruit nuts, and berries (13.4%), sheep, goats, and their products (10.8%), vegetables, melons, potatoes, and sweet potatoes (10.6%), and Other crops and hay (10.3%). Poultry and eggs (0.2%), milk and other dairy products from cows (0.4%), Hogs and pigs (0.6%), and aquaculture (0.7%) all were under one percent of the total.



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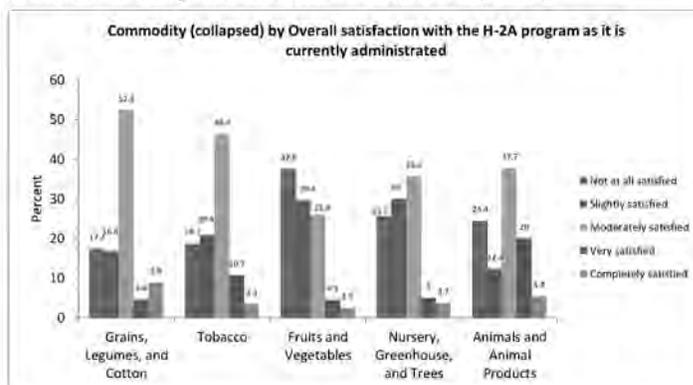
Nearly half of respondents (45.3%) reported that they are an individual or family operation (Q71). That was followed by a legal partnership operation (20%) and an S-Corporation (16.8%).



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Cross-tabulations

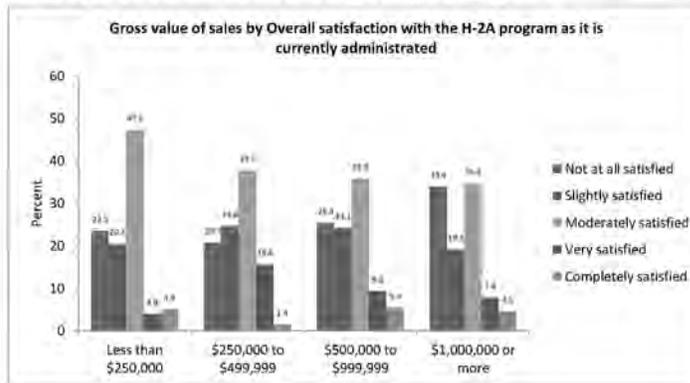
To help determine the overall satisfaction with the H-2A program, we collapsed the commodities into 5 categories as can be seen in the chart and table below.



Overall, Fruit and Vegetable growers express the highest level of dissatisfaction with the program with over one-third (37.5%) answering that they are 'Not at all satisfied' with the H-2A program as it is currently administered and less than one-third (32.9%) saying they are 'Moderately, Very, or Completely satisfied'. Grain, Legume, and Cotton producers express the highest level of satisfaction (65.8% answering 'Moderately, Very, or Completely' satisfied). This group is followed closely by the growers/producers of Animals and Animal products (63.1%) and Tobacco (60.5%).

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We also looked at the level of satisfaction that growers of different sizes reported. Growers with \$1,000,000 or more of gross value of sales expressed the highest level of dissatisfaction with one-third (33.9%) indicating that they are 'Not at all satisfied'. The smallest operations, with less than \$250,000 in gross sales value, reported the most satisfaction with over half reporting being 'Moderately, Very, or Completely satisfied' (56.1%). The data indicate that the larger your operation the less satisfied you are with the program.



Q70collapse Q70 Commodity Collapsed * Q67 Q67 How would you rate your overall satisfaction with the H-2A program as it is currently administrated?

| | | Crosstab | | | | | | |
|--|-------------------------------|--|----------------------|------------------------|------------------|------------------------|--------|--------|
| | | Q67 Q67 How would you rate your overall satisfaction with the H-2A program as it is currently administrated? | | | | | | |
| | | 1 Not at all satisfied | 2 Slightly satisfied | 3 Moderately satisfied | 4 Very satisfied | 5 Completely satisfied | Total | |
| Q70collapse Q70 Commodity Collapsed | 1 Grains, Legumes, and Cotton | Count 194 | 188 | 585 | 51 | 100 | 1118 | |
| | | % within Q70collapse | 17.4% | 16.8% | 52.3% | 4.6% | 8.9% | 100.0% |
| | 2 Tobacco | Count 209 | 232 | 518 | 119 | 38 | 1116 | |
| | | % within Q70collapse | 18.7% | 20.8% | 46.4% | 10.7% | 3.4% | 100.0% |
| | 3 Fruits and Vegetables | Count 503 | 397 | 348 | 61 | 33 | 1342 | |
| | % within Q70collapse | 37.5% | 29.6% | 25.9% | 4.5% | 2.5% | 100.0% | |
| | 4 Nursery | Count 104 | 121 | 144 | 20 | 15 | 404 | |

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| | | | | | | | | |
|-------|-------------------------------------|-------------------------|-------|-------|-------|-------|------|--------|
| | Greenhouse, and Trees | % within Q70collapse | 25.7% | 30.0% | 35.6% | 5.0% | 3.7% | 100.0% |
| | 5 Animals and Animal Products | Count | 396 | 202 | 613 | 325 | 88 | 1624 |
| | | % within Q70collapse | 24.4% | 12.4% | 37.7% | 20.0% | 5.4% | 100.0% |
| Total | | Count | 1406 | 1140 | 2208 | 576 | 274 | 5604 |
| | | % within Q70collapse | 25.1% | 20.3% | 39.4% | 10.3% | 4.9% | 100.0% |

Chi-Square Tests

| | Value | df | Asymp. Sig. (2- sided) |
|------------------------------|----------------------|----|---------------------------|
| Pearson Chi-Square | 684.795 ^a | 16 | .000 |
| Likelihood Ratio | 689.066 | 16 | .000 |
| Linear-by-Linear Association | .005 | 1 | .945 |
| N of Valid Cases | 5604 | | |

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 19.75.

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Q69 Q69 In 2010, what was this operation's gross value of sales? * Q67 Q67 How would you rate your overall satisfaction with the H-2A program as it is currently administrated?

Crosstab

| | | | Q67 Q67 How would you rate your overall satisfaction with the H-2A program as it is currently administrated? | | | | | |
|--|--------------------------|--------------|--|----------------------|------------------------|------------------|------------------------|--------|
| | | | 1 Not at all satisfied | 2 Slightly satisfied | 3 Moderately satisfied | 4 Very satisfied | 5 Completely satisfied | Total |
| Q69 Q69 In 2010, what was this operation's gross value of sales? | 1 Less than \$250,000 | Count | 224 | 194 | 450 | 37 | 47 | 952 |
| | | % within Q69 | 23.5% | 20.4% | 47.3% | 3.9% | 4.9% | 100.0% |
| | 2 \$250,000 to \$499,999 | Count | 351 | 418 | 639 | 264 | 24 | 1696 |
| | | % within Q69 | 20.7% | 24.8% | 37.7% | 15.6% | 1.4% | 100.0% |
| | 3 \$500,000 to \$999,999 | Count | 338 | 322 | 478 | 124 | 72 | 1334 |
| | | % within Q69 | 25.3% | 24.1% | 35.8% | 9.3% | 5.4% | 100.0% |
| | 4 \$1,000,000 or more | Count | 707 | 399 | 721 | 163 | 84 | 2084 |
| | | % within Q69 | 33.9% | 19.1% | 34.6% | 7.8% | 4.5% | 100.0% |
| Total | | Count | 1620 | 1333 | 2288 | 588 | 237 | 6066 |
| | | % within Q69 | 28.7% | 22.0% | 37.7% | 9.7% | 3.9% | 100.0% |

Chi-Square Tests

| | Value | df | Asymp. Sig. (2-sided) |
|------------------------------|----------------------|----|-----------------------|
| Pearson Chi-Square | 255.124 ^a | 12 | .000 |
| Likelihood Ratio | 261.140 | 12 | .000 |
| Linear-by-Linear Association | 29.843 | 1 | .000 |
| N of Valid Cases | 6066 | | |

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 37.19.

Paper Questionnaire

H-2A Temporary Agricultural Program

How Well Is It Working for Agricultural Producers?

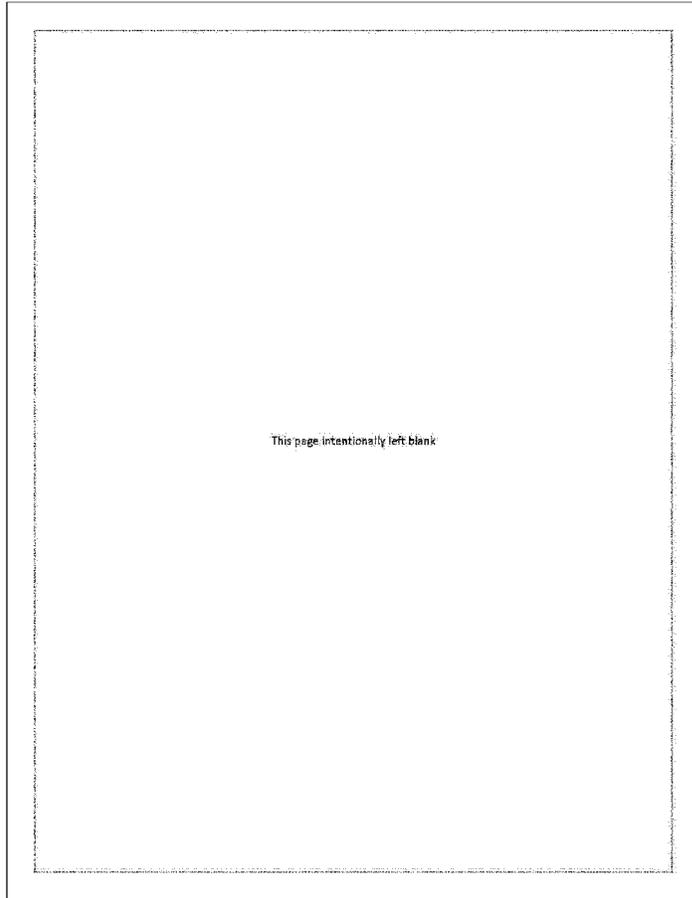
The Department of Labor's H-2A Program was enacted to allow agricultural producers to obtain, in a timely manner, authorization for non-U.S. citizens to perform temporary agricultural labor when the domestic workforce is insufficient to meet the demand. This program is critical for U.S. agriculture.

The purpose of this survey is to learn directly from producers who use it whether this program is fulfilling its purpose.

It is extremely important to fill this questionnaire out accurately. Please use your records or contact your agent for assistance.

This project is sponsored by the National Council of Agricultural Employers.

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| SECTION 1. APPLICATION FOR H-2A WORKERS FOR 2010 | |
|--|---|
| Q01. | Did your operation submit an application (ETA Form 9142) to participate, in 2010, in the Department of Labor's H-2A program? (The application may have been submitted in 2009.) |
| | <input type="checkbox"/> Yes |
| | <input type="checkbox"/> No → Skip to Q51, page 9 |
| Q02. | How many different applications did you submit to the program for 2010? |
| | <input type="checkbox"/> A single application → Skip to Q04 |
| | <input type="checkbox"/> More than one application |
| Q03. | How many separate applications did you submit for 2010? |
| | _____ # of separate applications |
| | <i>Please select one application and answer the remaining questions about that application.</i> |
| Q04. | Did you use an agent to assist you in the application process? |
| | <input type="checkbox"/> Yes |
| | <input type="checkbox"/> No |
| Q05. | What was the final certification decision regarding your 2010 application by the Department of Labor's Office of Foreign Labor Certification (OFLC)? |
| | <input type="checkbox"/> Certified – Full |
| | <input type="checkbox"/> Certified – Partial |
| | <input type="checkbox"/> Denied |
| | <input type="checkbox"/> Withdrawn or other disposition |
| Q06. | Regarding your 2010 application, how many H-2A workers: Number of H-2A Workers |
| a. | Were requested for certification..... |
| b. | Were certified by OFLC (Chicago)..... |
| c. | Were admitted by the U.S. Customs & Immigration Service (USCIS)..... |
| d. | Began work on your operation..... |
| Q07. | For which commodities was the H-2A job order? (Check all that apply.) |
| | <input type="checkbox"/> Fruit |
| | <input type="checkbox"/> Vegetables |
| | <input type="checkbox"/> Nursery/greenhouse |
| | <input type="checkbox"/> Livestock |
| | <input type="checkbox"/> Grains |
| | <input type="checkbox"/> Other (Please specify): _____ |

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Q08. What tasks were H-2A workers intended to perform? (Check all that apply)

Planting/Propagation
 Pruning
 Cultivation and/or ongoing care of plants
 Harvesting/Packing
 Feeding / care of livestock
 Other (Please specify): _____

Q09. Was your 2010 application Initially Fully Certified?

Yes → Skip to Q18, page 5
 No

SECTION 2: DENIALS AND PARTIAL CERTIFICATIONS

Q10. What reason(s) was given by OFLC (Chicago) in its Notice of Deficiency? (Check all that apply)

Hourly wage too low
 Piece rate wages too low or other issue with piece rate
 Requirement for "work experience"
 Requirement for a background check or drug test
 Productivity standards
 Small errors or inconsistencies in the paperwork
 Other (Please specify): _____

Q11. Did you revise and resubmit your application for reconsideration?

Yes
 No → Skip to Q13

Q12. (If yes to Q11) What was the outcome of this revised submission?

Certified – Full → Skip to Q18, page 5
 Certified – Partial
 Denied

Q13. Did you appeal your partially certified or denied application to an administrative law judge?

Yes
 No → Skip to Q17, page 5

Q14. Did you have legal counsel or other professional assistance with your appeal?

Yes
 No

Q15. Was your appeal...

Decided by an administrative law judge?
 Resolved through an agreement reached between parties before the hearing? → Skip to Q18
 Other (Please specify): _____ → Skip to Q18

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Q16. If your appeal was decided by an administrative law judge, what was the judge's decision?

OFLC was reversed by the judge and the case remanded for processing
 OFLC denial of your certification was upheld by judge
 OFLC denial of your certification was partially upheld by judge

} Skip to Q18

Q17. Why did you choose not to appeal? (Check all that apply.)

Generally satisfied with OFLC (Chicago)'s decision
 It was too costly to appeal
 There was insufficient time to appeal
 Did not think the decision would be reversed
 Other (Please specify): _____

SECTION 3. CRITICAL DATES AND TIMING ISSUES

Q18. On what date did you initially file...

a. Form 790 with a State Workforce Agency? / / (MM/DD/YYYY)

b. Form 9142 with the Office of Foreign Labor Certification (OFLC)? / / (MM/DD/YYYY)

Q19. What was the start "date of need" on your application? / / (MM/DD/YYYY)

Q20. What was the end "date of need" on your application? / / (MM/DD/YYYY)

Q21. Did you file an amended "date of need"?

Yes
 No → Skip to Q24

Q22. What was your amended start "date of need"? / / (MM/DD/YYYY)

Q23. What was your amended end "date of need"? / / (MM/DD/YYYY)

Q24. On what date did you get initial acceptance or denial of your application from the OFLC (Chicago)? / / (MM/DD/YYYY)

Q25. Following any resubmission or administrative appeal, on what date did OFLC issue a final decision on your application? / / (MM/DD/YYYY)
 Check here if question is not applicable.

Q26. On what date did you file a petition with the USCIS? / / (MM/DD/YYYY)
 Check here if question is not applicable.

Q27. On what date did you receive approval from the USCIS? / / (MM/DD/YYYY)
 Check here if question is not applicable.

Q28. On what date did H-2A workers begin work? / / (MM/DD/YYYY)
 Check here if question is not applicable.

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| SECTION 4. DOMESTIC WORKERS | |
|-----------------------------|---|
| Q29. | With how many different state workforce agencies did you file a Form 7907? _____ Number of state workforce agencies. |
| Q30. | How many referral job candidates did you receive from those state workforce agencies? _____ Number of job candidates referred Check here <input type="checkbox"/> if no job candidates were referred → Skip to Q41 |
| Q31. | How many of these referrals were received after the "date of need"? _____ Number of referrals received after the "date of need". |
| Q32. | If you received more referral candidates than jobs on the job order, did your state workforce agency still require you to offer jobs to all referrals that you received during the first 50% of the contract period? (50% rule) <input type="checkbox"/> I did not receive more referral candidates than jobs on the job order. → Skip to Q35 <input type="checkbox"/> Yes, I received more referral candidates than jobs on the job order, and I was required to offer a job to each referral received in the first 50% of the contract period. <input type="checkbox"/> No, I received more referral candidates than jobs on the job order, but I was not required to offer a job to each referral received during the first 50% of the contract period. → Skip to Q35 |
| Q33. | How were you informed of this requirement? _____ |
| Q34. | Was this requirement a change from previous years? <input type="checkbox"/> Yes, this requirement was different than in past years <input type="checkbox"/> No, this was also required in the past |
| Q35. | How many referral candidates accepted a job with you? _____ Number of referral candidates who accepted a job. Check here <input type="checkbox"/> if no job candidates accepted a job with you → Skip to Q41 |
| Q36. | How many referral candidates began work on your operation? _____ Number of referral candidates who began work on your operation. Check here <input type="checkbox"/> if none began work → Skip to Q41 |
| Q37. | How many referral workers worked through the entire contract period? _____ Number of referral candidates who worked through the entire period. Check here <input type="checkbox"/> if none worked the entire period |

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Q38. If any referral workers left your employ before the end of the contract period, why did this happen? (Check all that apply)

Worker quit or failed to show up for work
 Worker terminated for cause, other than failure to show up
 Worker failed to produce acceptable work authorization documentation
 Worker terminated because there was no more work to be performed
 Other (Please specify): _____

Check if none left before the entire period

Q39. Considering all referral workers, what was the average number of hours one of these referrals worked on this job order?
 _____ Average number of hours worked

Q40. How many total hours did you, or others on your operation, spend on paperwork processing for referral workers and training these workers for this job order?
 _____ Hours spent on processing and training of referral workers

SECTION 5. PETITIONS TO THE U.S. CUSTOMS AND IMMIGRATION SERVICE AND CONSULAR PROCESSING

Q41. How well did the U.S. Customs and Immigration Service handle your petition for H-2A workers?

1. Approved petition in a timely manner
 2. Approved petition, but not in a timely manner
 3. Did not approve petition
 4. Issued a Request for Evidence

Q42. How well did the U.S. Embassy or Consulate handle the visa processing for your H-2A workers?

1. Processed in a timely manner
 2. Processed, but not in a timely manner
 3. Did not process

Q43. Did you use the U.S. Embassy in a second country to process visas for this work order?

1. Yes
 2. No → Skip to Q45

Q44. How well did the U.S. Embassy or Consulate in this second country handle the visa processing for your H-2A workers?

1. Processed in a timely manner
 2. Processed, but not in a timely manner
 3. Did not process

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SECTION 6. ECONOMIC IMPACT AND COST

Q45. How many hours did you, a family member, or others in your operation spend in the administrative processes to obtain H-2A workers for 2010?

_____ Hours

Q46. Did you hire an agent to do some or all of the application/appeal process for your operation?

Yes
 No → Skip to Q48

Q47. Why did you hire an agent? (Check all that apply)

Process is very complex
 Agent is more cost effective than doing the work ourselves
 To help protect against liability
 Other (Please specify): _____

Q48. What was the economic loss (in dollars) or other injury to your operation due to the inability to get the workers you needed?

_____ Dollars
 Check here if some other injury to your operation. Please indicate what this was:

Q49. What was the economic loss (in dollars) or other injury to your operation because the workforce was not available at date of need?

_____ Dollars
 Check here if some other injury to your operation. Please indicate what this was:

Q50. On which activities did the loss occur? (Check all that apply)

Planting / Propagation
 Pruning
 Cultivation and/or ongoing care of plants
 Harvesting / Packing
 Feeding / care of livestock
 Other (Please specify): _____
 No loss

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| SECTION 7. ENFORCEMENT ISSUES | | | | | | |
|--|---|------------------|------------------|------------------|------------------|------------------|
| <p>Q51. The following questions pertain to audits conducted of your business by the Wage and Hour Division (W & H) of the Department of Labor. Please circle Yes, No, or N/A (not applicable) in each cell:</p> | | | | | | |
| | | 2010 | 2009 | 2008 | 2007 | 2006 |
| a. | In these years, did you apply to participate in the H-2A program? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| b. | Were you audited by the Wage and Hour Division during any of these years? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| c. | If audited, was it a paperwork-only audit? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| d. | If audited, did an investigator come to your place of business? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| e. | If audited, were any violations found? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| f. | If violations were found, were any fines levied or back wages sought? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| g. | If violations were found, did you contest them at a hearing before an administrative law judge? | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A | Yes No N/A |
| <p>Q52. Prior to participating in the H-2A program, were you ever audited by the Wage and Hour Division?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No → Skip to Q54</p> | | | | | | |
| <p>Q53. How many times were you audited in years before participation?</p> <p>_____ Number of times audited</p> | | | | | | |
| <p>Q54. How many times have you been audited in the years since you began participation?</p> <p>_____ Number of times audited</p> | | | | | | |
| <p>Q55. Have you ever been sued in court by workers regarding matters related to your participation in the H-2A program?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> | | | | | | |
| <p>Page 8 of 22</p> | | | | | | |

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| SECTION 8: YOUR PERSPECTIVE | |
|--|--|
| Q56. | How many years have you been farming? _____ Years farming |
| Q57. | How many years have you (your operation) participated in the H-2A program? _____ Years participating in the H-2A program |
| Q58. | Please rank in order of priority (1 being the highest) the biggest challenges to using the H-2A program: _____ Administrative burden _____ Program costs _____ Delay in processing by OFLC _____ Delay in processing by USCIS _____ Delay in processing by consular office _____ Enforcement actions by W&H _____ Lawsuits brought by workers _____ Other (Please specify): _____ |
| <p>New regulations became effective for H-2A applications with "date of need" in June 2010 and thereafter (Obama Administration regulations).</p> | |
| Q59. | What impact did these regulation changes have on the overall burden and cost of participation in the program? <input type="checkbox"/> Substantially more burdensome and costly <input type="checkbox"/> Somewhat more burdensome costly <input type="checkbox"/> About the same as under previous regulations <input type="checkbox"/> Less burdensome and costly <input type="checkbox"/> Substantially less burdensome and costly |
| Q60. | What impact did these regulation changes have on the labor certification process? <input type="checkbox"/> Substantially easier to get certified <input type="checkbox"/> Somewhat easier to get certified <input type="checkbox"/> About the same as under previous regulations <input type="checkbox"/> Somewhat harder to get certified <input type="checkbox"/> Substantially harder to get certified |
| Q61. | What impact did these regulatory changes have on your ability to find qualified domestic workers in lieu of H-2A workers? <input type="checkbox"/> Substantially easier to find qualified domestic workers <input type="checkbox"/> Somewhat easier to find qualified domestic workers <input type="checkbox"/> About the same <input type="checkbox"/> Somewhat harder to find qualified domestic workers <input type="checkbox"/> Substantially harder to find qualified domestic workers |

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Q62. Are you planning to apply for H-2A workers in 2012?

Yes → Skip to Q64
 No

Q63. Why are you not planning to apply for H-2A workers in 2012? (Check all that apply.)

Too administratively burdensome or costly
 Workers not available in a timely manner
 Sufficient domestic workers are available for my needs
 Mechanization has reduced my need for H-2A workers
 Changes in what I produce have reduced my need for H-2A workers
 No longer farming
 Other (Please specify): _____

} Skip to Q65

Q64. Why are you planning to apply for the program in 2012? (Check all that apply.)

Generally satisfied with the program
 Dissatisfied with the program, but have no legal alternative
 Anticipate that an electronic employment authorization verification program will become mandatory
 Other (Please specify): _____

Q65. Have you ever complained to your U.S. Senator or Representative about the difficulties in using the H-2A program?

Yes
 No → Skip to Q67

Q66. If yes to Q65, what response did you get?

Q67. How would you rate your overall satisfaction with the H-2A program as it is currently administered?

1. Not at all satisfied
 2. Slightly satisfied
 3. Moderately satisfied
 4. Very satisfied
 5. Completely satisfied

Q68. Please provide any additional comments you would like to make regarding the H-2A program.

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| SECTION 9. OPERATION DESCRIPTION | |
|---|--|
| This section will be used to determine whether the H-2A program is administered differently for different sizes and types of farming operations. | |
| Q69. | In 2010, what was this operation's gross value of sales? |
| <input type="checkbox"/> | 1. Less than \$250,000 |
| <input type="checkbox"/> | 2. \$250,000 to \$499,999 |
| <input type="checkbox"/> | 3. \$500,000 to \$999,999 |
| <input type="checkbox"/> | 4. \$1,000,000 or more |
| Q70. | Which commodity grouping represents the largest value of sales for this operation in 2010? |
| <input type="checkbox"/> | 1. Grains, oilseeds, dry beans and dry peas |
| <input type="checkbox"/> | 2. Tobacco |
| <input type="checkbox"/> | 3. Cotton and cottonseed |
| <input type="checkbox"/> | 4. Vegetables, melons, potatoes and sweet potatoes |
| <input type="checkbox"/> | 5. Fruits, fruit nuts, and berries |
| <input type="checkbox"/> | 6. Nursery / Greenhouse |
| <input type="checkbox"/> | 7. Cut Christmas trees and short rotation woody crops |
| <input type="checkbox"/> | 8. Other crops and hay |
| <input type="checkbox"/> | 9. Poultry and eggs |
| <input type="checkbox"/> | 10. Cattle and calves |
| <input type="checkbox"/> | 11. Milk and other dairy products from cows |
| <input type="checkbox"/> | 12. Hogs and pigs |
| <input type="checkbox"/> | 13. Sheep, goats and their products |
| <input type="checkbox"/> | 14. Horses, ponies, mules, burros and donkeys |
| <input type="checkbox"/> | 15. Aquaculture |
| <input type="checkbox"/> | 16. Other animals and other animal products |
| Q71. | What was the management structure of this operation in 2010? |
| <input type="checkbox"/> | 1. An individual or family operation (exclude partnerships) |
| <input type="checkbox"/> | 2. Legal partnership operation (includes family partnerships) |
| <input type="checkbox"/> | 3. C-Corporation |
| <input type="checkbox"/> | 4. S-Corporation |
| <input type="checkbox"/> | 5. Other (Please specify): _____ |
| Thank You!! | |
| Please return your completed questionnaire to Social & Economic Sciences Research Center Washington State University PO Box 641801 Pullman, WA 99164-1801 | |
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Mr. WENGER. Good. Thank you.

It is impossible for the program to scale up quickly, from admitting 50,000 to 60,000 workers to admitting the much larger numbers agriculture will need. An example in Texas: About 100,000 workers currently fill a need of 155,000 farm jobs each year. In 2009, only 2,807 farm jobs in Texas were certified for H-2A, meaning that the H-2A program currently fills only 1.8 percent of the Texas Farm Bureau needs. And this comes from the Department of Labor.

To ensure our industry a future workforce, we need a new program model that is more flexible, scaleable, and market-oriented.

Congressman Lungren is offering such a solution by creating a W visa for agricultural workers. It requires a biometric visa, criminal background check, and incentives for workers to abide by the terms of their visas and return home when the work is done.

The closer a new program comes to replicating the way the farm labor force moves now among employers and crops, the more likely it will be able to meet the industry's needs. To ensure programs actually work, they likely will need to be administered by the United States Department of Agriculture instead of the Department of Labor, which has a long and checkered history of administering the H-2A program.

A workable program would also meet the needs of the dairy and the livestock industries. These operations frequently have difficulty finding workers, and their need is year-round. Any solution must avoid needless disruptions of the industry and must accommodate the large, experienced labor force currently within our industry.

Any solution must deal in a practical and humane way with current workers. The most important features of a solution for our industry will be to recognize that many of our workforce want and need the ability to come to the United States, work on our farms and ranches, and return to their home country.

The consequences of getting it wrong are serious. Make no mistake, to lose the ability to feed our Nation and depend upon foreign-produced food is a national security issue. Imposing an E-Verify mandate and not creating a reliable workforce for agriculture will endanger America's food supply that is currently grown in America. United States Department of Agriculture statistics show that foreign producers are gaining market share in the United States. Fruit and vegetable imports from China have increased over 555 percent.

In conclusion, I have shared with you a snapshot of what is taking place across America. I urge you to craft a solution that provides farmers and ranchers with a solution that is economically practical, one that addresses the impact of our past inability to resolve this problem and recognizes the value of the people who work for us and feed our Nation.

I will be happy to answer any questions later.

Mr. LUNGREN. Thank you very much, Mr. Wenger.

[The prepared statement of Mr. Wenger follows:]



CALIFORNIA FARM BUREAU FEDERATION

NATIONAL AFFAIRS & RESEARCH DIVISION

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 • PHONE (916) 561-5610 • FAX (916) 561-5693

**Testimony of
Paul Wenger,
President, California Farm Bureau Federation
House Judiciary Subcommittee on Immigration Policy and
Enforcement
February 9, 2012**

Good Morning, Chairman Gallegly and Vice-chairman King, Ranking Member Lofgren, and distinguished Members of the Subcommittee. I am Paul Wenger, President of the California Farm Bureau Federation (CFBF). I am a third-generation almond and walnut farmer in Modesto, Ca. CFBF is the largest general interest farm organization in the largest farm producing state in the nation. The California Farm Bureau Federation works to protect family farms and ranches on behalf of more than 74,000 members statewide, who produce a variety of fruits, nuts, vegetables, livestock, dairy, flowers, shrubs, and other crops that feed and clothe the world.

I am here today, because farmers and ranchers across the nation need a solution that provides a legal workforce to cultivate and harvest our crops and tend our livestock. Any solution must be economically practical and recognizes the value of the people who work in agriculture to provide Americans with products grown in the U.S.

The national agricultural workforce consists of an estimated 1.83 million hired workers. According to the U.S. Department of Labor's National Agricultural Worker Survey (NAWS), more than half of agricultural workers are unauthorized. However, that estimate may be too low. Some experts estimate that 70% or more of hired farm employees responsible for America's fruit, vegetable, dairy, livestock, nursery plant, and other production are, in fact, not authorized to work in the United States. In California alone, we rely on 400,000 employees during peak season. The Agricultural sector is diverse, year-round and highly labor-intensive, with many commodities that require human hands for cultivation and harvest. Crops like dairy, sheep herding, strawberries, leafy greens, tree fruits, grapes are cared for and harvested by a labor force that is mostly foreign born.

Agriculture is a very diverse industry; the needs across sectors and states are similarly diverse and cannot be addressed through a one-size-fits-all, single-program solution. It is not a problem confined to agriculture in the northeast, southern Border States or western states. This also is not just a problem for large farmers. According to U.S. Department of Agriculture, 60% of hired farm labor is hired by farms with annual sales less than \$1 million.

One study done by Center for North American Studies, Texas AgriLIFE Extension Service found more than three-fourths of employers surveyed in that state indicated that labor shortages had already forced them to reduce the size and/or scope of their operations. Others reported considering moving to another country or going out of business entirely. Labor shortages approaching 17 percent occurred among nearly two-thirds of the firms responding to this survey during 2006 and 2007. Labor shortages for 2008 were expected to range from 11-14 percent. Onion and melon crops were most affected by labor shortages and those shortages were expected to be most prevalent in May-June 2008. An aging workforce also affects the industry with employers reporting that 28 percent of their workers exceed 45 years of age, which is fairly old for field labor employees. Employees 25 years of age and younger represented only 10 percent of the labor force.¹

¹ Parr Rosson, Flynn Adcock, Marco Palma, Luis Ribera and Jose Pena, *Hired Labor use in the Texas Fruit and Vegetable Industry*, (Center for North American Studies, Texas Agrilife Extension Service, 2006)

Imposing Mandatory E-verify

We are here today because last year, this committee approved a bill that would make E-Verify mandatory for all employers, regardless of size or industry. That bill offered no solution to address the unique challenges that a national E-Verify mandate will create for agriculture. As a result, we would be forced to oppose any E-Verify legislation that does not address the farm workforce supply issues a national E-Verify mandate will create. We are here today because a growing number in Congress are beginning to recognize what we in agriculture already know: E-Verify without a workable, economical way to ensure a legal agricultural workforce will be a disaster for American agriculture. E-Verify without a workable solution will send American agricultural production, and the on-farm and off-farm jobs that go with it, to other countries.

We need not speculate about what will happen “the day after” if Congress chooses to impose a national E-Verify mandate. We have ample experience from Alabama and Georgia where there is not an available domestic labor force for our industry, including prisoners and parolees. One Florida citrus harvester found his workforce dried up as a result of the mere discussion of an E-Verify mandate in Florida. After the state’s employment service was unable to help him, he turned to his local sheriff, who offered him inmates on work-release. Sixteen inmates made themselves available, but only 8 actually showed up at the farm; 2 finished the week; none returned for the next week.

Experience also shows us there is no realistic prospect of a domestic work force for agriculture. We in California have learned the hard way that few Americans seek agricultural jobs. In the late 1990’s, facilitated by the leadership of Sen. Dianne Feinstein, a multi-county welfare-to-farm-work program was launched in the Central Valley. Regional unemployment rates ranged from nine to 12 percent; in some localities, unemployment exceeded 20%. State and county agencies and grower associations collaborated to identify cropping patterns, labor needs, training, transportation, and other impediments. Out of over 100,000 prospective “welfare to work” placements, three individuals were successfully placed. In the aftermath of the program, several employment agencies indicated – in writing – that they would no longer seek to place the unemployed in seasonal agricultural work. Other examples of this “on-the-ground” truth include the UFW’s “Take Our Jobs” campaign, which placed a total of 9 people in agricultural jobs, few of whom lasted more than a few days.

These jobs are not for the unskilled, farm work requires experience, stamina and dedication. As our society has grown older, better educated, and more urban, our native-born seek other jobs outside the agricultural sector. A farmer cannot survive and compete without a skilled and dedicated workforce.

Agriculture needs a timely solution that will work in the real world. A day without harvesting a ready to pick crop can result in lost product and lost markets. Whatever the components of a solution, the challenge is real. The solution we need must somehow fill the gap between the tiny legally-authorized workforce and the agricultural needs. Our industry today employs at least 900,000 and possibly 1.2 million unauthorized workers with special skills and abilities that we cannot exist without. The daunting reality is that a true solution must be capable of converting or replacing these workers with legally authorized workers.

Any solution must address the following:

A workable solution must deal with the industry's ongoing need for a future workforce.

The overall size of our workforce has been stable for decades. Because much agricultural work is seasonal, intermittent, and physically demanding, agriculture does not attract a domestic workforce. Some advocate for improvements to the existing temporary work visa program intended for agriculture, the H-2A program. Let me be clear; while few producers in California have been able to utilize the H-2A program we support improvements to it. The program has long needed an overhaul; the Department of Labor's new rules that took effect March 15, 2010 have nearly destroyed the program.

There are many examples of the dysfunction of the current H-2A program. One of New York State's largest apple producer's experience helps prove the point. In 2010, delays in processing meant 100 H-2A visa holders failed to arrive on time for the harvest. His apples were harvested, but quality had deteriorated by the time the workers arrived, and those quality losses are now showing because the apples have not stored well and have lost market value. The grower is now seriously thinking of pushing out trees and leasing the land to others who grow lower value but mechanized grain crops. The instability of the H-2A program is not worth the gamble on growing apples. In addition to loss of payroll, taxes, and other local impacts, 18 full time American jobs and a 300,000 bushel apple crop are at stake.

While the program provides only a tiny share of the industry's workforce, in some sectors and some regions the program is important for producers who can use it. H-2A reform is a vital piece of the reform puzzle. However, the program suffers from huge structural, administrative and other flaws that make it unlikely the program can scale up to meet the huge need:

- California relies on the labor of at least 400,000 hired farm and ranch workers each year. In 2009, only 3503 farm jobs in California were certified for H-2A.
- Florida farmers directly hire farm employees to fill 115,306 positions. In 2009, 5820 jobs were certified for H-2A, meaning that H-2A provides, at most, 3.8% of Florida's needed farm labor.
- In Texas, about 100,000 workers fill roughly 155,000 farm jobs each year. In 2009, only 2807 farm jobs in Texas were certified for H-2A, meaning that H-2A currently fills only 1.8% of Texas' farm labor needs.

California Farm Bureau is a member of the National Council of Agricultural Employers, which recently released a study illustrating the major flaws of the H-2A program; I have a copy of that study with me today, and I respectfully request that it be included in the record of this hearing.

Yet even if H-2A could be substantially improved, reform of that program cannot alone stabilize the farm labor situation. Extensive reform of the program, intensive education of agricultural

employers and expansion of the Department of Labor's labor certification program and American consulates abroad would be needed for H-2A to provide a meaningful percentage of the agricultural labor force. It will be impossible for the program to scale up quickly from admitting 50,000 to 60,000 workers to admitting the much larger numbers agriculture will need the day after E-Verify becomes the law of the land.

To ensure our industry a future workforce, we need a new program model that is more flexible, scalable, and market-oriented. Such a program can only succeed with less interference from government at the state and federal level. That kind of interference has hampered the H-2A program, making it unusable for most producers. It should include biometric visas, and incentives for workers to abide by the terms of their visas and return home when the work is done. The closer a new program comes to replicating the way the farm labor force moves now among employers and crops, the more likely it will be able to meet the industry's needs. Agricultural and rural organizations agriculture should be able to file the required paperwork with the agency on behalf of producers seeking labor. To ensure programs actually work, they likely need to be administered by USDA instead of the Department of Labor, which has a long and checkered history of misadministration of the H-2A program.

A workable program must also see to the needs of the dairy and livestock. Western dairies and ranches may be larger than their counterparts in many parts of the country, but again, the problem of finding a viable, legal workforce is the same, only the scale is different. It is not merely an issue of raising wages and benefits to attract more domestic workers. The jobs in the dairy industry typically start at twice the minimum wage with some additional benefits. However, time and time again few applicants apply and rarely any of the applicants are still working by the end of the first week. Under current law, dairies and ranches have no "safety net" program to obtain legal workers. The industry needs work visas that allow workers to stay long enough to meet the industry's year-round needs. It also needs options for the experienced dairy workforce currently in the country to obtain a visa authorizing them to work here legally.

Any solution must avoid needless disruptions of the industry and must accommodate the large, experienced labor force our industry has now. Our industry now has an experienced workforce that we rely on to help us operate our farms and ranches. It has been and will be impossible to find and deport the current unauthorized farm workforce and replace it with new workers properly authorized under a new visa program or a combination of a new program and improved H-2A. Any solution must deal somehow, in a practical and humane way, with current workers. For others, especially long-tenured and highly-skilled employees and employees with close family members who are U.S. citizens, options beyond temporary visas are needed. The most important features of a solution for our industry will be to recognize that many of our workforce want and need the ability to come to the U.S., work on our farms and ranches, and return to their home country.

The consequences of getting it wrong are very serious. California leads the nation in fruit, vegetable, dairy, and nursery production. These sectors are high-value agriculture, responsible for farm income and farm-dependent jobs that sustain communities and economies in California and across the country. Agriculture is a \$38.5 billion industry that employs 175,000 Californians every day, and as many as 400,000 during peak season per year. Across America, several million jobs are at risk, both on the farm and in farm-dependent business that provide goods and

services used by farms: every single on farm job in California creates three jobs the metropolitan areas of the Central Valley, the Central Coast, and other important agricultural areas. Undoubtedly, denying our industry a means of obtaining a legal workforce will jeopardize the Nation's economy and deprive our state of an important economic engine.

Impacts to American farmers

Imposing an E-Verify mandate will endanger America's food supply, grown in America. USDA statistics show that foreign producers are gaining market share in the U.S. Fruit and vegetable exports from China have increased 555.6% over 10 years; Mexico has seen a 156% increase in their share of the U.S. market and Peru has seen a staggering 693% increase. American producers have responded to this by moving some of their operations out of California and other parts of the United States, taking jobs and economic vitality with them. Indeed, the United States is well on the road to reliance on food imports, especially in the fruit and vegetable sectors. According to a 2008 Congressional Research Service report:

Over the last decade, there has been a growing U.S. trade deficit in fresh and processed fruits and vegetables. Although U.S. fruit and vegetable exports totaled nearly \$9 billion in 2007, U.S. imports of fruits and vegetables were more than \$16 billion, resulting in a gap between imports and exports of more than \$7 billion. This trade deficit has widened over time — despite the fact that U.S. fruit and vegetable exports have continued to rise each year — because growth in imports has greatly outpaced export growth. As a result, the United States has gone from being a net exporter of fresh and processed fruits and vegetables in the early 1970s to being a net importer of fruits and vegetables today. ("The U.S. Trade Situation for Fruit and Vegetable Products", Renée Johnson, Congressional Research Service, October 15, 2008)

You might wonder why it matters whether we produce our own food or import our food from other countries. The United Nations Food and Agriculture Organization (FAO) recently released a report on global food inflation. That report had some interesting findings:

*The F.A.O. price index, which tracks 55 food commodities for export, rose 3.4 percent in January (2011), hitting its highest level since tracking began in 1990. **Countries not dependent on food imports are less affected by global volatility.** Still, food prices are expected to rise 2 percent to 3 percent in the United States this year. [Emphasis added]*

Imposing an E-Verify mandate without a workable way for farmers and ranchers to obtain a stable, legal workforce will also run counter to consumers' growing interest in organic food, "locally grown" foods and sustainable agriculture. Why? Organic and "locally grown" foods require even more people to produce than conventionally grown food. A successful agriculture industry that can feed America with food grown in America needs all types of producers, growing all sorts of crops that American consumers want to eat. In testimony before the Senate Judiciary Committee last October, Dr. Ronald Knutson, former Director of the Food and Agricultural Policy Center at Texas A&M University testified:

The shift in American diet is new, major, and will require increased production of fruits and vegetables. Farm labor immigration policy will have a major impact on whether the fruit and vegetables used to improve the health of Americans will be produced in the United States or in foreign countries. Initiatives that involve an even higher level of government regulation will assure that an increased share of fruit and vegetable production, as well as of other agricultural products, will be produced overseas—outsourced. (Testimony of Dr. Ronald Knutson, Senate Judiciary Committee, October 4, 2011)

Finally, a 2006 USDA report on the fruit and vegetable sector underscored the importance of immigration reform to the continued economic vitality of American agriculture and the contributions it makes to the economy as a whole. Though the report was narrow in its focus, the implications are equally true for other agricultural sectors including dairy, nursery and greenhouse, and even ranching.

The U.S. fruit and vegetable sector is at a crossroads. As an increasingly important component of U.S. agriculture, with nearly a third of U.S. crop cash receipts and a fifth of U.S. agricultural exports, the industry is becoming recognized by policymakers as pivotal to the health and well-being of consumers and to the economy of rural America. The various challenges facing the sector come from both domestic and international trade arenas. Key issues include labor cost and availability (including immigration reform and access to an affordable labor pool), strategies to enhance domestic demand, increased access and competition in foreign markets, and environmental issues. Confronting these challenges is vital for the U.S. fruit and vegetable industry to continue into the future as a healthy and vibrant sector of the U.S. economy. USDA "Fruit and Vegetable Background" (Electronic Outlook Report from the Economic Research Service, Gary Lucier, Susan Pollack, Mir Ali, and Agnes Perez, April, 2006).

Conclusion

In conclusion, I urge you to remember that the farmers and ranchers who produce your food need a workable means of hiring the people required to do the work. We need a solution that is economically practical, one that recognizes the impact of our past inability to resolve this problem by resolving the problem in a humane way that recognizes the humanity and value of the people who work for us, and our families.

Mr. LUNGREN. Mr. Wicker?

**TESTIMONY OF H. LEE WICKER, DEPUTY DIRECTOR,
NORTH CAROLINA GROWERS ASSOCIATION**

Mr. WICKER. Good morning, Mr. Chairman, Ranking Member Lofgren, and Committee Members. I am Lee Wicker, deputy direc-

tor of the North Carolina Growers Association. Thank you for holding this hearing on a critical issue for labor-intensive agriculture.

As the largest H-2A program user in the Nation, NCGA has over 700 farmer members that will employ more than 7,000 H-2A workers and many thousand more U.S. workers in 2012. I am proud of the farmers and farm workers of NCGA because they have refused to surrender to the conventional wisdom that it is impossible to comply with our Nation's labor, immigration, and worker protection laws. Instead, the farmers and workers of NCGA have committed themselves to compliance. With the dogged determination of the American farmer, all labor-intensive agriculture can comply, compete, survive, and thrive if the Federal Government would institute commonsense agricultural labor policy reforms.

Americans are blessed to enjoy a safe, abundant, and affordable food supply produced on our Nation's farms—so fortunate, in fact, that many Americans never give a second thought to the food they consume, where it comes from, or what life could be like if our food security and independence was lost. We must never take farmers, farm workers, or our food supply for granted.

In order to continue delivering fresh food to the U.S. consumer, American farmers need a reasonable, rational, predictable, and workable guestworker program that supplies a legal, available, and fairly compensated farm workforce. A program that works is critical if our Nation intends to secure the viability of our farms, especially those that grow fresh fruits and vegetables.

In previous testimony before this Committee, I described in detail the most onerous and chronic problems with H-2A. The current program is costly, unpredictable, and administratively flawed. It is too expensive, too litigious, and too cumbersome. Most farmers lack confidence that the Federal agencies running the program will meet their mandated obligations on time, even when the farmers fulfill their responsibilities perfectly and well in advance of the deadlines.

In my prior testimony, I also recommended practical and sustainable solutions that AG employers across the Nation agree will give farmers and farm workers confidence that the AG guestworker program can work, be predictable, and treat all parties fairly.

The solutions include: a rational wage rate linked to the highest of FLSA or State minimum wage plus 10 to 15 percent to help preclude wage stagnation; binding mediation and arbitration to fast-track resolution of worker grievances and avoid costly lawsuits; allow farmers and workers who share the benefits of the program to also share the fixed costs; streamline the overly bureaucratic processes that discourage participation; allow all sectors of agriculture access to the program to encourage wider participation; and provide easy-to-understand processes for farmers and farm workers to comply with immigration law.

In addition, these reforms must include clear statutory language that explicitly defines the role and reach of the administrative agency so that farmers are not continually whipsawed and subjected to different legal interpretations and regulations with every executive branch change.

Legislation to reform the agricultural guestworker program has been introduced in both the House and Senate in this Congress by

Members from both political parties. It is clear there is a bipartisan political agreement that the current program is badly in need of reform.

Chairman Smith's AG guestworker measure, the American Specialty Agriculture Act, adopts most of the important and meaningful reforms sought by AG employers and would be a substantial improvement over the current program. For that reason, NCGA proudly endorsed the Chairman's bill last fall.

Some of the other legislative proposals being considered would also make significant improvements. For example, the BARN Act introduced by Representative Kingston and the HARVEST Act introduced by Senator Chambliss both include most of the improvements agricultural employers have suggested are needed.

Other narrowly scoped proposals expand the existing program for specific areas like dairy, sheep, and goat herding. And while these are important, they are insufficient to deal with the larger systemic problems of the current program.

Finally, there is the current version of the more than 12-year-old AgJOBS bill that seeks to legalize the current undocumented workforce without adding a single worker to an already inadequate supply and without creating a sustainable and workable guestworker program for the future. Rather than solve the problems with the current AG guestworker program, AgJOBS would make many of them worse. AgJOBS clearly will not solve our problems. In fact, many AG groups who had supported the AgJOBS proposal in the past are not supporting it now.

I applaud this Committee for their focus and deliberate work to solve this crisis. Your continued focus on this issue is critical. Unfortunately, the issue of farm labor has become linked to the broader immigration debate, and the agriculture industry is presently a political hostage.

It is clear that amnesty alone for undocumented workers did not work well for farmers after it was granted in 1986, and it will not solve the problems now or in the years ahead. Only a workable and predictable guestworker program will ensure that farmers continue to plant and harvest labor-intensive crops and provide wholesome food for our Nation.

This Congress has an opportunity and an obligation to fix this problem or we will continue to lose our food production to foreign competitors. Farmers and farm workers want to comply with labor and immigration laws. Now is the time for Congress to take action so that they can.

Thank you very much, and I look forward to your questions.

Mr. LUNGREN. Thank you very much, Mr. Wicker.

[The prepared statement of Mr. Wicker follows:]



**Hearing before the House Committee on the
Judiciary
Subcommittee on Immigration Policy and
Enforcement**

"Regional Perspectives on Agricultural Guestworker Programs"

2141 Rayburn House Office Building
Thursday, February 9, 2012
10:00 PM

Testimony of H. Lee Wicker

North Carolina Growers Association
Vass, North Carolina

Good morning Mr. Chairman and Committee members I'm Lee Wicker, Deputy Director of the North Carolina Growers Association. Thank you for holding this hearing on a critical issue for labor intensive agriculture.

As the largest H-2A Program user in the nation, NCGA has over 700 farmer members that will employ more than 7,000 H-2A workers and many thousand more U.S. workers in 2012. I am extremely proud of the farmers and farmworkers of NCGA because, working together, they have refused to succumb to the conventional wisdom that it is impossible to comply with labor, immigration and worker protection laws. Instead, the farmers and workers of NCGA have committed themselves to compliance and intend to continue promoting compliance and working towards a level playing field for all agricultural employers. With the dogged determination of the American farmer, labor-intensive agriculture can comply, compete, survive and thrive if the federal government would institute common sense agriculture labor policy reforms.

Americans are fortunate to enjoy a safe, abundant, and affordable food supply produced on our nation's farms. So fortunate, in fact, that many Americans never give a second thought to the food they consume, where it comes from, or what life would be like if our food security and independence were lost. We MUST NEVER take farmers, farm workers or our food supply for granted.

In order to thrive and continue delivering for the U.S. consumer, American farmers need a reasonable, rational, predictable and workable guestworker program that supplies a legal, available, and fairly compensated farm workforce. A guestworker program that actually works in a reasonable and rational manner is absolutely critical if our nation intends to secure the future viability of our farms, especially those that grow our fresh fruits and vegetables.

In previous testimony before this Committee I described in detail the most onerous and chronic problems with the current H-2A program. The current H-2A program is costly, unpredictable, and administratively flawed. It is too expensive, too litigious, and too cumbersome. Most farmers lack confidence that the federal agencies running the program will make the required decisions on time even when the farmers execute their responsibilities perfectly and well in advance of the deadlines.

In my prior testimony I also recommended to this Committee some practical and sustainable solutions that agricultural employers across the nation agree will give farmers and farm workers confidence that an agricultural guestworker program can work, be predictable, and treat all parties fairly. The solutions include: a rational wage rate linked to the FLSA minimum wage plus 10% – 15% to help preclude wage stagnation; binding mediation and arbitration to streamline resolution of worker grievances and avoid costly lawsuits that end up enriching lawyers; having farmers and workers who share in the benefits of the program also share some of the fixed costs associated with the program; simplifying the overly bureaucratic processes required to participate in the program, which serves as a disincentive to participation; and including all sectors of agriculture in the program to encourage wider participation, and provide a path for farmers and farmworkers to comply with immigration law. In addition, any reforms must include clear statutory language that explicitly defines the role and reach of administrative agencies so that farmers are not continually whipsawed and subjected to different legal interpretations and regulations with every change in the White House.

Legislation to reform the agricultural guestworker program has been introduced in both the House and the Senate in the 112th Congress by members from both political parties. Chairman Smith's ag guestworker measure, the American Specialty Agriculture Act, adopts many of the important and meaningful reforms sought by agricultural employers and would be a substantial improvement over the current program. For that reason, NCGA proudly endorsed that bill last fall.

Some of the other legislative proposals being considered would also make improvements to current law. For example, the BARN Act introduced by Representatives Kingston and Westmoreland of Georgia includes several of the improvements agriculture employers have suggested. In addition, Senator Chambliss of Georgia has introduced the HARVEST Act which also incorporates many of the improvements needed in the guestworker program. Other proposals are more narrow in scope and in a very limited way open the existing program to specific ag sectors like

dairy, sheep and goat herding. While this is an important reform, those narrow bills alone are insufficient to deal with the larger systemic problems of the current program.

Finally, there is the current version of the more than 12-year old AgJobs bill that seeks to legalize the current undocumented farm workforce without adding a single worker to an already inadequate agriculture labor force and without creating a sustainable and workable guestworker program for the future. Rather than improve the problems with the current agricultural guestworker program, AgJobs would actually make many of them worse. AgJobs, on balance, is a net loss and certainly does not solve our problem. In fact, many ag groups who have supported the AgJobs proposal in the past are not supporting it now.

I applaud this Committee for their focus and deliberate work to solve this crisis. Your continued focus on this issue is critical. Unfortunately, the issue of farm labor has become linked to the broader immigration debate and the agriculture industry is being held hostage. It is clear that amnesty alone for undocumented workers did not work well for farmers after it was last granted in 1986, and it will not solve the problem in the years ahead. Only a workable and predictable guestworker program will enable farmers to continue to plant and harvest crops and provide wholesome food for our nation.

This Congress has an opportunity and an obligation to fix this problem or we will continue to lose our food production to foreign competitors. NCGA agrees with Representative Kingston and Senator Chambliss' efforts to reform the ag guestworker program. NCGA also supports and appreciates Chairman Smith's efforts to level the playing field for all agriculture employers and we endorse his approach to providing America's farmers with a practical and predictable guestworker program.

Farmers and farmworkers want to comply with labor and immigration laws. Now is the time for Congress to take strong action so that they can.

Thank you and I look forward to your questions.

Mr. LUNGREN. Mr. Goldstein?

**TESTIMONY OF BRUCE GOLDSTEIN, PRESIDENT,
FARMWORKER JUSTICE, WASHINGTON, DC**

Mr. GOLDSTEIN. Mr. Chairman and Members, thank you for the opportunity to testify about agricultural guestworker programs.

Our agricultural labor system is unsustainable and unfair to farm workers and their families. This Nation's immigration system is broken, our labor laws discriminate against farm workers, and

the labor practices of many agricultural employers are deficient. The resulting turnover in the farm labor force means that now more than one-half of the approximately 2 million seasonal farm workers lack authorized immigration status.

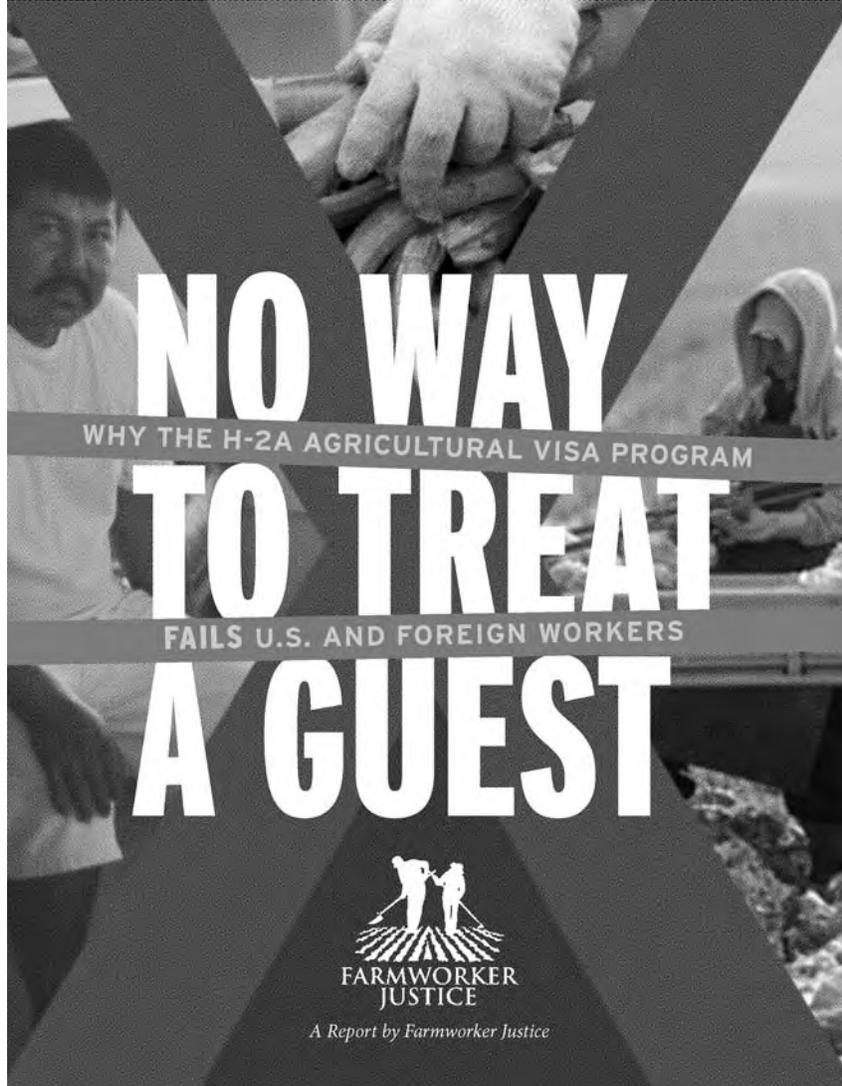
The presence of undocumented workers depresses wages for all workers, including the roughly 700,000 U.S. citizens and lawful immigrants in agriculture. But undocumented farm workers are not leaving, and they are needed. To help agriculture thrive, we need a program that allows undocumented workers to earn legal immigration status.

Some Members of Congress have proposed new agricultural guestworker programs, but it makes no sense to bring in hundreds of thousands of new guestworkers when there are over 1 million undocumented farm workers, in addition to U.S. citizens and documented immigrants. In addition, the H-2A program is available and has no limit on the number of guestworkers that may be brought in annually.

Our recent report, "No Way to Treat a Guest," shows that the H-2A program contains modest labor protections but is fundamentally flawed and rife with abuses of both the U.S. and foreign workers. I ask that it be included in the record.

Mr. LUNGREN. Without objection.

[The report referred to follows:]



NO WAY TO TREAT A GUEST

WHY THE H-2A AGRICULTURAL VISA PROGRAM

FAILS U.S. AND FOREIGN WORKERS



A Report by Farmworker Justice

ACKNOWLEDGEMENTS

This report by Farmworker Justice was researched and written by Elan Newman under the guidance of Bruce Goldstein and Adrienne DeVartanián, with assistance from Weeun Wang, Virginia Ruiz, and Jessica Felix Romero.

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Farmworker Justice is solely responsible for all content.

Learn how you can help empower farmworkers to improve their wages, working conditions, health, safety, immigration status and access to justice by visiting our website, www.farmworkerjustice.org; reading our blog, www.harvestingjustice.org; and joining us on Facebook at www.facebook.com/farmworkerjustice. Farmworker Justice, founded in 1981 and based in Washington, D.C., is a not-for-profit 501(c)(3) organization. Donations to Farmworker Justice are tax-deductible to the full extent of the law.

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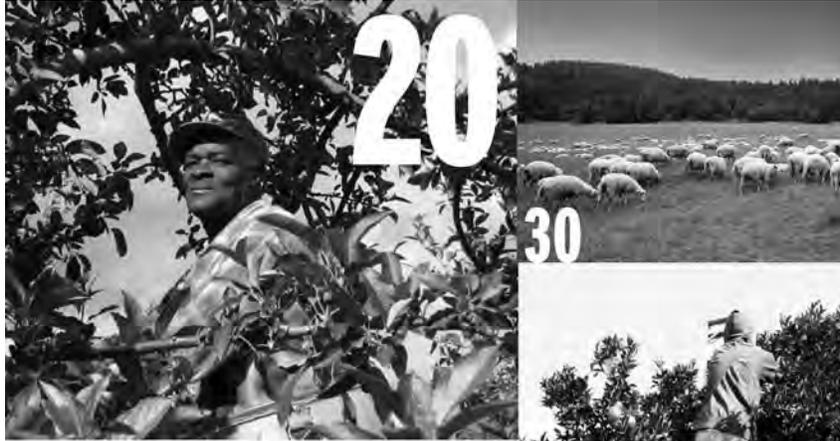
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EXECUTIVE SUMMARY



What is the problem with a farm labor force composed of temporary foreign guest workers? Just ask Kathern, a truck driver, farmworker, and mother from Moultrie, GA, who knows all too well the abuses suffered by domestic and foreign workers as a result of the H-2A agricultural guest worker program. A lifelong Georgia resident, Kathern was fired in September 2010, after just three days of work, by an employer who primarily hires H-2A guest workers. She explains: >>

"To me, it's just like the farmers can take advantage of the [guest workers], where they can't take advantage of the Americans: -you know what I'm saying? Because we know the laws when the [guest workers] don't...It's not fair on their part that they come out here and work like they do and they [abuse] them like that. And it's not fair on our part, the way they treated us."

The H-2A program allows agricultural employers to hire foreign guest workers on temporary work visas to fill seasonal jobs. In order to participate, employers must demonstrate a shortage of U.S. workers and that their wages and working conditions meet certain minimum requirements. Yet, as the stories in this report illustrate, the H-2A program is fundamentally flawed and characterized by rampant abuse of both domestic and foreign workers.

SUMMARY OF FINDINGS

No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers, a product of interviews with current and former H-2A workers, information from media exposés, lawsuits against H-2A employers, and the experiences of workers and advocates over the past 30 years, demonstrates that:

- Guest worker programs drive down wages and working conditions of U.S. workers and deprive foreign workers of economic bargaining power and the opportunity to gain political representation.
- The H-2A program's protections for U.S. workers and against exploitation of guest workers by employers are modest; in fact, they are similar to those in the Bracero program (1942-1964), which was terminated due to its notorious labor abuses.
- Once an employer decides to enter the H-2A program, the law creates incentives to prefer guest workers over U.S. workers. For example, the employer must pay Social Security and unemployment taxes on U.S. workers' wages but is exempt from paying these taxes on guest workers' wages.
- Violations of the rights of U.S. workers and guest workers by H-2A program employers are



rampant and systemic. The U.S. Department of Labor (DOL), which has primary responsibility for administering the H-2A program, frequently approves illegal job terms in the H-2A workers' contracts. U.S. workers who apply for H-2A jobs are rejected or forced to quit. Employees at H-2A employers routinely experience wage theft and other unlawful practices.

- Abuses in the recruitment of foreign workers are endemic. H-2A employers and their recruiting agents in Mexico and other poor countries exploit the vulnerability of foreign citizens. Many guest workers must pay recruiters for H-2A jobs and enter the U.S. indebted, desperate to work, and fearful that the loss of their job will lead to financial ruin. The H-2A recruitment system has led to numerous documented cases of debt-peonage, human trafficking, and forced labor.

- More than one-half of the farmworkers on U.S. farms and ranches lack authorized

immigration status. The presence of so many undocumented workers deprives all farmworkers of bargaining power and political influence. Deporting all or most undocumented farmworkers would be costly and impractical, inflict harm on hundreds of thousands of hard-working farmworkers and their families, many of whom are United States citizens, and deprive agriculture of the workforce it needs to produce our fruits, vegetables and livestock.

RECOMMENDATIONS

This report culminates in a series of recommendations to reduce the violations of the modest labor protections in the H-2A agricultural guest worker program, fix our

broken immigration system, and empower farmworkers to improve their wages and working conditions, occupational safety, health, and access to justice. Foreign guest workers should not be treated as disposable human machines, nor should they be used to deprive U.S. workers of available jobs or to undermine wages and working conditions of U.S. workers. H-2A guest workers should be treated with dignity. Ultimately, the people who put food on our tables should have the opportunity to become full-fledged immigrants on a path to citizenship. Key recommendations include:

→ **Cracking Down on Abusive Employers:** DOL should increase oversight and enforcement in the H-2A program. DOL must address illegal job terms and program violations more effectively, including rejecting terms aimed at discouraging U.S. workers, obtaining complete remedies for victimized workers, imposing fines on employers that deter illegal conduct, and barring employers from the program when serious violations occur.

→ **Ending Systemic Abuses During Recruitment:** The Administration should exercise jurisdiction over H-2A recruitment abroad and hold employers accountable for the actions of their recruiters. The root of much guest worker exploitation lies in the foreign country when the workers are recruited, yet our government does almost nothing to protect workers during the recruitment process. Recruitment practices, including discrimination, that would be illegal if they occurred in the United States should not be tolerated just because they occur abroad. DOL should shine light on the dark world of labor recruitment, examine the international recruitment mechanisms that result in foreign workers' indebtedness, and hold employers accountable when recruiters and contractors acting on their behalf violate the law.

→ **Collaboration with Local Stakeholders:** DOL should work closely with farm labor unions and other advocacy organizations to educate and empower workers to prevent and remedy abuses by employers.

→ **Wages and Labor Protections that Protect U.S. and Foreign Workers:** H-2A program wage rates and labor protections should be strengthened to improve wages and working conditions to attract and retain U.S. farmworkers and stop abuse of guest workers.





The financial incentives for H-2A employers to prefer guest workers over U.S. workers, including exemptions from Social Security and unemployment taxes, should be removed. Proposals in Congress to reduce H-2A wage rates and labor protections or to create entirely new guest worker programs with little or no protections should be rejected.

→ **Freedom to Change Employers and Become Full Members of Society:** Congress should revise the status of H-2A workers to reduce their vulnerability. H-2A workers should be allowed the freedom to change employers and should be given the opportunity to earn immigration status. Guest workers' forced tie to a single employer leaves them reluctant to challenge illegal or unfair employer practices. Similarly, their inability to obtain a permanent

immigration status, no matter how many seasons they return to the U.S. on an H-2A visa, deprives them of the opportunity to better their conditions. Congress should apply the concept of a free labor market and our history as a nation of immigrants to the H-2A program.

→ **A Compromise to Ensure a Stable, Decently Treated Workforce: Congress should pass the Agricultural Jobs, Opportunities, Benefits, and Security Act (AgJOBS).**

AgJOBS is a bipartisan compromise between growers and farmworker groups that would allow currently unauthorized farmworkers to earn legal immigration status by continuing to work in U.S. agriculture, make balanced changes to the H-2A program, and provide U.S. growers with a stable, productive, and decently-treated farm labor force.

PART
01

AN INHERENTLY FLAWED SYSTEM



Each year, thousands of workers from countries around the world leave their homes to spend a few months harvesting crops on American soil. Participants in the H-2A temporary foreign agricultural worker program, these “guests” have often paid significant sums to recruiters and government agencies to obtain jobs, visas, and transportation. They expect to work hard at jobs for which American workers are unavailable. They expect to be provided with livable housing and safe working conditions. And they expect to earn enough to return home and feed themselves and their families. >>

10 NO WAY TO TREAT A GUEST: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers

Yet when they arrive in the United States, many H-2A workers find a much harsher reality. Social and geographic isolation, lower than advertised wages, less work than promised, dirty and dilapidated housing, dangerous working conditions, and even forced labor or slavery typify the experience of many guest workers. Some have been brought to replace domestic workers who still want the work and are entitled to such jobs. But, allowed to work only for a single employer who can send them home at will, most H-2A workers are too fearful of retaliation to speak out about these harsh (and frequently illegal) working conditions.

This report, *No Way to Treat a Guest*, documents the inherent flaws of the H-2A program and the abuses that result. The H-2A program allows agricultural employers to hire foreign workers on temporary work visas to fill seasonal jobs when they can demonstrate a shortage of U.S. workers and that their wages and working conditions meet certain minimum requirements. Short summaries of the history, legal framework, and current location of H-2A jobs provide the background necessary to understand the


**MORE THAN
 50%**
 of the farmworkers on U.S. farms and ranches lack authorized immigration status. Deporting them all would decimate American agriculture. Fixing our broken immigration system, skilled, law-abiding farmworkers should be given the opportunity to earn legal immigration status and continue their work in agriculture.

program. The bulk of this report explores the various ways in which the H-2A program harms both U.S. and foreign farmworkers, using examples of abuse from recent media and lawsuits. Real-life stories, summarized from interviews conducted by Farmworker Justice with both domestic workers and H-2A workers, illustrate the effects of these abuses on workers.¹

These stories are a wake-up call to policymakers and others who are searching for solutions to ensure an adequate supply of farm labor and continued production of abundant, safe, healthy food on the nation's farms and ranches. Currently, the majority—50% to as much as 70%—of the nation's 2 to 2.5 million farmworkers lack authorized immigration status. Many of the rest are U.S. citizens or lawful permanent resident immigrants. Though H-2A guest workers account for only a small percentage of farmworkers in the U.S, their treatment sets the bar low for the entire agricultural industry, and their availability depresses wages and working conditions for U.S. workers.



WORKERS' TESTIMONIES AND THE REALITY OF THEIR EMPLOYMENT HAVE BEEN CRUCIAL TO FARMWORKER JUSTICE'S UNDERSTANDING OF THE H-2A PROGRAM. VISUAL COURTESY: FARMWORKER JUSTICE.



"The H-2A guest worker program, like the infamous bracero program, is not a practical or humane solution to ensuring a productive and available farm labor force. The H-2A system virtually guarantees foreign workers will be exploited during recruitment abroad and in the fields of this country, and that U.S. farm workers will lose job opportunities and suffer depressed wages. The impact of mandatory E-Verify would be millions of new guest workers in agriculture on top of the millions of undocumented workers already here. The H-2A law and its enforcement should be strengthened to reduce abuses. But the only equitable and practical answer is for Congress to allow farm workers who are currently undocumented to earn legal status by continuing to work in agriculture."

Arturo Rodriguez, president, United Farm Workers of America

In the ongoing contentious debate about immigration policy in the U.S., some portray guest worker programs as necessary to provide a legal and stable labor force in industries, particularly agriculture, where the work is seen as undesirable to most Americans. Yet the abuses endemic to the H-2A program suggest that guest worker programs cannot and should not be the model for America's farms. The creation of a large temporary workforce with few rights, no freedom to change employers, and no path to permanent status not only harms both U.S. and domestic workers, but also runs contrary to our nation's commitment to economic and political freedom. Ours is a nation of immigrants, not of guest workers.

Instead, Congress should give undocumented farmworkers an opportunity to earn legal immigration status. If allowed to continue at all, the H-2A program should remain a supplementary source of labor in times of bona fide local labor shortages. Some policymakers and employers call for radically de-regulating the H-2A program by slashing wage rates, eliminating housing requirements, weakening labor protections and reducing government oversight. But this report makes clear that, on the contrary, the H-2A program's abuses need to be addressed through increased labor protections, oversight and enforcement.

A HISTORY OF AGRICULTURAL GUEST WORKER PROGRAMS

The search for a cheap, seasonal, farm labor force to produce America's food while maximizing the profits of U.S. agribusiness has nearly always begun abroad. From the beginning of the American colonies, the importation and oppression of **slave labor** allowed growers of cash crops—including tobacco, sugar, and cotton—to minimize labor costs while maintaining a stable, highly productive workforce. Similar concerns led 19th century growers establishing new farms on the frontier to use low-paid

seasonal agricultural workers from **China, the Philippines, and Japan.**¹ The economic desperation and tenuous immigration status of foreign farmworkers, along with racial discrimination, deprived them of bargaining power with their employers and of political power to affect the policies of the U.S. government.

The **first bracero (literally, "strong-arm")** guest worker program was created in 1917 at the behest of growers, who argued that World War I had created a labor shortage crisis in agriculture. The program allowed more than 70,000 Mexican workers to enter the US temporarily for work in cotton and sugar beets.² Though it ended in 1921, many workers stayed after their term of employment, some because employers refused to pay for their transportation home. The Great Depression led to a crackdown on immigrant workers, who were seen as a threat to American workers, and many of the former braceros were repatriated to Mexico.³

The onset of World War II led to renewed grower complaints of a labor shortage, despite pronouncements by the Secretary of Labor that there were 1.6 million surplus domestic farmworkers.⁴ A new **bracero program** was established in 1942 through a bilateral agreement between the governments of the U.S. and Mexico. Over the next 22 years, an estimated two million Mexican men entered the U.S. to work as braceros.⁵

The bracero program became notorious for the rampant abuse of foreign workers, despite significant legal protections for both domestic and foreign workers. For example, workers were guaranteed sanitary housing, access to medical care, round-trip transportation, and the prevailing wage for their task and crop. They were not to be used as strikebreakers.⁶ In practice, however, few braceros were willing to speak up to enforce their rights, because they were tied to a single employer, and renewal of their contract depended on the employer's good will.⁷ Many were cheated out of wages. Housing conditions were deplorable. Workers were transported in unsafe vehicles and were denied access to healthcare. The

¹ Philip Martin, *Immigrant Workers: Immigration and the Changing Face of Rural America* (New Haven: Yale University Press, 2009), 218-22; Martin, 26-28.
² Jerry J. Barkley, "H-2A Guestworker Program: A page 1 of Immigrant Agriculture Labor in The March (part of food) anniversary," *Immigrant Advocacy and Center for Migration and Mobility*, original available at <https://www.immigrantadvocacy.org/2020/03/15/h-2a-guestworker-program-a-page-1-of-immigrant-agriculture-labor-in-the-march-part-of-food-anniversary/> (March 15, 2020), 15.
³ *United States: Bracero Worker Contracts and Transportation Subject to the Problem United States and Mexico* (Geneva: International Labor Office, 1951), 17.
⁴ Martin, 28.
⁵ *Contractual Migration of Labor: The Mexican Bracero Program* (Geneva, S.W. The International Labor Office, 1967), 200.

A FARMWORKER'S STORY

David (Salinas, CA)

David, now 80, looks back fondly at the relationships he made as a bracero in the 1950s. "We thought of each other as brothers. We all got along very well," David said of his fellow workers.

Yet his description of his bracero experience makes clear the powerlessness and vulnerability of the men who came north to pick American crops. In large part, this was due to the abundant supply of willing young Mexican men desperate for a job. David fit this bill. A native of Zacatecas, Mexico, he traveled three days to the contracting office in Chihuahua, where he found 20,000 people angling for work. He slept in a ditch near the train station for one month, only to be sent home when they announced that the visa had all been distributed.

But David did not give up, and he finally got a visa and a job to drive tractors in Texas. Once in the U.S., the braceros were frungated and sprayed with DDT before being shipped off to their workplaces. "We were shoved into the trucks, just like they do with animals," said David.

Like the H-2A program of today, David was tied to a single employer. When the contract was over, he had to return to Mexico. David travelled back and forth a number of times, each time obtaining a new contract, sometimes lasting just 40 days. He worked in Texas, Arkansas, and California. He picked cotton and was a tractor driver in corn, soybean and other crops.

Living situations varied depending on the employer. During

one contract, David lived in crowded tin barracks filled with 40 workers or more. Workers slept in bunk beds in the same room with the stoves and kitchen facilities.

In Texas, David worked 12-hour days and was paid 50 cents an hour. But the desperation for work meant that no one demanded to see a contract or better pay. "No one asked [about wages] because they needed the work," said David.

David returned home after his last bracero contract in 1958. He returned to the U.S. in 1960 on a permanent work visa. David settled down in Salinas, studied welding, and started a family. He now has six children and nine grandchildren.

In the early 2000s, David and other former braceros discovered that the Mexican government had never repaid them the wages withheld in "savings accounts," legally guaranteed to them upon return to Mexico. Though the government agreed in 2008 to pay up to \$3,500 to those who could prove they had been braceros, David no longer had any documentation. "I fought and tried to get it," said David. But he ultimately failed to obtain even this token of acknowledgment for the years spent as a low-paid temporary worker in America's fields.



availability of braceros undercut the wages of U.S. workers.³ In many locations where large numbers of braceros filled jobs, their lack of economic bargaining power meant that they could not seek wage increases; thus, the "prevailing wage" in such places stagnated and became unattractive to U.S. workers. In short, conditions were in many ways similar to today's H-2A workers, but the large scale of the bracero program captured the attention of the labor and civil rights movements and eventually the public.

Congress finally shut down the bracero program in 1964, but left in place another avenue to "import" foreign workers, the **H-2 program**.⁴ This program began during World War II and

became codified in the immigration law in 1952. For many years, it was used mostly by East Coast apple growers and by Florida sugar cane growers to hire workers from the Caribbean. The H-2 program's provisions were similar to those in the bracero program, but it was not accompanied by government-to-government agreements. Abuses in the sugar cane industry were rampant, generating significant publicity and lawsuits.⁵

The Immigration Reform and Control Act (IRCA) of 1986 separated the H-2 program into two temporary worker programs: **H-2A for agricultural workers** and **H-2B for non-agricultural workers**. Both programs continue to be marked by worker abuses to this day, even as they expand into new industries and sectors. The H-2A program, in



Decades of experience have revealed that guest worker programs **DRIVE DOWN WAGES** and working conditions of U.S. workers, and deprive foreign workers of economic bargaining power and the opportunity to gain political representation.

³ "Bittersweet Harvest: The Bracero Program, 1942-1964," *Broken Promises*, National Museum of American History, online at <https://www.si.edu/object/bitter-sweet-harvest-the-bracero-program-1942-1964::nmaah-irca-0001>.
⁴ The law that governs the H-2A program (8 U.S.C. 1185) uses the term "regular" when referring to the temporary visas who are brought to work at the United States on temporary work visas. While the term "import" is associated with commodities, the U.S. Constitution used that term to refer emphatically to chattel slavery.
⁵ For example, Stephanie Baker's film "H-2 Workers" (1993) won awards at the Sundance film festival for its exposure of worker exploitation in the Florida cane industry.

the tradition of the agricultural guest worker initiatives that came before it, provides growers with an endless supply of physically strong, economically vulnerable, politically powerless workers from poor countries, who will work to the limits of human endurance in dangerous conditions for low wages.

REGULATORY FRAMEWORK: LESSONS FROM DECADES OF ABUSES

Recognizing that guest worker programs leave workers—both domestic and foreign—open to exploitation and abuse, policymakers since World War II have instituted procedures and labor protections for workers. The current H-2A regulations were codified by the Reagan Administration in 1987. Yet over the

years, employer groups have lobbied hard to “streamline” the program. In the final days of the second term of the George W. Bush Administration, the Department of Labor (DOL) substantially revised the H-2A program regulations, removing many labor protections, slashing wage rates and reducing government oversight. In 2010, the Obama Administration reversed these changes and restored most of these provisions.

The law and regulations governing the H-2A program require that in order to accept an employer into the program, the Department of Labor must certify that (1) there are not enough U.S. workers “able, willing, qualified, and available” to perform work at the place and time needed; and (2) the wages and working conditions of U.S. workers will not be “adversely affected” by the importation of guest workers. In theory, the law means that employers must recruit and hire qualified

A FARMWORKER'S STORY

Gilberto, Francisco, Gabriel, and Ramon (Yuma County, AZ)

These four men, all legal permanent residents of the United States, live in the border region of San Luis, Arizona/Sonora. With more than 50 years of farm work between them, they are hardly the inexperienced Americans that some growers claim are the only alternative to H-2A.

In June, 2009, all four obtained jobs harvesting melons for a farm labor contractor. Every day a bus would pick them up at 1:00 am for the two and a half hour trip.

Sometimes they'd have to wait another two hours to enter the fields. Though the work ended around 5:00 pm, often, the bus did not arrive for another two hours. The men said they were not paid for the time spent on the bus, nor for the time spent waiting to enter the fields or board the bus.

One afternoon a few weeks into the season, the bus did not arrive to take them home. They heard that their bus had been diverted to pick up H-2A workers. The crew was forced to walk miles in

the hot desert to find the nearest phone. Finally, at around midnight, the labor contractor arrived to drive them home.

Sure enough, when reporting to work the next day, the crew was told that they had been fired and replaced by H-2A workers. “They told us there was no work for San Luis people,” said Gabriel. But why choose H-2A workers over domestic residents? Gabriel explained that while the domestic workers would finish working in the early afternoon, the employer could make the H-2A workers work longer hours, through the hottest and most dangerous part of the day.

Not only had they been abandoned in the fields, but they were now jobless. Francisco expressed his frustration: “I felt really bad because at that time there was not a lot of work available. I needed work...the contractor should be punished for what he did to us so it will not happen to other workers.”

Yet the employer was not punished. Though over 80 complaints of unpaid wages and violations of employment terms for this employer were submitted to DOL during summer 2009, DOL has continued to allow the contractor to employ more H-2A workers, approving its request for nearly 700 workers in the fall of 2009 and more than 1,100 workers in summer and fall 2010.



U.S. workers before hiring guest workers. In addition, the employer must offer and provide wages and other job terms high enough to attract and retain U.S. workers.

The labor certification process required by the H-2A law, in theory, demands more government oversight and employer accountability in the H-2A application process than the attestation process in place for the H-2B program for higher-skilled jobs, for example.¹⁴ In practice, however, the additional scrutiny of employers and their job terms that should happen under labor certification rarely occurs. In Fiscal Year (FY) 2009, DOL certified 94% of the worker positions requested by growers¹⁵ and routinely approved applications that contained illegal job terms:

Below is a list of the key H-2A program rules that, in theory, are supposed to protect workers. Unfortunately, in practice, many are not adequately enforced, and others have flaws leading to abuses:

Wages offered by H-2A growers must be the highest of: (a) the local labor market's "prevailing wage" for a particular crop as determined by DOL and state agencies; (b) the state or federal minimum wage; or (c) the "adverse effect wage rate" (AEWR), an hourly wage determined by DOL for each state based on the USDA's annual Farm Labor Survey of average regional hourly wages for non-supervisory crop and livestock workers. In most cases, the AEWR is the highest rate.

→ *In theory*, this protects U.S. farmworkers by ensuring that growers cannot undercut their wages, and protects vulnerable foreign workers, who would feel compelled to accept a substandard wage.
→ *In practice*, the wage levels are based on surveys of wage rates that are depressed because they include earnings of undocumented workers, not just U.S. workers. The wage rates are also outdated because they are based on the previous year's surveys. In addition, many growers violate the wage requirements.

Recruitment of U.S. workers must occur through the interstate employment service system and

through private-market efforts to find and hire farmworkers. Growers must post job orders with the state workforce agency (SWA) between 60 and 75 days before the date of need. Job qualifications and requirements must be reasonable and must not discriminate against U.S. workers.

→ *In theory*, this protects U.S. workers by ensuring that growers attempt to hire U.S. workers first.
→ *In practice*, growers' recruitment of U.S. workers often is inadequate and many employers impose inappropriate job requirements to "scare away" domestic workers.

"Fifty Percent Rule" requires employers to hire until one-half of the season has ended.

→ *In theory*, this protects U.S. workers' jobs by preventing growers from choosing an H-2A guest worker over a qualified U.S. worker and by mandating that farms hiring additional workers for peak harvesting time must continue to accept domestic applicants.
→ *In practice*, many U.S. workers are not offered available jobs at H-2A employers or are quickly forced to quit.

"Three-fourths work guarantee" requires that employers offer recruited workers at least 7/8 of the number of working hours in the work period outlined in the contract (except when impossible due to "Acts of God") or pay wages for any shortfall in work opportunities.

→ *In theory*, this protects U.S. and foreign workers by discouraging over-recruitment and guaranteeing income for migrant workers who have traveled long distances to work.
→ *In practice*, many workers are not paid all the wages they are promised under the three-fourths guarantee.

Housing that meets DOL standards for temporary labor camps must be provided at no cost to the workers who do not live in the local area. Employers must also provide three meals a day (at a cost to the worker) or, alternatively, convenient cooking and kitchen facilities for workers to make their own meals.

→ *In theory*, this serves as an important safeguard against homelessness.



"The treatment of temporary guest workers is of great importance to the civil rights community because guest workers face severe social and economic discrimination as well as a shortage of labor protections. Guest workers have long been the most vulnerable and poorly treated workers among us. Ending the abuse of guest workers in America's fields and giving them a chance to earn legal status is critically important and will also help ensure the fair treatment of America's farmworkers."

— Wade Henderson, president and CEO of The Leadership Conference on Civil and Human Rights

¹⁴ The grand jury presides over employment disputes consistently with the H-2B requirement. DOJ, *Justice and Labor: Understanding the Agricultural Program and the Immigrant Worker's Rights to Organize*, 83 *Immigrant Contributions to the U.S. Economy* (May 2009) (http://www.dhs.gov/e-impl/immigration/contracts/employment/employment/2A/immigration).
¹⁵ The Foreign Labor Certification Report (FLCR) Data, Trends, and Insights Access Program and States' U.S. Department of Labor, Employment and Training Administration (ETA), at <http://www.dhs.gov/e-impl/immigration/contracts/employment/2A/immigration/FLCR/FLCRData.html>.



Growers complain that government oversight makes the H-2A program too difficult and costly for them to use. But they bring scrutiny upon themselves by routinely failing to comply with rules designed to protect workers. Growers' H-2A applications far too often contain **ILLEGAL OR QUESTIONABLE** job terms that would be easy to correct before submission to DOL. Troubling job terms that H-2A growers have frequently sought to impose include, for example, past experience or employer references for entry-level field work (aimed at discouraging U.S. workers from applying); inflated "productivity" requirements (to provide excuses for firing workers); and demands that workers agree to give up their rights to pursue legal remedies in court.

acknowledging that both foreign and U.S. workers would have trouble finding temporary accommodations in rural areas with limited housing.

→ *In practice*, housing is often appallingly substandard, oversight is lax, and farmworker advocates have been prevented from meeting workers in their homes, which growers claim is their private property. In some locations, employers claim that workers are "local" and can commute to their own homes each day, even when they have overly long commutes.

Transportation costs incurred by the worker to arrive at the place of employment must be reimbursed by the employer after workers complete half the season. Employers must pay the cost of returning home for those who complete the full season.

→ *In theory*, this facilitates recruitment of migrant domestic workers from outside of an employer's immediate location, reduces the debts incurred by foreign workers on their way to the U.S., and ensures that foreign workers can afford to return home. → *In practice*, workers are routinely fired

or coerced to sign voluntary quit forms before the end of the contract to subvert this requirement.

Workers compensation must be provided for occupational-related injuries.

→ *In theory*, this protects both U.S. and foreign workers by ensuring medical care for injured workers and that the cost of health care for work-related injuries will not be borne by the worker.

→ *In practice*, employers send injured foreign workers home after being injured, making it very difficult to access workers' compensation.

The modest legal protections put into place by DOL, many of which also existed under the bracero program, have not changed the inherent and systemic problems with the H2A program. DOL oversight is lax, and most applications are approved, even for growers publicly known to ignore the law. The H2A program continues to displace U.S. workers, and leads to rampant abuses, including wage theft, discrimination, and even debt peonage. These abuses, with personal examples, are discussed in further detail in the next section.



16 NO WAY TO TREAT A GUEST: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers

WHY DO EMPLOYERS USE GUEST WORKERS?

Employers have a long history of advocating for access to temporary foreign agricultural workers. In most cases, once growers enroll in the program, they never return to hiring domestic labor. But why do growers like H-2A workers so much? H-2A workers are an extraordinarily productive labor force employed at relatively low cost, for the following reasons:

1. Foreign workers are economically desperate. Most H-2A workers come from home countries plagued by economic crises and poverty. They are thus willing to accept wages and working conditions that U.S. workers could never afford to accept due to the high cost of living in the U.S.

2. Temporary workers lack full rights. H-2A workers have limited, non-immigrant status, and cannot stay in the U.S. beyond their work term with a particular employer. Workers are tied to the employer who brought them to the country and can only work for that employer. Most are hesitant to report abuses because employers can freely fire (and deport) "troublemakers," or decide not to re-hire them again. H-2A workers are excluded from the main employment law for farmworkers. Additionally, foreign workers generally lack knowledge of U.S. laws and employment norms and may not know when an employer is breaking the law.

3. Employers can "hand-pick" a certain demographic of workers. Our government has not sought to apply U.S. anti-discrimination laws to H-2A employers' recruitment of foreign workers that occurs abroad. Growers thus can pick their ideal workforce—mostly young men, removed from daily family obligations who will work long hours for low pay.

4. H-2A employers are exempt from paying Social Security and unemployment taxes on guest workers' wages. Since H-2A employers must pay federal social security and unemployment taxes if they hire U.S. workers, they can save substantial money by hiring guest workers.

5. Employers can avoid the wage demands of the labor market. Once an employer receives approval of its job offer from the Department of Labor, it may reject qualified U.S. workers who seek a higher wage or an extra benefit, such



"Everyone is hurt when growers abuse the guestworker program...Not only do the guestworkers suffer, but U.S. workers are shut out of the labor market, and the growers gain an unfair advantage over their competitors."

—Má Frosler Green, Southern Migrant Legal Services, Texas Ruralwide Legal Aid, quoted in Southern Migrant Legal Services, Press Release: *Workers Sue East Tennessee Tomato Farm For Discrimination and Retaliation* (Apr. 12, 2011)

as paid sick days, and fill the slot with a guest worker willing to accept the approved terms. Similarly, a demand for higher wage rates by a labor union can be easily rejected. Thus, the minimum wage rates and other job protections required by the H-2A program usually become the maximum that a worker can hope to attain and that an employer need offer.

It is clear that a vulnerable foreign labor force allows employers to squeeze out maximum productivity at minimal labor cost. But an important question remains: Why can agricultural employers access unlimited numbers of foreign guest workers while employers in other industries must compete for workers in the labor market?

WHO USES H-2A? AN ANALYSIS OF DOL DATA

The H-2A program historically has been concentrated in particular geographic areas and crops, but it has spread to new states and crops in the last decade. Every state had H-2A

workers in fiscal year (FY) 2010 (see Figure 1). H-2A workers make up a significant section of the workforce in North Carolina tobacco, New York apples, Louisiana sugarcane, and Florida citrus. They pick strawberries in California, harvest onions in Georgia, and cut lettuce in Arizona. Some H-2A workers even labor in the wheat fields of Texas and the corn fields of Minnesota. In short, H-2A workers are involved in nearly every segment of the agricultural industry in the United States. Still, at approximately 80,000 certified positions, the H-2A

program represents only a small percentage of the nation's 2 to 2.5 million agricultural workers.

North Carolina has been the state most heavily invested in the H-2A program during the last 15 years, with 9,387 positions certified in FY 2010, comprising nearly 12% of the national H-2A workforce. Other states with more than four thousand H-2A positions in FY 2010 included Louisiana, Georgia, Florida, Kentucky, and Arizona (see Figure 2).

Figure 1: Number of H-2A Workers Certified by State (FY 2010)¹⁴



¹⁴ Analyzed by Farmworker Justice based on data from H-2A Disclosure Database at <http://www.dhs.gov/ximm/immigration/docs/immigration/h2a-disclosure-database>. The H-2A disclosure data includes casual employment, so the categories include some individuals possibly also in some agricultural jobs under other H-2A visas (e.g., H-2B, H-2C, H-2D, H-2E, H-2F, H-2G, H-2H, H-2I, H-2J, H-2K, H-2L, H-2M, H-2N, H-2O, H-2P, H-2Q, H-2R, H-2S, H-2T, H-2U, H-2V, H-2W, H-2X, H-2Y, H-2Z, H-2AA, H-2AB, H-2AC, H-2AD, H-2AE, H-2AF, H-2AG, H-2AH, H-2AI, H-2AJ, H-2AK, H-2AL, H-2AM, H-2AN, H-2AO, H-2AP, H-2AQ, H-2AR, H-2AS, H-2AT, H-2AU, H-2AV, H-2AW, H-2AX, H-2AY, H-2AZ, H-2BA, H-2BB, H-2BC, H-2BD, H-2BE, H-2BF, H-2BG, H-2BH, H-2BI, H-2BJ, H-2BK, H-2BL, H-2BM, H-2BN, H-2BO, H-2BP, H-2BQ, H-2BR, H-2BS, H-2BT, H-2BU, H-2BV, H-2BW, H-2BX, H-2BY, H-2BZ, H-2CA, H-2CB, H-2CC, H-2CD, H-2CE, H-2CF, H-2CG, H-2CH, H-2CI, H-2CJ, H-2CK, H-2CL, H-2CM, H-2CN, H-2CO, H-2CP, H-2CQ, H-2CR, H-2CS, H-2CT, H-2CU, H-2CV, H-2CW, H-2CX, H-2CY, H-2CZ, H-2DA, H-2DB, H-2DC, H-2DD, H-2DE, H-2DF, H-2DG, H-2DH, H-2DI, H-2DJ, H-2DK, H-2DL, H-2DM, H-2DN, H-2DO, H-2DP, H-2DQ, H-2DR, H-2DS, H-2DT, H-2DU, H-2DV, H-2DW, H-2DX, H-2DY, H-2DZ, H-2EA, H-2EB, H-2EC, H-2ED, H-2EE, H-2EF, H-2EG, H-2EH, H-2EI, H-2EJ, H-2EK, H-2EL, H-2EM, H-2EN, H-2EO, H-2EP, H-2EQ, H-2ER, H-2ES, H-2ET, H-2EU, H-2EV, H-2EW, H-2EX, H-2EY, H-2EZ, H-2FA, H-2FB, H-2FC, H-2FD, H-2FE, H-2FF, H-2FG, H-2FH, H-2FI, H-2FJ, H-2FK, H-2FL, H-2FM, H-2FN, H-2FO, H-2FP, H-2FQ, H-2FR, H-2FS, H-2FT, H-2FU, H-2FV, H-2FW, H-2FX, H-2FY, H-2FZ, H-2GA, H-2GB, H-2GC, H-2GD, H-2GE, H-2GF, H-2GG, H-2GH, H-2GI, H-2GJ, H-2GK, H-2GL, H-2GM, H-2GN, H-2GO, H-2GP, H-2GQ, H-2GR, H-2GS, H-2GT, H-2GU, H-2GV, H-2GW, H-2GX, H-2GY, H-2GZ, H-2HA, H-2HB, H-2HC, H-2HD, H-2HE, H-2HF, H-2HG, H-2HH, H-2HI, H-2HJ, H-2HK, H-2HL, H-2HM, H-2HN, H-2HO, H-2HP, H-2HQ, H-2HR, H-2HS, H-2HT, H-2HU, H-2HV, H-2HW, H-2HX, H-2HY, H-2HZ, H-2IA, H-2IB, H-2IC, H-2ID, H-2IE, H-2IF, H-2IG, H-2IH, H-2II, H-2IJ, H-2IK, H-2IL, H-2IM, H-2IN, H-2IO, H-2IP, H-2IQ, H-2IR, H-2IS, H-2IT, H-2IU, H-2IV, H-2IW, H-2IX, H-2IY, H-2IZ, H-2JA, H-2JB, H-2JC, H-2JD, H-2JE, H-2JF, H-2JG, H-2JH, H-2JI, H-2JJ, H-2JK, H-2JL, H-2JM, H-2JN, H-2JO, H-2JP, H-2JQ, H-2JR, H-2JS, H-2JT, H-2JU, H-2JV, H-2JW, H-2JX, H-2JY, H-2JZ, H-2KA, H-2KB, H-2KC, H-2KD, H-2KE, H-2KF, H-2KG, H-2KH, H-2KI, H-2KJ, H-2KK, H-2KL, H-2KM, H-2KN, H-2KO, H-2KP, H-2KQ, H-2KR, H-2KS, H-2KT, H-2KU, H-2KV, H-2KW, H-2KX, H-2KY, H-2KZ, H-2LA, H-2LB, H-2LC, H-2LD, H-2LE, H-2LF, H-2LG, H-2LH, H-2LI, H-2LJ, H-2LK, H-2LL, H-2LM, H-2LN, H-2LO, H-2LP, H-2LQ, H-2LR, H-2LS, H-2LT, H-2LU, H-2LV, H-2LW, H-2LX, H-2LY, H-2LZ, H-2MA, H-2MB, H-2MC, H-2MD, H-2ME, H-2MF, H-2MG, H-2MH, H-2MI, H-2MJ, H-2MK, H-2ML, H-2MN, H-2MO, H-2MP, H-2MQ, H-2MR, H-2MS, H-2MT, H-2MU, H-2MV, H-2MW, H-2MX, H-2MY, H-2MZ, H-2NA, H-2NB, H-2NC, H-2ND, H-2NE, H-2NF, H-2NG, H-2NH, H-2NI, H-2NJ, H-2NK, H-2NL, H-2NM, H-2NN, H-2NO, H-2NP, H-2NQ, H-2NR, H-2NS, H-2NT, H-2NU, H-2NV, H-2NW, H-2NX, H-2NY, H-2NZ, H-2OA, H-2OB, H-2OC, H-2OD, H-2OE, H-2OF, H-2OG, H-2OH, H-2OI, H-2OJ, H-2OK, H-2OL, H-2OM, H-2ON, H-2OO, H-2OP, H-2OQ, H-2OR, H-2OS, H-2OT, H-2OU, H-2OV, H-2OW, H-2OX, H-2OY, H-2OZ, H-2PA, H-2PB, H-2PC, H-2PD, H-2PE, H-2PF, H-2PG, H-2PH, H-2PI, H-2PJ, H-2PK, H-2PL, H-2PM, H-2PN, H-2PO, H-2PP, H-2PQ, H-2PR, H-2PS, H-2PT, H-2PU, H-2PV, H-2PW, H-2PX, H-2PY, H-2PZ, H-2QA, H-2QB, H-2QC, H-2QD, H-2QE, H-2QF, H-2QG, H-2QH, H-2QI, H-2QJ, H-2QK, H-2QL, H-2QM, H-2QN, H-2QO, H-2QP, H-2QQ, H-2QR, H-2QS, H-2QT, H-2QU, H-2QV, H-2QW, H-2QX, H-2QY, H-2QZ, H-2RA, H-2RB, H-2RC, H-2RD, H-2RE, H-2RF, H-2RG, H-2RH, H-2RI, H-2RJ, H-2RK, H-2RL, H-2RM, H-2RN, H-2RO, H-2RP, H-2RQ, H-2RR, H-2RS, H-2RT, H-2RU, H-2RV, H-2RW, H-2RX, H-2RY, H-2RZ, H-2SA, H-2SB, H-2SC, H-2SD, H-2SE, H-2SF, H-2SG, H-2SH, H-2SI, H-2SJ, H-2SK, H-2SL, H-2SM, H-2SN, H-2SO, H-2SP, H-2SQ, H-2SR, H-2SS, H-2ST, H-2SU, H-2SV, H-2SW, H-2SX, H-2SY, H-2SZ, H-2TA, H-2TB, H-2TC, H-2TD, H-2TE, H-2TF, H-2TG, H-2TH, H-2TI, H-2TJ, H-2TK, H-2TL, H-2TM, H-2TN, H-2TO, H-2TP, H-2TQ, H-2TR, H-2TS, H-2TT, H-2TU, H-2TV, H-2TW, H-2TX, H-2TY, H-2TZ, H-2UA, H-2UB, H-2UC, H-2UD, H-2UE, H-2UF, H-2UG, H-2UH, H-2UI, H-2UJ, H-2UK, H-2UL, H-2UM, H-2UN, H-2UO, H-2UP, H-2UQ, H-2UR, H-2US, H-2UT, H-2UU, H-2UV, H-2UW, H-2UX, H-2UY, H-2UZ, H-2VA, H-2VB, H-2VC, H-2VD, H-2VE, H-2VF, H-2VG, H-2VH, H-2VI, H-2VJ, H-2VK, H-2VL, H-2VM, H-2VN, H-2VO, H-2VP, H-2VQ, H-2VR, H-2VS, H-2VT, H-2VU, H-2VV, H-2VW, H-2VX, H-2VY, H-2VZ, H-2WA, H-2WB, H-2WC, H-2WD, H-2WE, H-2WF, H-2WG, H-2WH, H-2WI, H-2WJ, H-2WK, H-2WL, H-2WM, H-2WN, H-2WO, H-2WP, H-2WQ, H-2WR, H-2WS, H-2WT, H-2WU, H-2WV, H-2WW, H-2WX, H-2WY, H-2WZ, H-2XA, H-2XB, H-2XC, H-2XD, H-2XE, H-2XF, H-2XG, H-2XH, H-2XI, H-2XJ, H-2XK, H-2XL, H-2XM, H-2XN, H-2XO, H-2XP, H-2XQ, H-2XR, H-2XS, H-2XT, H-2XU, H-2XV, H-2XW, H-2XX, H-2XY, H-2XZ, H-2YA, H-2YB, H-2YC, H-2YD, H-2YE, H-2YF, H-2YG, H-2YH, H-2YI, H-2YJ, H-2YK, H-2YL, H-2YM, H-2YN, H-2YO, H-2YP, H-2YQ, H-2YR, H-2YS, H-2YT, H-2YU, H-2YV, H-2YW, H-2YX, H-2YY, H-2YZ, H-2ZA, H-2ZB, H-2ZC, H-2ZD, H-2ZE, H-2ZF, H-2ZG, H-2ZH, H-2ZI, H-2ZJ, H-2ZK, H-2ZL, H-2ZM, H-2ZN, H-2ZO, H-2ZP, H-2ZQ, H-2ZR, H-2ZS, H-2ZT, H-2ZU, H-2ZV, H-2ZW, H-2ZX, H-2ZY, H-2ZZ.

PART
02

THE FACES OF ABUSE



REPLACEMENT OF U.S. WORKERS

Though the regulations governing the H-2A program require employers to give job preference to qualified U.S. workers, in practice the H-2A program puts U.S. workers out of work. Growers can often be heard chanting the chorus that U.S. workers “just don’t work as hard” or are “not as loyal” as foreign workers. But rather than prove the inherent laziness of all Americans, these claims simply reveal the disproportionate power that employers hold over a foreign labor force with few rights. >>

U.S. workers have alternatives and can change jobs if they are unhappy with their workplace—a freedom not allowed H2A workers. Additionally, H2A growers can save money by hiring guest workers; they do not have to pay Social Security and unemployment taxes on the wages paid to H2A workers, but must do so for U.S. workers. Growers have thus gone to great lengths to unlawfully exclude qualified U.S. workers in favor of guest workers.

The gimmicks used to deny employment to qualified U.S. workers are plentiful. Real-life examples include interviews scheduled at inconvenient times or locations; hiring that occurs too early in the season, leading workers to arrive for work when there is none; limiting domestic workers' hours in order to discourage them from continuing to work; employment contracts demanding that workers give up their right to sue a grower for lost wages; and unrealistic work

demands and productivity quotas. Employers know that they can—and often do—chase away willing U.S. workers with such unfair terms.

Other times there is no pretense: Domestic farmworkers are simply turned away or fired in favor of guest workers. For example, in 2006, after harvesting citrus fruit for an Arizona labor contractor for three previous seasons, a crew of domestic employees was told by their foreman that the company would no longer hire domestic labor, but would instead use H2A. Sure enough, when they arrived at the *corral* (pick-up spot) the buses previously reserved for them were now filled with H2A workers "from all over Mexico." Fernando, a U.S. citizen and displaced worker, asserted, "I'm not against H2A workers, but they should hire us, the experienced workers, first." A complaint alleging discrimination against the U.S. workers is currently pending in federal district court.¹⁸



"I think it was more or less, they didn't want the Americans out there."

—Kathern (Colquitt County, GA)

A FARMWORKER'S STORY

Mary Jo and Kathern (Colquitt County, GA)

Mary Jo and Kathern are longtime residents of Colquitt County, Georgia. Both have worked in agriculture for much of their lives, and Mary Jo grew up with her grandmother, who worked as the live-in housekeeper for a farm family. She learned to pick vegetables at the age of fourteen. More recently, she was a crew leader on some other farms in the area. "I love to work," said Mary Jo.

In September 2010, both Mary Jo and Kathern were out of work. At the unemployment office they saw an H-2A job-order for zucchini picking advertising \$9.11 per hour for 40 hours a week of work. The work was at the same farm on which Mary Jo grew up, which was now owned by the sons of her grandmother's employer. They both signed up.

But when Mary Jo, Kathern, and their coworkers arrived at the farm at 7:00 am, they found that to get the advertised wage, workers would have to meet a production standard of nine buckets an hour. Furthermore, the U.S. workers who arrived were forced to wait until 9:00 am before being allowed into the fields, even though a number of Mexican H-2A workers were already working.

Once in the fields, Kathern and Mary Jo had a hard time making the standard. After filling each bucket, they spent valuable time walking to the tractor—parked across the field—to unload. Meanwhile, the tractor serving the H-2A workers was close by. "They was trying to get us to quit," said Kathern, "[but]

I said, 'We need to prove to 'em that we at least want to work.'" At about 10:30 am, Mary Jo, Kathern, and their co-workers were told their work for the day was done. "They sent all the trucks home," said Mary Jo, while the H-2A workers continued to work.

They were given work only every other day and experienced the same frustrating routine. Finally, the workers who did not meet the production standard, including Mary Jo and Kathern, were fired. After transportation costs, Mary Jo came home with less than \$30 for three workdays. "I've never been fired," said Mary Jo. "This is the first time it's ever happened to me."

Kathern explained, "The farmers can take advantage of the [guest workers] where they can't take advantage of the Americans... because we know the laws when [they] don't... I think it was more or less, they didn't want the Americans out there."



¹⁸ Personal phone interview, 16 May 2011; New England et al. v. Spanish Agricultural Mkt. Inc. et al., No. 03-cv-02581-ENC, (D. Ariz. Filed 08 October 2007).

This, most H-2A workers arrive in the United States with significant debt. Some have paid as much as \$10,000 for the chance at a job. Others have left the deed to their house or car in the hands of a recruiter as collateral to ensure that they will "comply" with the terms of their contract. Some fear for their own physical safety or that of their family members if they cannot repay their debt. Many have been lied to about the conditions of the work, including wages, crops to be picked, length of their visa, and type of housing. Tied to one employer, workers have no choice but to work at whatever wage the employer offers. In short, the H-2A program creates conditions ripe for debt-peonage, not unlike the labor arrangements suffered by many African Americans in the post-Civil War South.

This system of debt can lead to forced labor as well. The H-2A recruitment company Global Horizons Manpower, Inc. faces well-publicized and documented accusations of human trafficking and enslavement. During 2004-2005, the company allegedly brought more than 400 Thai H-2A workers to farms in Hawaii and Washington with promises of long-term employment, forced them into debt with recruiting fees of up to \$21,000, and held them in forced labor conditions. According to an indictment filed by the Department of Justice

against the company's CEO and other executives, the object of this scheme was

...to obtain cheap, compliant labor performed by Thai H-2A guest workers indebted by the defendants' recruiting fees, and to compel the workers' labor and service through threats to have the workers arrested, deported, or sent back to Thailand, knowing the workers could not pay off their debts if sent home, thus subjecting the workers to serious economic harm including loss of their family property.²⁷

The Global Horizons scheme is the largest human trafficking case in U.S. agriculture, but it is by no means a unique case of recruitment abuses. As long as the H-2A program allows growers to rely on unregulated foreign recruiters, worker debt, fear, and illegal human trafficking will be the program's inevitable byproducts.

WAGE THEFT

FEARFUL WORKERS' UNKNOWLEDGE and lack of knowledge about their rights make them



I'm working, doing my best, feeling the sun on my back, working hard like a donkey, just so I could give my money to these people! How do you think I feel? You just feel like crying.

*Mamuel
(Okeechobee, FL)*



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"They want to keep the beds filled with hands that can work. They don't care about the people."

—Javier (Yadkin County, NC)

particularly susceptible to wage theft and other labor law violations.

Employers have devised many ways of ducking their obligations to pay workers the DOL-mandated wage, leading to lawsuits compelling H-2A employers to pay workers what they are rightfully owed. For example, in 2007, 80 H-2A workers in Georgia sued their employer for routinely underpaying them and missing paychecks. The employer had allegedly prepared backdated checks to hide late payments and false checks to hide non-payments, and had made the workers endorse blank checks.¹⁸ In another class action suit in 2007 in Florida, an H-2A employer was sued for failing to report

all the hours employees had worked, in order to pay them less than required by the AEWR.¹⁹ These are hardly isolated incidents; it is clear that wage theft is rampant throughout the H-2A program.

Some employers pay a piece rate rather than hourly wages. In theory, a piece rate encourages workers to work faster than they would under an hourly rate and produce more for the employer. But when employers set the rate low, and workers' earnings fall below the minimum H-2A rate, H-2A employers are required to supplement piece-rate earnings with "build up" pay to equal the AEWR or minimum wage for every hour worked. Often, however, the opposite happens:

A FARMWORKER'S STORY

Manuel* (Okeechobee, FL)

Manuel, a father of four from Veracruz, Mexico, has been working in citrus orchards since he was a child. But in recent years, Manuel has had trouble making ends meet from work in Mexico. "There's nothing here, nothing to eat," said Manuel, so he looked north for work.

In December 2008, Manuel was able to land an H-2A job picking oranges for a Florida contractor that provides labor for one of the largest citrus companies in the U.S. He was told he'd be making \$8.82 an hour. On arrival in Florida, he set out working long, hard days, sometimes 12 hours or more in the fields. But when his first paycheck arrived, Manuel learned that in order to keep his job he would have to kick back some of his promised pay to his employer.

"When we came out of the bank, the boss was already on the bus waiting for us," remembered Manuel. The boss had a "blacklist" in his hand indicating how many tubs of oranges each worker had filled. Workers were forced to pay back the difference between their piece rate earnings and the legally required Adverse Effect Wage Rate (AEWR)—also known as build-up pay—to the crewleader. "He was robbing us...he stole a lot of money," said Manuel, who had to kick back as much as \$130 some weeks.

Though the workers knew that they were legally entitled to be paid the hourly AEWR, their employer took advantage of the fact that their visas were dependent on him. "Many people wanted to complain but they were afraid...to have to come back to Mexico," Manuel explained. In fact, they had been told that anyone who

refused to kick back the build-up pay would be sent home.

When it came to the halfway point in the season, the employer decided to change the terms of transportation reimbursement, as well. "The boss said, 'I'll reimburse you [for the cost of getting to Florida], but then you have to pay me for where you live. But how is that possible? We, the farmworkers, know we have the right to a house, transportation, stove, and a refrigerator. We didn't know why he was charging for that,'" exclaimed Manuel.

The loss of money for transportation and kick backs left Manuel struggling to feed even himself, much less send money back home to support his family. "I didn't have anything to eat...I was starving," said Manuel. He left to return to Mexico two months before the contract was over, forced out by the employer for daring to voice his concerns.

Manuel spoke passionately about the feeling of being cheated. "I had the money in my hands, I thought it was mine. But I'm working, doing my best, feeling the sun on my back, working hard like a donkey, just so I could give my money to these people? How do you think I feel? You just feel like crying."



*Not real name

¹⁸ *Morales-Azizade et al. v. Skanska Produce Farms, Inc.*, et al., 2007 U.S. Dist. LEXIS 59950 (S.D. Ga. 2007).
¹⁹ *Pascua-Castillo v. H-2A Services of Exotic, Etc., Inc.*, No. 03-07 CV-0824 (M.D. Fla., filed Oct. 8, 2007).



Employers claim that employees worked fewer hours than they actually did in order to make it appear that the workers averaged the minimum wage per hour. Other times workers are forced to “kick back” the make-up pay to a crew leader, rendering the AEWR meaningless.

Growers have also been known to apply productivity standards, requiring workers to fill a specified number of buckets per hour or day. Often this is another way to weed out American workers; as the productivity demands get harder without a real pay increase, U.S. workers are less likely to apply for the jobs that desperate guest workers will reluctantly accept.

H-2A workers are dependent on employers for their visas and livelihoods. They are often fearful that if they demand the wages owed to them they will be fired and deported or refused re-hire

next year. But even when H-2A workers do decide to seek out help to recoup their rightful wages, potential remedies are limited. H-2A workers are excluded from the Migrant and Seasonal Agricultural Worker Protection Act (AWPA), the chief labor law aimed at protecting farmworkers. H-2A workers are thus not entitled to sue in federal court for lost wages, housing benefits, transportation reimbursement, and other requirements of the H-2A contract.

H-2A workers often cannot receive back pay for wage theft because they lack meaningful access to attorneys and the court system. Few private attorneys accept farmworker cases due to language barriers, the low dollar value of cases even when they are egregious, the slim chance that losing employers will pay attorneys’ fees (the law usually does not require that they do so), rural isolation of the



“The growers only want single men with no families and the H-2A jobs make it worse.”

—Testimony from a female farmworker to the Michigan Civil Rights Commission, quoted in *A Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan* (2010).



Recruitment abuses are endemic to the H-2A program, and the vulnerability and powerlessness of guest workers has led to numerous cases of debt-peonage.

HUMAN TRAFFICKING AND FORCED LABOR.

clients, conflicts of interests in suing local farmers who they have represented, and the workers' inability to remain in the local area during the litigation. Legal aid programs are permitted to represent H-2A workers, but they are underfunded and cannot reach many of the workers who need help.

AGE, GENDER, AND ETHNIC DISCRIMINATION

Though DOL does not publish statistics on age and gender of H-2A workers, it is well known that women and older adults are basically absent from the H-2A program. That is because the H-2A program allows agricultural employers a luxury denied to all other domestic employees:

access to a demographically "ideal" workforce.²⁴ Since the Civil Rights Act of 1964 and the Age Discrimination Employment Act of 1967, employers in the U.S. have been forbidden to use race, color, religion, sex, national origin, and age as factors in hiring practices. Yet the government refuses to investigate and curb abuses that occur during recruitment abroad.

Consequently, H-2A employers' recruiters often search out a very specific demographic, thought to be perfect for farm work: young single men without family in the United States, who will devote all day every day to work. Workers who don't fit into this category have very little chance of being selected for an H-2A visa. Thus, the H-2A program is fundamentally anti-family. Young men come to the U.S. without their family members, often for separations of many months, causing stress for spouses and children, as well as guest workers.



²⁴ See *Rivero-Diaz v. NCSA*, 850 F.3d 963 (4th Cir. 2016).

A FARMWORKER'S STORY

Javier* (Yadkin County, NC)

Javier, 50, has more than 15 years experience as a worker in the H-2A program. Every year, Javier would travel from his home outside Guanajuato, Mexico to North Carolina for a job in the tobacco fields. With few jobs at home, this was the only way he could provide for his wife and four children.

Since the summer of 2010, however, Javier has been physically unable to work. That summer, Javier and his H-2A coworkers were exposed to pesticides on more than one occasion. Once, an employee of the grower was spraying pesticides less than 20 meters from them. Another time on a hot day in August, Javier and about 18 other workers began to feel sick. Some were vomiting, and many experienced such strong cramps that they couldn't stand up and had to be down. "We fell. We fell like animals in the field," Javier reported. He reports feeling that he had "chills all over his body."

Many of the workers returned to the labor camp, but housing conditions were crowded and not suitable for recovery. Seven workers were packed into each room, sleeping nearly on top of each other, Javier explained. "I was so close to others, sometimes I'd wake up finding someone's foot in my back or in my stomach." There were only two showers to use to wash the chemicals off their bodies.

For a few days, Javier felt sick but continued to go to work. "I had to work...for my kids," said Javier. Finally, he felt so bad

that he phoned a local clinic outreach worker to take him to the hospital. He was sent back to the camp with a note that he could not work in tobacco.

No longer useful to his employer, Javier was told that he should go back to Mexico to recover. He was encouraged to sign a paper saying that he was leaving, with the understanding that if he signed he'd be allowed back in future seasons. He paid his own bus ticket for the trip home to Mexico.

Nine months later, Javier still has nausea, feels dizzy, and has trouble walking. He feels too sick to work, but still owes the debt he incurred to support his family when he could not finish the season. He cannot afford the necessary specialized medical care and has even had to take one of his kids out of school because he can no longer pay for it.

"I am full of outrage that I can't support my family," he said.

Javier succinctly described why H-2A employers dispose of workers injured on the job: "They want to keep the beds filled with hands that can work," he said. "They don't care about the people."



*Not real name.

Women constitute more than 20% of farmworkers, yet there are very few, if any, in the H-2A program. Often, women interested in being guest workers are funneled into the H-2B non-agricultural guest worker program, a program with even fewer protections than H-2A. This systematic gender discrimination came to light in a class action lawsuit led by Marcela Olvera-Morales, a Mexican farmworker, against International Labor Management Corporation, Inc. (ILMC), a major labor recruiter connected with the North Carolina Growers' Association. Olvera-Morales contended that ILMC had chosen less-qualified male workers for H-2A jobs, while intentionally sending her and other women to H-2B jobs, knowing that those jobs were less desirable.²⁶

The culture of discrimination in H-2A extends to race and national origin as well. Indeed, employers are basically free to act on negative racial and ethnic stereotypes regarding both U.S. and foreign

workers. For example, one H-2A employer from North Carolina has explained that he hired Asian workers to "try a new breed" because Hispanic workers had been "Americanizing" and "getting lazy."²⁷ This kind of explicit racial discrimination, illegal in the rest of the country, seems commonplace in the fruit and vegetable fields of this country.

INJURED WORKERS

Agriculture is one of the most dangerous industries in the United States. According to the Bureau of Labor Statistics, crop production workers had a fatal injury rate nearly ten times the average rate for all industries. Non-fatal injuries are extremely common as well; in 2009,

²⁶ Olvera-Morales v. Int'l Labor Mgmt. Corp., Inc. et al., 2008 Westlaw 506295, 71 (M.D.N.C. Feb. 20, 2008). See also, "Close to 'Slavery'," Department of Fair Employment & Housing, U.S. Equal Opportunity Services, Inc., 3-05-CV-02054-GCC (D. P.R. 2005) at 126, 103.

there were 49 non-fatal work-related injuries for every 100 full-time crop workers.²⁷

On paper, the H-2A regulations require employers to provide H-2A workers with workers' compensation insurance to protect them in case of a work-related injury. But in reality, complex workers' compensation rules, which vary from state to state, often prevent H-2A workers from accessing these benefits, especially after they have returned to their home country, which the program demands.²⁸

Severely injured workers and their families are thus never compensated for the lost income from their injury. Employers may also encourage workers not to apply for benefits, may simply return injured workers to their home countries, or may get injuries taken care of quietly, in order to prevent a hike in insurance premiums.

The H-2A program does not require employers to provide health insurance, and foreign non-immigrants are not eligible for Medicaid, so few H-2A workers can access health care for non-work-related illnesses or injuries. Though there is no data on the number of H-2A workers with health insurance, a 2003 report estimated that only 5.1% of all farmworkers had employer-provided insurance.²⁹ Federally funded community health centers are available to H-2A workers at

low cost but often are not located near enough to workplaces.

The experiences of injured or ill workers highlight the status of guest workers as disposable commodities to be retained only as long as they are useful to an employer. H-2A workers with health problems are often fired or coerced to sign "voluntary" quit forms in exchange for unenforceable promises that they will be hired the following year. When workers return to their home countries, it is often very difficult for them to pursue their workers' compensation claim, and frequently comprehensive medical care is inaccessible.

UNSAFE AND UNHEALTHY HOUSING

Under the regulations, H-2A employers are required to provide or pay for housing for all guest workers and any domestic workers who are not reasonably able to return home each day.³⁰ Employer-provided housing must meet DOL safety standards for farm labor camps, including adequate sanitation, water supply, toilet, laundry, bathing facilities, and pest control.

In reality, H-2A workers frequently describe their housing as dirty, cramped, unsanitary,



²⁷ U.S. Department of Labor, Bureau of Labor Statistics, Census of Occupational Injuries and Illnesses 2009, Hours Spent Tending Wounds, www.bls.gov/iif/oshwc/osh/osh/injury_illness_data/2009/summary_table_1.html, accessed at http://www.bls.gov/iif/oshwc/osh/injury_illness_data/2009/summary_table_1.html.

²⁸ "Choke to Share," p. 24.

²⁹ Valencia D. 1993. The Health Care Needs of Farmworkers. *Health Care Access* 24: 175-93.

³⁰ 40 C.F.R. 655.107 (g).

A FARMWORKER'S STORY

Juan (Rockcastle County, KY)

Juan, 30, lives in Hialega, a state in central Mexico, where he has two young children, ages four and one and a half. In 2009, he began working in Kentucky tobacco on an H-2A visa. Because he speaks some English, Juan became the leader of his crew, serving as the liaison between his employer and the other workers. Still, Juan's leadership position did not protect him from the poor housing and working conditions faced by H-2A workers on his employer's farm.

In the summer of 2010, Juan's crew was housed by his employer in dilapidated trailers near the fields. According to Juan, the trailers had holes in the roofs, leaky pipes, and were infested with rodents. He and his coworkers were given dirty second-hand mattresses, blankets, and sheets. "The mattresses were in bad shape," said Juan. When it rained, water would leak in from the roof and moisture would infiltrate from below, leaving the trailers damp and moldy.

Juan and his fellow H-2A workers spent their own money and time trying to fix up the trailers, including multiple attempts to repair the water pipes and patch the holes in the roof, but the conditions were constantly deteriorating. "Even after we fixed it, water would get in," Juan explained. They were also illegally required to pay for utilities, including electricity and water.

Conditions in the fields were not much better. Juan and his coworkers were exposed to pesticides but did not

receive any training or protective equipment to help them reduce the risks to their health. Some workers became sick from pesticide exposure, and many suffered from nausea and dizziness. A few seasons ago, one worker was taken to the hospital for pesticide poisoning.

All the while, Juan wasn't paid adequately for his work. Though Juan and his coworkers had been promised \$8.00 an hour, they were often paid only about \$6.00. A recruitment fee of \$800 was deducted from Juan's paycheck. Many weeks they only were needed for three days of work. During these idle times they were forced to seek work on neighboring farms to make money.

In August, 2010, Juan was fired. He says his employer was not satisfied by the workers' pace and demanded they work faster. But it is clear that the employer was not keeping up his side of the bargain—providing livable housing, honest wages, and decent working conditions. "The H-2A contract had no enforceability," said Juan.



or pest-ridden—and sometimes all of the above. Indeed, farmworker housing has not improved much since the images portrayed in Edward R. Murrow's documentary on the conditions of farmworkers, "Harvest of Shame," shown on Thanksgiving, 1960. H-2A employers have placed five men in a single motel room with one bathroom, and reports have described workers sleeping on the floor because of worn and moldy mattresses. Other problems have included crumbling buildings; rat infestations; moldy toilets, showers, and sinks; and in one case workers were even known to be living in a converted chicken coop.¹¹ Because a tangled mass of state and federal regulations and agencies

holds authority over farmworker housing, deplorable conditions may go unnoticed.¹²

Employers have long tried to reduce or eliminate the housing requirement. For example, H-2A growers in border regions, particularly in the Yuma, AZ region, have recently claimed that their workers don't want housing, and would rather cross the border to return to their homes in Mexico each night.¹³ Instead, they have advocated for a "border commuter" program that would exempt employers near the border from the H-2A housing requirement. Sen. Chambliss (R-GA), though not from a border state, introduced a bill including such a program in 2010. This idea is not new; similar claims were made in the 1970s by H-2 employers

¹¹ For reports of these conditions, see: Complaint to Ansook et al. v. Milano Express Management, Inc., et al., 5:07-cv-00486-BO (E.D. NC 2007); Barry Weisbar, "Justice vs. the Farm," *Market Journal* (January 2007), accessed 21 April 2011 at <http://www.marketjournal.com/entry/502201102/justice-vs-the-farm/>; U.S. Department of Labor, WHSARD Compliance Action Report, Demko Farms, Corona, CA, (21 August 2007); Leah Beth Ward, "Disparate Harvest? Character Overview" (21 August 1999), accessed 21 April 2011 at <http://www.bartleby.com/148/14801.html>; <http://www.irs.gov/efile/efile020701.htm>.

¹² Depending on the kind of housing and data it was used, H-2A housing may be governed by OSHA, EPA, state or local housing standards, or a combination of things. See 20 C.F.R. 655.32(a).

¹³ *Crucial Reports*, "Some change farmworker housing rules?" *YumaSun.com* (8 March 2010), accessed 21 April 2011 at <http://www.yumasun.com/stories/2010/03/08/030810a.htm>.

from the Presidio region of Texas when they refused to offer housing to their guest workers.

Of course, under the current regulations, workers are not required to accept housing if they would rather commute daily from Mexico. Furthermore, anecdotal evidence suggests that current H-2A workers in the border region come from a variety of places, including Guanajuato in central Mexico and Oaxaca in distant southern Mexico.³ A "border commuter" housing exemption would leave Mexican border towns with the burden of providing sufficient housing for the influx of workers from other regions arriving for the opportunity to become H-2A workers. Many workers could end up in substandard housing or homeless, sleeping

on the streets or in fields. Additionally, the existence of large numbers of workers crossing the border daily would increase the danger that Mexican drug cartels could take control of labor camps in Mexico and recruit workers for drug smuggling. A border commuter program would harm H-2A workers, U.S. workers, and the border communities.

RETALIATION AND LABOR ORGANIZING

H-2A workers who wish to stand up to unfair or illegal conduct have reason to fear retaliation

A FARMWORKER'S STORY

Diego (Harnett County, NC)

Diego, 49, has experienced first-hand the stark contrast between life before and after the signing of a union contract. A veteran of nine seasons in the North Carolina tobacco fields, Diego is a lifetime farmworker from San Luis Potosí, Mexico. He is proud of his strong work ethic and his participation in the protests that led to the collective bargaining agreement between the Farm Labor Organizing Committee, AFL-CIO (FLOC) and the North Carolina Growers Association (NCGA). "There have been many positive changes" since the adoption of the contract, Diego said.

Diego first came to North Carolina under a 6-month H-2A contract in 2003. He paid a recruiter \$470 to obtain the job, and had to pay similar sums to return each year. The wages were low and he was often paid on a piece rate. Workers were on call 24/7. "We were obligated to go to work at any time the boss wanted to take us to the field," explained Diego.

Diego described his housing conditions as especially bad in those first years; he recalled abandoned homes, insect-infested mattresses, and overflowing toilets that went unrepaired for days. "The boss didn't care," remembered Diego.

Remarkably, Diego and many of his fellow H-2A workers risked their jobs by protesting for better conditions. In 2004, FLOC, a farmworker union with roots in the Midwest, signed a collective bargaining agreement with NCGA, the umbrella company that organizes H-2A visas and paperwork for many North Carolina growers. The agreement covers thousands of H-2A workers and has set up a grievance procedure for

workers and growers to address complaints.

Since the signing of the FLOC contract, Diego has seen marked improvements. Workers no longer pay recruitment fees to be hired back each year and are reimbursed for visa fees on arrival in North Carolina. Wages have increased. Workers can take water breaks to protect themselves from heat-related illness without fear of getting fired, and they even get paid leave in the event of a family death. Growers respond to union concerns—when FLOC representatives came to Diego's camp to document poor housing conditions, his boss immediately bought new mattresses and kitchenware for the workers.

Diego is overjoyed that the wages and working conditions as part of the FLOC contract have allowed him to support his family, including 11 children. "I've been able to provide for them, give them clothes...not the best clothes...I'm very happy now that they can be in school and college," exclaimed Diego.

"I encourage all workers to join a union," said Diego. "Workers should get involved in FLOC because of all the good they've been able to do. I invite all the friends to join us and work with us."



³ Mark Knab, "Farmworkers: 'Why Don't You Do All the Work?'" *Democracy Now!* (6 December 2005), accessed 21 April 2010 at http://www.democracynow.org/story/05120622_mknab051206.htm

in the form of discharge and deportation as well as denial of a job and visa in a future season. Because foreign citizens have no ability to apply independently for an H-2A visa, they must hope that an employer will request a visa for them. Employers have been able to retaliate against H-2A workers who assert themselves simply by refusing to offer visas to the workers in a following season.

In other industries, workers may achieve bargaining power and protection from retaliation through unionization. Though California's Agricultural Labor Relations Act grants farmworkers the right to join a union and mechanisms to engage in collective bargaining, farmworkers in most other states do not have the right to unionize, and agricultural workers are excluded from the National Labor Relations Act, leaving them vulnerable to being fired for simply joining a union.

H-2A workers experience even greater barriers to unionization than do other farmworkers, as their livelihoods are precariously dependent on the goodwill of their employer. They work for short periods in seasonal work, so they often lack the trust established among co-workers over a longer period of time. Furthermore, an H-2A employer may recruit guest workers at the wages and working conditions approved by DOL and can reject U.S. workers and guest workers who ask for higher wages or benefits, making it difficult for unions to persuade workers that they can negotiate better job terms. As a result, few H-2A workers enjoy collective bargaining rights.

However, in recent years, as a result of intensive outreach and organizing efforts, farmworker unions have begun to win contracts with some H-2A growers. The Farm Labor Organizing Committee, AFL-CIO (FLOC) now represents several thousand guest workers employed at several hundred North Carolina H-2A growers through the North Carolina Growers' Association, an umbrella organization that is the largest H-2A importer in the country. In these unionized fields, workers have seen positive changes in their working conditions. For example, FLOC has been able to set up an office by the U.S. Consulate in Monterrey, Mexico to help secure visas and educate new workers about their rights under the contract. Through its grievance-arbitration procedure, FLOC has



worked to ensure that H-2A workers gain employment in future seasons, free from retaliation.

In 2010, FLOC's President Baldemar Velasquez reported that several hundred disputes were resolved through grievance-arbitration. For example, 57 complaints regarding the proper reimbursement of workers' transportation costs were settled. The union helped workers in more than 50 cases address health and safety needs and handled 60 wage dispute cases. In some cases, the union's presence helped overcome problems that were primarily failures to communicate effectively. FLOC has said that it still faces challenges in representing workers under the H-2A program but expects to continue making progress, particularly if it succeeds in its campaign to organize additional H-2A employers in North Carolina.

The opportunity to bargain collectively allows farmworkers to assert their rights, improve their wages and working conditions, protect themselves from retaliation, and achieve a voice in the workplace and in the public sphere. The presence of a union that helps workers in both the U.S. and the workers' homelands can be especially helpful in reducing the extensive and serious abuses associated with recruitment. Unions can also help ensure that job applicants need not pay recruiters for access to jobs under the H-2A program. Expansion of union capacity to help H-2A workers would reduce exploitation and abuse in the H-2A program and enable workers to improve their wages and working conditions.



"It's really changed for the better...I encourage all workers to join a union."

—Diego (Harnett County, NC)

PART
03

A PROGRAM TO FILL SEASONAL JOBS



SHEPHERDERS: A DANGEROUS EXCEPTION

The H-2A program is designed by law to satisfy temporary, seasonal jobs that would otherwise go unfilled. Yet the ranching lobby, politically powerful in western states like Colorado, Utah, and Wyoming, has effectively lobbied DOL for a special exemption for sheep- (and goat-)herders. Herding is extremely tough, year-round work, and herders often spend extensive time in complete isolation, following the herd as they move through grazing areas. >>

A FARMWORKER'S STORY

Pedro* (Delta County, CO)

Pedro arrived in the U.S. from Peru on an H-2A visa in spring 2009. In Peru, Pedro had worked for ten years in farming before becoming a philosophy and Spanish teacher. When he heard he could make significant money as a sheepherder in the U.S., he jumped at the chance to better provide for his wife and child. He paid approximately \$5,500 in visa and recruiting fees.

But when he arrived in Colorado, Pedro's image of the U.S. as a land of opportunity quickly vanished. He learned that he would be working 11-14 hour days, seven days a week, for only \$750 a month, minus a \$27 deduction for health insurance. His employer, a rancher contracting with the Western Range Association, took his passport and other documents and refused to return them.

On the ranch, he was housed in a small sheepwagon with holes and a door that did not shut properly. There was no bathroom or refrigerator to store food. Though his employer was supposed to provide him with food every weekend, he would often not show up. When he protested, the ranch owner threatened to send him back to Peru.

"One thinks that life over here is easy, that everything is beautiful and that all the people are good people...but once one arrives here, well, I had the misfortune of bumping into very bad people," said Pedro.

*Not real name

Soon, Pedro was sent to herd sheep in the mountains and subsequently became ill. Though money was being deducted from his pay each month for health insurance, the rancher refused to take him to the doctor. He had no easy access to a phone and was mostly cut off from communication with the outside world. He could not use ranch vehicles to go to town and buy food. When he asked if he could have a friend take him to town, the rancher replied that he could not have friends or talk to neighbors.

Finally, in August 2009, Pedro realized that the only way out was to escape. He called 911, but could not identify his exact location. He then walked to a neighbor's house and found someone to drive him to the police station. The local police led him to a legal services attorney, who was able to help him reclaim his documents and some of his stolen wages.

"I knew that slavery had once taken place," said Pedro. "But here in the United States, slavery is still being experienced...a form of modern-day slavery."



DOL directives allow ranchers to employ H-2A herders for year-long contracts with possibility of extension, and pay them only \$750 a month (the current "prevailing wage" for sheepherding in many western states), though they are required to be on call nearly 24 hours a day, 7 days a week. Special regulations allow sheepherders to be housed in wagons or tents and permit employers to provide alternatives to toilets, showers, running water, and electricity if these amenities are not available.²⁶

Sheepherders are particularly vulnerable to abuse. A survey of 93 herders by Colorado Legal Services found that more than 80% were not permitted to leave their ranch, to have visitors, or to engage in social activities at any time during their employment. Seventy percent reported that they never had access

to a functioning toilet and less than one-third had refrigerators to store food in their mobile campers. Many herders reported that their employer confiscated their passports and other documents, and some had pay withheld until they returned home to Peru. Wage theft, dilapidated housing, and forced labor are commonplace in this industry.²⁶

It is no wonder that with conditions like these, which often border on modern slavery, ranchers cannot find U.S. workers to fill sheepherding jobs. Indeed, the experience with H-2A in the herding industry highlights how easy it is for unscrupulous employers to use the H-2A program to find low-paid exploitable workers, rather than improving pay and conditions to attract workers in the normal job market. In fact, a recent lawsuit in Utah alleges



"I knew that slavery had once taken place. But here in the United States, slavery is still being experienced... a form of modern-day slavery."

—Pedro (Delta County, Colorado)

²⁶ U.S. Department of Labor, Employment and Training Administration, Labor Memorandum No. 3210, "Special Provisions: Labor Certification Process for Employers Engaged in Sheepherding and Goatshepherding Occupations Under the H-2A Program," 19 June 2010, <http://www.dhs.gov/sites/default/files/immigration/3210-0100-01.pdf>
²⁷ Colorado Legal Services, "Report: Farm Worker Exploitation," <http://www.coloradolaw.com/files/2010/04/2010-04-20-Colorado-Legal-Services-Report-Farm-Worker-Exploitation.pdf>



"This guestworker program's the closest thing I've ever seen to slavery."

—Rep. Charles Rangel (D-NY), quoted in *Southern Poverty Law Center, Close to Slavery* (2007)

that in order to pay the low monthly prevailing wage, an employer categorized one worker as a shepherd, though he was primarily engaged in non-range work, including mowing private lawns.⁴⁹ These stories should provide pause for those who would expand the H-2A program into other non-seasonal agricultural work.

DAIRY, MUSHROOMS, GREENHOUSES: AN UNCHECKED EXPANSION OF GUEST WORKER INDUSTRIES

In recent years, dairy farmers, recipients for many years of significant government subsidies and price regulations, have begun to turn their political power toward a new goal: gaining access to the H-2A program.

Though dairy farms clearly require year-round, permanent workers, the industry has argued that the lack of willing and available domestic workers has created a desperate need for foreign workers, and that those workers should come through the H-2A program. At the time of this report's preparation, companion bills called "The H-2A Improvement Act," introduced in the Senate (S. 852) and the House of Representatives (H.R. 1720), would codify the shepherd exception and add dairy to the list of non-seasonal industries open for H-2A work.

But supporters of the dairy extension fail to mention the history of poor working conditions in the dairy industry, even without the H-2A program. For example, legal advocates in California, the largest dairy-producing state, have noted that many milkers work more than 12 hours a day, six days a week, with no overtime pay, rest breaks, or meal periods.⁵⁰



⁴⁹ See complaint to Sergio Mendez et al. v. Alford et al., No. 2:15-cv-02020 (C.D. CA, filed Feb. 24, 2016).
⁵⁰ Julia Montgomery, "The Impact of Limiting Non-Farm Visa Access on Low-Wage Workers," *The California Labor & Employment Law Review*, Vol. 32, No. 3, May 2008, at 21.



Workers are also subject to the hazards of lax safety requirements; for example, a dairy worker in upstate New York was recently killed when trying to climb over a gate, a “common” practice, according to the newspaper report.⁴⁰ Rather than being allowed to bring in foreign workers, dairy owners should be required to attract U.S. workers by offering jobs with fair pay and workplace safety.

Rather than “improve” the H-2A program, the dairy extension would simply expand the guest worker scheme into an already abuse-ridden industry. If it passes, other year-round agricultural industries, including mushroom

farms and greenhouses, seem ready to line up and demand access to H-2A guest workers.⁴¹ There is no end to the list of industries that could lower wages, claim “labor shortages,” and demand cheap foreign labor. Soon, all our low-wage industries could become populated by low-paid guest workers with few rights.

Instead, the H-2A program should be restricted to seasonal work, and both U.S. and foreign workers must be provided with stronger protections. The H-2A guest worker program should not be the model for American agriculture or other low-skilled jobs. America is a nation of immigrants and should remain so.



Proposals to slash wage rates and remove labor protections from the H-2A program are not only cold-hearted but bad public policy.

⁴⁰ David C. Shampine, “Death of migrant worker caused by fall, ignored accident,” *Watkinsville (NY) Daily Times* (24 Mar 2011), at <http://www.watkinsville.com/nytimes.com/article/2011/03/24/nytimes/20110324/WRNS15>

⁴¹ See, for example, the testimony of Pennsylvania State Senator Arthur Hershler before the U.S. Senate Judiciary Committee (15 July 2006), where Mr. Hershler suggested that the mushroom industry should be allowed to use guest workers.

PART
04

RECOMMENDATIONS



H-2A PROGRAM RECOMMENDATIONS

The narrative and worker stories in this report show the mistreatment of both domestic and foreign workers under the H-2A temporary foreign agricultural worker program. The abuses are widespread because the guest worker program model is deeply flawed. The constraints on guest workers deprive them of the ability to protect themselves from illegal and unfair treatment and from retaliation for speaking out. The law gives employers incentives to discriminate against U.S. workers. >>

The inability of the government to monitor the job terms and practices of thousands of agricultural employers encourages employers to take advantage of the guest workers' vulnerability with little risk of getting caught violating the law. The H-2A guest worker program cannot and should not be the principal vehicle for filling the nation's agricultural job needs. Farmworkers should be given the opportunity to become immigrants and productive citizens of this country.

Though the Department of Labor under Hilda Solis restored most of the longstanding wage and other labor protections that Secretary Elaine Chao had removed, systematic problems persist. Farmworker Justice suggests a number of further steps that policymakers must take, in both the short- and long term, to protect U.S. workers in agriculture, prevent exploitation of guest workers, and help ensure an adequate supply of citizens and authorized immigrants to keep America's agriculture sector productive.

At the time of writing, a new campaign is underway to eliminate or weaken job protections, government oversight, and enforcement mechanisms under the H-2A program, or to create a new guest worker program altogether. Some policymakers have argued that, in the face of a government crackdown on employers who hire unauthorized immigrants, these changes are necessary to facilitate the hiring of legal guest workers. This report demonstrates that instead of diminished protections, the H-2A program requirements should be strengthened and enforcement increased to end abuses in the program.

SHORT TERM

Congress should pass the Agricultural Jobs, Opportunities, Benefits, and Security Act (AgJOBS).

→ AgJOBS is a bipartisan compromise between growers and farmworker groups that would allow currently unauthorized farmworkers to earn legal status by continuing to work in U.S. agriculture, make balanced changes to the H-2A program, and provide U.S. growers with



a stable, productive, and decently-treated farm labor force.

DOL should increase oversight and enforcement of worker protections in the H-2A program.

- DOL should investigate more H-2A employers and do so more thoroughly to remedy violations and deter unlawful practices.
- DOL should undertake regular unannounced visits to all H-2A employers to gauge compliance with H-2A regulations and work orders.
- DOL should require State Workforce Agencies (SWAs) to be more vigilant in reviewing H-2A applications for illegal job terms.
- DOL should take steps to eradicate common employer violations, including misstating the number of hours worked by piece-rate workers to deny workers the minimum hourly wage rate, erecting artificial and illegal barriers against U.S. workers who apply for H-2A jobs, and falsely claiming that workers are not entitled to their outbound transportation expenses because they quit work before the end of the season.



"The reality is that the majority of farmworkers in our country are undocumented. We need a fair, orderly way for those who harvest our fruits and vegetables to come out of the shadows and for farmers to retain a skilled, stable, and productive workforce. The H-2A program needs reform to better protect workers from abuses, but even if reformed it is not a practical solution for filling the hundreds of thousands of jobs in agriculture."

The AgJOBS compromise, supported by farmworker groups and growers, is "the solution."

— Rep. Howard Berman (D-CA)



"I think the Department of Labor has to take responsibility for these workers. We are inviting them; they're called guest workers. This is how you treat guests."

—Rep. George Miller (D-CA), quoted in "Corruption Leads to Deep Debt for Guest Workers," NPR (May 8, 2007)

→ DOL should work closely with labor unions, community-based organizations, and legal advocates to communicate effectively with H-2A workers. To collect evidence of illegal conduct, DOL must recognize and overcome the guest workers' fear of retaliatory discharge, deportation and denial of jobs in future seasons, as well as educational, linguistic and cultural barriers.

→ DOL should take better advantage of its power to bar employers from the program for violating workers' rights.

DOL should exercise jurisdiction over H-2A recruitment abroad.

→ The Department of Labor, in cooperation with the Department of State and the Department of Homeland Security (DHS), should examine the international recruitment mechanisms that result in foreign workers' indebtedness. Workers' desperation to earn enough money to repay the employers' recruiters and bring home money to their families leaves them vulnerable to exploitation.

→ Employers should be required to disclose any arrangements with and identities of labor contractors and recruiters and to determine and disclose all contracting and recruiting in foreign countries, including by sub-contractors and sub-agents.

→ DOL should require H-2A employers to disclose in advance how foreign workers will be transported to the place of employment in the U.S. and by whom.

→ All recruiters and employers' agents should be licensed and listed online in an easily accessible format.

→ DOL should cooperate with labor unions to establish fair recruiting processes in the foreign country.

DOL should relieve workers' debt by mandating immediate reimbursement for work-related expenses.

→ Workers should be reimbursed for transportation to the place of employment within the first week of arrival, rather than at the halfway mark of the contract.

→ Employers should be required to reimburse visa and passport fees paid by workers.

DOL should ensure that both domestic and H-2A workers, especially those employed near the U.S.-Mexico border, are provided with housing as required by the H-2A program.

→ Special attention must be paid to worker housing and conditions at the U.S.-Mexico border to ensure that employers do not deny housing to those workers who want it based on the claim that workers can commute to their homes in Mexico each night.

→ Employers should be required to pay workers for time spent waiting to cross the border, reducing the incentive for employers to give preference to "border commuters" and deny them housing.

DOL, DHS, and the State Department should coordinate data and action on H-2A workers.

→ DOL currently collects data on employer requests/certifications, DHS collects worker entry and exit data at the port of entry, and the Department of State collects data on visas issued. Collaboration between agency data collection activities would paint a fuller picture of the origin and destination of H-2A workers, allow for better assessment of regional labor needs, and facilitate



enforcement against unscrupulous employers and recruiters.

→ The Department of State should ask workers to present an H-2A contract at their visa interview to ensure that workers have been given a contract in their language that complies with the law. H-2A employers should be penalized when workers have not been given their contracts.

Employers under the H-2A program should take responsibility for foreign recruitment.

→ Employers must monitor the actions of recruiters in foreign countries that supply them with guest workers and act to end recruitment abuses.

→ Employers should be held jointly liable when recruiters working for them break the law.

LONG TERM

H-2A workers should be allowed the freedom to change employers.

→ Tying guest workers' visas to a single employer leaves them vulnerable to abuse and reluctant to challenge illegal or unfair employer practices. Congress should amend the law to extend the fundamental protections of a free labor market to H-2A workers.

H-2A workers should be able to earn permanent immigration status in order to enforce their rights and improve their conditions.

→ No matter how much time they spend in the United States, H-2A guest workers can never earn permanent status or become citizens with the right to vote. Congress should end this anti-American system that treats guest workers as short-term commodities, and provide a process for H-2A workers to obtain permanent residency.

The H-2A program should remain available for temporary and seasonal workforce needs only.



→ The H-2A program was designed for seasonal jobs where U.S. applicants are lacking. Proposals to extend the H-2A program to year-round jobs in dairies or other industries should be rejected.

→ The exemption for sheepherding, a year-round industry with a history of worker abuse, should be ended.

H-2A workers should be covered by the labor laws applicable to farmworkers.

→ H-2A workers are currently excluded from the most important labor law that protects farmworkers, the Migrant and Seasonal Agricultural Worker Protection Act (AWPA). Congress should end this unfair exclusion and extend AWPA rights to H-2A workers, including a federal private right of action to enforce their job terms, disclosure of job terms at the time of recruitment, and safe transportation vehicles.

→ Congress should deter wage theft by ensuring that H-2A workers are entitled



"H-2A guestworkers may be less aware of U.S. laws and protections than domestic workers, and they are unlikely to complain about workplace protection violations... fearing they will lose their jobs or will not be hired in the future."

—U.S. General Accounting Office (GAO), *H-2A Agricultural Guestworker Program: Changes Could Improve Services to Employers and Better Protect Workers* (1997).



"NCLRA has serious concerns about the treatment of farmworkers in this country. Our broken immigration system, including the problematic H-2A guest worker program, contributes to the poor wages, working conditions and health of farmworkers. The ability to legalize immigration status is instrumental to enabling farmworkers to bargain for better working and living conditions. Congress should fix our broken immigration system to ensure our country has a productive, legal farm labor force that benefits from strong workplace protections for all workers."

— Janet Marguin,
president, National
Council of La Raza
(NCLRA)



to liquidated (double) damages when employers fail to pay the AEWR.

→ To encourage attorneys to accept farmworkers' cases, workers who win litigation for violations of the H-2A program protections should be entitled to an award of attorneys' fees and court costs.

H-2A program wage rates should reflect the wage necessary to attract U.S. workers in the labor market.

→ The H-2A hourly wage rates set under the Adverse Effect Wage Rate methodology are too low, as they fail to account for wage depression caused by the presence of guest workers and undocumented workers in the farm labor force. Wage rates are outdated, as they are based on the previous year's surveys, and they allow growers who have trouble finding workers to avoid offering higher than average wages, as the market would demand. Instead, the AEWR is a regional average. DOL should revise the method for determining the AEWR to prevent downward pressure on the wages of domestic farmworkers.

→ The rules regarding piece rates should be changed to end abuses. Piece rates delineated in the H-2A contract should rise annually with changes in the Adverse Effect Wage Rate.

Employers should be required to pay Social Security and unemployment taxes on guest worker wages.

→ The exemption from Social Security (FICA) and federal unemployment (FUTA) taxes on wages paid to H-2A workers is currently a huge monetary incentive for H-2A employers to choose guest workers over domestic workers. Congress should end this incentive for H-2A employers by requiring them to pay an amount equivalent to FICA and FUTA taxes for their H-2A workers. Payment of these taxes would also strengthen the social safety net.

Anti-discrimination laws should apply to recruitment of H-2A workers abroad.

→ Workers recruited abroad for employment in the United States, including for H-2A program jobs, should not be subjected to hiring practices that would be illegal if they occurred in the U.S. Employers should be held "strictly liable" for recruitment practices by recruiters or sub-contractors on their behalf.

Workers who have already worked in the H-2A program should have a guaranteed "right of recall."

→ Workers who perform well and complete their contracts for an H-2A employer should be entitled to be hired the following season, assuming there remains a labor shortage. This requirement would reduce workers' fear of retaliation for joining a labor union or raising a concern.

→ Employers should be obligated to arrange a visa for returning workers, rather than subjecting workers to the process of paying recruiters in the foreign country every year for access to a visa and a job.

Increased union representation would help H-2A workers protect themselves from abuse and exploitation.

→ DOL should recognize and support the important role of union organizing and collective bargaining for workers on both sides of the border. DOL should work with the State Department and other agencies to support the efforts of unions to open foreign offices to prevent recruitment abuses.

→ DOL should facilitate the efforts of unions to provide workers with bona fide grievance-arbitration processes, which can be efficient mechanisms to resolve disputes.

APPENDIX: RESOURCES ON H-2A PROGRAM ABUSE

Recent Media Coverage:

Courthouse News Service: Dan McCue, "Blacks Say Mexicans Favored on Farm." (June 23, 2011)

Honolulu Star Advertiser: Nelson Deraniang, "Alban Farms owners hit with more accusations." (June 20, 2011)

Yakima (WA) Herald: "Farm workers take off in 2008 win settlement against grower." (May 21, 2011)

The Denver (CO) Post: Felisa Cardona, "Third Peruvian shepherd claims abuse in Craig ranch lawsuit." (April 29, 2011)

The Wenatchee (WA) World: Amy Taxin, "Yakima farms named in human trafficking case." (April 21, 2011)

Courthouse News Service: Dan McCue, "Labor Abuse Reported in Tennessee." (April 14, 2011)

The Gainesville (FL) Sun: Kimberley Moore Wiltonfi and Karen Voyles, "Federal officials: Human trafficking a pervasive problem." (March 29, 2011)

Moultrie (GA) Observer: Kevin Hill, "Labor Dept. hits JSR Farms." (November 18, 2010)

Deseret (UT) News: Lee Davidson, "A Story of Modern Slavery in Utah." (April 15, 2010)

Yuma (AZ) Sun: James Gilbert, "In the Fields, Farmworkers see abuse, fraud." (January 24, 2010)

The Honolulu Advertiser: Jim Dooley and Christie Wilson, "Alban Farms owners indicted in forced labor of Thai workers." (August 29, 2009)

New York Times: Dan Frosch, "In Loneliness, Immigrants Tend the Flock." (February 21, 2009)

Fox News.com: Jennifer Lawinsky, "Tennessee Woman Accuses Farm of Favoring Foreigners." (January 6, 2009)

High Country (CO) News: Rebecca Claren, "Guest workers: Laborers or commodify?" (June 13, 2008)

Yakima (WA) Herald: Leah Beth Ward, "Farm workers' lawsuit names Zirkle fruit." (March 3, 2008)

WTVD-TV (NC): Steve Daniels, "Guest worker program: Are we treating them like guests?" (November 15, 2007)

The Washington Post: Laura Wides-Munoz, "Migrants See Abuse in Guest Worker Jobs." (June 2, 2007)

NPR: Jennifer Ludden, "Corruption Leads to Deep Debt for Guest Workers." (May 8, 2007)

Raleigh (NC) News-Observer: Kristin Collins, "Workers: Promise became a prison." (March 10, 2007)

New York Times: Eduardo Porter, "Who Will Work the Farms?" (March 23, 2006)

Magazine/ TV:

Dan Rather Reports (HDNet TV): "All I Want is Work." (October 12, 2010) | transcript

Mother Jones: John Bowe, "Bound for America." (May/June 2010)

The Nation: Felicia Mellow, "Coming to America." (June 25, 2007)

The Nation: David Bacon, "Be Our Guests." (September 27, 2004)



APPENDIX: (CONT.)

Boston Magazine; Michael Blanding,
"The Invisible Harvest," (October 2002)

Equal Justice Magazine; Daniel Cox,
"Discrimination on the Farm," (Fall 2002),
reprinted in *Reed Magazine* (February 2005)

Vanity Fair; Marc Brenner, "In the Kingdom of
Big Sugar," (February 2001)

Mother Jones; Barry Yeoman, "Silence in the
Fields," (January/February 2001)

Charlotte (NC) Observer; Leah Beth Ward,
"Desperate Harvest," (October 1999) –
Three-part series

Reports:

Colorado Legal Services Migrant Farm Worker
Division, *Overworked and Underpaid: H-2A
Herders in Colorado* (January 2010)

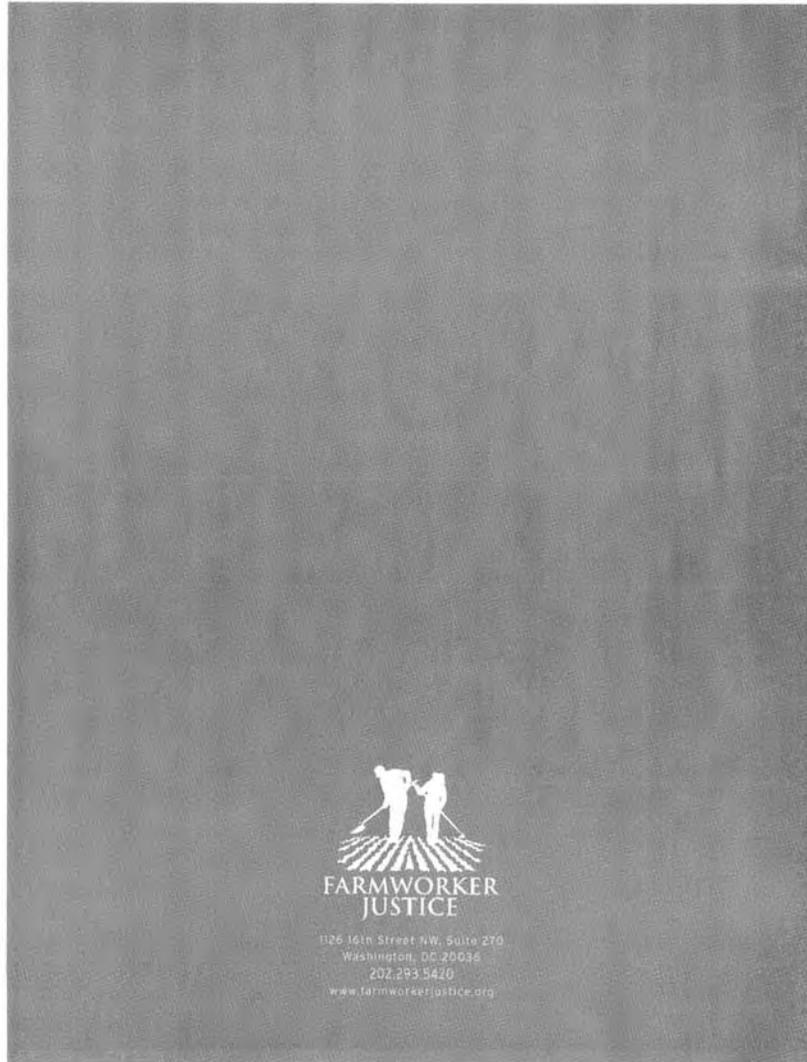
Farmworker Justice, *Library of Abuses: More –
Not Fewer – Labor Protections Needed in the
H-2A Guestworker Program* (December 2008)

Southern Poverty Law Center, *Close to
Slavery: Guestworker Programs in the United
States* (March 2007)

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Cover (clockwise from left): Student Action with Farmworkers; Shutterstock; David Bacon; p. 6 David Bacon; p. 10 David Bacon; p. 11 Rebecca Young; p. 13 Tim Freilich, Legal Aid Justice Center (VA); p. 14 Rosa Varela, Community Legal Services (AZ); p. 15 From the film, *After I Pick the Fruit*, by Nancy Gherlner, to be released in October 2011; p. 16 Rebecca Young; p. 17 From the film, *After I Pick the Fruit*, by Nancy Gherlner, to be released in October 2011; p. 20 From the film, *After I Pick the Fruit*, by Nancy Gherlner, to be released in October 2011; p. 21 (top to bottom): *Dan Rather Reports*, Georgia Legal Services; p. 22 Farmworker Justice; p. 23 Miriam Strauss; p. 24 David Bacon; p. 25 From the film, *After I Pick the Fruit*, by Nancy Gherlner, to be released in October 2011; p. 26 Student Action with Farmworkers; p. 27 Farmworker Justice; p. 30 Courtesy of Diego; p. 31 Student Action with Farmworkers; p. 33 Kimi Jackson, Colorado Legal Services, from "Overworked and Underpaid: H-2A Herders in Colorado" (2010); p. 34 Farmworker Justice; p. 39 Rebecca Young; p. 40 Student Action with Farmworkers; p. 43 Tim Freilich, Legal Aid Justice Center (VA)





Mr. GOLDSTEIN. Many employers prefer guestworkers because they are more vulnerable than immigrants and citizens, for several reasons: H-2A workers may only work for the employer that obtained their visa, must leave the country when the job ends, and must hope that the employer will request a visa for them in a following year. They never earn the opportunity to become permanent immigrants, no matter how many seasons they work here. To pay recruitment fees and travel costs, H-2A workers often borrow money that must be repaid even if their job ends prematurely. Guestworkers will toil to the limits of human endurance at low

wages, when U.S. workers seek more sustainable productivity requirements.

An employer does not pay Social Security or unemployment tax on guestworkers' wages but must do so on U.S. workers' wages. H-2A workers are excluded from the principal Federal employment law for farm workers, the Agricultural Worker Protection Act. And while recruiting in foreign countries, employers select workers based on age and gender, which is illegal inside the United States.

These factors have led H-2A employers to discourage U.S. workers from applying for H-2A jobs and to subject them to unfair working conditions that cause them to quit or be fired. We commend Secretary Solis for restoring the H-2A protections that the Bush administration unconscionably removed. These protections evolved over many years and were issued by conservative President Ronald Reagan.

For example, the principal wage protection requires H-2A employers to recruit U.S. workers, using at least the average hourly wage paid to farm workers in their region as determined by the USDA. The Bush formula, like some recent legislative proposals, set most H-2A wages at the average of the lowest-paid one-third of farm workers in a local area, cutting \$1 to \$2 per hour off of wages for thousands of U.S. and H-2A workers.

We commend DOL's increasing oversight of H-2A applications, which has led to the rejection of unlawful job terms that discourage U.S. workers from applying for H-2A jobs. Nonetheless, violations of basic program requirements are rampant, harming both U.S. and H-2A workers. Our report recommends strengthening protections and enforcement.

Some growers audaciously complain that DOL delays processing their H-2A applications, even though they caused the delay by submitting illegal job terms or incomplete applications. Legitimate complaints could be addressed by providing more resources to the agencies to process applications and visas.

Representatives Lungren, Kingston, and Smith have introduced guestworker bills that would slash wage rates, remove labor protections such as U.S. worker recruitment protections, minimize government oversight, and shift responsibility to the Department of Agriculture, which has no expertise administering immigration or labor laws. Their proposals would have taxpayers pay for a huge, costly guestworker program under which employers would bring in hundreds of thousands of additional foreign workers despite an adequate supply of farm labor among U.S. workers and experienced undocumented farm workers. We strongly oppose these bills for the harm they would inflict on U.S. and foreign workers.

Large-scale guestworker programs are anathema to American values, because they take advantage of foreign workers by depriving them of economic freedom and political representation. Farm workers are human beings, not imported commodities. Our immigration system is not a set of trade rules; it reveals to the world our Nation's values.

There are sensible policy solutions to provide the Nation's agricultural sector with a stable, legal labor force, treat farm workers fairly, and ensure a safe food supply. Congress should end discrimination against farm workers and labor laws, fund labor law en-

forcement to set a level playing field among employers, and encourage employers to offer job terms that attract and retain productive farm workers. Most importantly, Congress should provide current undocumented farm workers with an opportunity to earn permanent immigration status and the chance to pursue the American dream.

Thank you for this opportunity.

Mr. LUNGREN. Thank you, Mr. Goldstein.

[The prepared statement of Mr. Goldstein follows:]

Written Testimony
Bruce Goldstein, President, Farmworker Justice
before the Judiciary Subcommittee on Immigration Policy and Enforcement
"Regional Perspectives on Agricultural Guestworker Programs"
February 9, 2012

Mr. Chairman and Members: Thank you for the opportunity to testify about proposals to address our nation's broken immigration system and solutions to ensure a productive, fairly-treated farm labor force. For thirty years, my organization, Farmworker Justice, has engaged in policy analysis, education and training, advocacy and litigation to empower farmworkers to improve their wages and working conditions, immigration status, health, occupational safety and access to justice. Since its inception, Farmworker Justice has monitored the H-2A program throughout the country and analyzed proposals for policy changes.

Our nation's broken immigration system, labor laws that discriminate against farmworkers, and the labor practices of many agricultural employers have combined to create an agricultural labor system that is unsustainable and fundamentally unfair to the farmworkers who harvest our food. The majority of our nation's farmworkers lack work authorization.¹ Undocumented workers' fear of deportation deprives them of bargaining power with their employers and inhibits them from challenging illegal employment practices. The presence of so many vulnerable farmworkers depresses wages and working conditions for all farmworkers, including U.S. citizens and lawful immigrants. The consequences of this untenable situation are serious.

Farmworkers' incomes are very low. Poverty among farmworkers is more than double that experienced by other wage and salary workers.² Farm work is one of the most hazardous occupations in the country, with routine exposure to dangerous pesticides, arduous labor and extreme heat. Despite their occupational risks, farmworkers are excluded from many labor protections other workers enjoy, such as many of the OSHA labor standards, the National Labor Relations Act, overtime pay, and even the minimum wage and unemployment insurance at certain small employers. Such poor conditions and discriminatory laws have resulted in substantial employee turnover. In the absence of an immigration system that functions sensibly to control our borders and meet our legitimate demand for labor, most of the newly hired farmworkers have been undocumented. Still, legally authorized U.S. workers number at least 540,000-600,000 under the lowest estimates of the agricultural labor force.³ Improving wages and working conditions, increasing farmworkers' legal protections, and implementing the other recommendations made by

¹ Findings from the National Agricultural Workers Survey (NAWS) 2001 – 2002. A Demographic and Employment Profile of United States Farm Workers, available at <http://www.dofeta.gov/agworker/report9/chapter1.cfm#eligibility>.

² See Kandel, W. Profile of Hired Farmworkers, A 2008 Update, United States Department of Agriculture, Economic Research Report, No. 60, July 2008. Available at <http://www.ers.usda.gov/Publications/ERR60/>.

³ Estimations based on assuming 70% undocumented workers of a total labor force of 1.8-2 million farmworkers (this is highest number of undocumented workers in most estimates. Official government statistics indicate a rate closer to 50%).

the Commission on Agricultural Workers and other observers over many years would help attract and retain US workers in the farm labor force.⁴

The inescapable reality is that undocumented workers constitute anywhere from 52% to 70% of the approximately 2 million⁵ seasonal workers on our farms and ranches.⁶ We all agree this situation is bad for workers, bad for employers and bad for the nation. Agriculture would collapse if the undocumented workers suddenly left or were deported. However, most are not leaving the U.S., and such mass deportations are not feasible. The H-2A temporary foreign agricultural worker program could provide an unlimited number of guestworker visas, as there is no maximum annual cap on H-2A visas, but it is not a reasonable or practical solution. Currently, the H-2A program only provides 3-5% of the total agricultural workforce. Even with less than 100,000 H-2A guestworkers annually, the Departments of Labor, Homeland Security and State need more resources to ensure that the H-2A program meets the needs of employers and workers and complies with the law. Even if it were desirable, the Government could not act rapidly enough to remove the undocumented immigrants and process tens of thousands of employers' applications for hundreds of thousands of H-2A guestworkers. If such efforts were made, employers would not have their experienced workforce to cultivate and harvest their crops and raise their livestock, and taxpayers would foot the bill for a vast waste of money.

There is an urgent need for Congressional action in response to increased deportations and other immigration enforcement, harsh anti-immigrant state laws, proposals for state-level foreign-worker visa programs, and proposals to mandate employers' use of the E-Verify system. The common-sense and moral solution on which many diverse constituencies agree is a program offering undocumented farmworkers the opportunity to earn legal immigration status. Such immigration reform should be accompanied by efforts to stabilize the farm labor force, including by ending discrimination in labor laws, improving wages and working conditions and modernizing labor relations in agriculture.

Regrettably, several Members of Congress refuse to embrace such workable and humane solutions. Representatives Lungren, Smith and Kingston have put forth proposals for new bureaucratic guestworker programs that would have high costs for American jobs and American society. None of the proposals would address the presence of the undocumented workforce and they would all subject both U.S. workers and foreign workers to low wages and harsh working

⁴ *Report of the Commission on Agricultural Workers*, Washington D.C. November, 1992. See also the testimony of Robert A. Williams, Director of Florida Legal Services' Migrant Farmworker Justice Project, before the House Judiciary Committee, subcommittee of Immigration Policy and Enforcement, Hearing on H.R. 2847, the "American Specialty Agriculture Act," September 8, 2011 (incorporated herein by reference). Available at <http://judiciary.house.gov/hearings/pdf/Williams%2009082011.pdf>.

⁵ There are at least 1.8 million agricultural workers in the United States. Martin, P. Conference Report, Immigration Reform: Implications for Farmers, Farm Workers, and Communities, University of California D.C. Campus, May 12-13, 2011. Available at <http://migration.ucdavis.edu/cf/files/2011-may/conference-report.pdf>. Other estimates range from 2.0 to 2.5 million individuals working as hired farmworkers over the course of the year. See Kandel, W. Profile of Hired Farmworkers, A 2008 Update, U.S. Department of Agriculture, Economic Research Report, No. 60, July, 2008. Available at <http://www.ers.usda.gov/publications/ERR60/>.

⁶ Findings from the National Agricultural Workers Survey (NAWS) 2001 – 2002: A Demographic and Employment Profile of United States Farm Workers, available at <http://www.doleta.gov/agworker/report9/chapter1.cfm#eligibility>.

conditions. The guestworker proposals are being offered as an apparent trade-off to obtain the support of the agricultural industry for mandatory employment verification legislation.

Through sharp cuts in wage rates and worker protections, the Lungren, Smith and Kingston guestworker proposals encourage employers to hire guestworkers instead of their current workforce, which includes hundreds of thousands of US workers. Once employers realized the availability of extremely cheap foreign labor through a program with little government oversight or other worker protections, they would realize the benefits they could attain by laying off their US workers and importing foreign workers instead. Many US workers could lose their jobs under the Smith, Lungren, and Kingston proposals. Because US workers are typically paid better than undocumented workers, the US workers would be the first workers to lose their jobs. Undocumented workers would likely be pushed further into marginalized jobs. This is especially ironic given Rep. Smith's long history of opposition to guestworker programs based on the very rationale that "[n]early every study shows that competition from cheap foreign labor undercuts the wages of American workers and legal immigrants. Rather than importing cheap foreign labor, we should increase wages and make these jobs more attractive to American workers."⁷

One critical protection for US workers competing against guestworkers for their jobs are the wage requirements. Wage protections are necessary to protect US workers in a guestworker program for several reasons: 1) because without them US workers would be competing against workers who would be willing to work for much lower wages than US workers due to the lower costs of living and lower earnings in their home countries; 2) due to the legal restrictions of the H-2A worker's visa status, they lack economic freedom to switch employers and consequently are unable to improve wages at H-2A employers; and 3) while an H-2A employer must offer at least the required wage rates under the H-2A program, the employer need not offer more than the minimum required wage required by the H-2A program even when there are U.S. workers available to accept the job if the wage rates were higher. A worker who asks for a higher wage rate can be deemed to be "unavailable for work" and the available job can be filled with a guest worker at the minimum required wage.

The three proposals would drastically slash the wage rates that would be offered to both the U.S. and foreign workers: Kingston's bill would only require employers to pay 115% of the minimum wage, while Smith's bill would cut wages by requiring employers to pay only the higher of the minimum wage or a misleading "prevailing wage" (the average wage received by the lowest-paid one-third of farmworkers in a geographic area, i.e., the 16th percentile). A similar definition under the Bush Administration resulted in wage cuts of \$1 to \$2 per hour depending on location, before Secretary Solis restored the wage formula that the Reagan Administration installed. Lungren's bill has no wage protections on the theory that workers would have market economic freedom in the form of portability; a fundamentally flawed assertion in a guestworker program where workers are indebted, fearful, and not able to exercise their theoretical mobility in a meaningful way. With such drastic wage cuts available through the guestworker proposals, employers would waste no time in jettisoning their expensive US workers and replacing them with cheap foreign labor.

⁷ Website of Representative Lamar Smith, available at <http://lamar.smith.house.gov/News/DocumentSingle.aspx?DocumentID=196423> (last visited 2/3/12).

All of these proposals would eliminate the principal mechanism to give U.S. workers a job preference at H-2A program employers. The “50% rule” requires H-2A employers to hire qualified U.S. workers who apply for work until the first half of the season has elapsed. Due to the hiring patterns of farmworkers and the nature of agricultural work, which often involves varying start times and a gradual development leading up to the peak season, it makes perfect sense to ensure that qualified job applicants are hired even after the first “official” day of work. However, even when long-standing employees arrive at the same time as in years past for the peak harvest period, these proposals allow employers to deny them their jobs. A 1986 Congressionally-mandated study concluded that the 50% rule served the purpose of protecting American jobs and did so with no significant burden to employers. The desire to hire cheap foreign workers instead of domestic workers is not a proper justification for ending the 50% rule.

The Smith and Lungren proposals also drastically limit the ability of US workers to learn about job opportunities by reducing the positive recruitment requirements which employers are required to meet to demonstrate that no US workers are available. Recent experience demonstrates that there are US workers who are willing and able to perform agricultural work, although not in adequate numbers to replace the undocumented workforce nationally. In Florida this very year, one H-2A employer received large numbers of US workers in response to his H-2A job order, and even has a lengthy waiting list.

For those American workers lucky enough to find and keep their jobs under the Kingston, Smith and Lungren proposals, they would experience diminished working conditions and protections because of reduced government oversight. Kingston’s bill shortens the timeframe for DOL to process H-2A applications and then provides for applications to be deemed approved if the Secretary is unable to meet the very tight timeframe. The Smith and Lungren proposals would reduce government oversight, creating a system in which employers simply promise to comply with required job terms and other requirements, with little if any repercussions for failing to meet program requirements. Attestation in a massive guestworker program would guarantee rampant violations of workers’ rights with minimal government capacity to punish violators.

Smith and Lungren’s guestworker proposals also would move the application process and enforcement of the worker protections from DOL to USDA, despite its lack of experience enforcing labor protections and despite the fact that other guestworker programs are run by the DOL.

All three proposals would expand qualifying agricultural work to include year-round agricultural jobs, such as dairy. The proposals require the workers, not the jobs, to be temporary. For decades the H-2 programs have focused on seasonal jobs based on the claimed difficulty of attracting U.S. workers to jobs that last less than one year and therefore yield less annual income than year-round jobs. All three proposals eliminate any requirement that the work be temporary and drastically expand the scope and basis for the guestworker program. Good, year-round jobs should be offered to U.S. workers on fair terms. If our immigration system is so broken that inadequate numbers of workers are available for year-round jobs, we should reform our immigration system to allow workers to immigrate to fill these jobs. Further, the proposal to supply temporary visas for year-round jobs would guarantee the long-term separation of families since the Smith and Lungren proposals specifically exclude visas for spouses and children of the guestworkers and visas for spouses and children under the H-2A program are rarely, if ever granted.

Under the current H-2A program, employers are required to provide housing for their H-2A workers and for US workers not within commuting distance. Lungren's proposal would not require any housing and Smith's and Kingston's proposals could have the same effect by allowing employers to provide housing vouchers that workers could use to pay for housing that they would themselves arrange. While the voucher provision makes it seem as if the workers will have access to housing, the voucher would be of little practical benefit to workers in agricultural localities due to a scarcity of seasonal, affordable and safe farmworker housing and the difficulties non-English-speaking workers from abroad would face trying to locate what little housing is available. Moreover, there is no guarantee that a landlord would accept housing vouchers.

Also problematic is the Smith bill's housing exemption for employers located near the U.S. borders. Employers may claim that their workers prefer to engage in cross-border commuting so as to live with their families, but if that is true, nothing under the H-2A program requires the employer to provide such workers with housing. By eliminating the housing requirement by the border, many workers who need housing will be deprived of it. The reality is that many of these workers have migrated long distances from the interior of Mexico to the border in search of jobs. Without housing, many workers will live in substandard conditions in the slums of the Mexican border towns or on the streets, the fields, or in ditches along the fields. Each morning they will have to get up long before dawn to make their way to a border crossing check point where they might have to wait for hours to cross. Once across the border they will have to wait for labor contractors' buses to pick them up for the trip to the fields, some of which are hours away. Some workers will have to pay these "raiteros" to transport them. The frequent crossings over the border also could attract the attention of Mexico's drug cartels, who might use the workers as mules for drugs or other illegal substances, or could even result in the trafficking of persons. This proposal would not only undermine the standards of U.S. farmworkers and take advantage of vulnerable guestworkers, but would also place agricultural employers in other geographic areas at a competitive disadvantage.

For decades, H-2A program employers have had to reimburse workers for their in-bound transportation costs after one-half of the season has elapsed and then pay for their travel home if they complete the season. The transportation benefit helps attract U.S. (and foreign) workers to the jobs, limits the out-of-pocket expenses of these low-wage workers (and enables them to pay the loans taken out for transportation costs), and helps ensure that they leave the country at the end of the season. Lungren's proposal would not require any assistance with transportation expenses, even though several courts have determined that these costs are primarily for the benefit of the employer. Smith's bill would require only that employers pay for travel costs to and from the place from which the worker was approved to enter the U.S., which could be a U.S. consulate hundreds of miles from the worker's home. Further, Smith seeks to overrule a U.S. Court of Appeals decision in *Arriaga v. Florida Pacific Farms*, regarding the Fair Labor Standards Act. These proposed changes would essentially allow guestworker employers to reduce the workers' wages below the federal minimum wage by imposing on the workers the obligation to absorb visa, transportation and other costs related to entering the U.S. This provision would drive foreign workers further into debt and make them even more vulnerable to exploitation.

Finally, the Smith and Kingston proposals would limit the ability of workers to learn about their rights and would limit their access to justice if workplace problems arose. The bills would only allow Legal Services Corporation's legal aid programs to represent guestworkers in the country at the time of legal assistance and would not allow legal services lawyers and outreach

workers to enter employer property (where many workers may be housed) unless they have a pre-arranged appointment with a specific worker. The goal is to limit worker access to representation as most workers will be too fearful to set up such appointments. Smith's bill would further limit workers' access to justice by allowing employers to impose mandatory arbitration and mediation requirements on H-2C workers and even holding any worker participating in such arbitration or mediation responsible for half of the costs.

While Lungren, Smith and Kingston's proposals differ in some ways, each would undercut essential protections designed to preserve US jobs for US workers and intended to prevent adverse effects on their wages and working conditions. Even while harming workers, these proposals do nothing to stabilize the farm labor workforce. These guestworker proposals bring to mind the words of a farmer from Edward Murrow's famous documentary *Harvest of Shame*, who said, "[w]e used to own our slaves; now we just rent them." The solution to the farm labor crisis is not E-Verify accompanied by massive importations of new foreign workers. The solution must be comprehensive and must offer the current experienced workforce an opportunity to earn permanent immigration status.

The proposals to remove labor protections, lower wages and reduce government oversight of the H-2A program contradict the appropriate policy needs of this nation. As detailed in our report, *No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers*, the H-2A program, despite its labor protections, is rife with abuses that harm U.S. and foreign workers: employers frequently fail to pay transportation costs and wages owed; workers live in abysmal housing and work under hazardous conditions; and workers even suffer trafficking violations, including confiscations of their passports and verbal and physical abuse.⁸

Abuses continue to occur in the H-2A program because it is inherently flawed. One fundamental flaw in the H-2A program is the worker's tie to a single employer: H-2A workers can only work for the one employer that obtained their visa. The workers do not have a right to seek a job at another employer if they are dissatisfied with or mistreated by that employer. If the worker leaves the job, or is fired, the worker must return to his home country. In addition, it is the employer who decides whether the worker will be offered the opportunity to obtain a visa in the next year. Under these constraints, most guestworkers are extremely reluctant to complain about their treatment on the job and are very vulnerable to abuse. In addition, the employers can extract very high levels of productivity from these vulnerable guestworkers without paying them higher wages or offering special incentives.

The H-2A workers' restricted, "non-immigrant" status not only deprives them of economic bargaining power but also prevents them from acquiring political power. No matter how many years an H-2A worker returns for agricultural work, he is not entitled to earn immigration status. Guestworkers never obtain the right to remain in the U.S., become citizens, or exercise the right to vote. The political powerlessness of the temporary foreign workers in comparison to their employers contributes to worker vulnerability and an inability to persuade government officials to protect them from abuse. Government officials represent the interests of citizens, not guestworkers. Thus far, few H-2A workers have been able to join unions. The H-2A program's restrictions are not

⁸ Farmworker Justice, *No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers*, September 2011. Available at <http://farmworkerjustice.org/images/stories/eBook/pages/fwj.pdf>. We ask that this report be included in the record of this hearing. see also Southern Poverty Law Center, "Close to Slavery," 2007.

consistent with our nation's commitment to economic and political freedom. Ours is a nation of immigrants, not a nation of guestworkers.

H-2A employers also have financial incentives to hire foreign guestworkers rather than U.S. workers. Guestworkers are about 10% cheaper than a US worker because the H-2A employer does not pay Social Security or Unemployment Tax on the guestworkers' wages, but must do so on the U.S. workers' wages. Another incentive to hire H-2A workers is that while recruiting in foreign countries, employers can and do select workers based on ethnicity, age, gender, and race, which is far more difficult to do inside the United States. "[D]iscrimination based on national origin, race, age, disability and gender is deeply entrenched in the H-2 guestworker system."⁹ Almost uniformly, H-2A workers are single relatively young men who are not accompanied by their families. These and other incentives to use H-2A workers have led to tremendous obstacles for U.S. workers who seek jobs at H-2A employers.

We commend DOL for reversing the harmful changes put in place at the end of the Bush Administration. Despite employer pushback and complaints, DOL must continue to increase its oversight and enforcement of the H-2A program. Government also must do more to overcome the systemic problem of growers using farm labor contractors as a shield against responsibility and liability for violations of labor and immigration laws—the growers and their labor contractors must be held jointly responsible.

We've been down this road before: guestworker proposals cannot solve the needs of our nation's farm labor system. Let's not repeat failed history. There are sensible policy solutions to provide the nation's agricultural sector with a stable, legal farm labor force that is treated fairly. Representative Berman has introduced a bill, the Agricultural Labor Market Reform Act of 2011, that offers a meaningful solution to the needs of agricultural employers, farmworkers and the nation. The bill would establish an earned legalization program under which current experienced undocumented farmworkers in the U.S. who meet stringent requirements are given temporary permission to work in agriculture for three to five years and the opportunity to earn permanent immigration status. Immediate family members in the U.S. also would be eligible to apply for immigration status. Along with the legalization program, Berman's bill would take steps to prohibit the employment of illegal aliens through reforms to the Migrant and Seasonal Agricultural Workers Protection Act that would target the worst offenders, farm labor contractors and would require them to participate in E-Verify. The bill would maintain important worker protections in the H-2A guestworker program with some reforms aimed at leveling the playing field for U.S. workers, who are currently at a disadvantage with H-2A workers. The bill would remove incentives to prefer H-2A guest workers over Americans in two ways: by removing the FICA and FUTA tax exemptions employers currently enjoy when hiring H-2A workers (a savings of about 10% per H-2A workers hired) and by ensuring that employers are not able to escape certain legal obligations by hiring H-2A workers, such as transportation safety measures. Berman's bill also would address and remedy some of the underlying problems of our broken farm labor system by creating a trust fund for enhanced enforcement of labor standards in agriculture and for research and promotion of better labor management practices. Both the Agricultural Labor Market Reform Act and the long-standing joint grower-farmworker immigration compromise bill AgJOBS seek to stabilize our current farm labor system and improve wages and working conditions for farmworkers to bring to an end the rapid turn-over of farm labor jobs from one desperate newcomer to the next.

⁹ Southern Poverty Law Center, "Close to Slavery," (2007) p. 34.

Congress should not get mired in guestworker program proposals that have been tried and rejected in the past. Congress and the Administration should strengthen the current H-2A labor protections, including by ending employers' incentives to hire vulnerable guestworkers rather than US workers. Most importantly, Congress should provide current undocumented agricultural workers with an opportunity to earn permanent immigration status, as Rep. Berman's bill does. More than one million undocumented farmworkers are making U.S. agriculture productive. In fact, we have a positive trade balance in labor-intensive agriculture due to the value of the exports produced by farmworkers, but farmworkers are not sharing in their contribution to our economy. We need to stabilize the workforce and keep agriculture productive by allowing undocumented workers to obtain legal immigration status. These recommendations will help ensure a productive, law-abiding, fair farm labor system and maintain our nation's commitment to economic and democratic freedom. Thank you for this opportunity. ///

Mr. LUNGREN. Thank all of you for your testimony.

At this time, we will move into questions by the panel. And since there are not a lot of us here, we will probably do several rounds, if other Members wish to stick around. And I will start, with 5 minutes.

First of all, Mr. Goldstein, you indicated that my proposal, along with other proposals, would slash wage rates. If you give workers

market mobility—that is, they are not tied to a particular employer but can seek employment in agriculture, among the different employers—wouldn't that tend to give them an ability to benefit from wages?

That is, I have heard a complaint about our proposal from some—very, very few—farmers who said, “You mean I would have to compete with the farmer down the street for these employees and I might have to pay them 50 cents more an hour than the other?” How does that slash wage rates?

Mr. GOLDSTEIN. Well, first, more generally, under guestworker programs, what happened under the Bracero program and tends to happen under the H-2A program, as well, is that because the workers are in a restricted, nonimmigrant status, they really don't have much bargaining power. And so—

Mr. LUNGREN. Could I ask you to specifically refer to the question I have? I specifically said it will be different than the Bracero program, it would be different than the H-2 program, in that they would have market mobility, job market mobility. Yes, they would be restricted to agriculture, but within agriculture they would be able to seek employment. And if, in fact, they felt they were mistreated or not paid enough, they could seek employment from another farmer.

I would like you to talk about that specific part of it, because—

Mr. GOLDSTEIN. Okay.

Mr. LUNGREN.—I have been criticized by some saying, you don't tie them to a particular employer.

Mr. GOLDSTEIN. My understanding is that the mobility would be between employers that enroll in that guestworker program. Growers that enroll in the guestworker program would set up recruitment systems to bring in their workers. So if a worker at one grower wanted to shift to another, I don't see why most of the growers would bring on that worker when they have already set up a recruitment system to get an adequate supply of foreign workers on temporary work visas.

So we don't view that mobility as similar to the mobility that people have in the usual marketplace for labor.

Mr. LUNGREN. I appreciate that. I wish you would at least concede what we have in our bill, to talk about that. I think it is illogical to suggest that giving them increased mobility in the market in which they are allowed to come into the United States would not have a tendency to increase wages. I just think that is logically inconsistent. So if you won't even look at that, I appreciate it.

Mr. Wenger, in your testimony, you talked about the number of farm jobs, I believe it was in New York. Don't we have at peak season around 400,000 in California?

Mr. WENGER. Yes.

Mr. LUNGREN. And how many of those were certified for H-2A in a recent year, if you have that number?

Mr. WENGER. I don't have the exact number, but less than 2 percent. I could get that number for you. But it is insignificant in the fact of what our overall demand is. A lot of our growers, we have some that are in the strawberry plant business, they can utilize in some of their rural areas H-2A workers, but where they need larg-

er numbers of people in the valley for growing those plants, it doesn't work, and so they need to use more seasonal type of labor.

Speaking just real quickly to your other answer, last year a neighbor of mine had cherries that were ready to harvest, and a rain was coming in, and he would have lost his crop. The word went out immediately, saying, "I need workers." And a lot of those workers were working in vineyards and doing other things, tying grapevines, things that weren't so critical to be done before the weather. When the word went out—he probably paid a little bit more for that labor; he had the labor. He brought in reefer vans and filled them with those cherries. He was able to salvage his crop, and he could not have done that if he didn't have the flexibility to try to find folks. Now, were a good majority of those folks who probably didn't have legal documents? Absolutely.

And so, your program would allow for that movement between folks. And that is so critical when we are talking about seasonal fruit and vegetable production and weather-related incidents coming in. So we need to have that mobility.

Mr. LUNGREN. In the statement that Maureen Torrey of New York submitted to us, and I have it in the record, she is the owner of Torrey Farms, a 12th generation farm; 2½ years ago, they took a thousand acres of fresh market vegetable production out of production, and instead planted corn and wheat because they were unsure of how they were able to get their labor commitment.

What did that mean? That meant that their payroll for a thousand acres of onions, around \$2.5 million for 50 people year round, was replaced by payroll for a thousand acres of corn at \$70,000 a year, covering 2 employees. How that benefits the employee, I do not understand.

Mr. WENGER. Congressman, for the record, we do have last year, 400,000 hired farm and ranch workers. Only 3,503 farm jobs were certified H-2A.

Mr. LUNGREN. I don't want you to state under oath exactly what it is, but would you say that it is fair to suggest that over half the workforce in the AG fields in California is here without benefit of legal papers?

Mr. WENGER. We are certainly afraid that at least 50 percent or more.

Mr. LUNGREN. Would you believe that is true nationwide?

Mr. WENGER. Yes.

Mr. LUNGREN. My time is up. My colleague from California, Zoe Lofgren.

Ms. LOFGREN. Thank you very much and thanks to all the witnesses for your testimony.

Mr. Wenger, from a California perspective, you have given your testimony that the E-Verify program, a mandatory E-Verify program without a solution for the current workforce would be disastrous, and I believe the same thing.

You have also said, as to solutions, that it has been and will be impossible to find and deport the current unauthorized farm workforce and replace it with new workers, properly authorized under a new visa program or a combination program and improved H-2A. Any solution, you have said, must deal somehow in a practical and humane way with the current workforce.

Why do you believe that it will be impossible to replace the current undocumented workforce with millions of new temporary workers?

Mr. WENGER. They are just not out there, even if you—if you were to take the folks that are here and now don't have current documents, that you would find out who those are through an E-Verify program. And if you were to remove them to a desert island and all of a sudden had this big vacuum of need, there wouldn't be adequate labor supply, even in Mexico, to fill those jobs.

And I want to also say that these aren't unskilled jobs. A lot of the folks that are doing this work that have been here, they are driving pieces of equipment that are worth more than your most expensive Mercedes. I mean, they are highly skilled people that understand what they are doing. And so it is paramount that we find a way to find those that are already here, that don't have legal documentation, to be able to go through some system to get that legal credential, that W Visa to be able to allow them to work here.

Ms. LOFGREN. Talking about the skill set, my—the district I represent in California is pretty urban, but we have some agricultural activity as well, especially in the south part of our county. And I remember a number of years ago, when I was in local government, visiting with the farmers who were growing mushrooms and visiting with the mushroom cutters, I mean, incredibly skilled work.

I mean, I think at that time, and that was, you know, 20 years ago, they were paying \$20 an hour to those people cutting, and I couldn't have done it.

Can you describe some of the other kinds of skilled work? I mean, we talk about this as unskilled labor, but I am wondering if you could describe the kind of skills that are necessary and that are possessed by the current workforce and why it might be very difficult to replace those skills with an entirely new workforce.

Mr. WENGER. Certainly for a lot of our commodities in California, but throughout the country, they are being much more mechanized. And so you have to have a skill set that takes years and years to try to learn that and be able to operate this machinery in an effective and in a safe manner.

But today, with such a demand for such locally produced food, what you are seeing in your area, we are seeing with urban agriculture throughout California. Talking to some of my contemporaries and other State Farm Bureaus, what we are seeing throughout this country, folks going from more of the commodity areas and putting a certain amount of production into seasonal fruit and vegetable production.

And now all of a sudden they are figuring out we need somebody that has that hand-to-eye coordination and understands how to pick the fruit and harvest the vegetables at the right time. Whether it is picking strawberries, if you don't pick a strawberry at the right time, it is either overly ripe and will wreck everything else. As it perishes in the basket, the other strawberries around it, you have to pick it at the ripeness, the right time. It can't be too green, can't be overripe.

It takes a hand-to-eye coordination that takes years to learn, whether it is a plum, whether it is a peach. All the things that we want our kids and grandkids to eat, it is talking about more fresh

fruits and vegetables. And that is a highly skilled—and you are exactly right, Congresswoman Lofgren. We have one of our board members, that they do plums and peaches.

Now they pay the workers on piece rate, and they will work every other day. And those workers will go from farm to farm, and then they will come back. But when they work at a piece rate, they are making 30- to \$35 an hour. They know what they are doing, they get the right fruit in the basket, they take care of it the right way so they can get the market and be the highest quality it can be. It is not just grunt labor, it is somebody that is very skilled on what they are doing.

Ms. LOFGREN. Well, just to summarize, I know my time is running out. As, like Mr. Black pointed out, that we have had these hearings and we have wrung our hands repeatedly. But what you are saying is any plan that doesn't deal with taking the current workforce and somehow converting them to a legal status is not going to completely work; is that right?

Mr. WENGER. We have a number of people in this country, we have to figure out a way to give them some kind of an adjustment of status to allow them to be in this country to work. You are absolutely right.

Ms. LOFGREN. Thank you, Mr. Chairman. My time has expired.

Mr. LUNGREN. I thank the gentlelady. The gentleman, Mr. Ross.

Mr. ROSS. I thank you, Mr. Chairman. Let me lay the predicate for my questioning so that you gentlemen know where I stand.

I represent a district in central Florida, predominantly rural, very agricultural. In fact, my home county leads citrus production in the State. We have a lot of specialty crops, a lot of road crops. We have a tremendous demand for labor. And I concur with several of your testimonies today that this is an issue that must be addressed. It has been debated. It has lingered, and no action has been taken.

But I have growers and harvesters back home who cannot meet their labor demands, who are sincerely concerned because the Department of Labor cannot meet their demand and the labor forces they need. They are ineffective, they are inefficient. We have litigation that is out of control, and now we are looking at how we can keep our growers from trying to farm their property for houses instead of crops, and keep them from taking their crops overseas because it is the only way they can make a living.

Having said that, we have some wonderful proposals on the table today. I think Chairman Smith has a very good one, I think Mr. Lungren has a very good one. But I want to address some issues of both. And first of all, Mr. Lungren addressed this, and I would like to go with Commissioner and Mr. Wenger and then Mr. Wicker on portability. Is portability something that is absolutely necessary in order to have an adequate guest worker program in this country? Commissioner.

Mr. BLACK. Congressman, did you say portability?

Mr. ROSS. Portability, yes. In other words, to go from employer to employer once they are over here, or stay with just one employer.

Mr. BLACK. Absolutely.

Mr. ROSS. Portability is necessary then.

Mr. BLACK. Absolutely.

Mr. ROSS. Mr. Wenger.

Mr. WENGER. Absolutely. You have to have portability or it doesn't work.

Mr. ROSS. Mr. Wicker.

Mr. WICKER. GGA supports structured portability so workers can move from one certified farmer to another.

Mr. ROSS. And Mr. Goldstein, I know you have commented on this, but I don't know if you have any comment with regard to portability.

Mr. GOLDSTEIN. We need portability plus.

Mr. ROSS. Let me ask you then about something else with regard to Chairman Smith's bill. He talks about caps in his. And we can't get from the Labor Department what the adequate number of farm workers we need over here. We just can't. We don't have statistics on that, for obvious reasons.

Would it be that maybe we should look at having a ceiling, or a ceiling and then a floor, so somewhere in between, the USDA would do a study and say that we believe that this many number of workers are absolutely necessary. Is that something that you think is a workable alternative to address that issue? Commissioner.

Mr. BLACK. Congressman, I believe that is in the field of play for sure. We have to have better data in Georgia. It is one of the things that we have discussed in this study. Our data is woefully underserved. We need to determine what those needs are. And if we could get that ceiling in the proper place, I think that is good direction.

Mr. ROSS. And I think over time if we had—if we will touch the third rail of immigration and take this away from immigration and call it what it is, it is an economic tool necessary to keep our economies, our local economies, our national economy to work, then I think we might be able to have an intelligent talk about this and pass some legislation. So if we can pass the legislation, we can start gathering the data necessary to find out what our labor needs are on a basis.

Mr. Wenger, how do you feel about the caps?

Mr. WENGER. I think caps are dangerous, because we have already heard from those folks that may be in H-2A, and if we could fix H-2A then they could bring their workers in. But as we look about seasons and trying for folks to maybe get up into the northeast and the northern areas, I think if you have a cap, then those in the southern parts of this country are going to be better served, quicker, and some of those others won't. And we need agriculture across this country.

The other thing is anytime you have a cap, and if you say that you have a certain amount of months that they can be in country, once they come in country and go back, has that been used up? Even though maybe they could be in country for 10 months, they were only there for 3. And historically a lot of workers like to come in where we can go back and forth across the border. They do like to come in for what they are really good at for 3 or 4 months, and they want to go home. And so have we used up one of those key spots that we thought we had a worker in country for 10 months,

but we only had them in for 3 or 4? So I think caps, as long as we can—and have a W Visa type of scenario where they are agricultural workers, allow them to go where the work is.

Some could be in transition. They are not all going to be working today. Maybe they are in transit from getting across the border to getting up into Maine or getting up into Washington State or New York. So I think caps are dangerous.

Mr. ROSS. Thank you. Mr. Wicker, then, if I have time for one more question. How do you feel about caps?

Mr. WICKER. On the caps, we have a de facto cap now with the bureaucracy—

Mr. ROSS. Right. Oh, yes.

Mr. WICKER [continuing]. That just chokes all the program.

Mr. ROSS. Yes. And it is been effective, yeah.

Mr. WICKER. So, you know, the cap and the American Specialty Agriculture Act is 500,000. Should it be higher? Maybe. You know, let's pass that and get started.

I know that if our country makes a commitment and puts the right statutory language in place, that we can build a program that works for farmers and is accountable for workers. And so, yeah, we can have a program that treats workers well.

Mr. ROSS. Thank you, Mr. Wicker. Mr. Chairman, I see my time is up.

Mr. LUNGREN. Yes. You will have a chance for a second go-around.

Mr. ROSS. Thank you.

Mr. LUNGREN. The gentlelady from Texas is recognized for 5 minutes.

Ms. JACKSON LEE. I thank the Chairman and the Ranking Member for courtesies extended. I just have comments and a quick question and then a pointed question to Mr. Goldstein, if I could.

I have been working on these issues. I am not from any of the States of the particular witnesses, but certainly have joined my colleagues on the importance of trying to address questions dealing with farm workers. And in addition, I have seen the plight of many of the farming communities, large farming communities as it relates to—during these harsh times, the loss of product, if you will, in the field.

And I consider America and want America to be the breadbasket of this world, and want to ensure that not only are the people who are in need here in this country eat at prices that they can afford, but that we are able to serve those around the world.

I am frustrated, however, because we are having this hearing, and many of you may have heard me over and over talk about comprehensive immigration reform, which would entail, of course, even though we have discussed the farm worker visa separately, it would discuss a whole comprehensive approach. When we talk about individual visas, you can imagine in this time of unemployment, no matter how much you may make the argument are Americans coming to pick product, there will be those who say you are taking jobs away from Americans.

Let me just ask, going straight across the board, if you can give me yes/noes, and then I will get to Mr. Goldstein, hopefully, within my time.

Mr. Black, does your State have housing, school requirements for migrant workers, farm workers?

Mr. BLACK. No, ma'am. We abide by the H-2A. The one that is mainly the focus is those 33 producers in Georgia, I believe, that are using H-2A. They abide by those requirements.

Ms. JACKSON LEE. Okay. So are you saying you don't provide housing? I said housing and schooling and for the children of migrant workers, housing for the families and schooling.

Mr. BLACK. Those are the individual responsibilities of those crews that come to work with those farmers, not when they are living in the community.

Ms. JACKSON LEE. All right. So it is the burden of the migrant workers. They provide their own housing.

Mr. BLACK. Yes.

Ms. JACKSON LEE. And are their children allowed to go to school in Georgia?

Mr. BLACK. Yes, ma'am. But what would be important to note here is whether or not the family is actually with them or not. Many of these workers are not there for that time.

Ms. JACKSON LEE. Okay. I have to move quickly. All right, I thank you. I have to move rather quickly.

And do you have any American workers in your field, U.S.?

Mr. BLACK. A very, very limited number.

Ms. JACKSON LEE. Do they come when you call them?

Mr. BLACK. I am sorry?

Ms. JACKSON LEE. Do they come when you call them?

Mr. BLACK. Well, I would say the best example I have of that, Congresswoman, is one of my growers in Tifton, Georgia, this past year, under his requirements of H-2A and hiring people through 50 percent of the contract period, processed 1,500 local workers. He was able to get eight of them to stay.

Ms. JACKSON LEE. Okay. Let me move quickly. Mr. Wenger, housing, schooling.

Mr. WENGER. Currently a lot of growers will provide housing. They see that as an attraction to get workers, but it is not required. And schooling, if they have children that are there, they go to the public schools.

Ms. JACKSON LEE. It is open to them.

Mr. WENGER. Yes.

Ms. JACKSON LEE. Mr. Wicker of North Carolina.

Mr. WICKER. I can only speak to our H-2A workers, and their families don't travel with them. The State Department won't issue them visas to travel with them.

Ms. JACKSON LEE. Okay. What about American workers? For Mr. Wenger and Mr. Wicker, just quick answers, please.

Mr. WENGER. It would be the same thing. You know, schooling is available through all the public—

Ms. JACKSON LEE. No, American workers working in your business.

Mr. WENGER. Yeah. I mean sometimes there is housing with it, but most of the time—

Ms. JACKSON LEE. American workers, U.S. jobs—people working in—

Mr. WENGER. Right.

Ms. JACKSON LEE. I am asking you, do they work in your business? Are they in the field picking product?

Mr. WENGER. I have some that went through the legalization process in 1986 that are now citizens.

Ms. JACKSON LEE. Okay. Mr. Wicker.

Mr. WICKER. Yes, ma'am. We do have U.S. workers working on our farms. They tend to be supervisors—

Ms. JACKSON LEE. Native U.S.—

Mr. WICKER. Yes, local workers, absolutely.

Ms. JACKSON LEE. All right. Mr. Goldstein, what are the problems that we should be looking at in this visa program? Thank you, gentlemen.

Mr. GOLDSTEIN. Well, the problems were actually discussed in a 1909 report by the Commission on Country Life of Teddy Roosevelt and reported again in the Commission on Migratory Labor, President Truman, which said the same thing that the 1909 report said and the same thing as the Commission on Agricultural Workers said in 1992.

We need to modernize labor practices, improve wages and working conditions to attract and retain farm workers, stop relying on the desperation abroad to bring in vulnerable workers on restricted nonimmigrant visas. We need to stop, end the discrimination in labor laws against farm workers.

Farm workers don't get overtime pay. Small farmers don't even have to pay the minimum wage. You know, we need to do things to stabilize the workforce and treat farm workers as human beings.

And we desperately need immigration reform because more than half the farm workers are undocumented. And we should give them the same opportunity that this Nation of immigrants has given to other people: to become immigrants, leading to citizenship, so that they have bargaining power with their employers and they earn the right to become citizens who can actually vote and have an impact on the policies that affect them.

Ms. JACKSON LEE. I thank the gentleman.

Mr. Chairman, could I just make a correction for the record, something that I said, so that I will not offend any population? I know that the definition of Native Americans are those who were defined to have been here when all of us came.

So my question was trying to establish whether U.S. citizens, other than those who have come from out of the country to work, were seeking these jobs. And so I think you answered, "Some are and some are not."

I thank the gentlemen, and I yield back.

Mr. LUNGREN. I thank the gentlelady. We will go in for a second round now and start off with 5 minutes.

Mr. Black, Mr. Wenger, Mr. Wicker, do you support programs so that you can exploit vulnerable workers?

Mr. BLACK. So that we could exploit?

Mr. LUNGREN. Exploit vulnerable workers. One of the criticisms expressed by Mr. Goldstein was that these various programs rely on vulnerable workers. And I am trying to ask your position on vulnerable workers and how your particular program does not rely on vulnerable workers. If that is the case, how do you empower your

workers in the program that you envision for us if you try and solve this problem?

Mr. BLACK. Well, Mr. Chairman, no, we do not support anything that exploits vulnerable workers.

Mr. LUNGREN. Well, how would they be empowered by the programs that you support?

Mr. BLACK. Well, I think it creates a lot of challenges and opportunities in the marketplace. I think that portability, some of the things you were discussing earlier, and being able to compete is an excellent step for us to take.

Mr. LUNGREN. Mr. Wenger.

Mr. WENGER. Yeah. The interesting thing is if you are worried about workers being taken advantage of, then give them a document so they can travel and vote with their legs where they want to go if they think they haven't been dealt with correctly. And you don't need to be a citizen, you just need to have a legal work document that empowers you.

In California we have a minimum wage. We pay overtime for agricultural work. And if you are really concerned about the plight of those that are living in the shadows and they are undocumented, then give them a legal document.

It was interesting last year, last summer, as we were going over to my son's graduation at Cal Poly, and we came by a peach field that was being harvested—and every single one of them at lunch break had their phones out and they were texting and they were calling on the phone and talking to people.

The people we have working in the fields today aren't somebody that is just stuck back in the shadows. Give them a legal documentation so they can come out of the shadows. As far as being a workforce, there should no reason that anybody should be taken advantage of.

Mr. LUNGREN. Mr. Wicker.

Mr. WICKER. No, we do not support a program that would allow exploitation.

Mr. LUNGREN. Well, then, how would you empower them? How are they empowered? What in your program allows them not to be exploited? Let me put it that way.

Mr. WICKER. They come through orientation and meet many, many, different worker rights groups, like we have the collective bargaining agreement at North Carolina Growers with the Farm Labor Organizing Committee. They meet migrant help providers, they meet English as a second language providers. They meet wage and hour investigators. There is a lot of oversight and accountability.

We give full disclosure. We keep records and provide wage statements, and we comply with the law. That is how you make sure that workers are not exploited.

Mr. LUNGREN. As you may know, I am kind of frustrated by this whole thing. I was here in the eighties. I was the Republican floor manager of Simpson-Mazzoli. I wrote a lot of what is now the H-2A program from the eighties, hoping that would work. I look now and see it didn't work. We haven't had the protection of the farm workers that I believe we should have if they had a legal status and they were out of the shadows of illegality. And so I am trying

to put the best program forward that I think can pass and that can actually work. But then I hear things like a cap.

Does anybody here know how many tourists we have coming into the United States per year? Fifty million. So what if I were here to advocate an arbitrary cap of 25 million? Doesn't relate to the flow, doesn't relate to the market, doesn't relate to anything except we in Congress decided we are going to have 25 million tourist visas here, even though the demand is 50 million.

It seems to me it makes more sense for us to be able to establish whatever program we established without a cap, but on an annual basis reflects the need as proven by the agriculture community, approved by the Department of Agriculture, and then reviewed on a yearly basis. If in fact it is a million, it is a million. People seem to be afraid of saying that.

But it seems to me it ought to be what the market tells us, and then be real with respect to that and give people the mobility in the marketplace, so that in fact they are not wards of a particular employer and find themselves back in their home country, when they have a legitimate gripe with the employer that they have, and an ability to join unions if they want to, not join unions, those sorts of things.

So I just try and deal in the reality of what is out there and, to me caps is like saying we know we have 50 million visitors that come here a year, but we, the Congress, are going to say 25 million. Why? Well, because we think 25 million.

Maybe we ought to see what the market is and deal with the market in that way. And whatever program we adopt, my hope in authoring my bill was to have flexibility. And with the legal status of the people involved in the program comes the protections of already existing law, which they can rely on.

The gentlelady from California.

Ms. LOFGREN. Well, just a couple of comments really, looking—I wasn't here in the Congress during the Reagan years, but I think the problem we often talk about wasn't in force. The real problem was that there was no mechanism for new people to come in. There was insufficient capacity to meet our actual economic needs, whether it was agriculture or whether it was nuclear physicists, you know. That was the problem. And we are still grappling with that problem.

My colleague from Texas mentioned the need for broad reform of the immigration laws. And before I was ever an elected official I used to be an immigration lawyer and I taught immigration law. And I can tell you that the system is a mess. I mean, it is a mess when it comes to agriculture, it is a mess when it comes to family law, it is a mess when it comes to starter visas for high-tech. I mean, it needs reform, and I hope that we can do that.

I sense it is not going to be in the remainder of this Congress, but it is an obligation that I hope we can address and it would be wonderful to do it on a bipartisan basis. I think, looking at this AG area, the idea—and I credit everybody trying to address this—but the idea that we could actually get—let's say we put a cap of 500,000, you wouldn't find 500,000 people to apply and to be interviewed in consular offices to get to American farms in time to avoid the destruction of American agriculture. So the idea of a cap really

is not even worth discussing because it won't work. There aren't enough people to apply.

We have to talk about how do we help the people who have worked in the fields to gain a legal status that allows them to continue to work, which we need them to do, but also allows them the dignity and right that they should have so that they can be treated fairly? I certainly would not suggest any of the individuals here are unfair, but that happens in the wide world that we live in and people need bargaining power and they need the capacity to stand up for themselves, which you can't do if you are living, you know, in the shadows, if that is how we want to describe it.

So I do understand that immigration is a subject that has become to my mind almost irrationally hot as a topic in America when we really should just be thinking of what is the right thing to do for our country.

And when I think about how our country has been strengthened by immigration, my grandfather was an immigrant. And looking at the whole country, we have been strengthened by the people who had enough get-up and go to get up and go and come to America and dream American dreams and become Americans with us. And that is really what this discussion should be about.

Instead of turning our back on our history, we should embrace it and make sure that it is part of our future. And the AG discussion is, I think, just a small part of that discussion.

Now, having said that, I want to talk about the economy because we have a tough economy now, and even though we have got a largely unauthorized workforce in the field, they are contributing to the economic wealth of the country.

And when I look at Commissioner Black, your testimony, you talk about a survey of respondents indicating that they had lost \$10 million due to Georgia's new immigration law. But if I am reading the report correctly—and you can just say yes or no—the survey was of 570 people who responded and reported their losses.

But we don't know whether all those people were even farmers. And my understanding is that there are 48,000 farms in Georgia. So the \$10 million reported lost from the 570 who responded to the survey is not all that was lost in Georgia if we have 48,000 farms; wouldn't that be correct?

Mr. BLACK. Yes, ma'am. And if I may explain the rationale, the methodology on the survey, rather than doing economic models and extrapolating, we wanted to ask direct farmers direct questions. Of our 800 respondents to the surveys, they were all farmers. Of the ones that answered the economic impact question, that was the 500 number you mentioned.

Ms. LOFGREN. I see.

Mr. BLACK. And we said 26 percent of those indicated losses that totaled over 10 million.

Ms. LOFGREN. I see.

Mr. BLACK. So that is roughly 125, 130 farmers. Then one can extrapolate however you might care.

Ms. LOFGREN. Right.

Mr. BLACK. But we know that was the direct impact to those producers and their response.

Ms. LOFGREN. Thank you. I know my time is up.

I will just note that the University of Georgia has done that analysis, and what they are saying is that the direct losses would be \$140 million in the spring of 2011 for just seven of the key berry and vegetable crops. And according to their study, the direct losses would lead to an additional \$250 million in indirect losses to Georgia's economy, for a total of \$391 million lost to the Georgia economy because of that immigration law they passed.

Thank you, Mr. Chairman. My time is up.

Mr. LUNGREN. Thank you. Mr. Ross.

Mr. ROSS. Thank you, Mr. Chairman.

I want to address the adverse effect of wage rates. I have growers back home, I have harvesters back home who utilize H-2A programs because they know that it is the right way to go about it. But yet their competitors in some instances realize that because the market drives wages more than anything, that they lose a tremendous competitive advantage and, in fact, the resulting outcome has been that you almost incentivize by way of an adverse effective wage rate the hiring of illegal workers.

I guess if we had, you know, fixed costs and fixed price, then an adverse effect of wage rate could be fixed into the formula for the growers' profits, but that is not the case. This is a market-driven enterprise.

And my question to the gentlemen, starting with Mr. Black, would be what is your comment on the adverse effect of wage rate?

Mr. BLACK. Congressman, it is a difficult issue. When you look in a packing shed that might have some minimum wage jobs, like sweeping the floor, and yet if you are forced, that is an economic pressure that you place on a job like that, having to abide by that adverse effect of wage.

That is why I really—when we talk about the whole issue of wages in agriculture, one of the things we have been—I am glad we have been able to do in our study is kind of explode the myth that we underpay people.

Mr. ROSS. Correct.

Mr. BLACK. You know, those that are doing the productive work.

But the facts are there are some minimum wage jobs still left and having flexibility to—

Mr. ROSS. Is important.

Mr. BLACK. Is important.

Mr. ROSS. Mr. Wenger.

Mr. WENGER. Yeah, I think anytime you set wages at a certain level, and if you can—if you don't have caps and you let people come in and meet that, for what they are doing, their responsibility level, they are going to find what that wage should be.

And as Mr. Black has said, there are going to be certain things that are going to have a higher wage rate because maybe the work is a little bit harder, maybe it is outside; whereas others you don't have the same responsibility, and so let the market determine. I mean, here we are, agriculture, I can't think of any group as a society that is more free market driven, and let's let our wages be free market driven.

Mr. ROSS. Mr. Wicker, how do you feel?

Mr. WICKER. Yeah, we are advocating a super minimum wage that is tied to the Federal or State minimum wage, whichever is

highest. And what we are looking for is a base hourly wage rate that is predictable.

And then I agree to some extent with these other gentlemen that the discretion of the grower, he is going to piece-rate systems, responsibilities, skill sets, you are going to pay more than that base hourly wage rate. But it is so expensive to farm, and what my members tell me consistently is this. All I know is that over the last 20 years, our wage rates have gone up on average 4.7 percent a year. I am scared to go to the bank and push all my chips into the middle of the table and sign the note to buy another farm or invest capital and infrastructure to try to grow more and do better. I am scared because I can't get my hands around where we are going with this labor issue. All I know is that it is going up and it is driving me out of business.

Mr. ROSS. Mr. Goldstein, don't you think that the adverse effect of wage rate incentivizes those who don't want to participate in the H-2A program to hire those that are illegal?

Mr. GOLDSTEIN. We think the adverse effect wage rate is actually too low. It is a market-based wage rate. It is based on a USDA survey of agricultural employers' wages. It includes wage rates paid to undocumented workers. And because undocumented workers are willing to work for less than U.S. citizens and legal immigrants, that survey is resulting in depressed wage rates. In addition—

Mr. ROSS. And yet my harvesters back home can't compete because there are too many being hired illegally at less than the average effective wage rate.

Mr. GOLDSTEIN. We are advocating for a complete change to that. We would like to legalize the undocumented workforce and have greater enforcement of farm workers' rights.

You know, and you have just heard the gentlemen, Mr. Wenger, saying some of these workers on piece rates are making \$30 an hour. I have just been talking to some growers who say, you know, that worker is making an average of about \$10 an hour, which is above the adverse effect wage rate in most States, but can't we find a way to work together on a solution, maybe pay them 15 bucks an hour plus some health insurance?

Mr. ROSS. And you think that is flexibility—Commissioner Black.

Mr. BLACK. Congressman, just one other point about AEW. One of our growers this year completed his work, completed his paperwork, turned the paperwork in. In the process, the AEW changed 1 penny in our State.

Did the bureaucratic system help him change that paperwork up front? Absolutely not. He went to the back of the line and started all over for the change of 1 penny on the AEW. And another good example of how that current system surely does create obstacles for people using the program.

Mr. ROSS. Thank you again, Mr. Chairman. My time is up.

Mr. LUNGREN. I thank the gentlemen, and I thank all of our Members here. I would like to thank our witnesses for their testimony today.

Without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses, which we will forward, and then ask you to respond as promptly

as possible in writing so that we could make your answers part of the record.

Without objection, all Members will have 5 legislative days to submit any additional materials for inclusion into the record.

With that, again, I would like to thank our witnesses and this hearing is adjourned.

[Whereupon, at 12:02 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Doc Hastings, a Representative in Congress from the State of Washington

I would like to thank Chairman Gallegly and Ranking Member Lofgren, as well as Chairman Smith and Ranking Member Conyers, for holding this important hearing on “Regional Perspectives of Agricultural Guestworker Programs.” Agriculture, and in particular specialty crops, is the backbone of the economy in Central Washington, and labor shortages are a constant threat to the economic vitality of our communities.

My district is a top-producing region of a diverse range of crops. Without Pacific Northwest growers, the United States would lose more than half of its apple and cherry production, more than 70 percent of its pear production, and more than 77 percent of its hops production. In addition to feeding the United States, many of these products are exported and contribute significantly to our agricultural trade surplus.

The crops I mention above share one thing in common—they are all labor-intensive. When I was younger, Americans traveled from state to state, picking these crops as they became ready for harvest before moving on to the next as the seasons progressed. However, that is no longer the case. In my home state, this past harvest was a clear example of the labor challenges faced by our growers.

Due to a cold growing season, the apple crop was unusually late this year. This caused many of the workers who traditionally pick Washington state apples to move on to other regions before the harvest begun—causing the worst worker shortage our region has faced in decades.

In September of last year—the height of the apple harvest—Washington state faced an unemployment rate of 9.1 percent. Growers put out signs, advertised on the radio, and worked with workforce training centers throughout the state to try and recruit American workers willing to pick fruit. Some offered wages as high as \$150 a day to workers with no experience. Despite these efforts, growers had only a handful of pickers show up—and they were often times gone within hours or days after realizing how difficult the work was.

The worker shortage caused as much as two percent of the crop to be left on the trees. Even more economically damaging, some of the fruit was harvested so late that it impacted the storage capability—substantially reducing growers’ rate of return.

Unfortunately, the current H-2A Program is not a viable alternative to meet the labor needs of our growers. In his opening statement, Chairman Smith mentions that there is no limit to the number of visas that can be issued as a part of the program. While that may be the case, this should not be misunderstood to mean that the program is meeting the labor needs of the agricultural community.

A number of growers in my district apply for workers through the H-2A program. More often than not, growers get only a small percentage of the workers they have requested. Equally damaging for growers of highly perishable products—which most labor-intensive crops are—are the delays that growers face in securing H-2A workers, who often don’t arrive until weeks or months after they are needed. Most of these crops have a short harvest period and these delays can be the difference between making money or breaking even, and suffering a loss on the year’s crop.

The H-2A program is also very difficult for growers to administer. The high cost, burdensome paperwork requirements, and ever-changing enforcement by the Department of Labor make it impossible for most small and medium-size growers to participate at all. The larger growers don't have just one staff member dedicated to meeting H-2A requirements—they have an entire team.

As it currently exists, the H-2A program denies American farmers the workers they need and invites chaos at our borders. I have long said that a workable and enforceable guestworker program that gives our growers and processors access to a stable legal workforce while ensuring that our government is in control of immigration is critical to our national security and our economy.

In my view, as Congress looks at ways to control our borders and crack down on illegal immigration, we must establish a new temporary guestworker program that provides employers with the legal and willing workforce they need in a simple, timely manner. This program must meet the growing labor needs of our farmers, and it must respect the seasonal nature of Central Washington's agriculture economy. Once Americans have passed over an agricultural job opening, employers should have a means to bring in a legal workforce.

Once again, I would like to thank Chairman Gallegly and Ranking Member Lofgren, as well as Chairman Smith and Ranking Member Conyers, for holding this important hearing. I stand ready to work with you to address this critical economic—and homeland security—issue.



**Letter from Diego Santiago Reyes Margarita, Farm Labor
Organizing Committee, AFL-CIO**



Farm
Labor
Organizing
Committee, AFL-CIO

1221 Broadway Street ♦ Toledo, Ohio 43609 ♦ Phone: 419-243-3456 ♦ Fax: 419-243-5655 ♦ www.floc.com
4354 US Hwy 117 Alt. S ♦ Dudley, NC 28333 ♦ Phone: 919-731-4433 ♦ Fax: 919-731-4441 ♦ www.floc.com

To Whom It May Concern:

Recently a report entitled "No Way to Treat a Guest" was published by Farmworker Justice that contained statements that might be misconstrued and therefore inaccurate from a Farm Labor Organizing Committee (FLOC) union member - Diego Reyes - regarding working conditions and housing facilities provided by the North Carolina Growers' Association (NCGA) as part of the H-2A agricultural guest workers program. It has always been important to FLOC that we represent all aspects of the farmworkers' experience in the United States as accurately as possible - without hyperbole or exaggeration, and we regret that this did not occur with this reported statement. Therefore we at FLOC feel that it is imperative that the record be clarified and corrected.

Although FLOC did not have oversight of conditions on NCGA farms before the CBA was signed in late 2004, Diego can confirm that he was always assigned to housing inspected and licensed by the State of North Carolina and he does not know of any other NCGA worker who was denied approved housing facilities. Diego can also confirm that he has never been asked to pay any bribe nor has he ever been extorted financially during his tenure as a contracted worker with NCGA and again he personally does not know of any fellow H-2A worker who was employed through NCGA who had to pay any bribes or was extorted financially. In summary, the statements attributed to Diego Reyes in the report "No way to Treat a Guest" were not accurate in reference to, and do not reflect his experiences regarding working conditions and facilities provided by the North Carolina Grower's Association (NCGA).

Diego has expressed to FLOC his desire to share his enthusiastic support and gratefulness for NCGA's commitment to providing guest workers with their labor rights and with working and housing conditions that are in compliance with all state and federal laws. H-2A as utilized by NCGA, is a program that has enabled Diego and thousands of others like him to come to the United States legally - with self dignity and respect for US laws. Diego remains grateful for the H-2A employment opportunity as it has allowed him to provide for a better life for himself and his family in Mexico.

FLOC and Diego do hereby submit this clarification for any and all statements attributed to Diego regarding the NC Growers Association in the report "No Way to Treat a Guest," in order for Farmworker Justice to amend, retract or otherwise make it available to many of our common supporters.

Diego Reyes
Diego Santiago Reyes-Margarita

2011/11/14
Date

**Prepared Statement of Robert L. Guenther, Senior Vice President,
Public Policy, United Fresh Produce Association**

Thank you Mr. Chairman, for providing the opportunity for the United Fresh Produce Association to provide comments regarding the Committee's hearing on regional perspectives on ag guestworker programs. As you and the other members of the Committee are aware, this is an issue of tremendous importance to the men and women of this country who provide all Americans with a bountiful supply of fresh fruits and vegetables.

United Fresh is the pre-eminent trade association for the produce industry in managing critical public policy issues; shaping legislative and regulatory action; providing scientific and technical leadership in food safety, quality assurance, nutrition and health; and developing education programs and business opportunities for members to better meet consumer needs for increased consumption of fresh produce. Founded in 1904, United Fresh represents the interests of member companies from small family businesses to the largest international corporations throughout the global fresh produce supply chain, including growers, shippers, fresh-cut processors, wholesalers, distributors, retailers, foodservice operators, industry suppliers and allied associations.

Our mission at United Fresh is to represent the entire industry, with all its diversity and array of views. While our members may differ on a variety of matters, we work with them to achieve consensus on the issues that most impact the various links in the fresh produce chain and advocate for policies that most enhance our members' ability to stay in business.

An issue on which we have consensus is with respect to the current state of the produce industry's difficulties in maintaining a stable workforce of skilled labor and how well the federal government's current guestworker program is able to meet that need overall. As you are well aware, of the nearly two million on the farm jobs in the produce industry currently are largely held by workers who were not born in this country. According to the Agriculture Coalition for Immigration Reform (ACIR), of which United Fresh is a member, more than 70 percent of all farm workers in the specialty crop industry do not have the proper work authorization in spite of the documentation they present to prospective employers. In spite of the repeated, persistent efforts of produce industry employers to hire domestic workers, our association members have told us about multiple situations in which they had very few domestic workers apply for the farm jobs available, and of those who did, in numerous instances those workers lasted on the job for only a few days and sometimes only a few hours. Given the number of jobs needed to be filled, along with the highly time-sensitive nature of harvesting fruits and vegetables and getting them to the marketplace, these kinds of experiences force producers to use the workers who apply for these jobs, are skilled and will stay on the job.

Our members make every effort required to recruit domestic workers. But as you know, the Department of Homeland Security administers the H-2A program, which has the mission of providing foreign-born workers for seasonal agriculture jobs. We have members who use the H-2A program and have received satisfactory results. However, we have also received substantial feedback from the members of our association who have tried to use the H-2A program and it did not meet their workforce needs.

For example, the National Council of Agriculture Employers (NCAE) conducted extensive research in 2010 into the experiences of their members with the H-2A program. Among their findings are that over half of survey respondents had to seek additional assistance from elected officials to make the H-2A program responsive to their needs. As a result of getting workers through H-2A too late in the process, reported losses of nearly \$320 million. So while the H-2A program has been useful for some growers, it clearly does not meet the needs of the majority of produce farm operators. It is estimated that less than 5 percent of farm labor comes from the H-2A program.

Last year, legislation was introduced and considered in this committee that would mandate the use of DHS's E-Verify system for all businesses nationwide. With the high number of foreign-born workers in the produce industry nationwide, mandatory use of E-Verify would disqualify a tremendous percentage of our workforce. That

situation, combined with a widespread lack of success in recruiting and retaining domestic workers and a current ag guestworker program that is riddled with flaws would lead to a disastrous situation for the produce industry. United Fresh is not opposed to the E-Verify system, but we do oppose mandating its use without a corresponding guestworker program that ensures a viable, skilled workforce. The fall-out in the state of Georgia from such a law, with labor shortages and economic losses in the millions of dollars, provides a stark illustration of the impact of mandatory E-Verify only.

We believe that any bill to mandate E-Verify must be accompanied by guestworker program that address the workers who are currently in the U.S. with as little disruption to the industry as possible; it must be flexible and market-oriented and acknowledges the nature and flow of agriculture field work, as well as the skill level involved; and should address future workforce needs. We are ready and willing to work with this Committee and others in Congress on how best to achieve these principles.

Improving the ability of the produce industry to attract and retain a legal, skilled workforce is in the best interests of legally employed Americans. ACIR estimates for every farm job, there are three others downstream dependent on the jobs done on the farm. Jobs in the produce chain that are not on the farm are much more likely to be held by domestic workers. Maintaining an effective, efficient workforce in the field helps retain hundreds of thousands of other jobs. At a time when U.S. unemployment is still close to double digits, undermining U.S. jobs is the last thing Congress should be doing.

Furthermore, legislation that would remove most of the produce industry's workforce without a proposal to fill that void, makes this country more vulnerable to food dependence. American producers are already competing with increased imports from countries such as China and Peru. According to the Congressional Research Service in 2008, a gap of \$7 billion existed between U.S. fruit and vegetable exports and imports. U.S. producers can narrow that gap, but not without a stable workforce.

While mandating E-Verify may seem like a simple solution to the problem of ensuring a legal workforce in agriculture and other industries, the application of this approach on its own would have dire consequences for our members. We appreciate the efforts of Chairman Smith, Congressman Lungren, and Congressman Jack Kingston and several others to address the needs of the agriculture sector. While we believe there is still much that needs to be done to achieve a workable solution, it is helpful to see the acknowledgement of agriculture's unique needs. We look forward to working with our industry partners and with Members of Congress and their staffs to bring about an effective, efficient means for ensuring a stable, legal agriculture workforce.



Brochure submitted by the National Council of
Agricultural Employers (NCAE)



NATIONAL
COUNCIL OF
AGRICULTURAL
EMPLOYERS



KEY MESSAGES FROM NCAE'S 2010 SURVEY OF H-2A EMPLOYERS

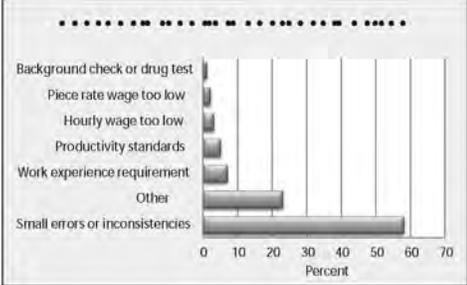
"too administratively burdensome or costly."



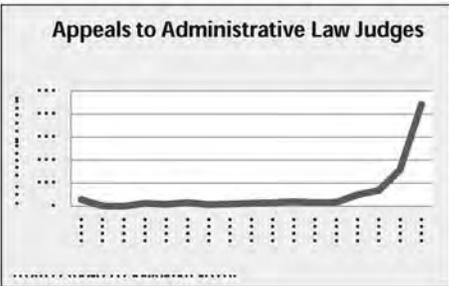


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National Council of Agricultural Employers (NCAE) is the ONLY national association focusing exclusively on Agricultural Labor issues from the Agricultural Employer's viewpoint. NCAE represents Agricultural Employer interests before Congress and Regulatory/Administrative bodies such as the Departments of Labor, Homeland Security, Agriculture, the Occupational Safety and Health Administration, and the Environmental Protection Agency. NCAE Members are growers, associations, and others whose business interests revolve around labor intensive agriculture.



—Frank Gasperini, Executive Vice President, National Council of Agricultural Employers.



**Report submitted by Gary W. Black, Commissioner,
Georgia Department of Agriculture**

**GEORGIA DEPARTMENT OF
AGRICULTURE**

Gary W. Black, Commissioner



Report on Agriculture Labor

As Required by House Bill 87

January 2012

America's well-documented illegal immigration problem has reached a fevered pitch. State leaders, including our own, have encouraged, urged and cajoled Administrations and Congresses for two generations in search of a real answer. Some argue that illegal immigrants drain resources that should be dedicated solely to citizens, i.e. jobs, education, healthcare. Others insist that illegal immigrants are so woven into society that their absence would cripple some areas of skilled labor and drastically reduce tax revenues which they return without any hope of redemption, i.e. federal and state income tax and social security. As the debate continues, a rightfully placed federal solution lingers on the horizon much like a summer afternoon cloud bank - lightning, thunder, wind, but no rain. Drought-parched, duty bound state elected officials across the country have moved to enact sovereign legislation to protect their citizens and treasury. It was really only a matter of time.

It is both fitting and convenient to turn to agriculture when launching a discussion on this issue. Non-resident immigrant laborers, those of legal and illegal status, harvest crops, milk cows, gin cotton and maintain landscapes. Georgia farmers and agribusiness employers widely attribute the need for these workers due to the fact that local citizens do not generally possess or care to develop the specialized skills associated with agriculture and, further do not regularly demonstrate the work ethic necessary to meet the productivity requirements of the farm business. It is important to note that existing guest worker programs provide legal paths for workers, but the paths are fraught with far too many business-choking idiosyncrasies – red tape problems that will be highlighted by this study.

Finding documented workers is relatively easy. In recent years, “authentic-looking” documents served as the ticket to legal employment. Advancement in e-verify technology and adoption of mandatory use laws have changed the ground rules completely. Producers must now adjust to what “legal” means in view of the legislation. The only answer lies in the prospects of a 21st century federal guest worker program that meets the needs of all types of agricultural enterprises. The integrity of such a program must be protected and accompanied by an unprecedented commitment to strict enforcement by appropriate authorities. We cannot afford to have this discussion again in 20 years.

I thank Members of the Georgia General Assembly for the confidence they expressed last spring in directing the Georgia Department of Agriculture to conduct this study. I thank the committed team of professionals at the Department who conducted the town hall meetings, managed the survey instruments and painstakingly struck the keyboards to produce this report from facts articulated by a wide range of stakeholders. I extend my gratitude to Attorney General Sam Olens, Labor Commissioner Mark Butler, and Corrections Commissioner Brian Owens for their valuable contributions and cooperation during this project. Finally, I thank the people of Georgia – farmers, business owners, parents, concerned citizens all – who contributed their honest opinions and direct observations which provided the backbone for the study. My hope is that together we can glean from the pages of the study and ongoing dialogue ideas that will propel our nation towards a solution.

Respectfully,



Gary W. Black
Commissioner of Agriculture
State of Georgia

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I. Background

The Georgia Department of Agriculture (“the Department”) was charged with conducting a study of the labor needs of agriculture in accordance with House Bill 87 and signed into law by Governor Nathan Deal on May 13, 2011 (See Appendix 1: HB 87 - Illegal Immigration Reform and Enforcement Act of 2011).

Additionally, the Department was instructed to create a written report of its findings and recommendations to be given to the Governor, the President of the Senate, and the Speaker of the House, by January 1, 2012.

Fulfilling the requirements of HB87, the Department conducted various activities described below resulting in the findings discussed throughout this report.

1. The Department was “directed to conduct a study of the conditions, needs, issues, and problems mentioned above or related thereto” and “consider the current and future impact of immigration on the state agricultural industry.”
 - a. To meet these objectives, the Department conducted an agricultural labor survey during the months of September through December. With the help of staff from the University of Georgia and the United States Department of Agriculture (“USDA”), the Department developed survey questions which would give a comprehensive study of the status of labor in the agricultural sector of Georgia. The survey was distributed to a random sample of individuals throughout the agriculture industry.
 - b. Commissioner Gary W. Black and Department staff traveled throughout the state holding meetings with producers both individually and collectively to gather qualitative data to fully comprehend the magnitude of the labor issues impacting agriculture. The Commissioner, Attorney General Ollens, and legislative leaders visited farms in Moultrie and Vidalia in early July. While the end of the 2011 spring and early summer harvest was closing for the farms visited, producers shared their labor experiences for the year’s crops and explained their plans for the 2012 planting season. Additional meetings were held with various commodity groups and agricultural industry associations. Producers were encouraged to disclose specific information to appropriately account for the impact of the legislation.
2. The Department was also charged with “specifically address[ing] the need for reform of the federal H-2A program and provid[ing] recommendations for such federal reform.”
 - a. Commissioner Gary W. Black opened a dialogue between the Department and Georgia’s Congressional delegation in February, 2011 concerning the potential labor challenges for the coming harvest season.
 - b. Commissioner Black and Department staff attended town hall meetings through the summer, hosted by members of Georgia’s Congressional delegation regarding H-2A reform.

- c. Commissioner Black testified on October 4, 2011 before the U.S. Senate Judiciary Subcommittee on Immigration, Refugees and Border Security. He expressed the need for the federal government to provide a 21st century guest worker program for agriculture (See Appendix 2: Commissioner Gary W. Black Written Testimony).
3. In addition, the department was to “recommend changes needed in Georgia to provide for improvements in the H-2A process, (to) identify where such action may be taken by the state, and (to) provide a report evaluating the legal and economic feasibility of implementing a state guest worker program.”
 - a. The Department explored the concept of creating a state guest worker program by soliciting feedback from agricultural stakeholders and Attorney General Olens on the viability of such a program.
 - b. The Department worked in conjunction with the Governor’s Office and the Department of Corrections (“DOC”) to develop and conduct a pilot program to allow farmers to utilize willing probationers to assist with crop harvest.
 - c. Additionally, the Department researched other states’ activities and programs regarding immigration, H-2A reform, and agriculture labor issues.

II. Agriculture Status Report: Georgia Agriculture & Agribusiness

Georgia's agriculture industry continues to shine as the state's top economic driver. Georgia's farmers and agribusinesses contributed \$68 billion to Georgia's \$786.5 billion economy in 2009 with the wholesale value of farm products exceeding \$11 billion.

Georgia has almost 48,000 farms consisting of over 10 million acres. The average Georgia farm is approximately 210 acres. While extremely important, farmers make up only a small fraction of the thousands of Georgians who earn a living in agriculture and agribusiness. Georgia's agriculture industry is the primary source of employment in the state with one in seven employed in agriculture, forestry or a related field. Such fields include processing, shipping, retail, agricultural dealers and suppliers, and tourism.

Agriculture is a vital economic engine in most Georgia counties with 143 of 159 counties having in excess of \$10 million in farm gate value and 74 counties in excess of \$50 million in farm gate value. County by county, shining examples of agricultural production can be found throughout Georgia. In 2009, the following counties led in the production of Georgia commodities:

| | | |
|-----------|-------------------------|---------------|
| Mitchell: | Row & Forage Crops | \$79 million |
| Bacon: | Fruits & Nuts | \$54 million |
| Colquitt: | Vegetables | \$130 million |
| Grady: | Ornamental Horticulture | \$68 million |
| Clinch: | Forestry & Products | \$17 million |
| Macon: | Livestock & Aquaculture | \$39 million |
| Franklin: | Poultry & Eggs | \$341 million |

Nationally, Georgia ranks first in the U.S. in the production of peanuts, pecans, rye, eggs and broilers.

In addition to traditional or production agriculture, Georgia has a vibrant urban agriculture/ green industry. Green industry agribusinesses include nursery growers, greenhouse producers, sod growers, landscape contractors, landscape and lawn maintenance, landscape architects, irrigation contractors, retail garden centers, floriculturists, golf course and athletic field construction and maintenance.

Economically, Georgia's urban agriculture industry is significant. The UGA Center for Urban Agriculture estimates urban agriculture businesses account for \$8 billion in sales annually, and these approximately 7,000 companies employ more than 80,000 workers.

While providing citizens across Georgia, U.S. and the globe a safe and wholesome food supply, farmers continue to face tremendous struggles. High energy prices have severely affected several staples of agricultural production – fuel for equipment, propane and natural gas for heating poultry houses, and higher fertilizer prices.

Aside from energy prices, the global demand for nitrogen, phosphorous and potassium remains strong resulting in high fertilizer prices. Drought conditions have returned and certainly, one cannot overlook the staggering impact of the current economic recession on farmers and others involved in agribusiness.

Despite these challenges, Georgia's farmers and agribusiness continue to provide citizens with the food and fiber needed to go about their lives. Agriculture is truly an economic engine that can help Georgia get back to the prosperity sought by all.

III. Agriculture Workforce in Georgia: A Study to Examine Employee Availability

A. Abstract

In 2011, the Department conducted a survey to examine the impact of immigration reform on agriculture in Georgia. A 36 question survey was designed and sent to over 4,000 agriculture producers, processors and other individuals in professions related to agriculture. Over 800 responses were collected and the major findings of the survey are as follows:

1. Survey respondents represented 138 Georgia counties and reported a variety of incomes and commodities.
2. Survey respondents reported hiring fewer fulltime and part-time workers in 2011.
3. Survey respondents reported paying their workers at or above the federal minimum wage.
4. Survey respondents reported having a lack of familiarity and negative perception of the Federal H-2A program and a low level of satisfaction with the Georgia Department of Labor for recruiting workers. Respondents strongly prefer hiring local workers, and they prefer using word of mouth to recruit and hire workers.
5. Survey respondents who reported economic losses due to the lack of available workers were producers of labor intensive crops.

Initial findings indicate that immigration reform is having an impact on agriculture, but results are inconclusive. As a result, additional research should be repeated in 2012 to determine if immigration reform is having an impact on the agriculture industry.

B. Introduction

This study explores trends regarding the availability of agricultural workers in Georgia. To obtain feedback on this issue, a 36 question survey was developed and administered to individuals engaged in various agricultural related industries in Georgia. Contact information for the study participants was obtained from various commodity commissions, professional associations and departmental information. These participants represent a random sample of agricultural producers, processors, agricultural service industries, and agricultural marketing functions. The survey was developed and administered online and was also mailed to potential participants. As of December 8, 2011, a total of 813 responses (19.2 percent) representing 138 Georgia counties were received. The survey results were analyzed with descriptive statistics and the findings are being reported as part of the requirements under HB87. Specifically, the survey looked to determine:

1. The impact of immigration reform on agriculture in Georgia

2. Recommendations regarding future immigration reform issues as they relate to agriculture in Georgia

C. Methods

The survey was developed according to recommendations on constructing a summated scale as described by Spector (1992). After questions were developed, the survey was reviewed and modified by researchers at the University of Georgia, the USDA and employees within the Department. The survey was then pilot-tested and modified again to ensure validity. Surveys were either completed on-line or on paper copies that were returned to the Department in self-addressed stamped envelopes. After the initial contact, follow up requests for participation were e-mailed and mailed to the study participants during a four week period as suggested by Dillman (2000). After a period of approximately two months, the responses were collected and the researchers closed the survey. Survey data was collected and entered online and descriptive statistics were obtained for each question within the survey.

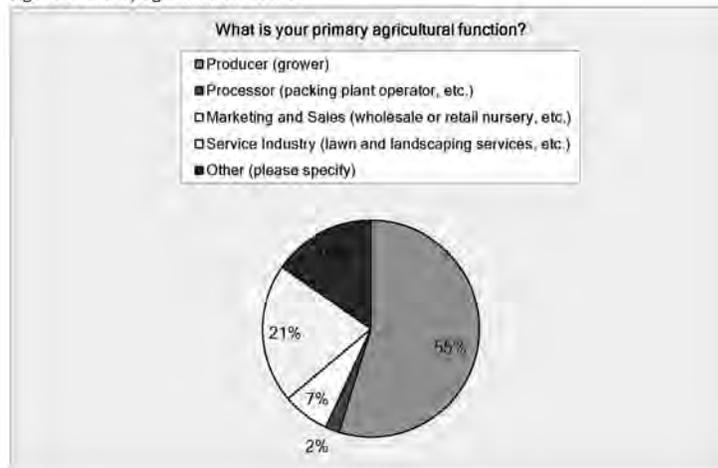
D. Survey Results

(All additional survey information is compiled in Appendix 3)

Question 1: What is your primary agricultural function?

Respondents were asked to identify the area of agriculture that represents their business operation. Over half of the 811 respondents (57.0%) identified themselves as agricultural producers. Another 22.5 percent of respondents identified their agricultural function as being in the service industry (lawn and landscaping services, etc.) An additional 8.9 percent selected other agricultural related functions such as golf course superintendents, retail and wholesale agricultural dealers, cotton ginners, and brokers/buyers. An additional 8.8 percent indicated they were associated with the marketing and sales of agricultural commodities and 2.8 percent are agricultural processors.

Figure 1. Primary Agricultural Function



Question 2: Please indicate the annual gross income of your harvest/operation.

Question 2 examined the gross income of the various operations of respondents. For this question, a majority of respondents indicated that the annual gross income of their operation exceeded \$1,000,000 annually (30.0 percent). An additional 15.9 percent indicated that their operation grossed between \$500,000 and \$1,000,000 annually. Also, 14 percent stated that their annual gross income was between \$250,000 and \$500,000. Additional responses can be seen below in Table 1.

Table 1. Annual Gross Income of Harvest/Operation.

| Please indicate the annual gross income of your harvest/operation | | |
|--|-------------------------|-----------------------|
| Answer Options | Response Percent | Response Count |
| Less than \$10,000 | 8.8% | 70 |
| \$10,000-\$49,999 | 11.3% | 89 |
| \$50,000-\$99,999 | 9.0% | 71 |
| \$100,000-\$249,999 | 11.0% | 87 |
| \$250,000-\$499,999 | 14.0% | 111 |
| \$500,000-\$1,000,000 | 15.9% | 126 |
| More than \$1,000,000 | 30.0% | 237 |

Question 3: Please rank each commodity that you produce or process indicating their level of importance.

For this question, respondents were given the opportunity to identify the commodities they produce or process. The survey listed 42 commodities grown in Georgia and also listed an "other" category to capture specialty crops not commonly grown in Georgia. Additionally, respondents were asked to rank each commodity they grew based on its level of importance. A total of 694 respondents gave 1902 responses to the 42 different commodities listed in this question. The top 5 responses are listed in table 2 below. These responses are comparable to USDA Economic Research Service data for Georgia which lists cotton, peanuts and nursery/greenhouse operations as top 5 commodities. The entire list of commodities and responses can be reviewed in Appendix A.

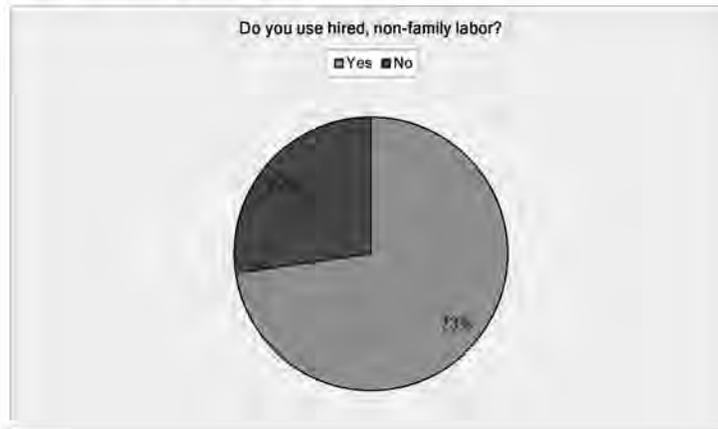
Table 2. Top responses to Commodity Rankings

| Please rank each commodity that you produce or process indicating their level of importance | | |
|--|-------------------------|-----------------------|
| Commodities | Response Percent | Response Count |
| Cotton | 29.5% | 205 |
| Peanuts | 29.4% | 204 |
| Ornamentals | 28.8% | 200 |
| Corn | 21.8% | 151 |
| Beef | 15.4% | 107 |

Question 5: Do you use hired, non-family labor?

This question was asked to determine how many of the survey participants actually use non-family farm labor. For this question, 591 of the 813 responses (72.7 percent) indicated that they do hire non-family labor to assist with their operation. The 222 respondents (27.3 percent) who answered no to this question were excluded from the remainder of the survey which has questions that focus solely on hired non-family labor.

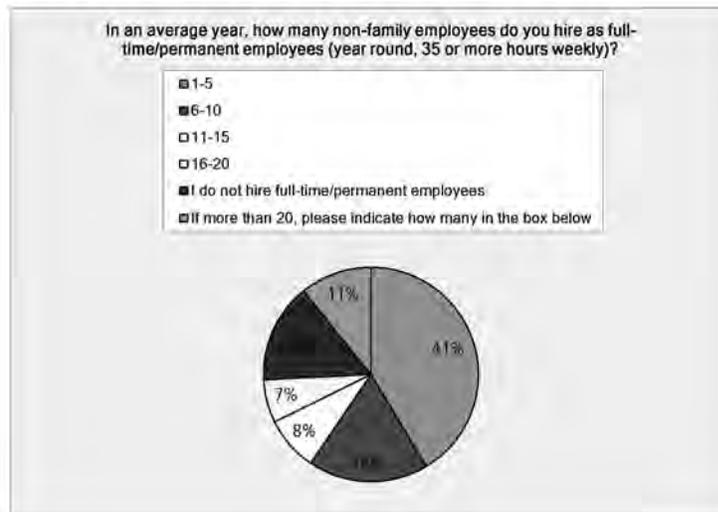
Figure 3. Percent using hired, non-family labor



Question 6: In an average year, how many non-family employees do you hire as full-time/permanent employees (year round, 35 or more hours weekly)?

Question 6 asked the respondents to report the number of full-time and/or permanent employees they employ annually. A total of 585 responses were collected with most respondents indicating that they employ between 1 and 5 full-time/permanent employees at their operation (41.4 percent). An additional 18.1 percent hire 6-10 full-time/permanent employees. Exactly 15 percent of respondents indicated that they do not hire full-time/permanent employees and 10.8 percent reported hiring more than 20 full-time/permanent workers at their operation. Among these respondents, 29 or 4.9 percent reported hiring 50 or more full-time/permanent workers. Figure 4 outlines the responses and Appendix C provides a complete list of all responses.

Figure 4. Number of and Percent of Employees Hired as Full-Time



Question 7: Relative to the last 5 years, is your number of non-family full-time/permanent employees this year:

Question 7 was an open-ended question that asked respondents to compare their current full-time/permanent staffing levels with those from the previous 5 years. The specific response choices and the response selections from survey participants are summarized in Table 3 below.

Table 3. Number of non-family full-time/permanent employees this year

| Relative to the last 5 years, is your number of non-family full-time/permanent employees this year: | | |
|---|------------------|----------------|
| Answer Options | Response Percent | Response Count |
| about the same as the average from the last 5 years | 52.3% | 299 |
| greater than the average from the last 5 years | 12.9% | 74 |
| less than the average from the last 5 years | 21.0% | 120 |
| I don't hire full-time/permanent employees | 13.8% | 79 |

For this question, a majority of the respondents (52.3 percent) said that their current number of non-family full-time/permanent employees was about the same as it was over the last 5 years. An additional 21 percent said they had fewer workers today when compared to the last 5 years and almost 13 percent indicated that they have more workers today when compared to the last 5 years.

Question 8

If you indicated greater or fewer employees in the previous question, please briefly describe why you have greater or fewer employees for this year.

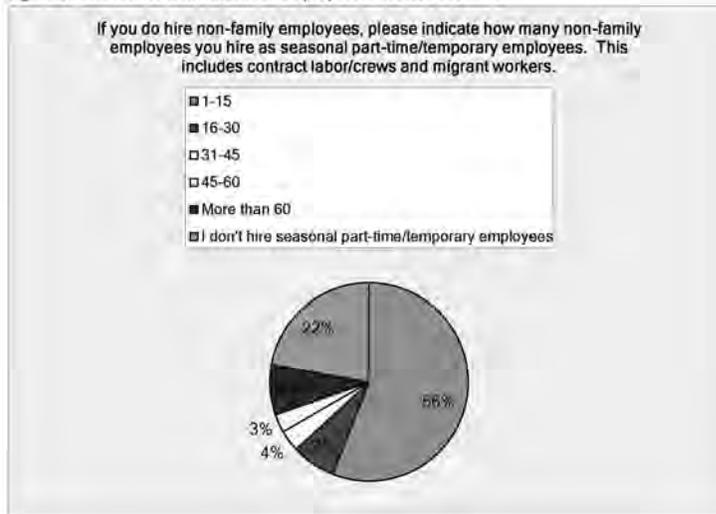
This question was asked to help determine why respondents in question 7 have a larger or smaller number of full-time/permanent employees now as compared to the last 5 years. A total of 321 responses were collected for this question. A complete list of the responses is provided in Appendix D. Major themes for the listing of fewer employees seen in Appendix D include: poor economy, loss of revenue, and lack of available workers (due to immigration law, fewer workers willing to do work, etc.). Reasons cited for an increase included: farm expansion, growth of our business, and an increase in sales/demand.

Question 9

If you do hire non-family employees, please indicate how many non-family employees you hire as seasonal part-time/temporary employees.

This question asked survey participants to indicate how many part-time/seasonal or temporary workers they hire on average. Results show that 56 percent hire between 1 and 15 part-time/temporary workers and an additional 8.2 percent hire more than 60 part-time/temporary workers. Additionally, 22.2 percent do not hire part-time or seasonal workers. Figure 5 provides a complete list of responses for question 9.

Figure 5. Number of and Percent of Employees Hired as Part-Time



Question 10

For each amount of time listed below, please indicate the number of non-family seasonal, part-time workers you typically hire in an average growing season.

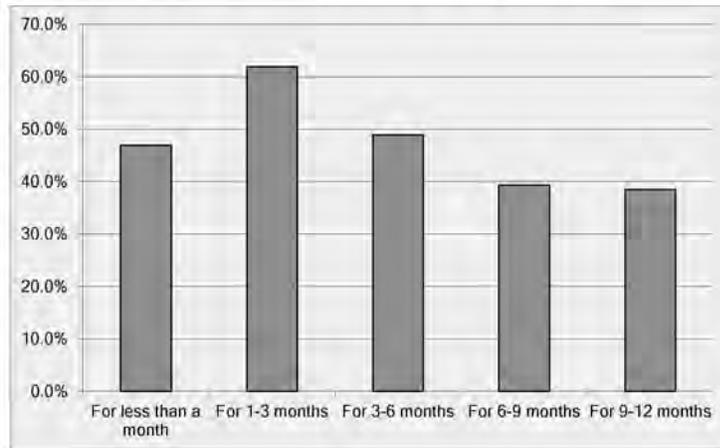
For this question, respondents were asked to report an answer for each choice that fit their hiring patterns with regards to part-time workers. Respondents were also asked to indicate the number of employees they typically hire for each employment time interval listed. For example, a respondent may hire 8 workers for a period of 1 to 3 months and may also hire an additional 11 workers for less than a month. If this was the case, the respondents reported so in each area. A majority of the respondents (61.9 percent) indicated that they use 5230 part-time workers for a period of 1 to 3 months. This 1 to 3 month time period of employment was the highest response rate for both categories (period of hire and number of employees hired). An additional 48.9 percent reported using 2591 part-time workers for a period of 3-6 months and 39.3 percent reported using 2270 part-time workers for a period of 6 to 9 months. An additional 46.9 percent use 906 workers for less than one month and 38.5 percent of survey respondents use 751 part-time workers for a period of 9 to 12 months.

Table 4. By Time, the Number of Non-Family Seasonal, Part-Time Workers Hired in an Average Growing Season.

For each amount of time listed below, please indicate the number of non-family seasonal, part-time workers you typically hire in an average growing season

| Answer Options | Response Percent and Number | Total Workers Employed |
|-----------------------|------------------------------------|-------------------------------|
| For less than a month | 46.9% (238) | 906 |
| For 1-3 months | 61.9% (314) | 5230 |
| For 3-6 months | 48.9% (248) | 2591 |
| For 6-9 months | 39.3% (199) | 2270 |
| For 9-12 months | 38.5% (195) | 751 |

Figure 6. By Time, the Number of Non-Family Seasonal, Part-Time Workers Hired



Question 11

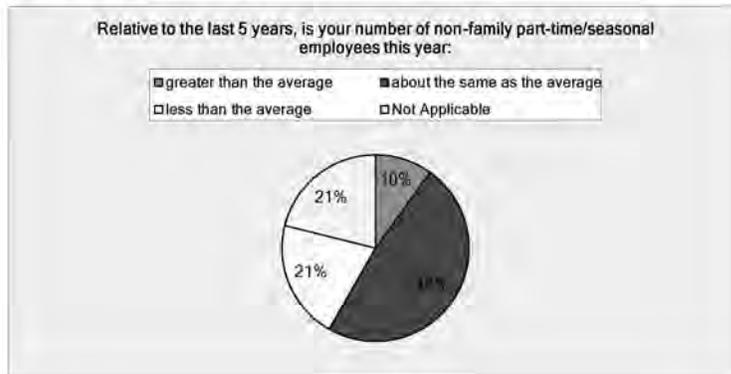
Relative to the last 5 years, is your number of non-family part-time/seasonal employees this year:

Question 11, like question 7 earlier, is an open-ended question that asks respondents to compare their current part-time/seasonal staffing levels with those from the previous 5 years. The specific response choices and the response selections from survey participants can be seen in Table 4 below. For this question, 48.3 percent of the respondents reported that their current staffing levels were about the same as the average from the last five years. A total of 20.6 percent reported having fewer employees when compared to the past 5 years and almost 10 percent (9.9 percent) indicated that they had more employees than the average of the last 5 years.

Table 5. Number of non-family part-time/seasonal employees this year.

| Relative to the last 5 years, is your number of non-family part-time/seasonal employees this year: | | |
|--|------------------|----------------|
| Answer Options | Response Percent | Response Count |
| greater than the average | 9.9% | 59 |
| about the same as the average | 48.3% | 288 |
| less than the average | 20.6% | 123 |
| Not Applicable | 21.1% | 126 |

Figure 7. Number of Non-Family Part-Time/Seasonal Employees



Question 12

If you indicated greater or less than average for the last question, please briefly indicate why you have greater or less employees for this year.

Again, question 12 is similar to question 8 and was asked to help determine why respondents in question 11 have a larger or smaller number of part-time/temporary employees now as compared to the last 5 years. A total of 338 responses were collected for this question. A complete list of the responses is provided in Appendix E. Major themes for the listing of fewer employees seen in Appendix E include: declining or poor economy, loss of revenue and demand, poor worker retention, etc. Reasons cited for an increase included: farm/company expansion and growth, an increase in sales/demand, etc.

Question 13

Please indicate the number of non-family full-time/permanent workers that are paid in each range listed below

This is a two part question that asked respondents to report the wages they offer full-time/permanent employees and the number of full-time/permanent employees being paid this wage.

For this question, 558 respondents reported paying wages to full-time/permanent workers in a variety of salary ranges. A majority of respondents (69.4 percent) indicated that they pay 2150 full-time/permanent employees between \$9.00 to \$11.00 per hour. An additional 64.9 percent of respondents reported paying 1722 workers between \$11.01 to \$15.00 per hour. Just over 60 percent (60.2percent) of respondents reported paying 1633 workers between \$7.25 and \$8.99 per hour. Finally, 48.6 percent of respondents said they pay 954 workers more than \$15.00 per hour and an additional 19.2 percent said they pay workers based on production or outputs.

Figure 8. The Number of Non-Family, Full-Time/Permanent Workers Paid in Each Range



Table 6. Number of Non-Family Full-Time/Permanent Workers paid in Each Range

Please indicate the number of non-family full-time/permanent workers that are paid in each range listed below

| Answer Options | Response Percent | Total Workers for each Wage Range |
|--|------------------|-----------------------------------|
| \$7.25-8.99 | 60.2% (336) | 1633 |
| \$9.00-11.00 | 69.4% (387) | 2150 |
| \$11.01-15.00 | 64.9% (362) | 1722 |
| More than \$15.00 | 48.6% (271) | 954 |
| Based on Production (please briefly explain) | 19.2% (107) | 310 |
| Not Applicable | 13.8% (77) | NA |

Question 14

Please indicate the number of non-family, part-time/temporary workers that are paid in each range listed below.

This also is a two part question that asked respondents to report the wages they offer part-time/temporary employees and the number of part-time/temporary employees being paid this wage.

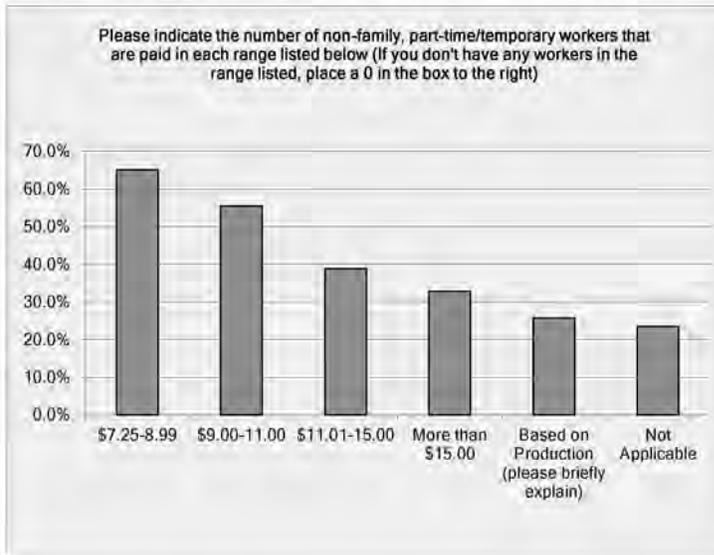
For this question, 533 respondents reported paying wages to part-time/temporary workers in a variety of salary ranges. A majority of respondents (65.1 percent) indicated that they 3699 pay part-time/temporary employees between \$7.25 to \$8.99 per hour. An additional 55.5 percent of respondents reported paying 2652 workers between \$9.00 to \$11.00 per hour and 38.8 percent of respondents reported paying 773 workers between \$11.01 and \$15.00 per hour. Finally, 32.8 percent of respondents said they pay 177 workers more than \$15.00 per hour and an additional 25.7 percent said they pay 1451 workers based on production or outputs.

Table 7. Number of Non-Family, Part-Time/Temporary Workers paid in Each Range

Please indicate the number of non-family, part-time/temporary workers that are paid in each range listed below

| Answer Options | Response Percent | Response Count |
|--|-------------------------|-----------------------|
| \$7.25-8.99 | 65.1% | 347 |
| \$9.00-11.00 | 55.5% | 296 |
| \$11.01-15.00 | 38.8% | 207 |
| More than \$15.00 | 32.8% | 175 |
| Based on Production (please briefly explain) | 25.7% | 137 |
| Not Applicable | 23.5% | 125 |

Figure 9. The Number of Non-Family, Part-Time/Temporary Workers Paid in Each Range



Question 15

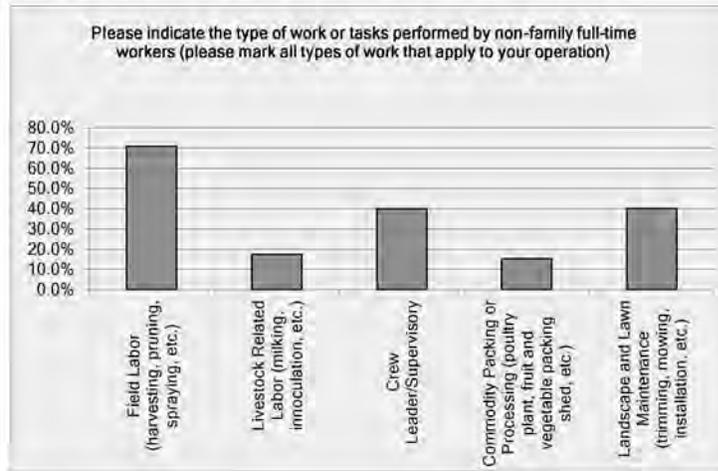
Please indicate the type of work or tasks performed by non-family full-time workers

This survey question asked participants to list all the types of work tasks performed by full-time workers on their operation. Respondents were allowed to check multiple tasks that applied to their agricultural function. A majority of the respondents (70.9 percent) listed field labor such as harvesting, pruning, spraying and other tasks. An additional 40 percent listed the crew leader and supervisory task and 40.2 percent listed landscaping and lawn maintenance as a type of work performed by full-time workers. Livestock (17.5 percent) and commodity packing and processing related labor (15.2 percent) were also listed as being tasks performed by full-time workers.

Table 8. Type of Work or Tasks Performed by Non-Family Full-Time Workers

| Please indicate the type of work or tasks performed by non-family full-time workers | | |
|--|-------------------------|-----------------------|
| Answer Options | Response Percent | Response Count |
| Field Labor (harvesting, pruning, spraying, etc.) | 70.9% | 312 |
| Livestock Related Labor (milking, inoculation, etc.) | 17.5% | 77 |
| Crew Leader/Supervisory | 40.0% | 176 |
| Commodity Packing or Processing (poultry plant, fruit and vegetable packing shed, etc.) | 15.2% | 67 |
| Landscape and Lawn Maintenance (trimming, mowing, installation, etc.) | 40.2% | 177 |
| Other (please specify) | 5.9% | 26 |

Figure 10. The Type of Work or Tasks Performed by Non-Family Full-Time Workers



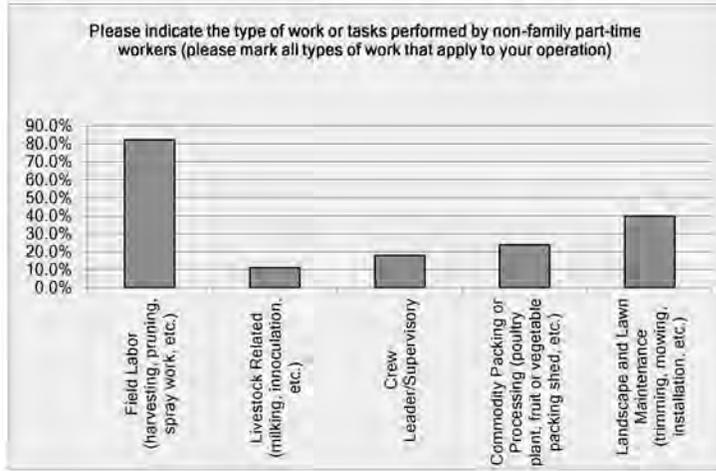
Question 16**Please indicate the type of work or tasks performed by non-family part-time workers**

As with question 15, this survey question asked participants to list all the types of work tasks performed by part-time workers on their operation. Respondents were again allowed to check multiple tasks that applied to their agricultural function. Again, a majority of the respondents (82.2 percent) listed field labor as a primary task performed by part-time workers at their operation. An additional 39.9 percent listed landscaping and lawn maintenance and another 23.9 percent listed commodity packing or processing as a task performed by part-time labor. Other responses included accounting/bookkeeping tasks, trucking/logistics, sales and maintenance.

Table 9. Type of Work or Tasks Performed by Non-Family Part-Time Workers

| Please indicate the type of work or tasks performed by non-family part-time workers | | |
|--|-------------------------|-----------------------|
| Answer Options | Response Percent | Response Count |
| Field Labor (harvesting, pruning, spray work, etc.) | 82.2% | 313 |
| Livestock Related (milking, inoculation, etc.) | 11.0% | 42 |
| Crew Leader/Supervisory | 17.8% | 68 |
| Commodity Packing or Processing (poultry plant, fruit or vegetable packing shed, etc.) | 23.9% | 91 |
| Landscape and Lawn Maintenance (trimming, mowing, installation, etc.) | 39.9% | 152 |
| Other (please specify) | 5% | 19 |

Figure 11. The Type of Work or Tasks Performed by Non-Family Part-Time Workers



Question 17

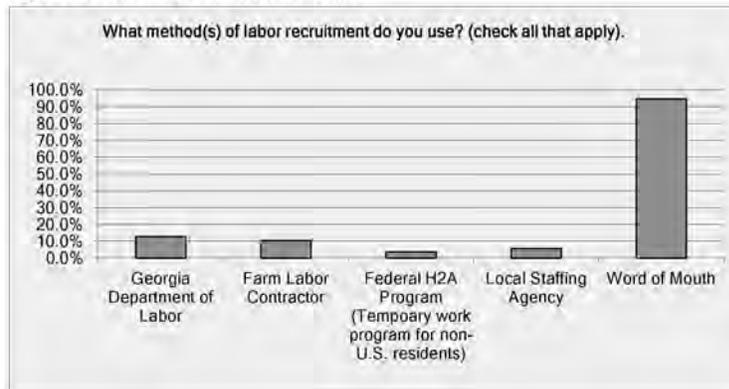
What method(s) of labor recruitment do you use?

Respondents indicated that a majority of their labor recruitment methods are via word of mouth (94.7%). An additional 13.4 percent indicated using other recruitment methods (newspaper ads, Craigslist, employee referrals, etc.) and 12.7 percent reported using the Georgia Department of Labor. An additional 10.4 percent reported using a farm labor contractor. Only 5.7 percent reported using a local staffing agency to recruit employees and 3.4 percent reported using the Federal H-2A program.

Table 10. Method(s) of Labor Recruitment Used

| What method(s) of labor recruitment do you use? (Check all that apply). | | |
|---|------------------|----------------|
| Answer Options | Response Percent | Response Count |
| Georgia Department of Labor | 12.7% | 72 |
| Farm Labor Contractor | 10.4% | 59 |
| Federal H-2A Program (Temporary work program for non-U.S. residents) | 3.4% | 19 |
| Local Staffing Agency | 5.7% | 32 |
| Word of Mouth | 94.7% | 536 |
| Other (please specify) | 9.5% | 76 |

Figure 12. Methods of Labor Recruitment Used



Question 18

Please rate your level of satisfaction when using the following labor recruitment resources with 1 being the lowest level of satisfaction and 5 being the highest level of satisfaction.

For this question, respondents were asked to rate their level of satisfaction for each recruitment method used and reported in question 17. Respondents were asked to rank different recruitment methods from one to five with one indicating a low level of satisfaction and 5 indicating a high level of satisfaction. Recruiting via word of mouth was rated the highest of the choices with a 3.99 score with other sources of recruitment being second with a 3.87 rating. Farm labor contractors also were given a somewhat favorable rating (3.34) by respondents. The lowest level of satisfaction was with the Georgia Department of Labor at 1.88 and the Federal H-2A program at 2.20. Local staffing agencies were also rated relatively low at 2.35.

Figure 13. Level of Satisfaction with Different Labor Recruitment Resources

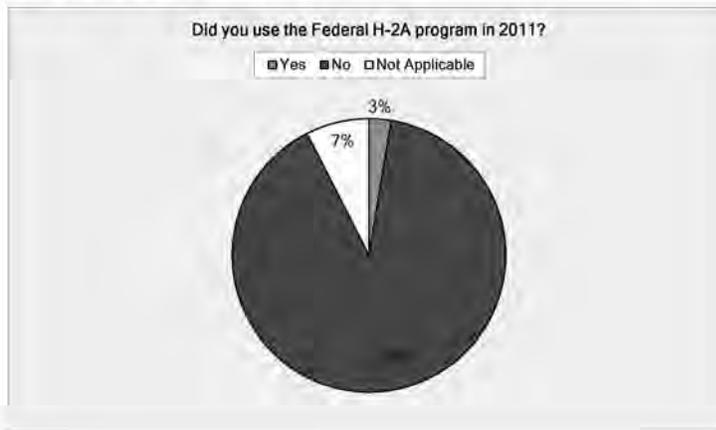


Question 19

Did you use the Federal H-2A program in 2011?

Question 19 asked respondents to report if they had used the Federal H-2A program to fill their staffing needs in 2011. Of the 586 responses, 89.9 percent (527 responses) said they had not used this program for filling staffing needs in 2011. Only 2.6 percent (15 responses) said they did use this program to fill staffing needs. Figure 13 provides a visual of the responses for this survey question.

Figure 14. Use of the Federal H-2A Program in 2011

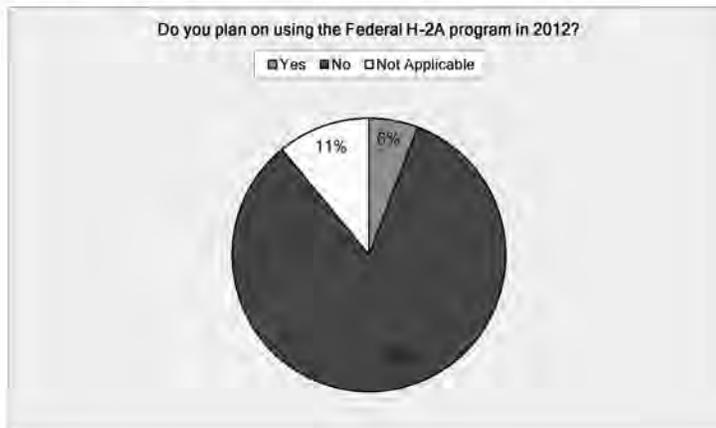


Question 20

Do you plan on using the Federal H-2A program in 2012?

For this question, 83.4 percent of respondents (486) indicated that they do not plan to use the Federal H-2A program to assist with addressing their staffing needs in 2012. Only 34 respondents (5.8 percent) indicated that they would use the H-2A program in 2012.

Figure 15. Planned Use of the Federal H-2A Program in 2012



Question 21**How many years have you used the Federal H-2A program?**

This question looked to determine if the level of participation in the Federal H-2A program:

For this question, an overwhelming majority of respondents (94.1 percent) indicated that the question was not applicable to their operation while 2 percent have used the program more than 5 years. Only 1.1 percent have used the program 4 to 5 years and 1.4 percent have used it 2 to 3 years as was the case with respondents using the program for 1 year. In total, only about 6 percent of those surveyed actually use the Federal H-2A program to address their staffing needs.

Table 11. Number of Years Using the Federal H-2A program

| How many years have you used the Federal H-2A program? | | |
|---|-------------------------|-----------------------|
| Answer Options | Response Percent | Response Count |
| 1 year | 1.4% | 8 |
| 2-3 years | 1.4% | 8 |
| 4-5 years | 1.1% | 6 |
| More than 5 years | 2.0% | 11 |
| Not Applicable | 94.1% | 524 |

Question 22

On average, how many employees have you employed annually with the Federal H-2A program?

The respondents for this question indicated that they employ anywhere from 1 to 100 workers by way of the federal H-2A program. Exactly 2 percent indicated that they employ 10 or fewer employees while an additional 1.1 percent employ between 51 and 100 employees. The same 1.1 percent responded that they employ more than 100 employees and 0.5 percent 11 to 25 employees.

Table 12. Number of Employees Hired Annually with the Federal H-2A program

| On average, how many employees have you employed annually with the Federal H-2A program? | | |
|--|------------------|----------------|
| Answer Options | Response Percent | Response Count |
| 1-10 | 2.0% | 11 |
| 11-25 | 0.5% | 3 |
| 26-50 | 0.9% | 5 |
| 51-100 | 1.1% | 6 |
| More than 100 | 1.1% | 6 |
| Not Applicable | 94.4% | 523 |

Question 23

If you have used the H-2A program in the past, but are no longer using the program, please indicate why

The majority of respondents again indicated this question was not applicable to their operation (91.9 percent). For those who did provide a response, the majority (6.1 percent) reported that they no longer use the Federal H-2A program because the program has excessive paperwork and that it is too expensive (5.2 percent). An additional 3.3 percent said they no longer use the program because workers are not available when needed and 2.9 percent said that local workers were more readily available. Under other, respondents indicated that some have used the H2B program in the past.

Table 13. Reason(s) for No Longer Using the Federal H-2A Program

| If you have used the H-2A program in the past, but are no longer using the program, please indicate why | | |
|--|-------------------------|-----------------------|
| Answer Options | Response Percent | Response Count |
| Program is too expensive | 5.2% | 28 |
| Program has excessive paperwork/too complicated | 6.1% | 33 |
| H-2A workers were not available when needed | 3.3% | 18 |
| Local workers are more readily available | 2.9% | 16 |
| Not Applicable | 91.9% | 499 |
| Other (please specify) | 3.2% | 20 |

Question 24

If you have never used the Federal H-2A program, please indicate why

This question was asked to determine reasons why respondents have never participated in the Federal H-2A program. For this question, 40.1 percent said the question was not applicable to their operation. For those who responded otherwise, 26.4 percent indicated that they are not familiar with the H-2A program. An additional 21.8 percent said the program had excessive paperwork or was too complicated and that local workers were more readily available (20.5 percent). An additional 20.5 percent responded that the program was too expensive and 16.5 percent said they had heard negative things about the program from others. Finally, 6.7 percent of the respondents indicated that they have never used the H-2A program because workers are not available when needed. Other responses included participants stating that they have used the H2B program and that they have no interest in working with a federal program.

Table 14. Reason(s) for Never Using the Federal H-2A Program

If you have never used the Federal H-2A program, please indicate why (check all that apply)

| Answer Options | Response Percent | Response Count |
|--|------------------|----------------|
| Program is too expensive | 20.5% | 111 |
| Program has excessive paperwork/too complicated | 21.8% | 118 |
| H-2A workers were not available when needed | 6.7% | 36 |
| Local workers are more readily available | 20.5% | 111 |
| I am not familiar with the H-2A program | 26.4% | 143 |
| I have heard negative things about the program from others | 16.5% | 89 |
| Not Applicable | 40.1% | 217 |
| Other | 2.7% | 23 |

Question 25

In the current crop year (2011), have you experienced an income loss because of the lack of available workers for your operation?

This question asked participants to disclose if they had experienced a loss of income in 2011 due to the lack of available workers for their operation. Of the 574 responses to this question, 74 percent said no while 26 percent said yes. Additionally, table 15 shows the responses to this question by crop produced.

Figure 16. Number of Respondents who Experienced Income Loss from the Lack of Available Workers in 2011

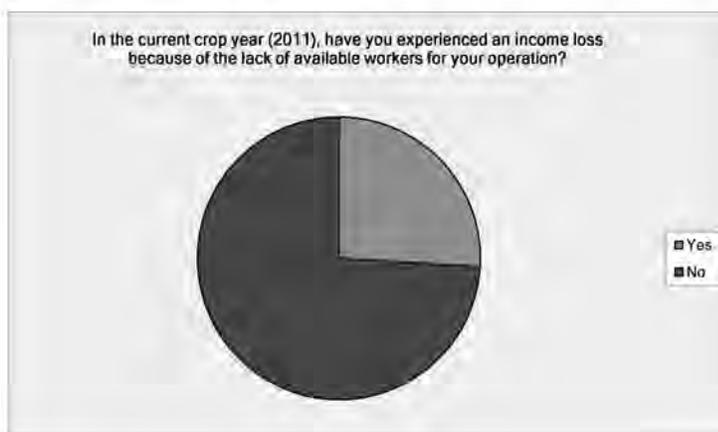


Table 15. Number of Yes Respondents Who Experienced an Income Loss from the Lack of Available Workers in 2011

In the current crop year (2011), have you experienced an income loss because of the lack of available workers for your operation?

| Answer Options | Answered Yes/Total Participants in Study by Commodity | Percent Reporting Losses |
|--------------------|---|--------------------------|
| Apples | 2/11 | 18% |
| Beef | 14/107 | 13% |
| Bees/Honey | 5/11 | 45% |
| Blackberries | 11/24 | 46% |
| Blueberries | 26/50 | 52% |
| Broilers | 3/20 | 15% |
| Cabbage | 8/13 | 62% |
| Cantaloupe | 5/9 | 56% |
| Carrots | 1/7 | 14% |
| Corn | 27/151 | 18% |
| Cotton | 39/205 | 19% |
| Cucumbers | 11/17 | 65% |
| Dairy | 6/43 | 14% |
| Eggplant | 7/11 | 64% |
| Eggs | 2/5 | 40% |
| Equine | 0/6 | - |
| Goats | 0/8 | - |
| Grapes | 1/5 | 20% |

| | | |
|-------------------|--------------|------------|
| Greens | 6/15 | 40% |
| Hay | 17/97 | 18% |
| Hogs | 0/10 | - |
| Olives | 0/2 | - |
| Onions | 4/12 | 33% |
| Ornamentals | 25/200 | 13% |
| Peaches | 3/16 | 19% |
| Peanuts | 36/204 | 18% |
| Pecans | 10/58 | 17% |
| Peppers | 10/16 | 63% |
| Rye | 5/36 | 14% |
| Sheep | 1/5 | 20% |
| Snap Beans | 7/15 | 47% |
| Southern Peas | 5/12 | 42% |
| Soybeans | 14/82 | 17% |
| Squash | 14/21 | 67% |
| Strawberries | 5/16 | 31% |
| Timber | 17/83 | 20% |
| Tobacco | 7/11 | 64% |
| Tomatoes | 6/23 | 26% |
| Turfgrass | 19/67 | 28% |
| Watermelon | 12/24 | 50% |
| Wheat | 11/82 | 13% |
| Zucchini | 8/18 | 44% |

Question 26

If yes to the previous question, please estimate the value of the loss you experienced?

This question asked respondents to estimate the value of the income loss due to lack of available workers in 2011. Again, a majority (70.6 percent) indicated that this question was not applicable to their operation. For those who did find it applicable, 7.8 percent reported an estimated loss between \$10,001 and \$24,999. Another 7.6 percent reported estimated losses between \$75,000 and \$99,999 and 5.4 percent estimated losses between \$25,000 and \$49,999. Another 17 respondents estimated losses of more than \$100,000 (3.8 percent) with two respondents estimating losses in excess of \$1 million for 2011. Additional responses are listed in table 16.

Table 16. Estimated Value of Economic Loss due to Lack of Available Workers

| If yes to the previous question, please estimate the value of the loss you experienced | | |
|--|------------------|----------------|
| Answer Options | Response Percent | Response Count |
| Less than \$10,000 | 3.4% | 15 |
| \$10,001-\$24,999 | 7.8% | 35 |
| \$25,000-\$49,999 | 5.4% | 24 |
| \$50,000-\$74,999 | 5.2% | 23 |
| \$75,000-\$99,999 | 7.6% | 34 |
| Not Applicable | 70.6% | 315 |
| More than \$100,000 (please write in the estimated amount) | 3.8% | 17 |

Question 27

Under ideal weather conditions, when your primary commodity matures how quickly should it be harvested/processed so that loss or damage can be avoided?

This question examined the timeliness of harvesting for respondents. The majority of respondents reported that their commodity can be harvested during a period of longer than 7 days (63.5 percent) and 24.9 percent indicated that their commodity must be harvested immediately. Additional responses are found in Table 17.

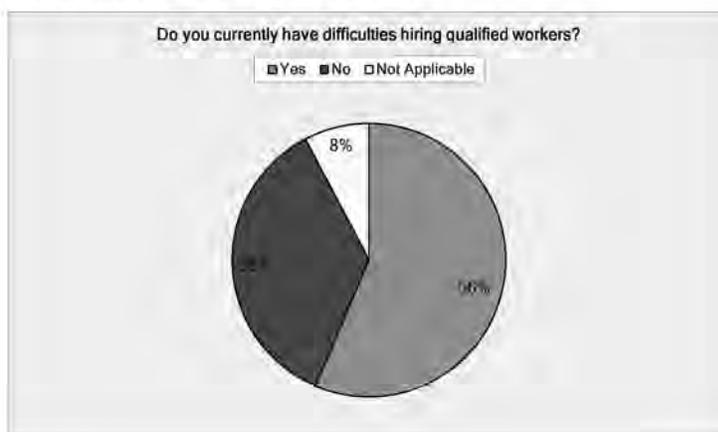
Table 17. When Commodity Needs Harvesting

| Under ideal weather conditions, when your primary commodity matures how quickly should it be harvested/processed so that loss or damage can be avoided? | | |
|--|-------------------------|-----------------------|
| Answer Options | Response Percent | Response Count |
| Commodity must be harvested/processed immediately | 24.9% | 96 |
| Commodity must be harvested/processed within 2-3 days | 13.5% | 52 |
| Commodity must be harvested/processed within 4-7 days | 13.5% | 52 |
| Commodity can be harvested/processed during a period longer than 7 days | 63.5% | 245 |
| Other (please specify) | 14.7% | 77 |

Question 28**Do you currently have difficulties hiring qualified workers?**

This question asks survey participants to state if they have difficulties hiring qualified workers for their operation. For this question, 585 responses were collected with 56.4 percent (330) stating that they do experience difficulties in hiring qualified workers. The other 35.9 percent stated that they do not have difficulties hiring workers and 7.7 percent responded to the question as not applicable to their operation.

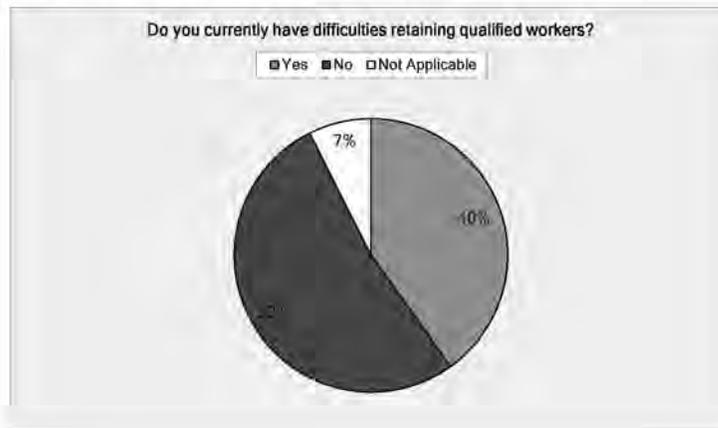
Figure 17. Level of Difficulty in Hiring Qualified Workers



Question 29**Do you currently have difficulties retaining qualified workers?**

This question builds on question 28 and asks respondents to state if they have trouble retaining qualified workers. For this question, 581 responses were recorded with 52.5 percent (305) stating that they do not have difficulties retaining qualified workers while 40.1 percent (233) reported having difficulties retaining qualified workers. Another 7.4 percent answered not applicable to this question.

Figure 18. Level of Difficulty in Retaining Qualified Workers



Question 30**Please rate the level of difficulty you have in hiring qualified workers**

This question asked respondents to rate the level of difficulty they have in hiring qualified workers. A scale of 1 to 5 was used with 1 being not difficult and 5 being very difficult. A majority of respondents ranked their level of difficulty as 3 with the average rating being 3.13. Complete responses are seen in table 18.

Table 18. Level of difficulty in hiring qualified workers

Please rate the level of difficulty you have in hiring qualified workers (with 1 being not difficult and 5 being very difficult)

| Answer Options | 1-Not Difficult | 2 | 3 | 4 | 5-Very Difficult | Rating Average | Response Count |
|------------------|--------------------|----------|----------|----------|---------------------|-------------------|-------------------|
| Please check one | 101(18%) | 78 (14%) | 141(25%) | 131(23%) | 110(20%) | 3.13 | 561 |

Question 31

Please rate the level of difficulty you have in retaining qualified workers

This question asked about the level of difficulty respondents have in retaining qualified workers. Again, a scale of 1 to 5 was used with 1 being not difficult and 5 being very difficult. A majority of respondents ranked their level of difficulty as 1 with the average rating being 2.61. Complete responses are seen in table 19.

Table 19. Level of difficulty in retaining qualified workers

| Please rate the level of difficulty you have in retaining qualified workers (with 1 being not difficult and 5 being very difficult) | | | | | | | |
|---|-----------------|-----------|----------|----------|------------------|----------------|----------------|
| Answer Options | 1-Not Difficult | 2 | 3 | 4 | 5-Very Difficult | Rating Average | Response Count |
| Please check one: | 161 (29%) | 109 (20%) | 132(24%) | 90 (16%) | 63 (11%) | 2.61 | 555 |

Question 32

What is/are the major reason(s) for hiring difficulties? If you do not have difficulties, please put not applicable.

Complete responses for this question can be found in Appendix F. A major response theme for this question was that the work is too physically demanding and difficult for U.S. Citizens (non-immigrants). Respondents believe that only immigrant workers are willing to do the tasks needed in their operations. An additional theme is that respondents believe that it is difficult to find qualified and trained workers to aid in their operation.

Question 33

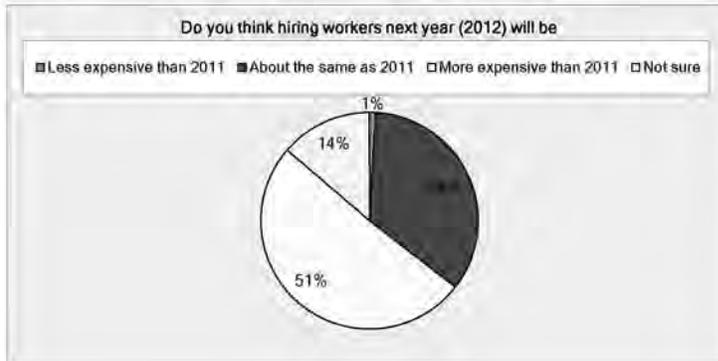
Do you think hiring workers next year (2012) will be: less expensive than 2011, about the same as 2011, more expensive than 2011 or not sure.

For this question, over half (50.8 percent) of the respondents believe that hiring workers will be more expensive in 2012. Another 34.6 percent believe the cost of hiring workers will be about the same as it was in 2011. Less than 1 percent believe that the cost of hiring workers will be less in 2012 and 13.7 percent are not sure. Exactly 200 respondents explained their responses and provided thoughts on this question. The major theme with these responses was that costs will increase due to the rising cost of living and other related factors. The complete responses can be seen in Appendix G.

Table 20. Comparison of estimated cost of hiring workers in 2012 versus actual 2011 costs

| Do you think hiring workers next year (2012) will be _____. | | |
|---|------------------|----------------|
| Answer Options | Response Percent | Response Count |
| Less expensive than 2011 | 0.9% | 5 |
| About the same as 2011 | 34.6% | 195 |
| More expensive than 2011 | 50.8% | 286 |
| Not sure | 13.7% | 77 |
| Briefly explain | | 200 |

Figure 19. Predicted Cost of Hiring Workers in 2012



Question 34

Please rate your level of interest in hiring a legal workforce (one would indicate a low level of interest and 5 would indicate a high level of interest)

Respondents showed a high level of interest in hiring a legal workforce with 66.8 percent responding with a 5 rating. Only 11.1 percent responded with a ranking of 1. The average numerical response for this question was 4.19. Again, respondents were given the opportunity to explain their responses and a complete list of these are in Appendix H.

Table 21. Level of Interest in Hiring a Legal Workforce

Please rate your level of interest in hiring a legal workforce (one would indicate a low level of interest and 5 would indicate a high level of interest)

| Answer Options | Response Percent | Response Count |
|-----------------|------------------|----------------|
| 1-Low | 11.1% | 61 |
| 2 | 2.5% | 14 |
| 3 | 9.3% | 51 |
| 4 | 10.3% | 57 |
| 5-High | 66.8% | 368 |
| Briefly explain | | 221 |

Question 35

What concerns do you have about hiring a legal workforce on your farm/operation for the upcoming season?

This open-ended question gives respondents the opportunity to share concerns they might have about hiring a legal workforce for their operation in the upcoming growing season. Complete responses are seen in Appendix I.

Question 36

Please take this opportunity to provide us with any additional comments about immigration reform in Georgia as it pertains to your operation/industry.

Again, this open-ended question allows respondents to share any additional comments about immigration reform as it pertains to their operations. Complete responses are seen in Appendix J.

E. Major Findings and Conclusions**Major Finding One**

Relative to the study, the respondents represented a variety of agricultural operations ranging from beef cattle production to large scale row crop production (corn, cotton, peanuts, soybeans, etc.) to specialty crops (blueberries, apples, peaches, carrots, cabbage, watermelon, etc.) and various nursery/greenhouse operations. Many professionals in the agricultural service industries were also represented. These included lawn and turf care professionals, commodity packing operations and others. The responses in this study showed that cotton, peanuts and ornamental crops were the most financially important to growers and the industry, which is consistent with statistics found in the USDA Economic Research Service State Fact Sheet for Georgia. USDA research placed peanuts, cotton and the greenhouse/nursery industry in the top 5 of Georgia commodities (based on value of receipts).

The study provides a good representation of Georgia agriculture with a broad representation of commodities as well as a diverse farm size. Also, the study obtained responses from 138 of the 159 counties in Georgia. Additionally, responses from large and small operations were well represented in the study. Approximately 30 percent of respondents indicated that their operations annual gross income was in excess of \$1 million annually. Likewise, approximately 40 percent of the respondents listed their annual gross income at \$250,000 or less.

Major Finding Two

Regarding the number of full and part-time employees hired, 21 percent of respondents indicated that fewer than average were hired in 2011 when compared to the last five years. Respondents stated that a poor economy, loss of revenue, poor worker retention, and lack of workers were major reasons for hiring fewer workers in 2011. It is unknown if the lack of full and part-time workers in 2011 was a direct result of the passage of Georgia HB87, however, the findings of this study suggest that this could be an issue. At the very least, this study identifies a perception that the lack of workers could be related to the passage of Georgia HB87. This is especially evident with several survey respondents that indicated that part-time workers were not available due to the new immigration law.

Major Finding Three

With regards to wages and job function, all of the respondents reported paying their full and part-time workers at or above the federal minimum wage. Several respondents paid well above minimum wage with some paying as high as \$15 per hour or more. Job functions are varied with a majority of full and part-time workers performing field labor work. In addition, many full and part-time workers are listed as performing landscaping and lawn maintenance work.

Major Finding Four

Most respondents indicated that they use word of mouth to recruit workers. Approximately 13 percent use the Georgia Department of Labor and only 3.4 percent reported using the Federal H-2A program.

The respondents also ranked different recruitment methods from 1 to 5 with one being a low level of satisfaction and 5 being a high level of satisfaction. For this question, the word of mouth recruiting method was the most favorable with an average response of 3.99 on a five-point scale.

The least favorable recruiting methods were the Georgia Department of Labor (1.88) and the Federal H-2A program (2.2). The respondents did not indicate why they have a low level of satisfaction with the Georgia Department of Labor for recruitment of workers. Further study could examine the Georgia Department of Labor recruitment program and the lower level seen in this study.

Many respondents felt the H-2A program was too expensive and too complicated. Over 26 percent of respondents were not familiar with the Federal H-2A program and almost 17 percent said they had heard negative things about the H-2A program. Additionally, 40.1 percent of respondents stated that the H-2A program was not applicable to their operation; such operations include but are not limited to dairy, cotton ginning, and green industry. Over 20 percent reported that local workers were more readily available. These findings strongly suggest several things about the H-2A program. First, these findings suggest that more outreach and education be provided to growers about the H-2A program and that the federal H-2A program might need to be evaluated and revamped to ensure greater use. Responses suggest that the current H-2A program is too complicated and that most growers would rather hire local workers when possible. The findings suggest that a program to provide assistance to growers wishing to use the H-2A program should also be considered. This program should help improve the perception of the H-2A program and provide growers with assistance as they submit applications for workers.

Major Finding Five

Discovered in the survey, 26 percent of respondents reported a loss of income due to the lack of available workers. Although only 26 percent reported losses, these losses were estimated to be in excess of \$10 million. Upon examination of those reporting losses and their commodity, data suggests those in the fruit and vegetable industry experienced the greatest losses. Specifically, over 50 percent of the producers of blueberries, cabbage, cantaloupe, cucumbers, eggplant, peppers, squash, tobacco, and watermelon reported income losses in 2011 due to lack of available workers. The survey data suggests a trend that growers producing labor intensive commodities are experiencing a greater loss of income due to the lack of available workers. Further study to confirm this is recommended.

IV. H-2A Issues

According to the Georgia Department of Labor (“GDOL”), Georgia currently has thirty-three producers participating in the H-2A guest worker program. In 2008, the United States Department of Labor (“USDOL”) found that the majority of U.S. growers believed “the H-2A program [was] so plagued with problems that they avoid using it altogether.” Similarly, Georgia producers have mixed reviews on the merits of the program, and the majority of the issues cited require action at the federal level to solve.

Currently, the USDOL administers the H-2A guest worker program. The program is only available to producers with work needs of a temporary or seasonal nature, who anticipate a shortage of domestic workers to perform these agricultural-specific jobs. Due to the year round nature of some industries within agriculture, this provision prohibits those, specifically the dairy, livestock, poultry, and ginning industries, from being eligible. By expanding the eligibility requirements, more producers could potentially fill their respective labor needs by signing up for H-2A or the proposed H-2C program.

Producers often cite the burdensome and cumbersome regulations in addition to the high costs associated with using H-2A as problems; some claim costs prohibit them from using the program and opting for potentially illegal workers. Some costs are buried within program requirements and add up quickly while other costs are associated with compliance i.e. fines, penalties, etc. Some producers point to the four federal agencies involved in H-2A that rarely ensure workers arrive as scheduled as a reason for not using the program.

H-2A users consistently complain about the “fifty percent rule” which requires growers to hire domestic applicants until fifty percent of the H-2A contract has lapsed. In addition to balancing the timely need of harvesting, farmers must hire every domestic worker sent from GDOL interested in the work associated with each H-2A contract. An onion grower in Collins, Georgia testified to the difficulties saying that “the [fifty percent] rule allows for unqualified workers [who are] not prepared or physically able to pick onions for 8-12 hours a day are sent to my farm. They walk off a majority of the time in the first hour, so I have to plan not only for the needed H-2A workers, but also budget to hire domestic workers who will come and go sporadically throughout my harvest season.” Guaranteeing to offer work for seventy-five percent of the approved work contract also adds to the employer’s costs. Even if Mother Nature cooperates, the workload may still vary depending on workforce size and arrival which makes guaranteeing any amount of work very difficult.

Another burdensome requirement is caused by the adverse effect wage rate (AEWR) for employers using H-2A workers. Mandating a premium wage to ensure that U.S. workers are not being adversely affected by guest workers complicates the H-2A program, but a prevailing wage, which is geographically and job specific, similar to the H-2B program could simplify the program. The purpose of the AEWR is to not adversely affect domestic workers, so the H-2A employer must pay both domestic and foreign guest workers the AEWR set by USDOL each year. This wage rate varies from \$8.97 to \$12.01 per hour; Georgia’s AEWR recently increased three percent from \$9.12 to \$9.30 per hour. Additionally, the bureaucratic red tape associated with the program forces most producers to contract with an outside

firm to manage the onerous paperwork. One producer reiterated the difficulties with H-2A stating, "My wife spent two months on our application and we were told the wage would be \$9.11 an hour. Within a week of turning our application in, the rate was raised to \$9.12 an hour causing our entire application to be rejected. The logical response would have been for us to amend our application instead we had to start over, and to top it off, our workers were late." As a result of the cumbersome and arduous application process, the government has created a program so difficult to use that the obstacles significantly limit wide scale utilization.

Moving from a labor certification process to a labor attestation process would streamline the process for users. USDOL issues labor certifications after the labor market has been tested through job orders, advertisement of jobs, and employer reports of efforts to obtain domestic workers. The process also includes verified protections, such as housing inspections, of domestic workers. This process does not include confirmation that employers appropriately searched for domestic workers. The labor attestation process occurs when an employer self-certifies that the labor market has been tested and domestic workers are unavailable to fill the needed jobs. Labor attestation proposals institute strict penalties for producers not complying with the rules as well as provide protection for domestic workers. One grower suggests that the reason illegal workers are considered the more viable option is due to these hidden and excessive costs.

Transportation and housing costs are additional, prescribed expenses within the H-2A program. H-2A workers by definition must be temporary, and housing for the temporary guest workers must be free to the guest worker. One producer asked, "Why should I have to provide housing for my immigrant workers? I am not required to provide housing for my American workers." H-2A is the only temporary guest worker program that requires housing, and this provision ultimately keeps some producers from utilizing the program. Additionally, the H-2A regulations provide that a grower must reimburse an H-2A worker for the transportation costs from the worker's home to the place of employment only if the worker completes fifty percent of the work contract period or earlier.

Finally, one of the severe costs and threats to H-2A employers is that from the LSC. Producers consistently cite frivolous lawsuits as an obstacle with participating in the program. One Tift County producer shared a tactic used by LSC. "I have had attractive women come on to my property, without my permission to try and talk my workers into suing me, that is not right that my tax dollars are going to fund activities like that". Another producer in South Georgia was cited for broken screen doors and beds pushed together although the guest workers actually moved the beds themselves. A few Georgia producers have joined together to maximize work schedules of available workers and minimize exposure to legal action.

V. Proposed Federal Legislation Addressing Agriculture Labor

For years, Congress has considered a wide range of proposals to address the problems associated with H-2A. Currently, there are several bills under consideration, but the most relevant to a guest worker program specifically for agriculture will be compared and contrasted below.

- Helping Agriculture Receive Verifiable Employees Securely and Temporarily (HARVEST) Act 2011 authored by Senator Saxby Chambliss (R-GA) and was introduced on July 19, 2011.
- American Specialty Agriculture Act of 2011 authored by Representative Lamar Smith (R-TX) introduced on September 7, 2011.
- Legal Agricultural Workforce Act (LAWA) authored Representative Dan Lungren (R-CA) introduced on September 12, 2011.
- The Agriculture Labor Market Reform Act authored by Representative Howard Berman (D-CA) introduced on September 22, 2011.
- Better Agriculture Resources Now (BARN) Act of 2011 authored by Representative Jack Kingston (R-GA) and Representative Lynn Westmoreland (R-GA) introduced on November 16, 2011.

Helping Agriculture Receive Verifiable Employees Securely and Temporarily (HARVEST) Act July 19, 2011

Senator Chambliss has introduced a bipartisan bill aimed at expanding, streamlining, and reforming the existing H-2A non-immigrant program to meet the present needs of agriculture. For border states with unique labor needs, the HARVEST Act of 2011 makes policy changes impacting daily border crossers working in the agricultural industry.

In an attempt to alleviate the administrative burden on the producer, the HARVEST Act makes strategic changes to the H-2A application process. The proposal calls for the program to be administered by USDA as opposed to USDOL. The proposal also calls for a labor attestation process instead of the current labor certification process. If the U.S. Secretary of Labor certifies an adequate number of domestic workers exist to fill agricultural jobs in a particular state, the process reverts back to a labor certification process, again administered by the USDA. The HARVEST Act addresses the fifty percent rule while protecting the U.S. worker. The employer must hire all qualified and willing domestic workers; this recruitment period ends the first day of the H-2A contract.

As for housing and transportation costs, the employer provides a housing allowance as opposed to providing free housing; the employer also is no longer required to provide housing if the worker lives outside commuting distance. Reimbursement of transportation costs correlates with the contract.

Once fifty percent of the work period is complete, transportation costs from the consulate to the job will be reimbursed; similarly, upon completion of the entire contract, return transportation costs will be reimbursed.

The HARVEST Act focuses on the temporary status of the worker, not the temporary status of seasonal harvesting. An employee spends up to ten months in the United States working in the agricultural industry and two months out of the country, maintaining temporary status. There is no limitation on the number of applications an employer can file in order to retain an adequate workforce to meet the operation's year-round needs. For current undocumented workers, the HARVEST Act provides an opportunity to apply for a one time waiver for H-2A admission at a U.S. Consulate outside of the U. S. with a \$500 fine. Once H-2A status is granted, the worker receives a biometric identification card.

In response to the frustration with LSC, the HARVEST Act makes it explicitly clear that the employment of the worker is for the mutual benefit of the worker and the employer. Additionally, prior to litigation, either party can request mediation and the results of that effort will be admissible in court.

**American Specialty Agriculture Act
September 7, 2011**

Congressman Lamar Smith has introduced the ASA Act which eliminates the problems plaguing the H-2A program and institutes an H-2C program that will be responsive to the needs of America's specialty growers. Similar to Senator Chambliss's HARVEST Act, the ASA Act transfers the H-2C program to USDA, expands eligibility, removes the fifty percent rule, and allows for either housing or a housing voucher.

The ASA Act reduces the growers' work guarantee for the H-2C program to a more reasonable fifty percent of the work contract as opposed to seventy-five percent. As for transportation costs, ASA Act ensures that a grower only reimburse an H-2C worker for the transportation costs from the worker's home to the place of employment if the worker completes fifty percent of the work contract period.

The ASA Act addresses potential frivolous litigation abuse by allowing growers to include binding arbitration and mediation in contracts with H-2C workers. The bill also, provides that the federally-funded LSC may not sue a grower on behalf of an H-2C worker unless mediation has been attempted through the Federal Mediation and Conciliation Service. In addition, the LSC cannot provide legal assistance to a former H-2C worker who is no longer present in the United States.

The ASA Act also states that a guest worker may only be in the states for ten months. To ensure that the employee returns home, no family members are allowed to enter the United States. Growers must petition for H-2C workers and must promptly alert the Department of Homeland Security if workers have abandoned employment. The Department shall remove any H-2C workers who violate the terms of their status.

**Legal Agricultural Workforce Act
September 12, 2011**

The Legal Agricultural Workforce Act does not seek to re-tool and re-write the rules for the H-2A program, and therefore, Congressman Lungren's bill does not affect the H-2A program in its current form. Lungren's Legal Agricultural Workforce Act, LAWA, establishes a nonimmigrant agricultural worker visa program to allow agricultural workers into the United States for a 10 month period. Similar to the HARVEST Act, the guest worker must return their home country for two months before returning to the United States. The agriculture visa would be known as the "W" visa category. The "W" visa program would be established by the Secretary of Agriculture and the Secretary of Homeland Security. The Secretary of Agriculture works with farmers to determine the number of "W" visas needed each month. The Secretary of Homeland Security is then notified of the number of "W" visas needed. Before a producer can fill a job with a "W" visa worker, it must be attempted to be filled with an American worker and placed on the Department of Labor's Electronic Job Registry. On the DOL's Job Registry a description of the period for which agricultural workers will be needed, as well as the wages and working conditions are required. Proof of this is required to be granted any "W" visas. The Department of Homeland Security would be required to provide any "W" workers with a biometric visa card. These workers are required to be continuously employed in agriculture or actively seeking to stay in the United States. A key component of the legislation allows producers to request specific "W" workers by name. This ensures the producer receives an experienced worker. If a producer does not follow the rules and regulations of the program, that producer can be expelled from using the "W" visa.

**Agriculture Labor Market Reform Act
September 22, 2011**

The Agriculture Labor Market Reform Act of 2011 was introduced by Congressman Howard Berman on September 22, 2011. The bill provides the agricultural industry with a stable, legal and reliable workforce which is critical to the long-term health of the Agricultural industry in America. The proposed legislation accomplishes this by stabilizing the current workforce by providing earned adjustment of status to experienced unauthorized illegal immigrants and their families. To prevent any future illegal entry for agricultural employment, the bill immediately requires farm labor contractors to use the E-Verify program within six months of the bill becoming law. Berman's legislation seeks to reform the labor market by enforcing labor standards in agriculture as well as the promotion of modern labor management practices among agricultural employers. Finally, the legislation ends the incentives under the H-2A program which lead employers to prefer guest workers over Americans.

This bill allows for a guest worker to achieve "blue card status" during the 24-month period ending on December 31, 2010 if he or she has performed specified lengths of, or earned a specified amount from, agricultural employment in the United States. The guest worker must also apply for the "blue card status" during the 18-month application period. Status is granted if the guest worker is otherwise admissible to the United States and has not been convicted of specified felonies or misdemeanors. The bill limits the number of "blue cards" issued by the Secretary of Homeland Security to 1,000,000 during

the first five years. The bill allows for an immigrant to go from blue card status to that of a lawful immigrant for permanent residence if the Secretary determines the immigrant has worked in agriculture for at least five years, with at least 100 days per year or working in agriculture for three years with 150 days of work per year.

The bill also sets the rules for termination of "blue card status". These penalties include permanent expulsion from the program and deportation. It provides for adjustment of blue card status to permanent resident status based upon completed periods of agricultural employment and a clean background. It does exempt an illegal immigrant from certain Social Security-related violations if committed prior to receiving blue card status. The bill amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to require farm labor contractors to participate in the E-verify Program. It also amends the Migrant and Seasonal Agricultural Worker Protection Act to prohibit farm labor contractors from hiring an immigrant who is not lawfully admitted for permanent residence or who has not been otherwise authorized by the Secretary of Homeland Security (DHS) to work.

**Better Agriculture Resources Now Act (BARN)
November 16, 2011**

Congressman Kingston has introduced the Better Agriculture Resources Now Act in November 2011 which reforms the current H-2A program. Like other proposals, the BARN Act transfers the H-2A program from USDOL to USDA, expands eligibility, removes the fifty percent rule, and allows for either housing or a housing voucher.

The BARN Act allows employers to list in detail experience requirements on the H-2A request for workers. The proposal includes a new farm wage methodology based at a minimum of 115 percent of federal, state, or local minimum wage, whichever is higher. Furthermore, it reduces the application period from forty-five to thirty days which allows producers more flexibility in determining their labor needs more accurately. To address the slow turnaround time with H-2A applications, the BARN Act allows for any application without a response during a thirty day period to be automatically approved. This expedited approval only applies to the USDOL.

As other proposals emphasize, the BARN Act creates a method for maintaining the "guest" aspect of a guest worker program. It creates a one year H-2A visa renewable only once. If a work contract is granted for longer than one year, the employer must advertise and recruit domestic workers. If a H-2A worker does not have work for a period of sixty days, the H-2A visa is not valid. At the end of the second year of work, the worker must return home for two months before being eligible again.

Addressing the issues with the LSC, the BARN Act prohibits legal activism unless the worker is present. The legislation also prohibits bringing civil action unless the counterparties have attempted mediation, entering an employer's property without pre-arranged appointments, and requires respect of the arbitration process and outcome if the employer and employee have an existing arbitration arrangement.

VI. Current State Agriculture Labor Initiatives

After recognizing problems with the current guest worker program, the GDOL is working on ways to improve the current H-2A process for the agricultural community as a precaution if federal regulations remain unchanged. These options include agriculture seminars across the state designed to inform the public on recruitment options, updating the Prevailing Common and Normal Practices Survey, as well as the installation of an Interstate and Intrastate Guest Worker Program.

After hearing from producers in June 2011, GDOL worked with various producers and associations to post jobs and place unemployed domestic workers in the specific roles. With new vision, GDOL seeks to send more qualified and experienced workers to farms as an ongoing effort.

At every listening session, producers expressed great concern with the quality of work from domestic workers. A Vidalia onion producer from Collins, Georgia provided data depicting his experiences. According to his data, a migrant worker was twice as productive as a non-migrant worker in planting Vidalia onions. (See Appendix 4: Collins, Georgia Planting and Harvesting Contract Comparison)

In preparation for updating the Prevailing and Common Practices guidelines, GDOL plans to solicit feedback from producers beginning in 2012. The information gathered will be crucial in meeting the needs of Georgia's farmers.

When there are insufficient agricultural workers in a local area, GDOL can assist employers by using intrastate orders to recruit workers throughout Georgia. This will aid farmers by allowing seasonal workers to move throughout the different regions of the state according to crop production and harvest needs. Throughout the year, the migration pattern suggests that farmworkers will be available for work in South Georgia throughout the summer months then move to north Georgia as the summer crops are harvested.

The process begins no less than thirty days before the work start date. The local career center staff assists the employer in completing the intrastate clearance order and submits it to GDOL Agricultural Services for processing. Upon approval, career center staff throughout the state will recruit and refer workers to the employer until the work start date or the number of desired workers is hired. Placements are processed by the employer's local career center until workers arrive at the jobsite.

As with H-2A, employers must provide housing that meets regulations for workers from outside the local commuting area. Additionally, GDOL performs field checks to ensure employers honor all terms and conditions of the hiring agreement. The State Monitor Advocate, whose role is to protect the migrant worker, will ensure the rights of migrant seasonal farmworkers are protected.

An additional recruitment option lies within an Interstate Guest worker program. Agribusinesses may use interstate orders to recruit workers from other states. No less than forty-five days before the work start date, GDOL career center staff assists the employer in completing the interstate clearance order.

Once GDOL's Agricultural Services approves the order for interstate distribution, USDOL's Regional Office in Atlanta must grant approval.

Although the USDOL determines which states will receive the job order, the workers will most likely come from Texas and Arizona based upon migration patterns provided by GDOL. The employer's local career center oversees placement until the workers arrive at the jobsite and begin working.

As with intrastate orders and H-2A job orders, employers must provide housing. GDOL performs field checks to ensure employers fulfill the terms and conditions of the hiring agreement. The State Monitor Advocate makes sure the rights of migrant seasonal farmworkers are protected. A soft launch of both the interstate and the intrastate recruitment programs is set for January 2012.

After hearing from Georgia farmers that there was a need for farm laborers in June 2011, the Department of Corrections (DOC) placed an emphasis on connecting the 26,000 unemployed probationers statewide with local producers facing labor shortages. The benefit to farmers includes an available workforce and a possible Work Opportunity Tax Credit pending reauthorization in Congress.

According to the DOC, one in thirteen Georgians is incarcerated, on probation, or on parole. By hiring an unemployed probationer or parolee, employers qualify for the Work Opportunity Tax Credit (WTOC) which can be as much as \$2,400. The tax credit is based on qualified wages paid to the new hire for the first-year of employment. Generally, qualified wages are capped at \$6,000. The credit is 25 percent of qualified first-year wages for those employed at least 120 hours, and 40 percent for those employed 400 hours or more.

By working with GDOL and the Department, DOC was able to identify two producers willing to participate in a pilot program specifically aimed at harvesting. In Sumter County, as many as 17 probationers worked to harvest cucumbers and squash. Further south in Colquitt County, as many as 16 probationers harvested squash.

After evaluating the successes and weaknesses of the pilot programs, DOC's now sees the potential in moving offenders from the farming operations to the transitional centers in the agrarian areas of the state. The Georgia Correctional Institute operates six farms totaling 14,000 acres, and three processing facilities – dairy, canning, and meat. The products produced include beef, pork, milk, eggs, vegetables (20+ varieties), and a variety of row crops. DOC also operates 13 Transition Centers located throughout the state. Each center houses approximately 200 offenders and aids in transitioning the offender back into society. While living at the transition centers the offenders attend programming and also seek employment with area businesses in an effort to become productive citizens. Several centers currently have working relationships within the poultry industry while other centers have offenders who are available to work in the agriculture industry. Placing offenders familiar with farming operations in a transitional facility where they can partner with local agricultural producers would provide another option for Georgia farmers in need of farm labor.

VII. Additional State Immigration Legislation and Initiatives**Tennessee**

H1378 Lawful Employment Act (06/07/2011) replaces the present law provisions prohibiting any person from knowingly employing an illegal immigrant. This law instead prohibits an employer from knowingly employing an unauthorized immigrant or using a contract, subcontract, independent contractor agreement or other such contract or agreement to obtain the labor of an unauthorized immigrant. It requires each employer to enroll and maintain active participation in the E-Verify program before October 1, 2011.

Florida

Executive Order 11-02 (1/4/2011) required all state agencies, contractors and subcontractors to use E-Verify. Executive Order 11-116 supersedes EO 11-02. It requires all state agencies to use E-Verify and specifies that contractors and subcontractors who have contracts "for the provision of goods and services to the state in excess of nominal value" must also use the program. All other employers are encouraged to use E-Verify. Effective May 27, 2011.

Alabama

HB56 Beason-Hammon Alabama Taxpayer and Citizen Protection Act (June 9, 2011), This law addresses a range of topics including law enforcement, employment, education, public benefits, harbor/transport/rental housing, voting and REAL ID. It prohibits and provides penalties for: the entry, presence, and involvement in economic activity of unauthorized immigrants, employment, voting and registration activities, and access to public benefits. Public contractors and subcontractors are required to use E-Verify. The bill provides penalties for crimes dealing in false identification documents and identity fraud. Public schools (K-12) are required to determine a student's immigration status and submit annual reports to the state education board. The law bans illegal immigrants from attending college or receiving any state scholarships, grants, or financial aid. It is unlawful for a person to transport an immigrant; conceal, harbor or shield an alien; or harbor an alien unlawfully present by entering into a rental agreement if the person knows or recklessly disregards the fact the alien is unlawfully present. Portions of this bill are pending legal action.

Utah

H497 Illegal Immigration Enforcement Act (03/15/2011) This act addresses law enforcement, REAL ID and public benefits. The law requires that an officer verify the immigration status of a person arrested for a felony or a class A misdemeanor and a person booked for class B or C misdemeanors. It clarifies when passengers in a vehicle where the operator has been detained may also be questioned and their immigration status verified. It requires verification of immigration status regarding application for public services or benefits provided by a state or local governmental agency or subcontractor, except as

exempted by federal law. This bill does not implement or authorize the federal REAL ID Act to any extent not currently provided by state law.

Utah Guest Worker Program Act

This law establishes a temporary guest worker program and seeks federal waivers to implement the program by July 1, 2013, or within 120 days of receiving a federal waiver, whichever is sooner. The law requires implementation to be consistent with federal immigration law, civil rights, and privileges and immunities of U.S. citizens. To be eligible for a guest worker permit, individuals must be older than 18 or have parent or guardian permission; have worked or lived in Utah before May 10, 2011; provide regularly updated contact information; provide proof of work within 30 days of permit issuance; agree to a criminal background check, and not have been convicted of or pled guilty to a serious felony; provide evidence that the individual would not be inadmissible based on public health grounds; have health insurance; and hold a driving privilege card.

North Carolina

H36 Government Contracts and Illegal Immigrants Act (06/23/2011) prohibits state and local government contracts with contractors who employ illegal immigrants and requires contractors to verify and certify their employees' legal status or authorization to work.

The North Carolina Growers Association

The North Carolina Growers Association ("NCGA") is a nonprofit business association that helps North Carolina growers, from an array of agriculture sectors, use the federal H-2A temporary worker program. Their primary activities include pooling applications, assisting growers with paperwork, navigating the federal bureaucracy, helping employers comply with regulations, mediating relationships between employers and employees and troubleshooting through the months workers are present in the United States.

The key to the NCGA is pooling applications for growers. This means the association, not the individual producer, applies for the H-2A and H-2B visas. Among the tasks the association manages for employers: demonstrating a labor need, certifying that every effort has been made to recruit U.S. workers and supplying the federal government with detailed information about wages and working conditions. Unlike when a single farmer who uses H-2A workers, workers brought to the United States by the NCGA have the ability move from farm to farm, during the course of a single growing season. Workers can also spend the season on a single farm if that is preferable to employer and employee. This is a system that performs well for the grower and the worker. Participating employers handle their own payrolls for their H2-A workers, while at their farms.

NCGA has a collective bargaining agreement with the Farm Labor Organizing Committee ("FLOC"). FLOC is a national migrant worker labor union, and is a member of the AFL-CIO. This agreement is the first in the United States which allows guest workers to form a union. The agreement includes a formal grievance procedure for workers to address any complaints with the growers or against NCGA. It also establishes a set of guidelines for how workers are recruited, as well as how they can remain eligible for employment with NCGA in future seasons. It also guarantees the worker will have one half day off per

week, a full day's pay if injured, as well as three days paid for funerals, a seniority system for workers who return each year, and a toll free hotline for employers and employees that can make complaints.

South Carolina

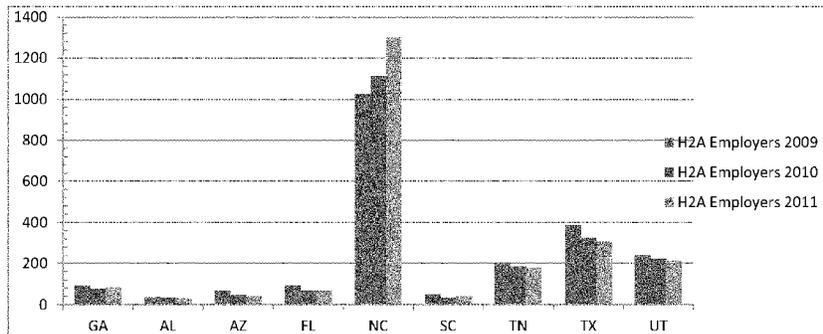
S20 Immigration (06/27/2011) includes provisions on law enforcement, employment, and identification. Police can verify legal status during a lawful stop. The law creates an Illegal Immigration Enforcement Unit within the Department of Public Safety to enforce immigration laws. All public contractors and subcontractors are required to use E-Verify. Private employers must enroll in E-Verify system beginning January 1, 2012. Transporting or harboring an illegal immigrant in any place, including a building or a means of transportation, is a felony. Verification is required for public benefits. Selling false IDs is a felony with a \$25,000 penalty and/or five years imprisonment. It is unlawful for a person eighteen years of age or older to fail to carry any certificate of alien registration.

Arizona

S1070 (04/23/2010) covers multiple issues related to illegal immigration in the state of Arizona. The provisions include establishing state crimes and penalties for trespassing by illegal aliens, failure to carry alien registration documents, stopping to hire or soliciting work under specified circumstances, and transporting, harboring or concealing unlawful aliens.

H2162 (04/30/2010) amends Arizona SB 1070 to specify that law enforcement officials cannot consider race, color or national origin when implementing the provisions of the original law, except as permitted by the U.S. or Arizona Constitution. Additionally, the law clarifies the original law's language around "reasonable suspicion" by requiring state and local law enforcement to reasonably attempt to determine the immigration status of a person involved only while in the process of a lawful stop, detention, or arrest. It lowers the fine for state or local entities sued by legal residents and found guilty of restricting the enforcement of federal law from \$1000 to \$500 for each day the policy is in effect. The law also lowers the fine for individuals that fail to complete or carry an alien registration document from \$500 to \$100 for the first offense.

The graph below illustrates the usage of H-2A in the states reviewed in this report.



VIII. Viability of State Guest Worker Programs

Following the charges outlined in HB87, the Department explored the option and gauged the interest from Georgia growers for creating a state administered guest worker program. Points of discussion included program costs to the employers and employees, employee duration of stay, identification cards, and other topics. Additionally, this program would need to accommodate all aspects of agriculture including the year-round labor needs of dairy, cotton ginning, and urban agriculture. However, in conversations with the U.S. Department of Justice, Georgia Attorney General Sam Olens determined that federal law does not permit state creation of a guest worker program. As solutions continue to be explored, Georgia producers unequivocally agree that a guest worker program designed for the agriculture industry should guarantee a reliable workforce year after year.

IX. Recommendations**Recommendation 1: Agricultural Guest Worker Reform Must Start at the Federal Level**

After seven months of traveling the state, hosting meetings, visiting farms, and conducting a survey, it has become more abundantly clear that the solution to the labor issues facing Georgia producers rests in the hands of the federal government. From expanding eligibility to exercising common sense in writing rules for the antiquated program, only the federal government can make this program useful for farmers. It is yet to be seen if H-2A can be rebranded to fulfill the needs of 21st century agriculture, but reforming the archaic program must be a near term priority.

State Departments of Agriculture maintain operational memorandums of understanding with a host of federal agencies. Under these agreements, state specialists conduct inspections for food safety, environmental protection, and other regulatory services required under federal law. Having the regulatory responsibility closer to the citizenry is more efficient and provides greater accountability. Several H-2A reform proposals currently before the Congress call for moving the H-2A program from the USDOL to the USDA. Building on successes of existing state and federal partnerships, State Departments of Agriculture should be considered as cooperating partners in the administration of a federal guest worker program.

Recommendation 2: Improve and Expand Education and Outreach to the Agricultural Industry About State and Federal Labor Recruitment Programs

First, it is recommended that additional resources be placed into educating the agricultural industry about the Federal H-2A program. This study found that over 20 percent of respondents were unfamiliar with this option for hiring workers. Additionally, another 16 percent had heard negative things about this program, suggesting that the program is not popular. Other comments suggested that the program is too expensive and too difficult to enter into, which could also be addressed to some extent with education and outreach efforts.

This study indicates opportunities for improving relationships between the agriculture community and Georgia Department of Labor for worker recruitment issues. Again, education and outreach to this group could have a positive impact and help provide a better resource for growers.

Recommendation 3: Solution Oriented Research Should Continue Through 2013

"More research is needed." Researchers are often criticized for including this statement in almost every study or report. The Department gathered the data in this study over the period of seven months. In order to serve the needs of decision makers, additional research is needed to understand the complexity

of agriculture labor in Georgia. Research should include but not be limited to tracking employment patterns, crop production cycles, labor needs by commodity and worker concerns.

The benefits of additional research will provide the state with a central repository of unbiased agriculture labor data, the capability to measure impacts of labor programs, and the ability to respond to future policy needs of the state.

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Additional State Immigration Legislation and Initiatives

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Appendix

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Appendix 1: HB 87 - Illegal Immigration Reform and Enforcement Act of 2011; enact

HB 87/AP

SECTION 20.1.

WHEREAS, Georgia's agricultural industry is a vital pillar for this state's economy and essential to the quality of life enjoyed by all Georgians; and

WHEREAS, understanding the impact of immigration reform measures on Georgia's important agricultural industry is a fundamental key to the implementation of immigration reform in a manner that is in the best interests of this state; and

WHEREAS, the General Assembly recognizes that the federal guest worker program, designated the H-2A visa program, for temporary and seasonal agriculture immigrant workers is administratively cumbersome and flawed; and

WHEREAS, both Georgia and federal law fail to address many of the legal, economic, and security aspects of immigration issues facing our state and especially our agricultural industry; and

WHEREAS, these issues of great importance to the economy and of this state have not before received extensive study by the Georgia General Assembly and merit such detailed and specialized consideration at this time.

NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA that the Department of Agriculture is directed to conduct a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend any actions or legislation that the department deems necessary or appropriate. The Department of Agriculture shall consider the current and future impact of immigration on the state agricultural industry. The department shall work in conjunction with and collect expert testimony and information from the United States Department of Agriculture, the Department of Justice, and other state governments. The department shall specifically address the need for reform of the federal H-2A program and provide recommendations for such federal reform. In addition, the department shall recommend changes needed in Georgia to provide for improvements in the H-2A process, identify where such action may be taken by the state, and provide a report evaluating the legal and economic feasibility of implementing a state guest worker program. The department may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this resolution. The Department of Agriculture shall make a final written report to the Governor, the President of the Senate, and the Speaker of the House of Representatives not later than January 1, 2012. Provided that the provisions of this Act have been complied with, the department shall not have any further obligation to continue such study on or after January 1, 2012.

H.B. 8

Appendix 2: Commissioner Gary W. Black Written Testimony to U.S. Senate

Judiciary Committee

Subcommittee on Immigration, Refugees and Border Security

United States Senate

Hearing on

“America’s Agricultural Labor Crisis: Enacting a Practical Solution”

Testimony of

Gary W. Black

October 4, 2011

Thank you Mr. Chairman, Ranking Member Cornyn, and members of the subcommittee, thank you for the opportunity to appear before you today to talk about the labor needs of Georgia’s agricultural industry.

With over a \$68 billion impact, agriculture is the leading industry in Georgia, employing one in seven Georgians. We lead the country in production of poultry, pecans, and peanuts. Cotton, peaches, fresh market vegetables, blueberries, and ornamentals are also prominent in our agricultural portfolio. Also, it is important to note that the famous Vidalia onions, a labor intensive vegetable, can only be found in our state. Needless to say, Georgia has a vested interest in making sure our agricultural employers have the manpower necessary to effectively run their operations.

This past spring, Georgia producers began calling my office to report labor shortages. In May of this year, Governor Deal asked the Georgia Department of Agriculture (Department) to evaluate the labor situation in the agricultural sector. My department created an informal survey and worked with various agricultural associations for dissemination to their members – the twelve Georgia Commodity Commissions, Georgia Fruit and Vegetable Growers Association, Georgia Farm Bureau, Georgia Agribusiness Council, Georgia Urban Ag Council, and others. The survey accepted responses for fifteen days, and we heard from roughly 230 producers representing Georgia’s diverse agricultural economy. Our brief, unscientific snapshot suggested a degree of unmet labor needs during the 2011 spring harvest season.

The survey revealed significant concerns among blueberry and fresh market vegetable producers. Additional variables for this past growing season included unusually high heat and lack of rain causing an unexpected rush in harvest. Bottom-line, the pool of respondents reported on June 10, the unmet availability of 11,080 jobs.

During the month of June, the Georgia Labor Commissioner, Mark Butler, worked with various agricultural associations to place unemployed Georgians in these positions. Even with unemployment rates hovering around ten percent, this task was not as easy as it would seem. For example, last Thursday one Georgia producer shared his story with us. He had one employee that worked half a day one week and two half days the next week. This employee earned a total of \$119. The employee walked off the job and did not return though plenty of work was available. In addition, the employee filed an unemployment claim, and the producer received notification that the employee was eligible for \$235 weekly benefits for seventeen weeks. The producer filed a timely appeal, and it was finally determined that he was not responsible. In addition to harvesting his crops to earn a living, the producer had to take time to ensure he was not held financially responsible for the employee's irresponsibility. We have heard similar complaints from producers regarding the fifty percent rule of H-2A. I do not believe employers should bear this unnecessary burden as they try to create jobs and stimulate our economy. Producers would rather employ Americans, and this aspiration should not be overlooked. Unfortunately, the immediate reality trumps those aspirations.

Simultaneously, we worked with Governor Deal and the Georgia Department of Corrections to develop a pilot program utilizing probationers to fill Georgia's agricultural labor needs. Two producers participated in this program - one with a large farm and one with a small farm. The larger farmer was originally sent 58 probationers to help with his harvest. By combining the probationers with his existing workers, he could accurately compare their productivity. He found the probationers to be half as productive as his other workers, and he even switched to two shifts in hopes of preserving energy. The smaller farmer needed 10-20 workers a day to pick squash and cucumbers. Out of 104 probation workers, this farmer eventually found 15-20 reliable workers. There were some obvious challenges with using probation labor, and the two producers found that the probationers were unable to harvest at the same rate as the other workers. At the end of the day, both producers agreed that the program had potential to meet the niche needs for farmers desperate for workers.

Additionally, the Georgia Department of Corrections is working to establish a transitional inmate workforce program for agriculture – a program that has worked well for other industries in the past. Corrections officials believe they can offer opportunities for nonviolent offenders with skills developed by working in the prison farm system. Agricultural producers would qualify for the Work Opportunity Tax Credit (WOTC) which can be as much as \$2,400. The WOTC is 25% of qualified first-year wages for those employed at least 120 hours and 40% for those employed 400 hours or more. This program is strictly voluntary, and no one is required to participate.

During the legislative session of 2011, the Georgia General Assembly passed into law House Bill 87, the "Illegal Immigration Reform and Enforcement Act of 2011." We do not yet know the total economic impact of this legislation on the agriculture industry in Georgia. In addition to an E-verify mandate, the law instructs the Department to conduct a study on the legislation's impact, and the results are due by January 1, 2012 to the Governor, President of the Senate, and Speaker of the Georgia House. The legislation also charged the Department with exploring a state guest worker program. We continue to explore and hear from Georgians what their needs are for labor.

It cannot be contested; the success of Georgia's agricultural industry rests on a legal workforce upon which producers may rely. In my view, it is not just a labor issue but also a food safety issue. We need to make sure we know who is on our nation's farms, and we need to make sure that America does not become reliant on third world countries to put food on the family tables across this country.

Looking at current legislation, I think the HARVEST Act introduced by my home-state senator, Saxby Chambliss, has potential to address some of the labor needs of agriculture. Moving the administration of H-2A program from the United States Department of Labor to the United States Department of Agriculture places the program in an agency familiar with the intricacies of the type of work and labor needed. By expanding eligibility, those producers needing year-round labor who currently have no guest worker program to rely on may participate. It remains to be seen if H-2A can be revised and sanity restored to the bureaucratic process, or if we should take the workable aspects of the program and rebrand it. Either way, something must be done. With a new brand or not, the goal must be a program that works for all farmers.

Regretfully, a large number of illegal immigrants are working in agriculture today. A penalty-based work authorization permit should be considered for offenders. Such a measure could require substantial monetary fines, an annually renewed biometric permit supported by fees that is restricted for agriculture and strict employer enforcement after implementation.

I also think it is not beyond the realm of possibility for the federal government to create a guest worker program and then delegate to states through an MOU the day to day responsibilities of administering the program. This relationship already exists and works well with states implementing environmental and food safety regulations set forth by the federal government.

A robust agricultural guest worker program, properly designed, will not displace American workers. As my testimony shows, in Georgia, even with current high unemployment rates, it is difficult for farmers to fill their labor needs. I encourage you all to work together to develop a guest worker program that is fair to the American employer, fair to the American worker, and fair to the temporary guest worker.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.

Appendix 3: Additional Survey Information

In fairness to all those that responded to the survey questions and in maintaining the integrity of the data, the following list of responses is complete unabridged data collected.

Appendix A- Responses to Question 3

Please rank each commodity that you produce or process indicating their level of importance.

Please rank each commodity that you produce or process indicating their level of importance. Place a 1 by the crop with the highest annual value and 2 by the crop with the second highest annual value and so on (You need only rank the commodities you grow, produce or process).

| Answer Options | Response Percent | Response Count |
|----------------|------------------|----------------|
| Apples | 1.6% | 11 |
| Beef | 15.4% | 107 |
| Bees/Honey | 1.6% | 11 |
| Blackberries | 3.5% | 24 |
| Blueberries | 7.2% | 50 |
| Broilers | 3.3% | 20 |
| Cabbage | 1.9% | 13 |
| Cantaloupe | 1.3% | 9 |
| Carrots | 1.0% | 7 |
| Corn | 21.8% | 151 |
| Cotton | 29.5% | 205 |
| Cucumbers | 2.4% | 17 |
| Dairy | 6.2% | 43 |
| Eggplant | 1.6% | 11 |
| Eggs | 0.7% | 5 |
| Equine | 0.9% | 6 |
| Goats | 1.2% | 8 |
| Grapes | 0.7% | 5 |
| Greens | 2.2% | 15 |
| Hay | 14.0% | 97 |
| Hogs | 1.4% | 10 |
| Olives | 0.3% | 2 |
| Onions | 1.7% | 12 |
| Ornamentals | 28.8% | 200 |
| Peaches | 2.3% | 16 |
| Peanuts | 29.4% | 204 |
| Pecans | 8.4% | 58 |
| Peppers | 2.3% | 16 |
| Rye | 5.2% | 36 |
| Sheep | 0.7% | 5 |
| Snap Beans | 2.2% | 15 |
| Southern Peas | 1.7% | 12 |
| Soybeans | 11.8% | 82 |
| Squash | 3.0% | 21 |
| Strawberries | 2.3% | 16 |
| Timber | 12.0% | 83 |
| Tobacco | 1.6% | 11 |
| Tomatoes | 3.3% | 23 |
| Turfgrass | 9.7% | 67 |

| | | |
|-------------------------|-------|----|
| Watermelon | 3.5% | 24 |
| Wheat | 11.8% | 82 |
| Zucchini | 2.6% | 18 |
| Other (please indicate) | 10.2% | 71 |

Appendix B- Responses to Question 4

Please list your home county

County-Number of Responses

| | | | |
|--------------|--------------|--------------|--------------|
| Gwinnett-28 | Grady-8 | Madison-4 | Lumpkin-2 |
| Colquitt-27 | Henry-8 | McDuffie-4 | Meriwether-2 |
| Fulton-20 | Jackson-8 | Newton-4 | Murray-2 |
| Tift-18 | Pulaski-8 | Oglethorpe-4 | Rabun-2 |
| Berrien-16 | Union-8 | Pierce-4 | Tattnall-2 |
| Jefferson-16 | Ware-8 | Toombs-4 | Taylor-2 |
| Forsyth-15 | Bartow-7 | Baker-3 | Treutlen-2 |
| Hall-15 | Bulloch-7 | Bibb-3 | Whitfield-2 |
| Bacon-14 | Dougherty-7 | Crawford-3 | Baldwin-1 |
| Dekalb-13 | Screven-7 | Evans-3 | Douglas-1 |
| Walton-13 | Wayne-7 | Fayette-3 | Echols-1 |
| Cherokee-12 | Worth-7 | Gilmer-3 | Effingham-1 |
| Cobb-12 | Burke-6 | Glynn-3 | Elbert-1 |
| Decatur-12 | Dodge-6 | Johnson-3 | Franklin-1 |
| Wilcox-12 | Hart-6 | Lanier-3 | Haralson-1 |
| Columbia-11 | Lee-6 | Monroe-3 | Heard-1 |
| Dooly-11 | Pike-6 | Montgomery-3 | Jasper-1 |
| Mitchell-11 | Rockdale-6 | Muscogee-3 | Jones-1 |
| Morgan-11 | Turner-6 | Seminole-3 | Marion-1 |
| Appling-10 | Washington-6 | Terrell-3 | Miller-1 |
| Cook-10 | Candler-5 | Wilkes-3 | Paulding-1 |
| Early-10 | Chatham-5 | Banks-2 | Pickens-1 |
| Oconee-10 | Harris-5 | Barrow-2 | Schley-1 |
| Richmond-10 | Peach-5 | Ben Hill-2 | Stephens-1 |
| Sumter-10 | Randolph-5 | Brantley-2 | Stewart-1 |
| Thomas-10 | Atkinson-4 | Calhoun-2 | Towns-1 |
| Clarke-9 | Bleckley-4 | Camden-2 | Troup-1 |
| Clinch-9 | Butts-4 | Carroll-2 | Upson-1 |
| Coffee-9 | Clay-4 | Clayton-2 | Walker-1 |
| Irwin-9 | Coweta-4 | Crisp-2 | Warren-1 |
| Laurens-9 | Floyd-4 | Dawson-2 | Webster-1 |
| Macon-9 | Gordon-4 | Glascocock-2 | Wheeler-1 |
| Putnam-9 | Greene-4 | Habersham-2 | White-1 |
| Brooks-8 | Jeff Davis-4 | Houston-2 | |
| Emanuel-8 | Lowndes-4 | Jenkins-2 | |

Appendix C- Responses to Question 6

In an average year, how many non-family employees do you hire as full-time/permanent employees
(year round, 35 or more hours weekly)?

| | | | | |
|-----|-----|-----|-----|-----|
| 30 | 30 | 60 | 50 | 40 |
| 92 | 100 | 35 | 60 | 40 |
| 25 | 25 | 27 | 30 | 65 |
| 200 | 95 | 80 | 50 | 100 |
| 40 | 105 | 120 | 100 | 100 |
| 77 | 24 | 26 | 99 | 115 |
| 50 | 80 | 23 | 110 | 80 |
| 75 | 40 | 35 | 45 | 24 |
| 28 | 40 | 0 | 20 | 30 |
| 25 | 50 | 40 | 175 | 30 |
| 30 | 45 | 40 | 75 | 100 |
| 25 | 45 | 75 | 45 | 40 |
| 50 | 100 | 40 | | |

Appendix D- Responses to Question 8

If you indicated greater or fewer employees in the previous question, please briefly describe why you have greater or fewer employees for this year.

1 employee died in 2010 and I did not replace (replaced with family member)

500 acres of property to maintain.

Added more acres

All operations expanding to accommodate children wanting to come back to farm

Bad economy

Because of the new law in Georgia

Because of a \$1,000,000 expansion

Because of the economy. This is hard work & it's hard to find the right fit of employee.

Because this operation is growing

Budget

Budget reasons because of benefits

Business growth has required additional labor.

Business has gotten smaller

BUSINESS HAS IMPROVED. I WILL HIRE 2 FULL TIME & 4 PART TIME EMPLOYEES FOR 2012 IN ADDITION TO MY WORKFORCE.

Business has increased

Business is booming! We need more staff if we want to keep growing.

Business is down

Business is growing

Business is growing

Business is growing.

Business is picking back up after drought related watering restrictions and building slow down

business slower

Business volume has improved

Company has scaled back due to drop in sales. Economic downturn.

Competition and decline in sales due to housing slump.

Competition from national accounts has eroded my market share

Create demand for product

Cut back on production

Cutting back to save money. Doing more with less.

decrease in business

Decreased Sales

Demand for product is down

Demand is greater

Down economy

Down economy. Cash flow management. Revenue down over 49% since 2007.

Down turn in construction, less landscape installations

Down turn in economy

Down turn in the volume of customers we service, so our workforce was cut to compensate.

Down turn in the volume of customer we service, so our workforce was cut to compensate.

DOWNSIZED DUE TO ECONOMY

Due to the economy

Economic downturn

Economic downturn of the industry and country.

Economy

Economy

Economy

Economy _ Cut Backs _ increased pay for piecework

Economy and too much competition in the industry

Economy creating less business. Immigration law making it tough to find qualified employees.

Economy Failing

Economy fallout with commercial & new house installations. Business fell by 60%

Economy has contracted. Fewer people looking for lawn services. As people struggle with employment more people turn to lawn care. This causes greater and greater competition and downward pressure on prices.

Economy is bad

Economy- less sales

Economy was what impacted my labor pool, but if I need to add employees most Hispanic labor has

left area

Economy

Lack of Sales

Economy, we have not filled open positions as current employees leave the company.

Employees are not as readily available

Equipment upgrades

Expanded our business and as a result need more labor.

Expanded processing and treatment

Expanding business needs, more customers

Expanding operation

Expansion of the dairy farm to milk more cows

Failure of a farm supply business and feed mill.

Farm expansion

fewer = due to economy let down, scaled back

Fewer due to economic challenges

Fewer employees because of decrease in annual budget

Fewer new construction projects-commercial & residential

Greater because our business has grown.

Greater demand for turf.

Growing business

growth

Growth has been less than expected

growth in business demand for services increased

Growth in sales - more work

Have fewer because I have tried to be more efficient with my employees

Housing Market put us out of Turf market

I am a new Business with less than 2 years in operation

I cannot find good help

I can't find full-time employees who can last more than 2-3 weeks before they quit. My business has grown to the point where I need to grow, but I cannot because I need reliable workers.

I contract labor. Fewer skilled laborers were available this season

I do most of my own work but sometimes require help to finish it all

I have expanded a maintenance operation & added 2 people

I have fewer due to the work doing industry and lack of workers willing to do the work.

I have fewer employees because of the addition of a family member (son) to the operation, and discontinuing melons and broccoli because of the labor situation.

IM TRYING TO EXPAND MY OPERATION BUT IM HAVING PROBLEMS HIRING QUALIFIED OR RELIABLE EMPLOYMENT CANIDATES.

Immigration laws scared them off

increase in acreage farmed & cows milked

Increase in business.

increased acreage and production

Increased herd size

Increased interest in crop productivity from growers.

Increased need to cut costs & increase productivity

Increased production

Increased production

Increased sales

increased sales and consequent production requirements

Increased sales/opportunities

increased size of operation

Increasing production

It is less due to the economy and cutbacks by businesses and homeowners.

just hired outside help last year for the first time

Just started mu business this year.

Lack of business

Lack of work

Lack of work

Lawn Maint. gross sales are down 18%. Landscape installation sales are down 40%

Less because of the bad economy and an ongoing drought on/off last 5 years

Less because of the bad economy and ongoing drought in last five years.

Less demand for product due to recession

Less full time employee

Less in sales

Less landscape business.

LESS SALE

Less volume of business

Less Work

Less work

Less work, dry weather.

Less work-Fewer sales

Less, due to the ongoing drought and economic downturn in general

Less-stopped growing sod

Little growth

Loss in businesses and economy has lowered demand; we have cut back to bare minimum just to stay alive. We could be forced to shut down any day.

Many of the textile plants in our area have closed. We are commercial/industrial based.

More employees have been result from more work.

More work to be completed in Blueberries because of their age - also more work with cows because of dry summer

My business boarding and training horses has increased in the last 2 years.

My business is growing

NA; I only hired part time laborers.

NEEDED MORE LABOR

Now have trucking company and need more specialized help.

NOT AS MUCH WORK

Not enough work

Only been in business 2 yrs. This year we opened up another location

only in business for ~5years

operation is growing

our business has grown

Our business has grown over past five years

our operation has grown

Overall drop in sales due to slump in new home construction

POOR ECONOMY & SALES OF NURSRY PRODUCTS CAUSED CUT BACKS IN EMPLOYEES.

Poor economy negatively impacting sales.

Poor economy, drought

Poor sales and less labor to accomplish the task

Previous year only had part time. Hired first full-time employee in 2011

Producing more acres of crops

Real Estate Depression

Really I just started dairying July 1 of this year. And too be honest I have had to go through several before one work out

Recession, sales off by over 50%.

Reduce Cost

reduced sales

Reduced service area-sales slow down

reduced size of operation

Revenues are down 40% due to low new construction in the country

Sales are down

Sales are less and not as many people needed to operate.

Sales are reduced during the last four years

Sales down - Economy bad

Shrinking market

Skill level, trustworthiness and production of Hispanics are second to none. The government has chased my best 3 men out of the state.

Slowdown in the economy and the ability to find qualified labor.

Slow economy/enrollment in E-verify program as of 2010

Slower economy, decreased sales

Slower retail sales

Smaller sales amounts and less cash flow due to summer droughts and excessive hard Cold winter temperatures.

Started a new operation in 09, was flooded and just now in full operation.

STILL SLOW

Substantial reduction in work volume, i.e. drop in sales revenue

Terrible economy

The business has grown

The decline in our national economy has reduced our business and our ability to support additional workers

The economic downturn has forced us to have fewer.

The economics of the last 3 1/2 years has reduced the sales volume by 50%

The Economy

The economy, not enough work

The economy, there is very little work and barely any new construction.

The growth of our business required us to add on to our personnel.

The growth we're having.

The number of clients/customers has increased thus we have more employees

The poor economy

There is less work for landscaping, commercial or residential comequantly I need for employees.

This economy and dry weather, the market on cattle, goats, sheep, and hogs has been good just not as many of them.

Timing of staff changes; not a significant reason

Unable to find qualified employees.

unable to hire capable, efficient laborers has resulted in a scale back of permanent full time employees.
The work is there, just can't find efficient workers

We are expanding our operation

We are in the landscape maintenance business and our sales have been increasing

We are milking 3 times a day where we were milking 2 times a day.

We continue to grow as a composter in the market and each year add additional employees.

We had things to do we had been putting off

We had to let them go because they were Mexicans and they could not get to be legal

We have had a harder time filling the spots that we have available for work.

We have lost jobs and thus hours have been reduced.

We have more bees to look after then in previous years which takes more people to look after them.

We have more workers due to a higher volume of work

We have not replaced anyone that has left. Our market has been damage by housing crisis.

We have the same number as last year.

We hired another full time man

We maintain fewer acres

We use contract H2B employer

weak economy

Weed Pulling

Well one reason is that the hiring of non-skilled, non-capable, problematic citizens has caused more turnovers, more interview, and more frivolous workers comp claims since the new law...business actually could have been up! But we are left with a work force that has not worked in a decade, does not see it as a positive to do the type work we do, and in general is not physically capable of doing the work. I would love to see the reality TV show of some of our legislatures hiring for these positions and then motivating the United State citizens to do this....and it is not about money! It is about work ethics!!!!!!!

Appendix E- Responses to Question 12

If you indicated greater or less than average for the last question, please briefly indicate why you have greater or less employees for this year.

5 years ago we had a robust market and used part time/seasonal labor. Since 2008 we have been downsizing.

About the same

Again, the economy and the drought

Again, the increase sales in our landscape maintenance business

bad economy

Bad economy, less work

Because of the economy, when the housing market collapsed, we lost 3/4 of our income

Because of a \$1,000,000 expansion of our facility

Because of the growth were having.

Because our business has grown

because production has increased & may vary each year because of production

Because this farm has been growing

BUSINESS HAS GROWN

business cut back

Business is good

Business is growing

Business slower

Cannot find the labor NEEDED!

Could not find employees as needed

Could not find labor

Couldn't get enough help to harvest watermelons and cantaloupe

couldn't get help

Create demand for product

Crop damaged by hail

Crop production on my present acreage will increase for the next 2 years

decrease in volume of business

Decrease in all previous 2 years. Increase in 2011.

Decreased demand

Decreased Sales

Demand for product is down

Did not hire anyone last year

Down Economy

drop in sales due to housing decline

Drought

Due to a combination of the recession and the legislature in their wisdom making it illegal to hire Mexicans

Due to the economy, more companies out there, causing us to be more efficient for less money

Due to the weather conditions we had work that needed to be accomplished in a shorter amount of time than normal.

Economic downturn

Economy

Economy and less available labor

economy and too much competition in the industry

Economy cut backs

Economy is the main reason but when it comes back where do I find people willing to do manual labor?

Economy- less sales

Economy

Lack of Sales

economy, drought

Expanded processing and treatment

Expanding

Expanding Nursery.

Expansion

Expansion of container true seedling production

Failing Economy

farm expansion

Farm production has increased

Fewer acres to maintain/lower sales volume

Fewer Hunts, Down 50%

Fewer new construction projects-commercial & residential

Georgia's new immigration laws

Greater farm activity.

Greater product demand

Had a slight problem this year getting enough people when we hit our peak time. No extra workers available.

Hard to find qualified workers

Herbicide resistant weeds

Hired more part-time due to increased workload

House Bill 87 I needed 30 to 40 people to pick my berries. The people would not come to Georgia from Florida because of Bill 87

I cannot find good help

I did more common labor myself

I had less, but I let them go because my price went so low I couldn't keep them
I had the same as average but I worked really hard to keep and maintain workers. Turnover was greater than average.

I have a seed cleaner and used part time help to clean oats, wheat & rye but the demand for those services has decreased to about 25% or less than what is was in the past

I have less non-family part-time/seasonal employees this year because I discontinued melons and broccoli from my farming operation

I have one full time employee

I mechanical harvest earlier than normal

I pay contractor with understanding skilled employees will average 10.00/hr & require skill.

I was 15-20 workers short this year. Due to laws that effected the migration of seasonal help.

I will need these employees in October and do not know yet how hard it will be to find the labor. Immigration laws scared them off

Increased acreage and production

Increased production

Increased production

Increased sales and production requirements

Increasing production

Increase in price, more acreage added

just hired full time outside help last year, used part-time help before that

Labor availability reduced -

Labor did not come to GA due to fear of harassment because of New illegal alien law

Lack of new construction is hurting sales and keeping prices soft, addition labor is becoming a luxury for me.

Lack of reliable workers

Lack of work

Lack of work and unable to find competent labor.

Landscaping and turf sales have been very slow and hard to come by

Larger number of acreage in production

Larger properties to maintain during growing season.

Less became seasonal part-time are migrant labor that did not want to come to Georgia this year

Less business

Less business

Less business

Less business.

Less due to the economy

Less- Economy and drought over last 5 years

less economy and drought over last five years

Less in sales

Less part time labor, but more full time to replace them

LESS SELLERS

Less than the average.

Less work

less work

Less work

Less Work Load

less work load, bidding for work was contributing factor. No new contracts this year.

Less, because our state gov scared them all off with the new immigration law

Lost jobs and economy being slow means less development, thus less need for design, install, etc.

Market slow down and employees not available.

Members of our legal Hispanic work force have left the state due to the perceived hostility and fear resulting from the GA Immigration Reform bill

Migrant workers were afraid to come to Georgia

Money

MORE BUSINESS

more cows

More landscaping work

More production & expansion more crop

More sales/opportunities

More work to do

Moved away. Afraid of Immigration Law

My business is growing

No Mexicans left here to work- they all left.

No migrant workers to gather produce. Scared to come to Georgia because of our laws.

NO PEOPLE COME TO WORK THIS YEAR

no work

No work!

No workers in the area.

not able to find legal workers

not able to find legal workers

Not as much lawn care demand. Housing industry went bust a couple years ago. Builders become competitors.

NOT AS MUCH WORK

Not sure yet. But thinking will be less because business volume is less

Ongoing drought and economic downturn

operation does not require more

Operation has grown enough to need additional seasonal help.

operation is growing

our business is growing

Part-time seasonal employees are used to gather pecans. We have a very poor crop this year.

Purchased a harvester because we were fed up with H2A and lazy employees.

Real Estate Depression

Recession, sales off by over 50%.

Reduce Cost

reduced sales due to economy

Sales are down; we are cutting production

Sales are reduced

Same as B4

same as question #7

Slow economy

Slower economy, decreased sales

Some of the workers have left the country and returned to their home country. It's hard to find and train new workers with the previous worker's expertise.

There were not enough immigrant workers to hire. They skipped Georgia.

The economy

The Economy

The workers are no longer available due to the new GA immigration law.

They fear for their safety and do not want to risk getting me or themselves in trouble!

This year we needed more workers in field of watermelons but wasn't available

TRYING TO EXPAND OUR OPERATION.

We are in the H2A program. During peak harvest periods we hire documented workers. These workers were not available in June & July

We could not get any help because of House Bill 87. We tried to work Americans and they would not because it was too hot.

we have increased production
We have less employees due to a lack of workers

We have less full time need, more part time/seasonal

We have more conscious of our financial pressure to minimize non billable work.

We have the same amount but have had to spend countless hours finding and hiring these to fill the positions. Most leave after a couple days now versus before we could count on them for the season.

We needed more people to do more work.

We use H2-B, but because the USDOL just forced us to increase our prevailing wage from \$9 to \$12.05 per hour, we had to lay them off and send them back home. It's sad because now we don't have enough employees to handle all the clients I have. I could grow, take on more work, buy more equipment, pay more taxes, and add to the local economy, but I cannot because my government made my service become too expensive for my clients to afford and now they go and use another company that uses illegals.

We were unable to get handpicked to come and work. We had the work.

We will but less peanuts this year

weed control

Weed Pulling

Weeds resistance to herbicide application

work force reduction availability

work load

Workers were not available in 2011. This was particularly true during the first 2 weeks of Blueberry Harvest (April 25- May 10)

Workers were scared to come to Georgia because of the new law.

Appendix F- Responses to Question 32

What is/are the major reason(s) for hiring difficulties? If you do not have difficulties, please put not applicable.

MUST HAVE DRIVER'S LICENSE, CLEAN MVR, PROFESSIONAL EXPERIENCE

1- overlapping seasons with other crops on other farms

2- daily work hours vary - some with late night work

1. language barriers

2. Fear of State Laws

1. nature of business is seasonal; 2. county or municipal contracts are 7 months; 3 economy

a hot-cold-dirty job

A tremendous amount of documented labor has left the state of Georgia due to the immigration reform laws that were passed. The existing labor force is minimal and documented laborers, Hispanic or otherwise are far and few. Caucasian, African American and American Asians do not want to labor in the heat of the summer in the southeast doing landscape work.

after being hired. They do not show up or only work a couple of hours and then quit.

Agricultural work is hard-few people are willing to work this hard

All the help left

All the workers that are qualified went to another state.

American kids have no skills any more for farm work. except immigrants

American labor pool is poorly educated, has difficulty passing the drug test, many times in parole, can't seem to take it to work on a regular basis, can't seem to find the energy TO work when they do come in

American workers are not interested in getting dirty, bloody, sweaty, working weekends & holidays, getting to work at 4 a.m. 2 mornings a week & at 6 a.m. 5 mornings a week.

American workers cannot take the summer heat and long hours required for the job.

American workers do not want to do our job needs. They are not available or when they try, the

American workers do not produce as the same rate or stay as long.

American workers do not want to work the hours we work or the type work.

Americans are lazy. We have to spend large amounts of money to get legal immigrants from Mexico to do this sort of work. No one is willing to do this sort of work. Americans think they are too good to work. More money can be made while sitting at home on the couch collecting unemployment.

American's can't or won't work hard

Americans don't want to work that hard. Mexicans have documentation problems.

Americans don't want to do farm work, those that do usually have drug or alcohol problem; they are not reliable, late, and lazy, want to work under 40 hrs a week.

Americans will not do field labor. If they do they will not stick to it.

Americans workers cannot take the summer heat and long hours required for the job.

Applicants are lazy or lack experience. Some applicants can't pass a drug test or do not have a driver's license or reliable transportation

Applicants can't pass a drug test, unreliable, uneducated, and have poor work ethic

Applicants do not wish to work outside in the summer.

Applicants have no driver's license, drug use, expect higher wages

At this time I have not had any problems getting workers, but I am about to start hiring and do not know if I will have the same access that I used to employees that I used to.

Attitude, education level

Available workers

Availability

Availability

B/C it's impossible to hire legals w/ driver's license including whites and blacks who won't to work hard for a living. Gov't handouts are too easy!

Because of Georgia's new immigration laws, many Hispanics have moved to other states. The available "legal workers" are unwilling to perform the work and quit after a short time.

Bill 87

Can only hire seasonal/part time and pay minimum pay due to the economy

CANADITES LACK A WORK ETHIC AND LACK LOGIC SKILLS TO BE TRUSTABLE.

Can't afford their request.

Can't find Americans willing to do physical labor. Too many alcoholics & dope addicts in area. Latinos afraid.

can't find anyone wanting to do field and farm work

Can't find legal workers

Can't find someone who wants to work and/or doesn't have work ethics

Can't find white & black people America people that will work

Can't find workers that are legal & if they are & non-hispanic, they don't try to pick fast enough to ever make minimum wage

can't get locals to work due to gov't hard outs. Migrant workers are scared to come to Georgia.

Caucasian Americans & African Americans simply will not work full time or part time farm jobs. They believe it is beneath them to work on a farm or get dirty. Hispanic or immigrant workers do a great job, but I can't get them because of existing immigration laws

Competitive pay rates and benefits.

Competitive salaries due to a shortage of qualified workers

Current state immigration policy has terrorized the labor pool I rely on to the point that they have left/cannot acquire driver's licenses.

Dairy is 7 days per week with a broken day

DIFFICULT TO FIND HORTICULTURE EXPERIENCE

-Difficult work

-General government w/immigration laws make it tough

Difficulty finding qualified applicants willing to work long hours- too many applicants have had drug issues

domestic American workers do not want to do farm labor - there was a shortage of Hispanic workers made worse by HB 87

Domestic help is not interested in 12-14 hour days in all climate conditions

Domestic labor does not think they have to work to receive a check, every time we try to hire

domestic labor part time we end up with a workers comp case---the laws and benefits reward those who abuse the system.

Don't like the hard work & long hours

Driver with Clean License

Drug screening and work ethics

drug screening; work ethics

Due to the need of experience in pruning the trees, it is difficult to hire local workers

education

Education level of farm labor

Employee need to be production minded, not hourly. They need experience with moving their hands and fingers quick. They need to be trained at this. We cannot afford to train them.

Everybody wants a check & not a job. The government makes it too easy for handouts so we have to result to hiring immigrant workers

Everyone wants a job, nobody wants to work.

Expensive, driver's licenses

Experience

Fear

Fear of legal issues

Federal government intervention

Federal Red Tape

FEW OR NONE COMING BY

Find people who want to work and don't mind working long hours.

finding employees with the proper work visa. The citizens are not dependable; they only want to work for 2 to 3 days a week.

Finding employees that take pride in work and who will want to grow with business.

Finding legal Hispanics and or American that want to work in the landscape industry.

Finding motivated employees willing to do hard work and learn on the job.

Finding people who will work and be dependable

Finding people wanting to work

Finding qualified workers willing to work on weekends and holidays as well as the hours of dairy farm work

Finding qualified workers-someone with experience operating equipment: finding someone that is dependable-show up for work

Finding someone who doesn't mind working

finding worker with "not-so-common sense" to fill a temporary position at minimum wages

Finding works that are dependable and competent

Folks do not want to do farm work when the Gov pays them not to work.

Folks willing to work.

for 2011 crop year -- pickers did not come due to E-Verify fear

Georgia's new LAW.

Government paying too many people NOT to work. They may come to work if you pay them cash, so it doesn't affect their hand out. But that's the only way.

Hard to find experienced workers who live close enough to work for me,

Hard to find people who are willing and able to do a good job

Hard to find qualified people with a driver's license

hard to find trained workers

Hard to find. Not educated

hard to work locals because of laws

Hard work that most people do not wish to do.

High cost of health insurance

Hiring "people" is easy - hiring people to work is very difficult

Hiring difficulties are a direct result of a lazy population that gets paid to sit around and do nothing via "entitlements". If the result of laziness was starvation, dramatic results would be seen.

Hiring whites or blacks not very dependable. Would like to hire young migrant workers very few available due to all the migrant laws.

Hispanic workers are leaving because of fear of new laws & being targeted by Law enforcement agencies

Hispanics are leaving the state. Locals absolutely will not milk cows like required on a large commercial doing

I assume legal status of workers is primary. When people felt safe in area, they were willing to make commitment to upgrading skills

I cannot find US citizens with the skill and willingness to do our kind of hard labor

I could not find better workers than I have at the moment.

I will not have difficulties if all government people will just go home and leave me alone. If new law is fully implemented we will have to shut down a farm that has operated for over 200 years

if they are good workers, they already have a job. Most don't want a job, just a paycheck
Immigrant workers are the only ones that will work in my industry due to nonimmigrants not willing to work. Immigrants DO NOT have any excuse to receive temporary legal work status like so many think

Immigrants have left the state in doves due to the new law and our legislators had nothing in place to replace the workforce.

Immigration laws

Immigration Laws Past in GA!!!

In general, people don't want to work the number of hours in a week we do. They also don't want to do the type of work we do. Many of the people who apply don't want to work they only want a paycheck. Also, many of the people who apply are drawing some type of government payment, and the only want to make a certain amount of money.

Ins

It is difficult to find people with experience working bees, and available

It is hard to find people who can multi-task. For instance, I have a mechanic who is my mechanic. All my drivers are qualified to drive tractor trailers. I also have a truck driver who is an electrician

It is hard to find people with the right skills who will work without someone watching them constantly.

It is tough to find people who to work 70 hours a week (peak season - 35/40 in off season) in a manual labor position outdoors.

It is very difficult work; it's hot, long hours, bending, lifting, etc.

It's easy to find more people who want paychecks. Very difficult to find people who want to learn about ornamental plants and herbs and care about producing a premium product.

Job is labor intensive

Just hard to find the good help that are legal. Americans don't want to work because it is too hard.

Hispanics love the work - but if they are not legal we can't hire them.

Just the available work force, we drug test, we e-verify, we perform back ground checks at times and the combination does not allow for a large work pool to choose from.

LABOR ACCESS - COMPETITION

Labor Force has moved to other states where migrant labor laws are more relaxed and human beings that want to work are not intimidated by those that do not want to work.

Laborers in our areas have left due to perception that was implied due to immigration reform

Labor intense work

Labor intensive and can't find people willing to work

Labor is NOT available, work is too physically demanding.

Labor shortage Plenty of Hispanic labor but lack of people with driver's licenses. Very little interest in our field from domestic labor force; ie American labor force.

Lack of any work ethic with local labor supply

lack of applicants to do field work

Lack of available workers

Lack of availability of a sufficient number of qualified applicants

Lack of experience

lack of experience or training for farm work

Lack of experience/training in needed work area

Lack of good work ethic across the board. We have raised a nel fafe generation who has their hand out.

Lack of irrigation knowledge, training

lack of knowledge

Lack of legal immigrants wanting to work in fields. Too much paper work

Lack of people

Lack of proper documentation or Identification - We don't hire them without

Lack of qualified labor pool. That is hirable

Lack of qualified, willing workers.

Lack of quality workers

Lack of skilled workers

Lack of trained personnel that want a labored position

Lack of work ethic, no knowledge of ginning cotton.

Lack of work ethics in Americans

Lack of workers at the right time

Lazy white and black workers. Lack of Hispanic help.

-Lazy, not motivated

-They want more income than we can afford to pay

-No work experience

LEAVE FOR BETTER JOB

Legal workers don't want to work in the field.

Less work

Limited supply of applicants.

Limited supply of people willing to do farm work

Local labor does not want to work very much

Locals do not want to do the hard physical labor required

locating someone with knowledge, skill and a solid work ethic

Location, labor-intensive work, lack of general workforce

Long hours & type of work

Loss of full time jobs in area

Low pay means low loyalty, various HR issues are regular occurrence, including absences, tardiness, and drug and alcohol abuse.

Many qualified employees have left.

Many workers do not have legal documents, so you cannot hire them.

Mexicans are scared of being profiled even if they are legal so they will not come to Georgia.

Migrant labor will not stay long for fear of government

migrant workers are avoiding GA, due to new law

Migrants were not available.

More Gov. rules & regulations are causing good workers to leave and many people don't want to work in fields, when weather cond. are poor hot & cold

Most are not willing to work outdoors and complete the tough tasks that come with the occupation.

Most do not care and do just enough to get by. Not interested and seem apathetic to the job and most other responsibilities

Most don't want to work. Perform required task

Most guys are not legal. They also cannot get driver's license

Most importantly is finding someone to complete the task of harvesting produce & maintaining the physical labor components of field workers.

Most labor not experience in nursery work

Most new hires either work a few days and leave or cannot follow our production schedules. We can send out as many as 100 W-2 for up to 15 seasonal hires.

Most people are idiots.

MOST PEOPLE ARE NOT WILLING TO WORK IN THE WEATHER CONDITIONS/HOURS OF THE INDUSTRY.

Most people do not want to work in hot conditions - or in the field - or work the hours needed.

Most people do not want to work. They want a paycheck without working for it

Most people don't want to do this type work

Most people have gotten lazy, and know they can get a check from Uncle Sam

Most people will not do work that we require

Nanny state mentality of politicians & failure of government to enforce existing laws

Native born Americans do not want/are not able to perform as tree workers.

Nature of work - hard, dirty, long hours

need more money, can't afford.

Need valid driver license and valid work permits

New immigration law

New Law

no driver's license - many personal problems

No driver's license

people don't want to work that are legal

Not enough licensed plumbers to work in the field-i.e: state license and driver's license

Not enough workers due to Georgia new immigration law.

No Legal,

No native wants to do field work.

No one wants to work hard.

No one wants to work in the field except Hispanics. Currently there are not enough Hispanics to fill farm jobs.

No one wants to work they can draw unemployment pay and sit on their butt while farmers struggle to pay bills and maintain our assets. Government handout problems are causing the downfall of this nation.

No one wants to work they would rather draw unemployment check

No one wants to work.

No one wants to work. The government pays healthy people to sit on their butts and watch TV. Everyone thinks they're entitled to \$100,000.00 a year but they don't want to work for it. They expect the government to hand it to them. AND we practically do!

No reliable applicants

Nobody wants to work in field harvesting and will not stay on job

non migrate workers cannot physically perform field labor/and or will not show up for work the next day.

None

Non-migrant workers not interested in this type of work

Not a good labor pool

Not able to pay enough because of current economy

Not around

Not enough Hispanics, unfit Americans will not do hard, hot landscape work no matter what the pay.

not enough labor available due to govt threats

Not enough legal workers

Not enough local labor that wants to work. They want a check but not work for it.

NOT ENOUGH PEOPLE

Not enough workers to do our line of work. Who wants to cut grass in 100 degree weather?

Not enough good workers around

Not many available last year

not many people know how to process animals

Not many people, especially Americans, want to work on a dairy farm

Not many qualified candidates with experience who can pass pre-employment tests in marketplace. Public is used to cheap labor and correlating cheap prices in the marketplace.

Not many want to do field work anymore

Not qualified

NOT QUALIFIED FOR EXPENSIVE EQUIPMENT

Not qualified in certain aspects of our industry

Not qualified, lack of experience, not dependable, poor work ethic, can draw a check without working

Not too many people want seasonal work. They want something more stable. Plus its HARD work.

Most people can make \$3-500.00 a week just being on Welfare. Why work a hard job when you can get free money

not trained / educated

Not very many qualified available.

Not willing to do agricultural type work.

ODD Hours / ODD Shifts in the dairy business - cannot pay what nearby plants can afford

only issue is lack of desire to work since unemployment benefits seem better to them

Operation runs 24 hours per day 7 days per week. No one wants to work nighttime and weekends.

other higher paying jobs

our biggest problem is we have been laying off people due to economy & demand. We have not had a need to hire. We are not replacing if one leaves

Our systems in place as far as government

Overall immigration environment makes farm laborers w/experience fearful to come to GA

papers for migrants

Passing e-verify. Finding US citizens that want to work.

People are sorry - don't want to work or they have addiction problems

People do not like working in the heat, or long hours

People do not want to do manual labor.

People do not want to work

People do not want to work at a wage that will not fund the operation

People don't want to do the physical work

People don't want to work they just want a check

People don't want to work too hard

People want a government hand out

People furnished by GA dept. of labor were not physically able to do work, or not willing to do hard work, picking cucumbers.

Workers have documentation but are unable to obtain GA Driver's license. money hungry local law enforcement take advantage of this.

Workers tend to go to county where they are not harassed by local law

People in general are too lazy to do manual labor.

People say they do not want to work long hours and they said it was too hot to work outside.

Person not having proper ID'S

Person with supervisor skills

Poor work ethic

Production, willingness to work longer hours, willingness to work in high temperatures, dependability, loyalty, ability to get to & from work consistently & on time

Prospects don't have proper documentation

Qualified people who will work odd hours - outside work

Qualified workers

Qualified workers have left the state over fear of them being caught up in the program. Additionally, our work is very hard, hot and physical work. Very few non-Hispanic workers will do the work...even for a very competitive wage.

Qualified workforce. Higher minimum wage

Regulations pertaining to residency and obtaining a driver's license

Retaining workers is difficult due to the hard manual labor

Seasonable work and finding people with a prefer work ethic in own local work force

Seasonal work

Sheer number of available workers in the region has seemed to decrease.

Shortage of help for the 2011 growing season

Showing up when scheduled to work days pay for a day's work.

Skill level

small farmer

Some return home to another country. Some want more money.
sometime workers are not qualified or available

Sometimes difficult finding documented workers.

Substance abuse by workers

Substance abuse. Employees want a "job". but don't want to work. unemployment income is easier than working

Supervisory/mgmt. Position is difficult due to cost of living on St. Simons.

Temporary labor for seasonal work is always a challenge to find and keep. But, after 30 years of handling peanuts some come back after years.

The amount able to pay

The biggest issue is finding people who will do the work which is physical and time consuming.

The culture from the federal gov. that we will look after you. field work is considered undesirable. In a growing economy we've got a record of moving people up through the ranks (pay) that they can have decent wage

The economy. No new construction

the H2B process is too slow and costly. I applied for working in April and got them in August-have to leave in Dec. Local employees do not-last-cannot pass drug test and production is low. I have to go through 10 people to get 1.

The lack of U.S. citizens willing to work. There are too many gov. regulations & restrictions. U.S. citizens would rather stay at home & draw unemployment

THE LEGISLATION SCARED GOOD WORKERS OUT OF STATE

The major difficulty is keeping the employee, once they realize how hard the work is, they start looking for a job that doesn't require hard work.

The new state law about immigration scared them away

The reason it is hard to hire/retain qualified workers is that we can't pay them what they are worth.

The work is too hard for your average American citizen. They do not want to do the type of work available. The American citizen is spoiled and lazy for the most part.

The work is too hard for your average American citizen. They do not want to do the type of work available. The American citizen is spoiled and lazy for the most part.

The younger generation is not trained. They cannot operate tractors and other equipment. Our people are becoming like Mexicans (back labor)

There are no American workers who want to do manual labor. Even management positions are hard to fill. Documented Hispanic labor is scarce.

There are not enough legal workers that will do this type of labor

There are very few technically trained people available that have a desire to work in the climate conditions we have to work in.

There just aren't many qualified men to choose from

They are all collecting unemployment as long as possible and do not want to work

They are only a certain (amount) of worker willing to do the type work we need done, these are generally migrant workers.

They don't show for interviews. If they do, we hire but they find out they can't handle or are unwilling to do the strenuous work involved.

They get a check & want work

They lose driver's license, fail drug test, or don't have good work ethics.

This is hard hot work and most people are not willing to do this kind of work.

Too easy to access welfare type checks from government

Too easy to get on and stay on some government (state or federal) benefit program

Too few legal Hispanics. American workers seem to think labor is not respectable for a livelihood.

Too hard of work; outside labor

too many capable people are financially better off to stay on welfare, food stamps, etc. than they are to work for income

Too many Gov. give away programs and New Georgia Laws regarding workers

Too many state and federal programs that pays better for and individual to sit on their butt.

Trustable people/Reliable

Type work, pay

Unqualified uncaring work force, drugs, alcohol

Unqualified workforce

Unreasonable labor laws. Specialty crop with tomatoes and people do not work more than 3-5 days and abandon job.

Unwilling to do the work. Usually quit within one to two days.

USA should grant visa for 90 days at a time to Mexicans by name for working for a specified farmer at farm location without so much red tape and government regulation such as the H-2 program has; let the worker have the option of furnishing his own living quarters

Valid driver's license, pass a drug test, not a workman's comp risk

VERY FEW QUALIFIED APPLICANTS, WILL DO FARM LABOR - TOO HOT, TOO COLD, ETC.

Very few respond to ads

wanting to work, and language

We are a seasonal business - open 3 months of the year. H2A is not user friendly, not timely & expensive. Too much paper work & money with no guarantees. Local help for the most part are not capable of working on farms.

We are located in a rural area. The labor pool is small and diluted between several area farmers. Often times it is difficult to workers w/ a clean background check and/or drug test.

We do not have the money, we need a grant we have been in business 47yrs and we have never seen sales so low

We have been focusing on hiring European and African descendants rather than Hispanic because the Hispanic seems to be under fire by government policy makers. It is as if we are running the United States' border up here in Cumming, Georgia. We have had no Canadians apply at all....so it must be the other border everyone is talking about.

We have to gear up for a large workforce on a seasonal basis. It is hard to recruit qualified workers on a seasonal basis.

We operate grazing dairies. few workers are qualified in this specialized area

We run two 12 hour shifts most workers will not work after a week. Manuel labor is difficult to find welfare system too lucrative

White men have no labor abilities/poor work ethics.

Will not regular

With our present economy, there are American citizens needing work. We have more men who come weekly seeking employment. They are willing to relocate for work. We have employed as many as 9 H2A workers/yr. until economy changed. We have employed American citizens and 2 men (H2A)-2011

with the exception of 2, all employees hired either quit because they did not want to work in heat or cold or were too lazy to keep up with other crew members.

With unemployment payments as good as they are and length of time to receive payments, good employees don't have to work.

work ethic

Work is hot-cold-hard-demanding. work force found to be less than desirable

Work is outside Hot & Dirty

Workers are not trained

Workers are not available

Workers aren't available. I have to work hard to find enough

Workers don't want to work

WORKERS NOT AVAILABLE IN THIS AREA

-Workers not familiar w/equipment

-Workers hrs too long

Workers were not available. They went to other states when our harvest began.

Workforce is lazy; finding workers that are willing to hustle (even on an incentive program) and do the job correctly is very difficult.

Working conditions

Working conditions - outside work - hot cold, rainy, wet etc... dirty - work requires getting dirty!!

X

Young white generation does not want to work. They want to pay with no duties. I pay my Mexican workers very well. Wish I could get more of them. They want to work and I never have problems out of them

Appendix G- Responses to Question 33

Do you think hiring workers next year (2012) will be: less expensive than 2011, about the same as 2011, more expensive than 2011 or not sure. Please Explain.

1) Cost of inflation 2) People won't work less than \$10.00 an hour 3) No driver's license

a lot of people out of work

All costs are rising!

All workers are very uneasy about the changes, it cost more to keep them here!

A fortunate to have 2 good workers now which we hope to keep

As I said in #32 it is extremely hard to find Dairy labor and therefore if you find any you have to pay more

As our work force moves away from the State, those with the work force culture that have driver's license are asking for higher prices.

As the economy improves, the labor force will be smaller, costs will go up.

As things grow more complicated and more workers move away, qualified legal workers will be harder to find.

At this time, I do not anticipate any problems. But then the future is not certain especially with this particular political climate. I am going to make effort to be as dependent as possible without hiring additional labor.

Availability

Availability will be less with House Bill 87

Because fewer migrant workers will come to GA

Because I plan only to hire what I need and no more. It is easier to do without or do it myself - rather than have to redo the job

Because of fear, Migrant workers will avoid Georgia, for fear of being deported. Our only choice is to use H2-A which comes at a much great cost to the farmer

Because of the economic downturn

Because the workers we have been hiring are scared, because of the new law GA has imposed. both the economy & availability are major factors that need to be resolved - at least moving in that direction

CAN'T HIRE MEXICANS LOCALS ARE MORE EXPENSIVE

Changed our pay scale

competing for workers

Competition for quality workers

cost of living

Cost of living etc.

cost of living going up

cost of living going up. the need to attract more qualified workers.

cost of living has increased

Cost of living increases, and reduction in qualified labor pool

Cost of living keeps increasing so I have to pay my workers more in order to try keep them working for me.

Costs always going up.

don't believe there will be any available!

Don't see a major change in Economy

Don't see much change coming in 2012

Don't think wages will increase

Due to new immigration laws, there will be less workers to fill job needs. The wages I pay will have to go up in order to keep my workers

Due to new rules it will cost more because it will drive rates up in pay and cause more cost in paper work for each hired person

Due to the presidency in 2012. immigration will be brought up. Cause nothing but difficulties

Economy is still sinking folks are just glad to have work

Everybody wants more money 4 less work

Everybody wants more money than farm economy can afford.

Everything is costing more

Everything is increasing in cost

Everything is more expensive

Expenses aren't the main concern. Availability of workers is the issue

field labor wages change when we can afford to

Fewer qualified workers competing for more jobs

Fewer qualified workers=higher wages & benefits

Fewer quality people

Fewer Workers

FEWER WORKERS

For the past several years cost have gone up. Experience tells me it will again

Fuel, Transportation, Smaller work force available

General wage pressure

Georgia has put farms on an unequal playing field with other states. The workers will simply work in Florida blueberries then skip Georgia and go straight to North Carolina. It will cost farmers more to harvest ant crop in Georgia. Georgia farms will have to beg workers and feel sure they will demand higher wages, when they already make @ 10.00 and hour.

Good, hardworking, drug free workers are in high demand. Dumb Ass government is running off all the good, hardworking, drug free Hispanics that are willing to do the hard work for \$12 - \$15 per hour. Americans don't want to do this work.

Good workers know that they are few and far between.

Government regulators & requirements

H2A AEWR goes up every year

H2A companies continue to raise their fees

H2A is \$9.11 and usually goes up each year

Have not hired anyone lately

Health care

I am not sure how much the labor pool has shrunk, obviously the smaller the pool combined with the same demand will drive up wages.

I believe the "field labor" work force will be harder to find, therefore requiring a higher price to obtain an adequate labor force.

I can't pay more

I do not know how strong the economy will be in 2012

I don't see anything on the horizon to make it any different.

I don't see the economy getting any better, not anytime soon at least

I don't see the economy getting much better and with that I would find it hard to pay more money to employees. I think following the guidelines that we are supposed to when hiring and with that I think it could not get more expensive and time consuming than it already is, but it might.

I don't see why labor cost should go up in 2012

I expect higher turnover as I continue to hire & fire Americans. I continue my elusive search for an honest, reliable, hardworking American

I expect wages demanded to be higher, and expect taxes and insurance will be higher.

I pay my help a good salary. They are happy with what they get paid.

I plan on hiring approximately the same number of seasonal employee's and giving my full time employee's an opportunity to make more money when busy.

I think I will give a pay raise to man I have working for me some time next year

I try to give my employees a cost of living raise each year.

I will give COL increases

I will need to stay competitive with my pay scale

If congress should increase the minimum wage, it will be more expensive, since I pay most of my workers more than the minimum wage.

If I use H2A workers it will be much more expensive

If labor is short, there will be more demand for those who can work legally.

If labor shortages continued then I expect cost of labor to increase, particularly with the contracted labor (seasonal) that we currently use.

If the Hispanic labor leaves we will have to hire more workers to do the same job and will have more turn over that will lead to more cost in training and paper work.

If there is a low labor force that is qualified for landscaping I will need to pay more if I need more labor.

If we can get help <white or black> the demand more money for less work

If you can find someone qualified, first they have to have an interest in the job. Most people just want a pay check on Friday without caring what they do to earn that paycheck. An employer has to reach a point with pay and benefits to override the government's incentive to work, i.e., unemployment pay for 99 weeks, give away programs so you can sit at home and have babies, buy expensive groceries without having to work to get them, new cars just to ride around in, free cellphones, disabilities that only affects your race; sugar diabetes for example that I still work with, but others get disability. We have to overcome all of these issues and still have problems hiring qualified people that WANT to work.

If, workers can be found at all there will not be enough to support the farms production and the above average wages will be very hard to pay if at all because of having to cut planting acreage to less than half-as in previous years

Inflation

Inflation

Inflation costs of basic necessities increasing have to account for cost of living increase on labor and supplies

Inflation if fuel ate

Insurance and other regulation costs going up. And the lack of qualified workers available. it has already forced wages up by 30% 60% this year, the H2 programs are trying to force employees to hire locals

It is more difficult to find immigrant or migrant workers with a 'green card'. Those with proper ID cost more to hire. They are savvy to the INS game

It will continue to be more difficult to find qualified workers so it will cost more in time/effort to find them.

It's fairly easy to hire 1 person for temp. work. I generally pay the same from season to season if the person is experienced

Jobs pay less and are fewer, so part-time/full time workers earn less to compensate. I contribute this to lack of construction and being overwhelmed by illegal migrant workers. They are everywhere here

Just because unemployment rates are high does not mean there is more labor available that want to do our work. If there was less "free" money these people might have more incentive. Often I make an offer for uneducated, unskilled jobs, only to hear that they don't want the work because the government gives them almost as much to stay at home. We also have a strict drug free program that many can't pass.

Labor getting harder to get because too much unemployment parents don't want children to work hard work

Labor pool is drying up from HB87 and tighter controls.
labor shortage

Lack of available applicants

Lack of workers willing to work

Larger farmers will pay more to get what workers are available. law of supply and demand

less business

Less migrant workers means you have to pay more to get the ones here. Bidding war between farmers

Less prospects = higher dollar demand for ones in pool

Less qualified workers seem to be available in our area

Less workers

LESS WORKERS - HIGHER DEMAND

May have to offer higher hourly wages to keep good workers

Medical insurance will cost more due to Federal Government Real

Migrant labor is leaving the state because of new immigration law

Migrants are leaving and local workforce cannot and will not do the labor

More competition for fewer workers

More expensive and more difficult to find workers

More expensive due to cost of living increase

Most of the migrants workers have left our area and what few are left are going to pick the highest paying jobs.

My people have been with me for 12-15yrs. Their pay rate increases slightly each year, workers taking on more responsibility, cost of living, Etc.

New immigration law will continue to shrink the number of good worker available

New Law
No need to hire

Not enough help

NOT ENOUGH HISPANICS TO CHOOSE? AND TRAIN.

Not enough legal workers

not hiring

not sure if we will still be in business

not sure of economy/market conditions

Not sure what to expect in an election year with high fuel prices and what kind of money (disposable income) our current potential customers will have or even want to spend.

Obama Care

Once the economy improves and more jobs become available farm labor will be harder to find overall, the available workforce is small due to the current immigration laws in place. Therefore most workers will demand more pay or move to better paying jobs.

Overhead labor costs have gone up due to the current labor force yielding less efficient workers

Paying more salary to attract and maintain qualified employees.

per hour rate is already established

Plan to raise wages if crop outlook is good. Unable to do so this year due to drought & heat problems on crops.

Pool of qualified workers is getting smaller while demand is rising.

Probably more expensive due to the lack of experience workers and the growing industry at bee keeping

Raises, etc.

Refer to answer 32. As long as the government continues to pay healthy people NOT to work, employers will continue to struggle to find laborers.

Reflected by increase in cost of living

Regulations and raw material costs increasing price of finished goods up. Labor costs will also increase.

Rising taxes, workers comp. ins, minimum wage increases, health ins. increases, etc.

Rules & regulations

See answer line 23

Short labor pool

Supply and demand

Supply and demand!!

Taxes on employer

taxes, potential health care expenses, increased insurance premiums. Retaining current employees with raises, benefits.

the aver for h2a is 9.11 and usually goes up each year

The Hispanic workforce that is still here will want more because there are not as many now.

The migrant workers are learning Georgia

The ones I have to hire and pay more will have greater knowledge of the plant material I grow

THE ONES TAHT ARE LEFT DEMAND MORE MONEY

The price of survival is going up at the super market. Everybody needs a higher wage since energy cost went up at the pumps 400% when Katrina hit. The pumps immediately took 10% out of company gross budget and it looks like we are losing another 10 to 15% to tires-repairs-supplies etc. In my line of work it is very hard to increase prices fast enough to keep up with the additional liabilities created by energy cost.

The production/manufacturing jobs that I have available have a set standard rate of pay.

The system is broke & the government will not listen to the farmer / Nursery owners to how to fix it.

There are fewer immigrants available to choose from

There are less local workers willing to do agriculture related work

There will be less workers, so they will be able to demand a higher wage

There will be very few farm workers available - People will get into bidding wars

These new Georgia laws have ran all of our help to other states. BAD BAD BAD since Governor Deal has taken over. I am a registered Republican but this problem for the little people has to be solved.-please help quick

Things change

Unless American Labor goes back to work, there will be bidding wars for documented Hispanics.

unless prices go up for cucumbers we are unable to pay any more

Using regular labor has so much turn over

Wage freeze to hold costs down

Wages are higher

Wages keep rising - Net to gross at dairy is expected to be lower

We are not hiring-have a full time staff

We can't afford to increase wages given the uncertainty with the current rate of the economy and potential effect related to the current drought,

We continually run ads for workers and end up going through many people to hire 1 or 2. People applying for this work think it is easy and when it proves not to be they leave. Also, new hires have displayed a problem with tardiness or no transportation even though they indicated they had dependable transportation during the interview. So in short, we are continually searching for good employees, which is costing us more.

We have adequate staff (employees) to work on our farm. We farm (row-crop) year round (4500 acres). We plant canola & wheat as winter crops; sunflowers, corn, & soybeans as summer crops. We need employees year round.

We have depleted state Unemployment Reserves-that tax will go up as well as insurance and health care fuel, and all commodities associated with our business.

We have to be competitive with our salaries

We have to offer more money to get them to come.

We might not have anyone to hire

WE prefer to work around the houdicape of our current employees rather than take a chance on someone looking to work long enough to qualify for unemployment, worker's comp, or find out they don't want the long hours and hard work expected from farm labor.

we should have same workers as 2011 or same amount of worker as 2011

We use minimal labor outside the partnership. When help is needed, a friend is called. These friends work to earn money.

We will be using the H-2A program & due to its restrictions & requirements it will be much more expensive

We will have to hire 3 to 4 American workers to do the job of 1 immigrant worker. Also, medical costs are rising.

We will have to test drive a lot of domestic workers before finding those who meet our production criteria and enjoy the job. Training costs will be exorbitant. Errors will occur on client properties from unskilled domestic worker. These will have to be paid for by the company. The cost of doing business is about to become ridiculous, and may not be worth it.

We will need to mechanize more in our operation. many of the migrant work are leaving

we will not prepare a crop for harvest if we do not have the assistance of labor force to gather it.

We will still be paying same \$ for piecework, but are concerned about qualified pickers with correct paperwork showing up when harvest is ready.

Where will they come from?!

With added laws, regulations and fuel cost, everything is going to be more expensive.

With new laws in force it will be almost cost prohibited.

with poor economy; people are wanting and needing more money

With the H2A Program the wages normally increase some each year.

With unemployment where it is, we should have a lower hourly rate we should be able to pay, but now the USDOL wants to dictate to me what wages should be for someone with no experience and that wage is higher than all my operations employees who have been with us for 3 years! Why?

Workforce is getting less & less with people willing to work on farms. This industry isn't easy farm work is very hard & demanding it isn't like building a house you have to be here we can't wait and get out and look for good help on a short notice

Yes, because prices for services have to be raised. This then leads to jobs being lost. People can't afford to pay more in a bad economy.

You need to tax them and increase in wages to keep them, because of shortage help.

you never know from year to year

Appendix H- Responses to Question 34

Please rate your level of interest in hiring a legal workforce

@ 9%+ unemployment there should be an adequate labor force, as a nation we have demeaned manual labor & cuddled those who refuse to do it!!!

A legal workforce is the most desirable but willness to work is also necessary

A legal workforce would be a stable workforce

A successful company cannot depend on illegal workers for its work force.

About 20% of our work comes from government projects that require us to be enrolled in the E-verify program. With that said it is very important for us to hire a legal workforce

All farms should have to treat workers equal - If you take out taxes on locals - Hispanics Labor should also have to pay to use benefits the same as locals.

all my workers now are legal

All workers should pay into the same system; taxes, social security, healthcare. I also believe the 40 million Americans not paying taxes should be forced to pay.

All workers should pay into the same system; taxes, social security, healthcare. I also believe the 40 million Americans not paying taxes should be forced to pay.

Always would prefer legal workers when available

Americans what do farm labor to lazy

As long as Congress continues to buy votes by offering everything to illegal immigrants and people who work the system, this country will not survive.

Because it's the law

Because we are a law abiding citizen. We would hire locals, white, African American, Mexican if they were willing to work. Most folks want a check without doing any work!!!

Best workers I have ever employed were removed by INS for being illegal.

Corporate HR policy extreme importance to hire documented legal workers.
cut less difficult

Depending on cost.

Do not need illegals in US costing tax payers money.

Do not want to break laws

done need people that long or full time

Everyone wants to work within the law - However our Gov. Allowed industry to be built around an adequate migrant workforce & now the laws are against them and me as a Blueberry Farmer.

Farmers already know we have yet to find legal's who can do the work migrates can in the farming industry. If we hire legal's it has to be cost feasible or the farmer cannot make a living farmers dont need to be in the renting business or transportation business. We need a temporary work program where workers pay taxes.

Fearful of I9 audit.

for full time employees I prefer to hire Americans or Mex. if they are legal & speak adequate English

for the packing shed (seasonal) I much prefer Mexican - Legal but not H2A. I do not want to be tied to that salary, housing, transportation & general babysitting.

Have a desire to abide by the law. A legal work place is more likely to be permanent

Having done it before, I do not believe the h2a program can be reformed sufficiently to work... The state does not have the authority to implement one. I see no indication that anything will be done on the federal level to help us.

Honestly, legal workforce wants more money. Not to mention many today don't have the work ethic to work in my industry.

How much would it cost?

I already have a legal workforce

I always have proof of citizenship with a social security card and 2nd form of I.D. when living.

I ALWAYS MAKE SURE EMOPLYEES ARE LEGAL.

I am always interested in hiring a good knowledgeable workforce

I am not going to knowingly hire an illegal immigrant. We need to send them back where they came from.

I am very pleased with my employees I have now, both myself and they would love to be legal and it would be much better, but I want to retain them. Both parties are extremely loyal to one another on this farm.

I believe in going by the book and doing what is right we need to have legal qualified workers to pull from.

I do not use migrant workers. I have a mechanized Row Crop operation.

I do not want to lose my labor during my busy season.

I do not want trouble with immigration authorities

I don't care as long as work get done

I don't mind hiring legal workers if they can do the job.

I don't not knowingly break the law.

I don't want to break the law in order to farm

I DONT WANT TO HIRE & TRAIN ILLEGALS AND THEN THEY GET SENT BACK

I don't want to risk the hassle of dealing to federal/state regulators

I feel that we should only have those pests that one documented and well and want to pay taxes.

I have always tried to live within the law

I have been farming for 45+ years, and there are very few legal (Local) people who want to work in the field & will complete the job efficiently. Each year there are fewer and fewer.

I have no intention of hiring an illegal workforce

I have no problem working locals, but they need to know what the laws are going to be. I have no problem working some contract labor out of Mexico but I don't want to be forced to hire anybody who walks up.

I have no trouble. Finding help people will work if you pay a good wage.

I have to answer 1 or 5. As for a legal work force the employees that best compete for the job are legal in my mind(opinion)

I just wish the American workers were as motivated and anxious to work!

I like to abide by law

I like to be legal...however the definition of "legal" needs to be redefined! The new law is very damaging to all types of production....I wish I could hire the children of our State Legislators....oops that won't work - they were too good for public schools much less blue collar menial work!!!!!!

I like to obey the law

I like to work within the laws and hire legal residents.

I need good hard workers.

I need to use immigrant workers who are legal. I do NOT need trouble from the INS. Farming is difficult at best & having legal, willing workers makes it more hopeful to stay in business.

I never hire illegal immigrants or migrant workers

I only believe in hiring legal workers, regardless of origin or race. I check all applicants for legal status.

I only hire citizens

I only hire legal workforce

I only need two full time employees at the most. I have not had any trouble finding reliable local labor.

I only want to hire "legal" employees, but there aren't any that want to work.

I really want legal workers. But when I have to deal with numerous Americans that do not want to work and a government that wants to dictate how I run my business and all the red tape required to get HB-2 visas it is extremely frustrating. It's also frustrating when I have to compete with companies who just throw their arms up and hire illegals because they are tired of trying to deal with it.

I think all workers should pay taxes

I think that is optional to have a legal workforce. However, there are few that are legal that will do the physical work. It is also very inefficient to process the employers first. That is why I am in the middle.

I think we should close the border and just increase the number of seasonal workers allowed in as needed.

I think you need to control illegal's but when the fruits are ripe you have to get it harvested pronto

I want a legal workforce; however my living depends on labor so whatever it takes to obtain workers

I must do.

I want all of my workers to be "legal". I do not want to violate the law

I want legal workers. Cannot afford to pay penalties for illegal help.

I want my Mexican workers to be made legal, Not a citizen

I want people that will work, not people that constantly complain about minimum wages.

I want QUALIFIED RELIABLE help along with the LEGAL aspect of that! the work we do is HARD & not just anyone can handle it.

I want staff members who will stay without living in fear

I WANT TO DO THE RIGHT THING

I want to hire legal/american workers because I want the dollars to go back to our community

I want to keep the law. I like to go to bed a night with piece of mind.

I will never hire Illegal workers. Even if it raises profit.

I will not risk my financial future & assets on illegals! Does the work illegal mean anything to the government?

I would be very interested if they would work. Unfortunately, with our current unemployment benefits, they know they don't have to work and most are unwilling to perform physical labor

I would enjoy the peace of mind knowing I am in the right

I would hire fellow Americans but they do not want to work on the farm getting crops in.

I would like for the people we use to be in a work program making them legal.

I would like to be able to hire a legal worker

I would like to hire legal workforce, but no American will do the physical labor. They say in Mexico welfare is you don't work you don't eat. Maybe if we let some people go hungry for a little while you wouldn't have this problem with immigration

I would love to hire only legal workers, it is very difficult to do that and stay productive these days.

I would love to know I could hire a legal and local work force that would show up to work.

I would love too but I do not know to get them legal

I would not like to hire illegals

I would only hire legal people to work for me - no matter what!

I would rather use an American citizen when available

I would want my entire workforce to be legal

I'd like to have a reliable workforce

If current immigration law is enforced in July 2013 we would have a high level of interest

If I have to comply with immigration reform this is a major concern, if buildings industry turns around

If needed

If the legal workforce included Hispanic workers who are much more efficient than most American workers

If they are willing to do #32

If workers could be given a legal visa to work, we'd hire them.

If you have work to do you need to hire it

I'm retired. I just produce horse quality Bermuda hay. I hire a self-employed person to harvest the hay

I'm sick of the problems that come with this issue, but as I'm sure you've heard a thousand times try finding someone from here with the same work ethics.

I'm somewhat interested, but all the local people (legal) say they want to work but if they last more than one day its very surprising.

In our type of business not needed.

Interested but find very few applicants willing to do the jobs that we have available.

Interested in qualified and willing workers. I would rather comply with the law but don't really care if workers are legal or not.

It is very important to us, we don't want to spend time and money training them just to find out we can no longer employ them.

It is very important as a sophisticated business to be able to hire a legal workforce. We are willing to incur the expenses to higher legal labor. We already incur payroll expenses for our workforce so not much would change. If it were available, we would be the first in line. The problem is that the domestic labor market cannot support our industry due to lack of knowledge, experience and interest.

IT ONLY MATTERS FROM THE STANDPOINT OF LEGALITY. I PERSONALLY DONT CARE IF THEY'RE LEGAL OR NOT. THE ISSUE FOR ME WOULD BE LOSING THEM AND/OR BEING PENALIZED.

it would be less expensive to hire

It would be nice to have workers that were legal and not be nervous all the time.

I've done everything I can to hire legal workers and paid dearly for it. Migrants are NOT taking American jobs in Agriculture.

Just because a person is legal does not make them a good worker. I need capable & willing workers

legal workers + no fines/gov't harassment

Legal workers are Americans that won't work - are not qualified - won't follow instructions and generally a bunch of well ged government dependents - if I have to hire them then we will shut down entire farm

Legal workers don't want to do farm labor

Legal workers only are considered

Legal workforce demands more money. Legal workers exploit the system.

Legal workforce not an issue when compared to workforce (prefer the legal but do not have that option)

Legals don't want to work

Legals largely white and African Americans have no motivation or necessary skill to much like running a recovery program.

Local people do not work well handling equipment. Do not want to work hours ag + ag business work,

Most people Do Not Want This type work

My objective is to only hire legal workers

My work-force is relatively small (3 full-time) (1 part-time), and does not change much.
NEED WORKERS

Need workers that don't have to be afraid

No concerns regarding immigration laws

No Need

No one should be hiring illegal workers. There can be no rationalization to do so.

Not Applicable

Not hiring!

not needed

not reliable no experience no pride in their job no tolerance level for the hard labor harvesting vegetables require in 90-100 degree weather

NOT TRANSIBLE OR WELLING TO DO ANY PHYSICAL WORK.

Obey the law

Of course we would want to hire "legal" workers but our experience is that the unemployed in America (DoL worker) do Not want to do this hard farm work!

One word "Legal"
only criminals like to be illegal!

Only need additional help occasionally

Our employees are of the Hispanic nationality but they maintain legal documentation. But if I was not able to use these employees because of them not being able to continue their worker permit/status my business would be in trouble!!

people do a better job if content

People do not want to do this type of work even if I paid \$50/hr

Quarterly of work performance by illegal workers appears to be unmasterable by most of the legal applicants that have applicants that have applied to work.

reduces the amount of paperwork for employer

Same answer as #33

since WE WOULD LIKE FOR THE ENTIRE WORKFORCE TO BE LEGAL BUT WE ALSO ARE LOOKING FOR PEOPLE REALLY WANTING TO WORK. I'M THANKFUL FOR THE HISPANIC (PERMANENT) WORKERS I HAVE - LEGAL OR ILLEGAL.

Some of the crew leaders are not certified legal but have to use them when crop has to be harvested.

Stability

take care of local folks who will work

Takes the worry out of getting our cows milked

The American born white/black will not perform the type of labor my industry requires. The Latino population in the state needs to be legalized, or, at the very least documented in such a way that they are no longer "illegal". Period, end of story.

The American will not do this kind of labor.

The Government needs to provide a legal path for the workers who are willing to do the work.

The immigrants are definitely more dependable for seasonal work than locals and seem to enjoy field work better. They also have much better work ethic.

The opposite would be illegal. Illegals take more out of the system than they bring in. Not to mention they are here illegally.

The problem will be dependability as well as productivity

the thing to do
They need to be legal

This is important to our economy as a whole

To be a good citizen of the state. 2 need drivers.

To comply with Local-State-Federal Rules

Too much paper work

UNDECIDED

UNTIL RECESSION IS OVER WE NEED VERY LITTLE HELP

VERY INTERESTED

Very much if I could find quality employees

Very much interested. Problem is as stated earlier, the Americans coming through the door can't pass a drug test, won't show up for work, don't work when they do, etc. Can't begin to tell you how disgusted I am with the quality of the American worker.

Want to hire legal workforce but with Farm experience within last few years

want to work with framework of the law

We always want to be legal in our business, but we have been an also to get workers without having to get migrant workers.

We are very interested in hiring legal workforce. it is very important to us to give the legal citizen an opportunity to work.

We do background checks now on 100% of prospects.

We do hire legal, and think the law should be enforced.

We do not hire unless applicant can provide qualified documents for the I-9 form

We don't care who does the labor as long as it gets done and done right in a timely manner.

WE don't use many illegals, but we understand many Ag. Buss. Need this workforce.

We don't wish to exacerbate the illegal immigration program; e-verify will mandate a legal workforce

We E-verify all new hires

We have ALWAYS followed federal hiring guidelines. If people use false documents to procure employment, who should be responsible? Without a doubt, employers have to pay for this every day. When loyal, skilled staff members are found to be illegal and deported, the employer suffers tremendously. I know of one specific case where a man was deported for being drunk at his own home. He supervised 60+ employees at a factory. When he disappeared, there were serious workplace accidents. Productivity was lost. Hundreds of thousands of dollars were lost through errors and poor maintenance on the equipment. The one man made that big of a difference in his job!!!! The result: higher prices to the end consumer. The madness will continue until the government documents the people who are here to let them continue to work, keep our prices reasonable, pay taxes, and contribute to their communities.

We have always hired legal workers only. But we understand the appeal to hire illegal workers for less expense on company & increased production

We have employees whom have been with us from 3-30 years. We would like to see a program which would give us and them an easy and reliable method of assuring their status.

We have never hired an illegal worker and don't have any intentions of doing do.

We have never used Hispanics

We must have a work environment that supplies legal workers, with no room for illegals.

We need to be able to hire workers that are willing to work when the crap is ready to hauled not people that are sent to a job because there is nothing else available.

We only hire Americans.

We only hire legal workers. H2A program is too complicated and too many hoops to go through if you only need 3-5 seasonal workers.

We only hire legal

We should all comply with the law

We use e-verify and have used it for 3 years

WE USE SEASONAL MIGRANT WORKFORCE DURING THE WINTER MONTHS TO HARVEST THE TREES. I USE A CONTRATOR.

We want a 100% legal workforce, this is one of the reasons we will be implementing H-2A

We want a legal work force with work visas, pay taxes, not living in fear of the law legal drivers. It's about work not immigration

We want all employees to be legal

We want to hire all legal employees but the gov't makes it impossible to do so with a broke system.

We would hire them if they existed. Many of locals are not willing to do the work required - in the speed required - in the weather & conditions required - with the attitude required

We would love to hire a legal workforce that would actually and be productive

While most people want to operate within the bounds of what is legal, the current system is out of touch with the reality of a service based economy,

Who really WANTS an illegal workforce?

Why would people choose not to? Good employers will always get the best workers

With the H2A program, we can get sufficient employees who are here legally. There are men & women wanting to work who are here as American citizens. We are employing them individuals

Would be nice, the guys that are not legal tend to be the hardest workers but you can't have them

Would give me one less thing to worry about

Would like to hire all legals and we are trying to do this.

Would love to IF!!! they will work most will not

Would only need if we decided to expand

Would rather hire all legal work force but it is difficult to find people who want to do manual labor for a long day

Appendix I- Responses to Question 35

What concerns do you have about hiring a legal workforce on your farm/operation for the upcoming season?

Lack of legal workforce availability -Quality of legal workforce pool

1) Legal migrants / H2A no concerns about work they will work. 2) DOL or local workers - do not want to work - max. time is approx. 1 week & late to work and will not meet production of harvesting.

Do not wish to worry about I.C.E Raid Do not believe in Rewarding people who are here Illegally. Hire Americans 1st!

In 2007, we were short help & called the DoL. 10 workers needed for 30 days or more. Workers were picked up by us – they worked poorly for 3 hours & began complaining about the heat & requirements were “exhausting”. They quit after 3 hours & demanded to be returned to their low income housing. We spent days looking for help... produce ultimately was left in the field to rot.

A legal workforce at this entry level position of manual labor typically is not willing to work. We hired about 15 people in 2011 that came to work for less than 1/2 day. we had 4 that actually worked or 2 weeks(when they wanted) would not work Sat & Sundays

All our labor for this operation is local people and U.S. Citizens

Already doing it.

America it will not work!!! Convicts no!!! Hatians will not work!!! did not work in 2011 season H2A cost, timing on getting them here, paper, paper work, and all the negative things! Believe me, we farmers have tried to work legal workers and have found not only will we starve, so will the Americans when we can't get out product to market

Americans don't want to work

Americans want to know exactly how many & which days they are going to work & they want the same starting and quitting time each day. Migrant workers understand that every day & every week is different, especially @ harvest

Americans will not do this work for any amount of pay. Most can't keep a driver's license, pass a drug test, or be on the job as needed

As Commissioner of Agriculture, Mr. Black should have been informed of the devastating effect H bill 87 would have on those of us with labor needs before the bill was passed. I, personally, expect that only blackberry business which generated nearly 1 million dollars in 2011 will be a complete loss. I'll have to abandon it. We will try some mechanical harvesting in blueberries but there are a lot of problems with that. For example, loss of quality, loss of yield, mortality of bushes due to damage, loss of the fresh market because of quality- I expect my revenues to at best 1/3 of this year and I may be lucky to get that. As a longtime republican, I am outraged that no one in our party stood up for us. The damage to the state of Georgia's economy will be huge. I am on the board of our blueberry co-op and have an

opportunity to be in Michigan frequently. I have watched them discuss this issue. At least there, the state politicians recognized the importance of agriculture to the collective good.

As I said there are not any nonimmigrants such as American citizens that are willing to work. They don't have any incentive due to so many social programs available and 2 years of unemployment.

As our nation continues to glorify higher education, service jobs become less and less desirable.

Domestic employees in the service sector are a myth. Try to bust that!

asking to be paid too much money for the job

At present ton constly. About half of crop income is paid in labor cost. Farms are afraid if all workers are legal it will cost them even more.

Availability

Availability

Availability

availability and willingness to do labor intense work in tough conditions

Availability of labor; utilizing my current labor; retaining once hired

Availability of interested qualified workforce

Available workers

Availability of workers willing to do required work. (See #32)

Availability, what happens to illegal work force that kids go to school here? We'll be competing against them none in a cash economy.

Because the ones we tried to work this year were lazy. They wanted the pay but would do a half job

Because we hire legal, I sleep well. But it puts us at an economic disadvantage; it is not difficult to comply.

Being put out of business because of not being able to hire a legal workforce to do the hand labor that we do.

Cannot find legal workforce that wants to do the job.

Can't find a legal work force. Local police watch every person with brown skin & chase them down.

Companies allowed to hire non-documented workers have an unlawful advantage in marketplace since they can charge much less with their lower paid but illegal workforce

Concern: Cost!

Concerned with not being able to find and hire the number of workers necessary to profitably run my business

Concerns me. We have a crop that has to be handled with care. It takes about 10 days to train a picker how to do it correctly. Ideally we would have the same pickers come back year after year.

Cost

Cost

Cost more

Depending on the source of the legal workforce. Domestic workers do not work H2A is burdensome, expensive and risky.

Dept. of Labor continues to work against farmers. they think Hispanics take away American Jobs-SO NOT TRUE! Americans (for the most part) WILL NOT WORK ON FARMS. I have to take DOL referrals for 1/2 the contract period i.e- months

Difficult to find and expensive. Also retention could be an issue

Ditto. My concerns are that NO MATTER WHAT YOU PAY, Americans won't show up regularly and don't get the job done when they do. If I could clone the ones I have, I would. But in any given month, I will run 3 or 4 Americans through here and they don't last. Same reasons given earlier. And these are the ones that were screened!

Do not know if enough legal workers exist

Do not like

Documentation required is easily forged.

DONT KNOW HOW TO GET A LEGAL WORKFORCE

Don't know if they will have the same work ethic

Don't need any labor

Everyone is leaving Georgia, legal or not because they are scared of the police.

Everything I just stated; the survival of our nation

Finding a work force that is willing to work in our conditions and long hours and seven days a week.

Finding enough legals

Finding enough workers to do the type work our farm need to be done, it also beneficial for our farm.

Finding good employees is getting more and more difficult

Finding people physically able to do the work

Finding people who care about what they are doing as opposed to those who just want to show up when they feel like it and collect a check on Fridays

Finding people who will work, and take pride in doing a good job

Finding someone who will be willing to preform manual labor.

Finding someone willing to work

Finding them

Georgia's NEW workers laws make it more difficult to use the same labor force I have used in the past. Until the federal Gov. decides to give us a law that makes it feasible to use outside labor we are going to have problems harvesting our crops. GA. NEW law just complicates the issues.

Getting a fine or shutting down the business. Our State Government yet found another way to help small business owners...help them break another law...help make running a small business a step closer to being a criminal!!!! It is bad enough that it can and statistic back this up...will make you broke...but now you can also be broke with criminal records!!!! Nice touch.

Getting anyone not on drugs to do the labor required.

Getting skilled or trainable employees

Good labor has got harder to find for the past year. It was if I had someone to quit there would be someone there that day to take their place, now it takes weeks. The workers now are having family members to go back to Mexico because they are afraid.

government bureaucracy

Government regulations

Great concerns, if the economy recovers we will not have enough labor to meet demand.

H2A

H2A is the only means of hiring a legal workforce. I'm concerned that the H2A program is going to be flooded with new employers that the gov't agencies will not be able to keep up

H2B program is too expensive now. Some bright people decided to raise the labor rate 43%. This is ridiculous.

Hard to fine

Having labor when needed

Hiring immigrants that actually have proper information that chocks out on E verify

HISPANIC WORKFORCE HAS ALMOST DISAPPEARED AND LOCAL WORKFORCE IS GETTING TO MANY HANDOUTS TO EVEN CONSIDER TAKING JOBS.

I am concerned that workers will not come

I am convinced that there will not be enough legal workers to do all of the harvest.

I am going to hire legal American workers. If anyone is illegally in the USA they should be considered a spy and executed.

I am very concerned! We have a Governor who put an immigration law into place without even thinking of an Industry which relies on a group to complete tasks that the majority of our society is too lazy to do.

I attempt to verify documentation on all workers; I often worry if these workers are legal

I do not grow crops that need to be harvested by hand labor. Nobody wants to work They want to sit on their porch and draw government WELFARE!

I do not know if the number of legal workers is still available for hire.

I do not know the procedure in hiring immigration legal workforce.

I do, but my competitors do not, putting me at an economic and competitive disadvantage

I don't expect to be able to hire people who are efficient and willing to work hard. Good workers are next to impossible to find.

I don't really have any concerns other than it is difficult to find qualified legal employees in the current workforce. We e-verify every employee that comes through over system that we hire.

I fear that the Hispanic labor force may avoid Ga. thus causing a frantic bidding war during our harvest season for legal harvest/packaging labor

I have been in the landscaping industry for over 20 years. I have been on my own for 2. I lose jobs I bid because I am hiring legal qualified workers. I KNOW of local landscape companies that on large jobs hire illegal laborers. I am not only having to pay benefits, insurance, etc for mine, but also compete against companies paying a laborer \$8 / hr. cash at the end of the day. Where they go home to their house of 15 people and live. I try to provide a good workplace for legitimate employees who pay taxes, buy homes, and have families. Illegal laborers are way too accessible and used for good jobs / projects. It is

frustrating knowing when you put in a bid for someone on a decent project that I compete against falls who are not legal. Thanks

I have many concerns - 1: I cannot hire locals, as they don't want to work. They really don't have a work ethic. College has bred 'getting dirty work' out of our society. If nobody will do farm labor, how will we get food??!!? 2: Immigration laws must be changed to allow willing immigrants to come to GA to work with a work VISA - legally. 3: I need to be able to hire day/weekly labor on demand!

I have no concern because if they are not legal they need to go home!

I have no concerns about hiring a legal work force. Most of the work is being sub contracted to an illegal work force by larger companies.

I have no concerns other than it is critical for my operation that I have a dependable, productive work force.

I have no problems in hiring qualified legal workers as long as they are motivated and reliable

I have seen it tried to many times by others. These Americans will not work. They had no desire because the farmers can't compete with the government checks Americans are receiving.

I have two concerns with the H2A. The first is the cost. Actually, they immigration reform will help this problem. I know that sounds crazy, but let me explain.

I haven't had the first legal white worker come to me wanting a job to pick vegetables in 11 years of growing vegetables. My expectations are even lower now of legal white American workers.

I hope we will have a need to hire. Does not look good for now. IF we need to hire, I do not believe there is a force to hire from. we used to have 2-3 come by looking for work in past. not anymore. No one is looking for this type of work.

I NEED WORKERS WHO ARE DEPENDSBLE, HARDWORKING, AND IN GOOD PHYSICAL HEALTH WITH KNOWLEDGE OF THE INDUSTRY.

I use H2A

I want to operate correctly

I will not be able to compete with other industries with salary & benefits. Profit margins are almost non-existent in this industry & economy & people will only pay so much.

I will not have enough to harvest my crops. Our local; economy relies heavily on blueberries. There are local banks that will suffer if the blueberry industry staggers.

I would be more than happy to hire a legal work force if they would just be more than happy to work!!

I WOULD RATHER THE WORKERS BE LEGAL. but, WHEN THEY BECOME "LEGAL" PAY REQUIREMENTS GO UP AND PROFORMANCE GOES DOWN.

If it were simple and they were allowed to pay into the system, they are willing. They distrust the government because of the double standard that exists.

If the employer is required to check for employee being legal, concern that empl ID/ paper work falsified

If they are American, will they work hard and stay long term.

If they have a work ethic and will actually work

If you have a legal workforce, they are probably not going to be Hispanic which means they typically are not going to work as hard

I'm afraid that the work will not get done like it does right now. I have experience with white American workers that cannot get the job done.

I'm concerned that there will not be enough

I'm concerned that they will not be available

I'M MUCH MORE INTERESTED IN HAVING PRODUCT DEMAND AND PEOPLE HAVING JOBS THAN WHETHER FARM LABOR IS LEGAL OR ILLIGAL. HISPANICS AREN'T STEALING JOBS FROM AMERICASNS IN THE AREA OF FARM LABOR; THEY ARE THE LABOR MARKET PURE AND SIMPLE!

Immigrant labor can't be found any longer. Local labor won't do the work

In the past 11 years out of a hundred or more full time, part time, temp, and day labor's theres one group that gives the least problems - Hispanic

In the past we have hired people with good "appearing" papers only to find later that their social security numbers weren't good.

Increased costs and losing our competitive advantage with our competition who are still hiring illegal immigrants.

Inefficiency

It is becoming more difficult to keep up with what constitutes "legal"

It is crucial to have the ability to hire a legal workforce

It's going to be hard to get legal workers in the fields.

It's hard to find an honest legal worker that is willing and able to do the work we have. I would love to have enough business to justify hiring anyone instead of cutting down & burning product that has taken years to year.

It's hard to find people who are willing to take these jobs.

It's impossible

It's VERY frustrating, expensive, and the goal posts keep being moved by my government. New requirements for H2-B, a state DOL who make me respond to interested applicants for a \$9/hr job who lives 2-6 hours from my location, processing that is so slow that all the visas are gone by the time my paperwork gets there. How do I tell the workers I have now that I must lay them off because I can't grow my business without employees that my government won't allow me to get legally?

just because they are legal does not mean they will work. The issue is not legal or illegal to most producers. it is whether workers do harvest work for a harvest wage

Labor costs, productivity along with attitude and conscientiousness

Lack of people willing to do hard manual labor

Lawsuits

Legal immigrants do the work that local Georgians no longer want to do no matter what the wage is.

Legal locals don't want to work.

Legal tree workers are diminishing, not increasing.

Legal workers will would increase cost of production - not because of more pay but because they will NOT work like my son and I have to

Legal workers, willing to work in in climate conditions are difficult to find. We have a crop in the field and hell bent to harvest it. What would you do? Next year we can assess our position, and prepare accordingly.

Legal workforce is too dependent on govt benefits - welfare, food stamps, etc. and are no longer willing to work - this also includes Hispanic workforce that is legal.

Legal workforce will not work in field conditions

Less productive.

Limited job applicants that are willing to do the jobs we have available.

Local legal workers are not available in needed numbers and lack interest in Agriculture jobs at even \$15-18/hr. with production requirements

Locals seem to not require the work ethic to endure the season. They start and usually quit or terminate after a short time.

Major concerns with laws that are being passed by the out of touch politicians

MAJOR, THE EDUCATIONAL SYSTEM IS A DISASTER. AGRICULTURE IS A DIRTY NAME.

Majority of workers are nervous about being detained and deported. We are told by state not to hire illegals which we try to do. At the same time illegals can get medicine & other federal program benefits.

Doesn't make sense.

Make the Hispanic workers legal, and then there will be no concern

many

Many legal migrants are leaving Georgia fearing the new immigration laws and overzealous law enforcement.

maybe having to quit dairying!!!!

More workers are leaving area due to lack of work

Most are lazy and unproductive

Most legal prefer to get unemployment in lieu of 10/hr jobs working outside

Most likely will increase hourly pay rates

Must be legal

My concern is HAVING a workforce

My concern is that the person hired is paying the proper taxes into the system.

New immigration bill will reduce the number of applicants. Born in US citizens will not/have not ever filled the void. We need legal immigrants for our temporary positions.

New workers don't understand job

No concern we do not hire illegal workers

No concerns at this time, since our market demand for ornamentals is flat. No business expansion planned for the foreseeable future.

No illegals apply at our nursery, no Hispanics that is

none

None

none available/ American citizens won't do this type of work

None, we need a legal work force. We need to fix our work visa program. we would not hire a legal to work if there was legal workers available. People would not risk everything and pay to cross the border if there was no work for them and could do it legally

None. There are plenty of legal workers in my area

Nor enough legal workers

not available when needed.

NOT CONCERNED AT THIS POINT ALTHOUGH SOME OF MY CLIENTS ARE EXPERIENCING LABOR ISSUES IN THE SOUTHEASTERN U.S. THIS COULD KILL MY BUSINESS.

NOT ENOUGH PEOPLE

Not enough qualified people to work. We have high unemployment, but as long as we are paying them to stay home, and eat with food stamps, etc. Why would they want to go to work?

Not enough workers to do job. Not skilled or motivated

Not fully understanding who is legal and who is not. The new law is complicated.

Not going to be anyone willing to perform this type of work.

Not sure as I mentioned earlier, that American (illegal) can do the work. Not to mention the Hispanics that's come to live here in America, have fallen to the ways of American. (lazy).

Not very many out there who will do manual labor for what the market that is full of illegal workers will.

NOTHING SPECIFIC

Number of people and are they good workers.

Only interested in legal workers.

Our competition is not "playing by the rules" when they hire illegals
Our concerns continue to be the same. Legal workers from experience have trouble keeping up which slows down operations causing us to lose money and sometimes the job. Also, our comp claims go up with legal workers. Most of the time injuries are suspect. Safety inspections find us in compliance.
Our legal local workforce is not dependable and will not work if giving opportunity

Ours is a very small wholesale/retail nursery, and we are getting even smaller in this stagnant economy. I don't have the same needs for a workforce, legal or otherwise, as a thriving operation. We have struggled over the past two years or so in our small business and in our household as well.

People don't want to work

People to do our work in the hot temperatures.

Prevalence of fraudulent documents presented

Price of labor being so high it would not be profitable to harvest our cigs. Being forced to hire local labor that have no incentive to work or work safely. No work ethics or desire to be productive. They may work long enough to quit and get unemployment or get hurt and want permanent disability.

Price of labor being too high it would not be profitable to harvest our crops. being forced to hire local labor that have no intention to work or work safely. no work ethics or desire to be productive. they may work long enough to quit to get unemployment or get hurt and want permanent disability

Qualified workers. Higher minimum wage

Qualified / Trainable Willing to work

Quality and work ethic

Quality of employees available for my industry

Reliable, Honest

Rules & Regulations make it too complicated

Not enough qualified applicants who are willing to work. This is a societal problem that will not be easily fixed. Most State & Federal Law makers don't have a clue about the real world!

Same as above

See if they are legal or not. How you go by seeing if someone is legal
That the Latino pool will have moved on to Latino friendly states/will not be here!!

Show up on time be responsible be honest Work hard Have a good appearance
Smaller labor force will be available in 2012

That their documentation is authentic

That their documentation is Authentic.

The availability of workers!

The concern is going to be for the following year with e-verify. Why does the burden of have to be placed on the employer.

The cost.

THE GOOD WORKERS ARE HISPANIC. I CANNOT FIND AMERICAN WORKERS CAPABLE OF THIS WORK.

The H2A requirements which change every year.

The H2G program does not work for our company. We use our labor force 12 months a year and in Fayette county provided housing is not affordable.

The illegal work force works much better than the legal workforce

The legal workforce pool is not willing to do the hard manual labor required in our industry

The local people will not do the work or cannot hold out in the field. The non-documented people are leaving Georgia scared of being profiled.

The new laws are driving good workers who are legal away because they are concerned they will be harassed

The ones willing and able to work will be harder to find and more expensive. I will need to raise my prices.

The only way to do this is thru the h2a program. It is very complicated, frustrating and expensive. There is too much red tape and government agencies involved

The only way to do this is thru the H2A program. It is very complicated, frustrating and expensive. There is too much red tape and government agencies involved.

The people I hire say they are legal. They are the only people that really want to work.

The process of bringing H2B workers in to the USA is costly and burdensome. The local pool of workers is not willing to work as hard as the immigrant labor. I have seen this in many SC operations.

The time involved in training & determining if they are: 1) honest 2) hard working 3) willing: is extensive. During this time period someone is having to train them & do their own job as well which doubles the workload. By the end of the hiring period they have quit & the process repeats itself
There are many that have left the state of Georgia even though they are legal.

There are no qualified people to hire. There are many applications but most of these people have never worked more than 6 months at one place.

There are not enough good hard working, drug-free, honest potential employees

There are not enough legal workers that are skilled to do my jobs. I live in a county of 10,000 people and we may need 3000 plus hand pickers. Locals will not get it. Every time (almost) we use local people we have to prop up their wages and they don't last and will not do the hours.

There are not enough workers who want to do the job or who can perform the work.

There are very few available legal workers to choose from, we are having a lot of difficulty filling these positions.

There aren't enough legal work force available for our type operation (Dairying)

There is an apparent lack of qualified applicants in the work pool who possess a legal status.

They are not available. The few American workers that have been hired as replacements do not last more than a week as the landscape business is too demanding for them.

They were not available.

They will not be available and we now have a system where farmers will be competing for labor and workers. We had to raise our prices 1.50 per hour last year and North and South Carolina recruited 1/2 of our people with bonus and no Georgia/Arizona style rules. They actually had people down here telling them to come and they would not bother them in these states.

They won't work

This is not a legal workforce available to harvest handpicked produce. Domestic workers are too slow and cannot produce on a level to even begin anything with hispanic labor with hand harvesting.

This is why I contract help. If they can't legally drive or move freely within community, they can't really be expected to perform

to lazy

Unfortunately, there is no legal workforce who is willing to endure the physical demands presented in landscape construction/maintenance. The positions are not low paying so that is not the problem.

Very concerned because local residents don't want to do manual labor

Very difficult in present environment.

We are seeing less and less applicants as they leave the state for states more expecting.

We cannot find local labor to do field work.

We created this problem by not keeping up with guest workers 25-30 yrs age.

We depend on friends and family of own employees from Texas to recruit and send in sensible workers for sinning season

We have a legal workforce in packing house, but some field workers do not have certified crew leaders. One crew leader promised to get certified before 2012. Majority of his crew is legal.

We have always endeavored to hire and maintain a legal workforce.

We may go out of business because no action is being taken to help American farmers / Nursery Operations

We need people that will work to harvest fruits Americans will not do that I need a dependable crew or I will go out of business

We need to be able to hire H2A people at a reasonable rate and not have to furnish transportation & housing

We need willing, motivated legal workers. They are scarce.

We used legal workers during our 2011 crop year and had an EXTREMELY hard time finding reliable workers. Many workers were not ones who would last over a couple of weeks some did not even last beyond one day.

We want to obey the law, but we are not allowed to ask the legal status of new employees. We are concerned about getting our hands slapped after hiring illegal employees unknowingly.

We will be stuck using workers that are unable to perform the kind of work required in the dairy industry

What are the new regulations, taxes and cost going to be?

When weeds cannot be controlled by chemical means I have hired Hispanics for a few days. Trouble has come from proper I.D. in regard I.R.S.

Where are the workers? We used to have at least 6 people (Hispanic) coming in our door a day looking for work....of that number, only 1 might qualify for e-verify (which we have been doing for 3 years). Now, we may have 6 a week. No other race of people even bothers to apply.

Whether or not, even the legal workers will be intimidated by the immigration laws and will move from our area. Some don't understand the law and move away because they are afraid.

Who wants to work in this job?!!?!? America keeps pushing education, education, education. We need to encourage work ethic and the value of an honest day's work for an honest day's pay. The answer doesn't lie in getting a higher education - it comes from a willingness to hold a JOB. I'm afraid that this e-verify mandate will make it next to impossible to hire domestic workers. How will I grow? How will I stay in business?

Workers not available that will actually work. If you don't have fast workers you can't survive

Workers that are legal are very hard to find, also hard to deal with them.

Would like legal workforce but they are not readily available.

Would like to see a guest worker program implemented.

You cannot find legal workers who want to work. They would rather stay home where it is cool and wait for their monthly check to arrive.

Appendix J- Responses to Question 36

Please take this opportunity to provide us with any additional comments about immigration reform in Georgia as it pertains to your operation/industry.

The e-verify system will put the Georgia farmer out of business unless he turns to the H2A program. Your average American Citizen will not perform the type of work we need. It is too hard for them and they are not able to meet production.

-We need a temporary guest worker permit. - Workers need to pay taxes -George Bush had it right - Illegals should pay a fine & apply for citizenship like every other immigrant. -Make it easier for farmers to hire a legal workforce. -H2A like solution will not work

1) Enforce the laws on both illegals & those who hire them 2) Remove Red Tape to get workers here legally. It take so long to get workers here, usually a federal problem

1) send us information on what to do or check if someone is legal 2) How to go about checking the status of legal immigrants

1) To Drive in GA - they should pass a lisc. test here in GA if they wish to live here 2) We cannot support breaking U.S.A. Law 3)Illegals use medical here without paying - we are going to lose our local Hospital because of financial shortfalls 4) They use our school system w/out paying for taxes - which results in our family paying more taxes and farmers usually own a lot of taxable land 5) Build a fence secure the U.S.A boarder 6)A guest worker program that is enforces is the only correct way to help supply seasonal Ag workers.

75% of our workers are non-American. We make every effort to verify they are legal. Should the non-American worker not be available, it would greatly impact our business operation in a negative way, more programs should be offered to help immigrants become legal and receive the documentation they need to work in this country.

A form when finding an excellent employee does not have a social security number a speedy path to obtaining a member so the would be paying into social security to help keep program better funded. Employees can be a big help in making people legal. Lazy ass Americans need good competition. I'm an American I grew up on a dairy farm and I have no problem competing with anybody on this planet. After all we if you are Christian we all are descended from Adam & Eve.

A guest worker program needs to be developed when they are issued a card to come work for 9 months then return home for 3 months. Let them go and come to work, but leave wives and children at home. We have tried white and black workers year after year. They NEVER last more than 2 or 3 days, and never pick enough to make more than minimum wage(usually I have to add \$ to get them to minimum wage). Only the Mexican workers can stand the heat and be productive.

Agricultural jobs are sometimes difficult and conditions are hard. It has been my experience that many people raised in an urban environment are not accustom to this work environment and are unwilling to do the job required on the farm. The pay scale is less a factor than heat, cold, dust, and etc.

AGRICULTURE HAS ALWAYS BEEN A DIFFICULT FIELD IN WHICH TO FIND EMPLOYEES THROUGHOUT HISTORY. IS THIS REALLY A NEW ISSUE? WE THINK NOT. WEHAVE NEVER KNOWINLY HIRED ILLEGAL

IMMIGRANTS. WE HAVE ALWAYS FILED ALL PAPERWORK CORRECTLY WITH DOCUMENTATION. WE HAVE NOT HIRED A NEW EMPLOYEE IN 4 YEARS. HOWEVER OUR EMPLOYEES ARE INCREASINGLY FACING DISCRIMINATION / RACIAL HARASSMENT FROM THE POLICE, SCHOOLS, AND CITIZENS. HOW COULD I RUN A BUSINESS WITHOUT SKILLED WORKERS IF I LOSE MY CURRENT EMPLOYEES? I DON'T SEE A RUSH OF STUDENTS IN THE AGRICULTURE PROGRAMS OF AMERICA.

Agriculture needs a reliable workforce. I understand we have a border problem but the Americans will not do the work at any price. I have tried

All my life I have been common labor. I always wanted to be my own boss. I finally made it 25 years ago. The final 10 to 12 years I worked school labor in the summer then my season for harvest was between June 15 to mid-July. Now my season is April 15 to June one. School is not out and if it was, the kid that drive new cars & trucks don't have to work. I've worked Mexico people The last 13 years. All were legal some were over on work permit. It has been the best thing that ever happened for me
all workers are legal

Any reform that doesn't include a workable, flexible guest worker program, that is also easy to use, is not real reform IMO!

Any workers in Georgia should be legal or have worker immigration papers!

As a small business person, I have been providing jobs for 30 years. I have weathered all sorts of climates and droughts and recessions. I am tired of the government constantly trying to find a way to stop me from progressing. Being in business is hard enough without being considered criminal because you missed judged a prospected employee's heritage.

As an employer, I have to have people willing to work. Most Hispanic employees will work. As a tax payer, I don't like seeing illegal aliens being able to take advantage of programs or for that matter anyone that can't pass a drug test.

as business owner it is hard enough to run a business, make a profit and pay all the overhead without the responsibility of immigration rules being on our shoulders. If we withhold taxes, match the taxes and follow the rules then it should be the govt job to take care of immigration not the employers. If an employee winds up being not legal are you going to refund the taxes an employer pays? Let people who want to work do just that work.

As part of the landscape / nursery industry many of my customers and peers use Aliens as a labor force. Having access to a legal workforce is critical to many operations in this commerce stream

Before you pass laws barring illegals from working be sure you have adequate & willing citizen workers

Bill - 87 caused many workers to by - pass Georgia this season. This caused many farmers not to be able to secure labor resulting in a loss for many farmers. Agriculture labor is used approximately 6 months of the year why not issue an agriculture work visa at the border for 6 months? If so many factories had not hired these workers we would not be having such a problem with labor. This has cut many Americans workers out of work in factories. Many American workers will not work in the fields because our

government is paying them to stay at home, paying their grocery bill, furnishing them a phone and heaven only knows what else.

Call me and I can tell you how to fix this system, as well as anyone else who owns a nursery. It is not a difficult process.

Certain groups need to be exempt from hiring domestic labor unless they have experience. Law now is ridiculous. 3 migrant workers pick on average 315 bins of tomatoes in one day making average wage of \$12.50 per hour. 137 domestic workers in same field picked 61 bins of tomatoes in same field same day for average pay of \$3.12. We had to guarantee \$9.12. I lost a lot of my crop because I could not cover enough ground. My H2A workers VISA were cut from 75 requested to 35. This is an impossible program the way it stands. Good luck buying foreign produce in coming years. Good old USA politics.

Communication or language barrier

Current legislation is a response to a very vocal and racist minority in the state. The current legislation is inhumane at least, and destructive to an already fragile local economy. I have been a resident of Georgia since 1984 and have always reveled the durability of the Georgia economy. For years Georgia has led the country in economic growth, why dampen things now? The jobs the latinos perform are not jobs native born Georgians will perform. Georgia's legislators should take the opportunity to stimulate the local economy by being progressive and humane in their approach to documenting the latino work force. Why not show the rest of the country how modern and thoughtful we can be here in Georgia instead of backward and bigoted

Current policies have been very detrimental--we need immigration reform with a less complicated guest worker program to do the jobs where we are unable to find qualified applicants. Unfortunately, we have too many unemployed with no work ethics and no desire to do work in agricultural positions. Currently we are required by one of our largest clients to ensure all employees both full and part time are legal workers. It has been easier for us to approach this requirement through not hiring of H2A workers.

Currently, I am able to find enough workers. Often I have more problems with legal, american born workers (of any race, white, black, hispanic); their productivity is less, their attitude and work ethics are bad, they look for easy money (lawsuits, workers comp claims). IN my opinion, the migrant (possibly illegal) worker does the best job, they just want to work for a fair wage. My fear is if we continue to be hostile and make things more difficult for them we will not be able to get the labor we need for these seasonal, lower paying jobs.

Dear Commissioner Black, If we destroy the good work ethic that these Hispanic laborers currently have, who will we call on next in order to help us fulfill the labor intensive tasks associated with the agriculture & construction industries? I personally believe their job performance will diminish once they are granted access to an of the entitlement programs. Ron Smith

Do it. Offer an amnesty to currently employed non-legal staff. offer realistic work visas (5-10 years) Our industry would not be viable with labor from other countries

Do not use non-citizen on a regular basis - only for a little contract work such as weed pulling

Do to the welfare state, domestic labor is unwilling to work for pay/salary. The difference between the government subsidies and regular pay is so small, it creates the attitude that "why work when the government will pay me to do nothing." The government subsidies have created multiple generations of government dependent people who refuse to work. These people are willing to have very little, if they don't have to work to get it. On the other hand, we have the migrant/immigrant work force that is willing to perform the labor at a fair rate of pay. The immigration reform talk has scared/is scaring all the migrant labor out of the state. The labor available to replace the migrant work force is more expensive, slows down the jobs, and causes issues with workers' compensation increases, all of which results in less profit

Don't always know if the people you hire are legal. Just looking for someone to do the task for the least amount of money

Due to a shortage of legal workers. Farmers will be competing against each other - Some of the crop will not be harvested because of labor shortage and we will spend more money on what is harvested and there will be less money left to maintain our operations & to live on if any is left at all ----- There must be a way to convince the state GOV. and the people of the state that the concerns & needs of GA.

Farmers need to be a part of this conversation!

During our peak harvest people were afraid to come to Georgia

Ease up on the Hispanics. Find a way to make them legal participants without the employer-expense and failed immigration policies of this state and nation.

Employers need to be left alone. We shouldn't be forced to do what the federal or state government can't or won't!!

Enforcing our existing laws used to not be an option in America.

Even though I don't hire foreign workers I believe they should be legal or have a work permit. It's sad that our system has plenty of workers of age that the government has rewarded for sitting at home drawing a check. It started with Pres. Johnson and has gotten worse with time if you cut out welfare-you got plenty of workers.

Every person we employ pays full load taxes out of every single check, as I'm sure most do, I don't understand why NOW, why not 108 years ago when this first started in southern California, can someone explain where the money is going to come from, from the lost medicare, social security when all these payers are gone? Who will make up the difference! Mr. Black, I know this is a politically hot mess, my hope is someone will have the wisdom to do the right thing, I'm not asking for my way, just do what's right, and Georgia really doesn't need any more setbacks.

Excluding non-legal labor will put me out of business

Fair Tax solves the problem!

Farm work should be exempted from the immigration reform laws.

Farmers should not be allowed to grow crops that require the use of illegal immigrants. The increase in the cost of social services, medical, educational-should be paid for entirely by the farmers that grow crops (like onion) that require the importation of a labor force that gets free services at the expense of the tax payers

Federal h2b program is a joke.

Fines forcing illegals out of the state and workforce is a very negative impact to GA agriculture. We need a legal immigrant workforce to remain competitive with other states and countries to get crops harvested. The government created the problem and must fix it. Allow more immigrants to work here legally year round; they are not taking jobs from Georgians that want to work.

First. Thanks to our beloved welfare system there is a certain segment of the people here in the US that will not work. And if they are schooled they go to town to work. (I can't blame them) 2nd. I think GA does not act wisely we as a state will lose a lot of industry. (There are other states that are not so strict) 3. I understand that some employers do not take taxes out of their checks. I think what needs to happen is to place really severe to those who do not and let the rest go free.

From past experience, I realize that unless we have migrant farm workers, there will be no locally grown produce in grocery stores. Farmers will be out of business. All produce that will be available will be imported. Imported produce does not have the quality of locally grown produce. It will affect all of society, not just farmers

Frustration. We continue to run ads and continue to hear from individuals who are either not willing to perform the physical labor or accept the offered wage rate. The congressman from Peachtree City says people are willing to do anything to put food on their table. I respectfully disagree. It is easier to appear to be looking for a job while continuing to receive government assistance. The governor wants our industry to hire probationers to fill these jobs yet the state of GA contracts with a company to hire workers in another country to perform the work of the state. What is wrong with this scenario? Our company will continue to hire a legal workforce that will not be a liability to our company and customers. It is our hope that our state leaders will see the great need our industry has and initiate ways to enable our industry to hire legal workers that will be cost effective for all.

Ga's immigration reform will eventually cost me my farm, or cause me to be a criminal by working illegal immigrants (what's left). Thanks Georgia Goc. for screwing the small farmer

Georgia does not need to make it so difficult for farmers to hire and keep qualified workers who will work in conditions that many refuse to undertake no matter the pay. Frankly many Georgians won't hold up and are unreliable when it comes to Agriculture work. Agriculture requires long hours under not so good conditions especially during the summer. Not many are willing to try and certainly will not hold up.

Georgia has passed a very stringent immigration law. We have work forces who are very reliable and productive. This law is only a scare tactic for our employees who are hardworking, honest, reliable, and who have families who are U.S. citizens. These employees are not trouble makers and the U.S. is the

"only home" most of them have ever known. They come here with parents years ago, were educated here and if deported would have only a foreign country to go to. If these employees are removed from our work force we will have nowhere to find more employees because the local work force will not (refuse to) perform the tasks required in our livestock operation.

Georgia is short-sighted when it comes to the immigration issue. Immigrants are the base of our economy, and allow American citizens to hold higher level positions in management, health care, education, and the justice system. If they live in a government approved dwelling, they pay property taxes that support our education system. (Many of them also drink alcohol, another major contributor to education!) I am so angry that Georgia can't see the consequences to their actions. Following the debacle with the probationers working in the fields, it would seem that lessons have been learned. Georgia can't solve the immigration crisis. We should stop trying. The initial measure of requiring a SSN to obtain a driver's license fell flat. Not a single immigrant left the state because of this. They just continued to live here, making the most of each day, and driving without a license - they have to live, shop work, go to the doctor. That's lost revenue for the state. That's more people who flee the scene of an accident. That's more people without the proper training to operate a motor vehicle. That's more Georgia citizens at risk of injury or death. But it's NOT a solution to ridding the state of illegal immigrants. This new law will have similar unintended consequences. And again, the citizens will be the losers as monies and business opportunities leave our state. Unemployment will still be high. After all, an out of work CEO is unlikely to pluck chickens.

Georgia needs a program to make my ILLEGAL workers Legal workers. Identify them, register them, charge them a fee, place requirements on them, and then let them work. No citizenship; they don't want or need it. I could not operate without these foreign workers. I have worked these same guys for 7-10 years now. They are very loyal and hardworking. I have had some leave because of fear. Please continue to work for a guest worker program. My needs are 12 months/year. H2A does not work for me. Georgians do not want to work on farms. Many feel it is beneath them or why should they work when the Gov pays them not to work. Immigrants want to work, they work hard and make good money. The new Georgia Law is going to be disastrous for Agriculture if it is fully implemented.

Georgia's Ag industry is significantly compromised and put in a competitive disadvantaged position due to some recent state level actions. I would hope our Department of Ag understands these challenges and in the future will do as Florida's Dept of Ag did this past legislative session and strongly support GA's Ag needs.

Gort should look at previous years taxes on those who are here wanting to have a better life and being hired by company who takes taxes out and lets the Gov't know their the companies also workers who want to be documented and be known to do everything right except have legality to be in the usa. These are the people who keep business alive. the whites as well as the blacks have had decades to prove themselves worthy. they simply want a free ride

Government has just as much fault in allow immigration get where it is today. Knowing it was much of what allowed the housing market boom. We were able to get the home we always desired for for fraction of the cost if it were done with American work force, we would pay twice as much. & take twice as long, Our homes were the one asset we had as americans. Due to the economy, we've lost that asset. That causes a change reaction. From improving our homes, lost jobs, lawn maintenance, enhancement

done around the house, etc. My opinion, build the boarders, legalize the immigrats fix housing this will cause Americans have confidence again & invest.

H2A way too expensive, need some type of program for workers 2 become eligible for greencard. Local people will never harvest crops too lazy

Have workers come in and work, pay them a fair wage, let them pay social security and return to Mexico. Social Security is for the privilege of working. We gave blacks an opportunity to work and plant onions and they said they could not do it. Who is going to pick the strawberries, beans, sweet potatoes, corn & onions? When you go hungry maybe America will wake up.

Hiring only legal, full-time workers has put me at a disadvantage compared to bigger businesses who are less concerned. As an immigrant myself, I am proud that I went through the legal process of becoming a citizen. However, we need to provide some path to citizenship for those illegal immigrants currently in Georgia. I want them to have some opportunity to attain legal status.

I am a cotton ginning operation that operates in the fall of the year, we run 24 hours a day for approximately 3 months. Finding non-Hispanic workers to perform this work is next to impossible. Not having access to this pool will severely hamper the cotton industry in Georgia, which is a billion dollar industry.

I am a small producer and immigration does not affect my operation. However, there are folks that depend on a workforce to gather crops in a timely manner. I do not know the answer to the situation but it needs to take into account the needs of agriculture producers to gather crops. Wish I could be of more help.

I am all for reform if the government is willing to accept some of the problems related to this illegal workforce in Georgia and throughout the u.s. the government has a dong very little to guard our bordors and stop illegal immigration, but it is quick to punish an employer if they are caught using illegal aliens in their workforce. the government is laying an of the blame on people trying to build a business that will employ 10's to 1,000's of workers.

I am angry. Not so much in regards to immigration as to the decline in persons acctually willing to work period. My workforce consists of legal workers no one else is willing to hire, DUI, drug use and inept at following simple instructions in repetitive tasks. I am willing to pay higher wages to anyone interested in the type work I have to offer - however - that person has to be willing to perform needed tasks and stay off their cell phones talking & texting during working hours. I have an intense dislike of INS for removing the family that worked for me that were the best employees I have ever had. I feel that the availability of "help" from sources informing workers of govt benefits as opposed to work has greatly contributed to the decline of workers available. If we stop making children born to illegal workers citizens of this country I think some problems would be reduced. Govt officials should have to work like we work in the conditions we work in for a short period of time to fully appreciate the challeges we face. We do not abuse our workers, we just expect to see results in a day of labor and would rather not listen to "reasons" why work was not completed. Making our jobs more difficult by requiring endless forms and hoops to jump through to obtain willing workers does not improve our bottom line of profit. I only require 3 full time employees in my business. I just wish those 3 were as easy to find as the DoL seems to think!

I am concerned for the larger nurseries in the industry. Their success trickles down to my small garden center/nursery. As well as ag growers affect food prices.

I am disappointed that some farm organizations (one of which I am an active member) want to keep illegals in this country. If a farmer or a contractor depends on illegals they need to get in another business or find legal workers. These illegals cost me and all the other tax payers billions of tax dollars, and I am tired of it! Maybe the new laws in Georgia, Alabama, and Arizona will make the illegals move back to where they came from. I applaud the Georgia Legislature and Governor for passing immigration reform.

I am not fon of immigration reform. We all came from somewhere else on down the line in our past generations. Immigrant workers keep this country moving just like they did 150 years ago.

I am opposed to all illegal immigration Federal government is responsible for this provision the labor force we rely on for harvest is mandatory for our survival it is not the responsibility of the American people for the health and education etc of illegal immigrants -- they are illegal and therefore have no "rights" They should be provided the same opportunity & route for citizenship as everyone else I am (as time/money permits) converting from handpicked to machine picked We must have a legal "work permit" classification if we are to feed America no one time amnesty for illegal immigrants do what is "right" for America a one time even for politicians

I am sick about how our state is treating the immigrant population.

I am thoroughly convinced Georgia's immigration reform is only a scheme of georgia's corporate lobbyist to put the small farmer out of business where the Tea Party, white corporate georgia will fund private owned farms run like corporations. using labor forces of the H2A program. Georgia Republican senators making possible H2A workers available without any red tape or high cost. Agri business is the backbone of georgia and the immigration workers are the chain the strongest link to any farm in georgia. agri business cannot survive without these diligent workers no farm in Georgia can survive another year like 2011. without the backing of migrate workers. Georgia senators devastated my growing season of 2011, vegetables rotted in the fields because I could not find workers. without care or concern Georgia republican leaders reduced and lessened me a Georgia farmer who was proud to fee America. at 29 years old seventh generation of farming. Senators that has never stepped onto a farm in Georgia disregarded Georgia farmers in the same instance they voted in the Georgia immigration reform. farming is not a job it is life.

I am very concerned about the lack of qualified workers. Immigration reform has scared off good workers. We have been trying to find people who are able to do a good job since the immigration reform movement started in Georgia and have had NO success. I don't know how long our business will remain viable without decent help. Right now, we do a lot ourselves but landscaping is a young person's business.

I believe each year will be more and more difficult to find manual labor

I believe illegals should be deported and not allowed to return. Possibly we should give more assistance to immigrants who wish to be legal and become citizens

I believe the legislature should issue work permits to any illegal alien who has a job for as long as the job lasts and especially you who have a family with their children who are automatically US citizens

I believe they should give field workers a permit to legally work. It is hard to find someone to work long hot days in the field.

I believe we need to hire only legals. However, with the new laws, I believe many illegals have left Ga.

My feelings is that it is not my responsibility to verify if a worker is legal or not. If they are in this country the federal government allowed them to enter they need to take responsibility for allowing them to enter. DO NOT PUT THE RESPONSIBILITY ON MY BACK!!

I believe we should be able to hire non-citizens as long as they pay payroll taxes.

I can see how it may effect the produce industry. As far as on the crop production side there is no problem at all. Produce farmers require a lot of tempoary workers, and local unemployed people are not interested in these jobs. There are plenty of unemployed people in this area I believe its 10.2% these are not going to do manual labor as long as their on unemployment

I completely support immigration reform and believe that if you are in this country illegally, you should not be able to take advantage of the benefits pertaining to US citizens. Our industry has been hit hard because now we play the role of ICE by verifying citizenship or authorization to work permits. I am a business man not an immigration official. The federal government has to provide a vehicle for some of these law abiding hispanics who pay taxes (Federal, State, County, sales, etc.) and have no history of breaking the law, except being here illegally. These hard working laborers do a job that very few others want to do. We have been in business for 10 years and rarely have anyone apply for work that is not hispanic. We need to wake up and provide these folks with an opportunity to earn a legal working status in the US if they meet certain qualifications such as a history of tax payments, no criminal record, consistently contributing to their community, etc. We are all immigrants of this country and our relatives all came here to follow the american dream. There is so much red tape now that citizenship is a pipe dream. The hispanic population in this country has done so much for our Agriculture industry, construction industry, manufacturing industry, urban agriculture industry, etc. If any immigrant has avoided paying taxes or abused any government benefits, they should be deported. If they have worked hard and contributed to the success of our economy, we should re-pay them by giving them an opportunity to earn working status and eventually citizenship in this great country.

I do hire immigrant workers and I check papers & documents, fill out all I-9 forms, check social security numbers, collect copies of all supporting documents. All of my employees pay taxes, many have enrolled in medical benefits plan and retirement plans. I would hope that politicians will keep their hands off of productive contributors to our society.

I do not believe in letting someone work for you if they are illegal. How come we teach our children to do what is right & hire illegal people to work on our farms. I would not let my children plant something illegal on our farm. I see no difference in illegal plants & illegal people. Farmers and anybody else can find good help to do any type farm work or any other type work if you pay them a fair wage. If we put legal people back to work we could cut the unemployment down. This is America put America back to work.

I do not hire many workers all live in Burke Co. I do not work foreigners.

I do not use immigration labor because of all the red tape laws, I would like to use migrant workers but it's not worth the hassle. It looks like the state and the federal govt are trying to do everything they can to put the small farmers out of business, I don't think the farmers should have to enforce the laws they move.

I DONT HIRE ILLIGAL LABOR AT MY GARDEN CENTER, LANDSCAPE / MAINTWNCE CO. OR TREE FARM. THOSE WHO DO SHOULD BE PROSECUTED, FINED, JAILED AND PROPERLY SEIZED.

I don't know the answer to immigration but I firmly believe that the agricultural industry would fold up without illegals. It is just Not true that illegals are taking jobs away from Americans. The government gives out so much free assistance, a lot of Americans don't want to work or work hard

I feel that the focus should be on other priorities like the economy. Keeping terrorist out of the country is important but the folks this law targets are not terrorists. These folks just want a job and to support their families. Some legal method to enter the US should be established to allow documented folks into the country and keep terrorist and criminals out as well.

I have a small ornamental plant nursery and have few problems finding workers. Farmers in south Georgia where I live are having severe work force problems and food is being left in field to rot because there are no workers to harvest it. This will ultimately lead to higher food prices. I recently heard an NPR program on the success of migrant labor in California especially for the grape harvest. If it works in Calif- you can make it work in Georgia too.

I have no problem with hiring willing/honest people (regardless of immigration status) - I despise paying taxes to support services for non-working non-citizens

I have no problem with labor that is properly documented. I understand the need for a workforce in our agriculture industry that requires a large number of immigrant or migrant workers. However, if they are not legal or trying to go through the proper procedures to become legal - I say go home or send them home - H2A and Vim workers are fine as long as they return to their original homes at the end of the allowed time. I hope that this information is useful

I HIRE ALL LEGAL CITIZENS IN MY GREENHOUSE OPERATION, PROBABLY ONE OF THE FEW WHO DOES THIS IN GA. WE ARE VERY FORTUNATE TO HAVE A STABLE, WELL COMPENSATED WORK FORCE.

I know individual states are frustrated with all the undocumented workers we have, but they are putting this pressure on the people who feed this country and not on Washington. If the states would collectively put the squeeze on Washington with could come up with a program that would satisfy the needs of the farmers and eliminate the undocumented population this country over time.

I know the contractor I use pays all taxes into ss, unemployment, state & local & the few people i've known as workers accepted that. Unless Americans are willing to accept a drastic reduction in services & available commodities. A fair guest worker system needs to be put in place that doesn't over-burden small businesses

I never hire illegal workers and do not grow vegetables; therefore it does not affect me.

I only have 1 employee, I got him a IIN neenbe and he pays all his taxes. It is deducted from his payroll check

I only hire one or two part time workers, and have no problem getting help. I understand though that there is a serious problem for large farm operations in getting and keeping qualified help. There is critical need of a guest worker program. Many commercial farm operations need seasonal help, many migrants need work. Why not have a guest worker program to match these needs. Don't fine migrants, this implies that they are breaking US laws, many won't cooperate. Instead, why not require a guest worker license permit renewable yearly. This could be useful for (1) tracking migrants, (2) matching workers with labor needs (3) collecting fees or perhaps taxes, and (4) perhaps providing health / education benefits. The number of guest license permits should be no more than the expressed need for such labor. Priority for follow-up applications could be given to those who cooperate with US laws, regulations and those recommended by US employers

I personally lease my farm out; I have heard that many farmers in our area use or have used immigration legal workforce with great success/results.

I put 3 adds in with DOL at suggestions of the governor. Top manager - mid manager - laborers - 1 response in 6 weeks - (25 people DoL sent to me never came.) Our business is labor intensive. Americans don't want to do this work. I need to be able to keep the labor I have as I have trained them & supported their families. Losing some of them would cause much harm. I would like to increase pay, but costs have gone through the roof & water rates are so high that customers are cutting projects.

I recently met Governor Deal at a social function and thanked him for immigration reform in GA. It has elevated our profession because our competitions who hired illegal workers no longer can

I see a need for immigration reform. Immigrants that have no criminal record and have skills helpful in our workplace. Should be allowed a temporary work visa that can be renewed or revoked when appropriate. Georgia will have a great data base of immigrants, residents, county, city, work skills related to the many Georgia constituents needing farm or Agriculture workers. Must be some type of national initiative to prevent flood of immigrants to our great state. all criminals deported. The Agriculture industry has the most to gain or loss. I am a Great supporter of Gary Black because he believes in other people and their opinions. This is a prime example of reaching out to others. God bless you and your staff.

I see big problems if the migrant/undocumented workers are eliminated or forced to leave

I sympathize with vegetable farmers. They cannot get the labor they need because of government Red Tape! This Country will be hungry without migrant workers. There are entirely to many people on WELFARE.

I think a legalization plan that is not so expensive needs to be proposed. Legalized immigrants pay taxes. the others don't. would help debt issue

I think immigrates are beneficial to our line of work in landscape & lawn care because of the willingness to work long hours & in extreme weather conditions. We currently do not employ immigrants, although

we have employed only 2 immigrants in the previous 12 years for only a short period of time, with the greatest of the 2 being only 3 months. We benefited from the immigrants workability

I think an immigrant is here they need to be here legal and speak our language, or leave it. I think it is insane for the state to impose HB87. We are simply making Georgia less competitive with surrounding states and laws like this show hostility towards a particular ethnic group. Even those recruited through H2A which would be guaranteed legal, will not come to a hostile state for fear of harassment. I also have yet to find a law enforcement office that would even know where to receive training to prevent racial profiling. The law is misguided at best.

I think many of our financial problems on this country as a whole stem from the burden of illegal immigrants. I resent that my tax dollars educate their children and cover their medical expenses when I sometimes find it difficult to meet the needs of my own family. Our local economy is very much ag-based and produce production is especially time-sensitive. Migrant labor remains a vital part of our workforce, forever, something must be done at both state and federal levels to ease the economic strain. I favor tough immigration reform. Metaphorically repeating. I simply do not see a favorable outcome for any if we continue to allow more people aboard an already overloaded ship we're sinking. I think our elected officials in Atlanta were very short sighted in New law. They should have weighed the gain against the loss. It was a tremendous loss for farmers. Just plain dumb on their part. I only have a couple of jobs here that could be affected, but losing those two would be tough

I think that our government needs a practical, affordable guest worker program so that people seeking employment can legally attain. I am not for issuing citizenship to babies of guest workers however. Nor am I for the entitlements currently issued to lazy unemployable citizens, and illegals. i.e: Free health care, welfare.

I think the simplest answer to immigration reform is to provide illegal aliens with worker ID cards, including a number that works like a SSN only to be used to withhold income tax, SS & Medicare from wages. Many immigrants are good productive workers and they could make a useful contribution to our society by paying taxes on their wages.

I think we are mainly Hispanic people to provide the labor for farm and source work. Also, The Hispanics should have a visa or document to work our county.

I think we do have a problem. We some type of legal that is easy to obtain to the US for labor and maybe that is continued as long as they pay taxes and take no drugs or break the law.

I understand that a country or state must know who and how many people are living in its borders, it is not wise to be ignorant of what you are trying to govern. I believe that our state has reacted to political pressure and ideas in a foolish, knee-jerk way. Whether a man is in Georgia illegally or not should not have a bearing on the basis of manner in which he shall be treated. To blindly "scoop up" and deport people is blatant disrespect for our fellow man. This may go far in certain political circles, namely Republican-(Which I am a stanch supporter of that party, but not on this issue) but it does not make it right in GOD's eyes. We cannot treat these people in this way, and I think the same way about that whether they benefit me or not. There must be a feasible solution to this dilemma that we find ourselves in, and the current bill and the Governor's solutions are by no means sane, wise, or righteous. The vast majority of illegals are decent, hardworking people who are doing work that our citizen

population is not willing to do, and if they do, it is much less efficient than the immigrant workers. These immigrants take their chances on the illegal side for the same reasons I do-because the legal way is ridiculously cumbersome, inefficient and wasteful. They would be legal if it was made to more sensible, I believe a system can be derived to allow these workers to be registered, taxed, and treated in a humane manner. Amnesty is not the idea, but truthfulness can be obtained from these people if a fair, decent offer is made from the state instead of instilling a spirit of fear into them. Georgia as a whole will suffer economically, among other ways, if she decides to govern the illegal immigrant population in the manner set forth in HB87. I am a paying supporter of Gov. Deal and Commissioner Black, but I am ashamed of the tactics put forth on this issue. I speak this in deep concern, respect and humility. Thank you, Bush A. Paulk

I understand the push for immigration reform but I also understand that stance against it. In my personal opinion a lot of our "legal workers are unfit for labor positions. this is not because of a lack of skill or ability, but because of a sense of entitlement. The "illegal" workforce wants to be working and is proud of their jobs and hard work. This I sgoing to be hard to replace. I only hire legal employee's but I can see where problems could arise when there are many more people involved in an operation.

I was forced to give my customer base to another company and begin working for them due to the immigration law. Even as a combined group, our business is suffering due to lack of qualified laborers.

I would hope that the rest of the nation would follow suit with the state of Georgia so that all employers were on the same playing field with regard to hiring a legal work force.

I would like to have the opportunity to extend, legally, expired work permits on good employees who are well trained and hard workers

I would like to see locals obtain a work pass so they can continue to work on the farm. I would like to see a better contract program so if I need additional workers we can obtain them also. We (growers) should not be responsible for everything.

I would like to see some type of temporary work visas for qualified people. If there are criminal records involved then they do not receive them.

I would like to see the government come up with a plan for law abiding illegal immigrants to obtain a green card/work visa that would allow them to be here legally, paying taxes and contributing to our country. If they break laws or violate immigration rules they will be deported.

If an adequate supply of Ag. workers can't be formed, Agriculture in GA & the U.S. will suffer. Ga. agencies need to realize that there is NOT enough "domestic" labor. Without H2B & H2A workers, our business would fail

If everyone hired legal workers, then we would all be on a level playing field when it comes to the cost of labor. It is hard to compete with companies using cheap/illegal labor, not paying worker's comp, or employer taxes. I want to run a successful business using legal workers, but I also want to stay in business. I relied on the state of GA to enforce immigration laws and keep illegal workers out of the landscaping business.

If existing laws were enforced there would be less of a need for reform

If GA does not change the immigration law GA agriculture will be avat

If Georgia continues to pursue it's exressior immigration law it will surely limit the ability to hire agriculturally skilled labor, because the face is local labor is not motivated nor skilled enough to perform the muded tasks

If it was not for spanish people there would not be any fresh fruit or vegetable producers in the US. Parolee or prisoners will not pike and make 7.50 per hour. Mabe the price per box will go up with no labor food cost willl be higher.

IF MIGRANT LABOR IS NOT MADE AFFORDABLE AND EASILY OBTAINED IT WILL KILL THE AGRICULTURE AND FORESTRY BUSINESS IN THE SOUTHERN STATES. WE MUST PROTECT IT AS WELL AS WE CAN, IF LAWS MAKE IT SO HARD TO GET LABOR BUSINESSES LIKE MINW WILL FAIL. COUNTIES LIKE MARION COUNTY HAVE VERY LITTLE INDUSTRY AND HIGH POVERTY RATES IF WE LOSE MIGRANT LABOR WE WILL SHUTDOWN - SAW MILLS - POULTRY PLANTS - LANDSCAPING BUSINESSES. POLITICIANS IN ATLANTA AND WASHINGTON SONT UNDERSTAND THAT ONLY A SMALL AMOUNT OF US CITIZENS WILL EVER SO THESE JOBS EFFICIENTLY. I AM FOR PROTECTING JOBS AND FAMILY BUSINESS. I AM A CHRISTIAN ACONSERVATIVE I BELIEVE WE CAN HAVE A LEGAL WORKFORCE IF WE DO IT IN A MANNER THAT WORKS FOR BOTHSIDES.

If minimum wage is sufficient for local workers why isn't it sufficient for migrant workers? There is no incentive for locals to work. they can;t see the relevance since they have free food, housing and medical care and in most instances transportation is also provides. I believe all migrant workers should be registered tracked and made to pay into our system, taxes, SSN, etc. But I also belief local living off government subsidies be required to pay into to our system. Local workers add additional cost to your operation due to lack of productivity & work ethics. An employee trying to remove a worker due to ethics, intoxication, or drug influence is very hard and to deny unemployment benefit to one of this workers once he has been let go is a joke. Legal migrant workers are very hard workers, dependable and actual appreciate and enjoy having a job. They are a pleasure to be around. they will work long hard hours without complaining, threatening to quit or just not show up the next day. there are no easy answers. Locals will & do not wish to work & around our government caused this problem trying to but notes with subsidies and handouts. The burden of correcting this immigration problem should not have fallen on the legal migrant workers nor the employees trying to scope out a living using migrant workers. I hop some of these comments are helpful. if I can be of any further assistance please call.

If minimum wage is sufficient for local workers, why isn't it sufficient for migrant workers?

If something should happen to where I would not be able to employ my staff or one identical to it I would back off on the amount of work load that we currently do. It's not worth it to employ someone and pay them the same when you get half completed in comparison to my existing staff. I feel like our state just like our country is being led by the blind and ignorant and our Gov leaders are trying everything possible to see our small business/Farmers fail! There needs to be things created that would promote our small business/Farmers!! I would also like to thank everybody involved in promoting this questionnaire and trying to work for our small business/Farmers!!

should be like a credit card, with direct deposit, and automatic tax withdrawals etc., Keep it simple, less chances of fraud.

Immigrates will do what you tell them. Most of the legal work force will not

Immigration laws must be changed to allow legal work VISAs. Current laws create a 'prohibition-type' environment, which forces migrant workers to go underground to secure green cards. If existing immigration laws are not reformed to allow for migrant workers, we are going to be forced to use non-legal workers to get food on America's table American natioal simply will not perform farm work.

Immigration laws should be enforced at all levels. However, there should also be easier ways to get and keep the workers needed to do the jobs the citizens want done. Waiting lists for permant work visas of 5 years or over for workers coming to this country on temporary work visas for over 12 years with no criminal records is embarrassing. There has to be an inexpensive bureaucratic-free way made to get the labor we need to run or business. If we had these in place, maybe it wouldn't be such a big deal.

Immigration laws should be upheld-Local help would be easier to hire if there weren't so many assistance programs for those who do not desire to work.

Immigration reform does not directly affect my operation.

Immigration reform in Georgia is a must! There are too many innocent, hardworking loyal hispanics who came here as small children who can't get a driver's license or social security numbers because of wrong headed Georgia laws. They are kept from contributing.

Immigration reform is a federal issue that shouldn't be handled at the state level. Employers can only go by the information the potential employee provides. We aren't document experts.

Immigration reform is a must, but you have to fill the jobs with someone else. The only way that will happen is to get rid of welfare and those that are getting money for nothing will have to fill the jobs of the illegals.

Immigration reform is a topic that results from a need for a productive workforce. This is not just in agri-business either. The construction industry among others, is full of illegals who drive the price of work down because they don't play by the rules. The lack of productivity in our citizens has created this demand for migrant workers. Until people stop getting paid with tax dollars to NOT work, nothing will change.

immigration reform is all about money! If someone has an invalid SS number we should change withholding to zero dependents. This would maximize state and federal withholdings. Our ginning season is so short we cannot justify H2A work force.

Immigration reform should not be implemented within a 1 year of being passed. Growers need to have adequate time to prepare for the change, Either through adopting new labor recruiting strategies, or by growing less labor intensive crops. Sadly, the later is probably what will happen. Georgia will lose high labor crops, this is especially bad for the state because high labor crops are generally high value crops for the state.

Immigration reform was welcomed by me. Too many growers and processors prefer illegals because it makes their operations cheaper, increasing their profits. When the blueberry industry began in south Georgia the pickers and workers at processing sheds were students and teachers. Since the illegals came they have displaced the teenage students who now are largely unemployed this season.

In my opinion what should be done is let every immigrant that has not been in any trouble with the law (except traffic tickets) register in the country that they live to be given a green card so they can legally work. Then give them a period of 12 to 24 months that they have to get their citizenship. They should be able to renew their green card once to give them an additional time to get this done if needed with the work load this would put on that office. They should learn to read road signs and other English to be able to do these things to be legal and work without fear of being sent to their homeland.

In the past years we have had great difficulty obtaining good qualified domestic workers for our tobacco operation. In 2007 we started using the Federal H-2A Program and the workers that we have received the past four years have been outstanding. We are very satisfied with their job performance and their attitude overall is very good. The problem we have is when we file an application for the H-2A program with the GA Dept. of Labor they post our job order in the state employment offices and if someone comes in and wants to apply for our job order they tell us we are required to hire citizens to have a chance at the job first but as I stated earlier we have already experienced this and the fact is there is not any local people out there that will last any length of time much less the whole season doing this type of work. Tobacco is a crop that needs to be harvested and worked timely and in order to do this we need a stable and willing work force to accomplish our goal of delivering good quality tobacco to the market place. Our H-2A workers have done this. Also, tobacco is different from many other crops in that when we begin harvesting it is more of a team effort and you must have a precise number of people there every day in order to make the operation work, whereas with harvesting vegetables or blueberries each worker more or less just does his job and it doesn't have an adverse effect on the overall operation if he doesn't perform well or not. In a situation like with vegetables or blueberries if a farmer had to hire a person to pick vegetables or berries and that person was not performing well then the farmer could simply let him go without interrupting his whole operation but with tobacco it takes the whole team working together to get the job done. In our situation it takes 8 hired workers to satisfy our needs. We feel like the H-2A program is best for us but we would like to see changes in the way they require us to consider domestic workers. For example: As American citizens ourselves, we feel we should have the right to hire or not hire a person based on our belief of whether or not we think they could or could not perform the job duties. Instead, the way it is now we are required to hire them regardless, just because they applied for the job. If we felt like we could hire a good qualified domestic workforce that would harvest and process our tobacco crop in a timely manner we would be happy to do that but it is just plain and simple, that will not happen. Thank you for the opportunity of express our concerns in this matter.

IN THE WHOLESALE NURSERY BUSINESS WE NEED HONEST, DEPENDABLE WORKERS WHO ARE WILLING TO DO WHAT WE ASK WITHOUT A BUNCH OF GRUMBLING. MOST OF THE AMERICAN WORKERS IN THE LOBOR JOBS COMPLAIN CONTINUALLY ABOUT THE CONDITIONS AND THEIR NOT GETTING PAID ENOUGH TO WORK THAT HARD ETC. aS A BUSINESS OWNER & OPERATOR I AM LIMITED IN WHAT I CAN PAY BASED ON SALES AND PROFITS. I'M FOR DEPRTING AND PREVENTING THE CRIMINAL ELEMENT FROM ENTERING THE US, PREVENTING MANY SOCIAL SERVICES (TAX PAYER PAID SERVICES) FROM ILLIGAL ALIENS BUT I'M WILLING TO LET PEOPLE WHO WANT TO WORK AND BETTER THEMSELVES HAVE A CHANCE.

Include dairy in the H2A Program

Instead of focusing on deporting illegals figure out a way to make the illegals legal so they can do the work no one else will do anymore.

Issue work visa

It does not really affect our business. it seems to be more of a political issue than a true farming/agricultural one. The effect that it seems to be having on farming is detrimental. Immigration reform needs to be a federal issue. This state needs to be seasonal ag. workers.

It effects my operation greatly. We service turf, golf course, and vegetable industry. If our customers are unable to secure labor to grow and harvest their crops then we will not be supplying fumigants and fumigant supplies to them. They are out of business and we are out of business.

It has had no effect on my business

It has stopped new employees from coming to work.

It is becoming more difficult to find local residents to perform the types of work that our operation requires.

It is my opinion that this survey and all the man hours and paper, and cost of mailing is a waste. Illegal migration should be halted completely. There is no excuse for the turning of heads and lack of enforcement of migration laws. I have to follow laws and pay taxes, so should everyone. If everyone does not operate legally, we should all be excused from the law to do what we must. I understand this is the greatest country on Earth and everyone desires to be here, I fault no one for this desire. I do however find fault with federal, state, and local government for allowing this to become so out of hand. Thank you for your consideration

It is sad that Americans are above doing this type of work in the fields harvesting fruits & vegetables. We need a seasonal, experience (hispanic) workforce that is conditioned to do this type of hard work. My crews come in from FL. Work spring cantaloupes finish in 8 weeks and go back home. If you give these people a work permit to come work at Docla Farms from MAY 25 to July 25 make them pay taxes under there work permit # and retrn hime you dont have to legalize them ot give them benefits but let them work to fill gaps where others will not work and let' s keep our produce industry strong or we will go out of business. We are going to see produce farms deteriorating if we dont do something quickly.

it seems that immigrants want to work and our local work force has learned that they can drain unemployment payments, that in some cases are more than their salary or waged would be, they dont want to work-Immigrants are they only answer-I would prefer them to be legal and will try to hire only legal immigrants if necessary.

IT SEEMS TO ME THAT THOSE RESPONSIBLE FOR PASSING THE LEGISLATION ARE UNAWARE OF THE REALITY OF THE SITUATION REGARDING THE LABOR FORCE. WHEN FARMERS IN GEORGIA SUFFER, FOOS

PRICES SPIKE ANF LABOR POSTIONS GO UNFILLED SUE TO LACK OF WILLINGNESS BY CITIZENS, WE WILL ALL FEEL THE PAIN OF THEIR VOTES.

It should have been taken care of a long time ago----Border controls---make it mandatory to come into and stay in this country legally -period

It will kill our farms - we CANNOT operate with all legal workers - we do have 6 permanent workers with 14 dependents that will all lose their jobs if the new law runs off the illegals. This is crazy - Mr. Deal needs to take his connics - meth users & makers - child rapist & the like and employ them in the state capital as janitors & such - we ahve 7 grandkids out here and we don't need his help. Politics has no place out here - the absolutely dont have GD Clue as to what is happening - please let Mr. Black read this - maybe between his dinners with contributors lawyers & such - This new law will destroy agriculture in Ga. But I'm sure it will get a lot of votes from people who think their food comes from grocery stores - We as citizens & farmers would be glad to just give you a government salary if you would just promise to go home or where ever and stop doing anything - because all you do is screw up
It would be a great day if America still had a work force willing to do agricultural jobs, but do to entitlements it is no longer that way. When people would rather "sit at home because I can make as much at home doing nothing," the ones of us who depend on hand labor do not have a chance if we cannot recruit laborers form other nations who will work. The reformation needs to be among the people sitting at home drawing entitlement checks every month not among the people pulling our hair out trying to plan for the future because we do not know if we will have a workforce or not.

It's a joke. It ignores what is actually happening with hourly labor in the developed world. Finding legal qualified workers is the primary obstacle to growth in my industry. There are over 500 tree service companies in the Atlanta metro area impacted adversely by this initiative.

It's a joke. There are many things that could be implemented that would address issues of taxation and documentation, but Tea Party idiots are extremely narrow minded and focused only upon doing what will get themselves re-elected. Our economy has always had affordable labor but people who lack the courage to be entrepreneurial are clueless about the cost of doing business.

ITS A TERRIBLE LAW. MY BEST WORKERS SIMPLE LEFT STATE. GEORGIA CANNOT BE AN ISLAND

It's not a reform, just a shift of burden from government to modesty.
Just about every landscape company has illegal workers. Removing all of them would put Georgia into a state of poverty that it has never seen. They are working in just about every industry. Something needs to be done. In my opinion forcing them out is just going to make the problem worse. The people who are trying to force this do not realize the consequences and once its done it will be too late. Alot if people assume it will not affect them but it's going to affect everybody. Alot of the people on unemployment are on it because they don't want to work. Having more available jobs will not change that. If you force them to work they will not care about their job or give 100%, which means business will have to change more because of the work ethic of their employees. This means higher prices for everybody. This will force the small business out of business and the unemployment rate will increase not decrease.

Let more legal workers into the. Do no limit H2A workers

Let's make those people that have been workers here and been productive citizens ---> Legal. Speed the process up for citizenship if they are eligible ie speak English, have been law abiding. Don't grant them citizenship if they're not willing. just because their children are born here is no reason for them to become citizens. Common sense.

Like I have previously stated, the people I've been using for years (seasonal) to harvest my melons say they are legal. They are hard workers, good people and do jobs no one else wants to do. I had to use some local people this season because of the labor shortage, if all my help (workers) worked like these people (local), I probably would have lost 1/3 to 1/2 of my crop. I really don't know what the answer to the labor problem is but I do know if the state of Georgia goes forthe with the labor bill as I understand it, the one part of GA's economy that's finally beginning to look good would be hurt badly. Some Ideas I heard are the following: allow the illegals to pay a determined amount of money and allow them to work for five years, paying taxes like everyone else and then after five years if they don't get in any legal problem problems with the law, they start their legal process. (citizenship)

Local labor lacks adequate work ethic, we have absenteeism and tardiness problems and must terminate 3 for every 1 that makes it, leading to great stress on our operation. Other, more qualified work force either finds these entry level positions demeaning or below them. or would rather pull unemployment benefits than actually put in a hard day's work.
Local labor will not do manual labor. They are spoiled and lazy.

Local people don't want a job or work they want a check!

Look for consumer prices to go up if no labor available to harvest crops. Not good for this economy.

Make it easier for migrant workers to get Visa's to work!

Make it easier for us to get legal workers when I can't get Americans who are willing to fill the positions that I have. If you want to "tax" the illegals, put a 27% state tax on wire money transfers to other countries when you don't have a legal state or federal ID. I'm sure you'll be able to use the money for something productive. Oh, and most importantly, make it simple.

make sure they are legal

Make the process more reasonable to work through - so that immigrants are more prone to become legal workers. Let the businesses do what they need to do to be successful & grow so more jobs are available to others in the US & here in GA.

Most illegal aliens are here to work and do better for themselves and family. They should not be allowed to receive any government sponsored help, scncerling, health care, etc. Maybe thru an employer//citizen sponsor, an easier way to get green card, etc may be possible

Most immigrates do not want to be illegal. However they are scared of our government. Immigration reform as is incriminates both workers and producers. Anyone who wants to work in Georgia should be allowed to. If we would just detain immigrants and immigrants and give then work visa's it would be a great savings to taxpayers and harvesting could be completed. Making criminals out of working people is

not reform. The migGeorgia live in needs the immigrants. Harvest time is important to all georgians
Please help us

Most of the workers we need are under the age of 30. Many in this group were brought to Georgia as small children and were educated in our schools. They may not have had an opportunity to get proper documents but we should not hold this group accountable for their parents bringing them here.

My concerns at immigration reform hardly compare to the larger Ag producers in GA as I am a one woman band and won't suffer as the big guys do with lack of employees. However I have a major concern @ illegal infringing on my tax dollars, infrastructure, & burdens on the country.

My experience with our hispanic work force has been very positive. We have owned the company for 14 years and have never hired a day laborer. Everyone we employ is on payroll, with all taxes, etc. withheld, and for the last 3 years we have e-verified. Landscape installation, more so than maintenance, is very physically demanding and requires skill, regardless of the task, (I never knew a man who is good with a shovel, was worth his weight in gold), and a job that very few people want. The Hispanic worker does not want to be here illegally, even if he is legal, often his family is in Mexico...he sends them money every week...enduring long periods away from home. My experience with H2B was long, expensive and arduous...give us a program that allows us to hire workers legally, sponsor them and take away the punitive actions that help no one. Somehow we have forgotten that we are a nation of immigrants, our nation has been built on the back of immigrants, without immigrants where is the labor force of the future to come from....certainly, not from the dwindling white population, nor the children of families who have been on social welfare for decades.

My farming operation doesn't require a lot of migratory workers. I think immigration is a federal problem and should be handled by the Feds. States alone can't enforce immigration laws they put on the books. Illegals would bypass states that have state laws and go to states that don't, therefore you don't have an adequate labor force for the people who need them. I realize something need's doing because they are putting a burden on tax payers. I dont think house bill 87 is the answer! Vinson Grippin

My greatest concern is that state level immigration enforcement will significantly diminish the workforce required to sustain the agricultural industry.

N/A to my operation. However, I am very concerned for those people who depend on migrant workers to grow and harvest their crop. I am in an area that grows very little fruits and vegetables, but we have soil in the Vidalia onion qualified area. If we expand into that market, it will directly affect my business.

NEED A GUEST WORKER PROGRAM THAT WOULD WORK. H2A IS NOT THE ANSWER TO THE PROBLEM. TOO EXPENSIVE AND HAS TOO MUCH DETAILS THAT HAVE NOT BEEN IRONED OUT.

Need a reasonable system for finding qualified workers.

Need good dependable qualified farm labor to work at fair wage and not have to be paid housing transportation etc.

NEED GUEST WORKER PROGRAM BUT CHILDREN BORN TO GUEST WORKERS DO NOT AUTOMATICALLY BECOME US CITIZENS

Need work force without having to go through H2A because we only need labor for 6 weeks. H2A is too expensive for only 6 weeks work.

No comments only we need to be very careful about our laws as to workers so not to cause economic distress & loss of income & industries moving out of state.

No illegals

No illegals, get them out

Not just Georgia but America needs to execute illegal aliens, and needs to quit giving handouts (welfare, food stamps, etc.) to an able work force. If they want money and food they need to work for it.

Not only Georgia but the whole U.S. needs immigration reform. However, agriculture must have a means of securing field workers. Relying on American workers to work in the field is a JOKE!! Any competent person who says otherwise is simply mis informed. Farm work is not easy work. Farmers cannot afford to pay much over minimum wages for farm workers if they expect to make a profit. If Americans are going to eat fresh produce, the U.S. will either have to import labor or fresh produce.

Not thought was given to immediate effect new laws would have, prices will have to increase because labor costs have to increase. Federal programs are too time consuming and costly.
nothing to add

Only way to get workers in our area is to stop welfare payouts. Male worker are living off their girlfriends welfare checks from number of children they have by them or others. Far too much welfare available to those who could/should work

Our area has less & less workers available each year and harder to find legal workers

our crops are labor driven for harvesting and getting two market. Without cost effect labor. no profit, no harvest, no farming!!

Our son's farm also had very bad experience with DoL workers. Their performance was terrible. Crops were destroyed by their lack of attention in what they were doing. Stepping on squash, cutting cabbage improperly, they would cut melons not yet ripe, they would drop & damage melons (at our farm) and just because they wanted to get out of the field. Performance is terrible because DoL workers ethic is terrible. We can't afford to waste time & money on people who truly have no interest in working hard! Regarding use of prisoner workforce – cutting cabbage & melons requires use of a knife! Is it safe to permit them to use these tools? What is our liability if they misuse these tools? They haven't been trained, and even if DoL does this, we fear their "ethics" are questionable and can't take that risk. At another local farm, DoL workers which included some on parole, performed poorly – and demanded & threatened to be paid for work – law enforcement was called out to mitigate the damage & rectify the situation. We do not want to experience that trouble! In our 15 years' experience, the best workers – who show up on time – never complain – work extremely hard & perform great and all of that results in quality produce being delivered are the Hispanic immigrants. They truly do the work that DoL workers, unemployed US citizens have no interest in doing! Politicians have no idea how hard this work is and we need people with work ethic if we want quality produce to feed this nation! The Labor Dept & US policies have perpetuated the problem and this issue is very serious if we want to continue to feed this

nation we have got to recognize that Mexican labor is Not taking jobs from U.S unemployed. They are the ONLY ones who are willing to do this exhausting, back breaking work! Politicians need to implement a policy on the U.S. unemployed whereby if they want to collect a check from the government, they must do a GOOD JOB – not a poor one. At the end of every day – the employer could evaluate their performance & if that worker performed poorly –over & over again – why should they get government assistance at all? That is REWARDING BAD BEHAVIOR! We have witnessed personally & at local farms seen the comparisons where DOL (unemployed) take twice as long and perform half as well as Mexican immigrants. This is not sustainable. Immigrant workforce is critical to this farm industry. Unlike other industries which have time & luxury to train people – produce is different. There is no time to waste. In 4-7 days – the market changes drastically – produce is growing or rotting and the result is LOST FOOD & INCOME. Immigration reform & Labor policy is directly correlated and until labor policy stop, REWARDING lazy & unwilling DoL unemployed U.S. citizens by giving them checks for not working- or performing terribly when they have work – we will never address this problem. I can't stress enough - as a farmer with 1,000 acres in South Georgia – we MUST have immigrants do this work if we want to continue to provide food for our nation's people. This is not an option & I sincerely hope a policy will recognize immigrants CONTRIBUTIONS to this great country – hard work & sales taxes paid while they are here – they are not a BURDEN and should not be treated as such. They are willing to do work lazy Americans refuse to do. Shame on policy makers for not recognizing that.

our system for illegal immigrants to become legal has been broken for years and now the government is asking small businesses to pay for it. In this time of tough economics that is not what we need!!

Paying people not to work

People from the US will not work like the immigrant workers because of the hand out from the welfare system. and they are doing the same things to the immigrant people. to many handouts.

Please give us the means to hire workers legally that will perform the jobs we have to do.

Please help! My dairy milks 2,000 cows , 3 times a day, every day of every year. I own 250 dry cows, 1,700 heifers, and grow 1,200 acres of rye grass, 1,100 acres of corn silage, and 700 acres of sorgam silage. Gross revenue generated is approximately \$10 million per year. I have a total investment in the dairy/land/cattle of about \$16 million. Most of my milk is sold in Florida, so I create positive gross revenues for the state of Georgia. Most of my milk check is spent locally purchasing fee/fuel/repairs/etc. I would love to expand my dairy, but now that is not an option due to lack of hispanic workers, I was force to reduce milking from 3 times a day to 2 - reducing gross income 15%. I have tried working locals, investing significant time and effort, but that just won't work. Working prisoners/probationers is a joke - end of story. We need a year round/legal hispanic workforce in Georgia. the system needs to monitor their location, tax their wages, and let them renew paperwork locally. The system should create a pathway to citizenship. Please help. A lot of local businesses depend on me spending money in town, and without a way to get the cows milked/fed/ cared for, my days in the dairy business are numbered

PRESENTLY USE NO IMMIGRANT LABOR, BUT WOULD IN THE FUTURE IF LEGAL MEANS WAS AVAILBLE.

Quite frankly, I seldom find bureaucrats or politicians with the business background or real world experience to understand the consequences of their kneejerk reaction policies.. Put a band-aid on a gunshot wound. Try working 60+ hours a week trying to meet payroll while hamstrung with regulations and laws that create problems rather than solving them. Sit with me while I interview the tattooed, drugged up highschool dropouts that form the labor pool for hourly workers. try to fill out your crews with Americans that don't get up in the morning, or have to be off to see their parole officer. I'll tell you what immigration reform will do - crops will not be picked, restaurants will not be staffed & I'll sell out

rather than work this hard fighting a losing battle. I also feel like I just wasted 15 minutes of my busy day.

Really only use hispanics to pull glyphosate resistant pigweeds, and occasional manual labor jobs. I only use the ones who stay here year round. They make my life easier for two or three weeks. However, we would get it done without them.

Reform would be a good thing for my business there are several companies in my area using illegal workforce. They hire 1 legal worker and then send 3 illegal workers as the crew.

Send them all home and put own our people to work. The President and everybody at the White House could cut there own pay and that alone would knock out half of the deficit.

Should be some way to get undocumented guest workers to a legal status. These people are here to work not draw a check from the government

Since no one but immigrants are willing to do the hard, Nasty Work we will continue to need them. This will, of course , exacerbate the social issues. Simply put, we cannot farm in Georgia without willing workers unless we go all mechanical. That's not feasible for most crops, so the turtles can pull their heads back in their shells and scream about immigrant labor, having no idea how it affects their lives. Since the immigration movement into the Ag. Industries we have become dependent on these works. For most n the industry we cannot find others (Nonimmigrants) to do the jobs. (There's a lot to be said about that)

So not use immigrant workers because of legal issues; most are reliable for short amounts of time; try to keep our business small enough to need only US citizens - though qualified workers are hard to find and the cost of doing business is greater.

Sometimes it is nice to pick up labor that you can't usually fine other people to do.

Stop hiring illegals and they will stop coming.

Thank you for this survey. I am very small but I hope you obtain results to help our state.

Thank you, MR. Black for trying to solve this serious problem. So many industries depend on a hardworking, dependable, sober and honest work force. We need to stream line and increase our work visa programs. We need to address the people already working in the US. May have been working for years, their children were born here, they have bought houses, started businesses and stayed out of trouble. House bill 87 is not the solution! We need common sense reform that provides the work force that agriculture and business needs without making that work force and employers criminals. Most illegal workers and the farmers/business people are honest, hardworking and are just trying to support our families. Together lets solve this problem!

Thank you.

The ability for Georgia to perform at expected quality and current cost is been highly compromised. Raise the cost of living changing large corporations to come here. Our ability as a state to compete for national or international contracts.

The agriculture and nursery industry needs migrant workers to survive. Americans simply will not do the manual labor or stick to the job. Reform is needed quickly.

The American people don't have any. I fear what it is going to do to the economy of this state.

The current immigration laws are killing the landscape industry and will soon result in a huge loss of tax revenue because of businesses failing.

The current legislation that Governor Deal signed is bad for Georgia's economy.

The current pending law is ridiculous. All of my workers pay all taxes but cannot receive anything for their contribution. They only want to work to provide for their families. They have the work ethics that Americans used to have. They are treated as second class citizens without recognition for their contributions to our society. If you eliminate this work force, there is not another work force to replace them to do manual labor. The infrastructure of labor jobs that are highly responsible for the economic drive of our economy will be devastated and inflation will subsequently rise especially as products and services decrease in cost to produce. Our economy is already suffering. SOLUTION- Charge immigrate workers and employers an impact fee of maybe \$2000 each party. Make the employer responsible for paying all taxes for the employee. Make the employer accountable if the employee gets in trouble. After a period of time, allow them the ability to be sponsored by the employer and give them the ability to apply for legal immigration status. It's simpler than you think!!

The employer is the only one penalized. Illegal workers can buy autos, houses, groceries, rent, pay utilities and all other services and the pnoviales are not penalized.

The e-verify system will put the Georgia farmer out of business unless he turns to the H2A program. Your average American citizen will not perform the type of work we need. It is too hard for them and they are not able to meet production.

The Federal H2A program needs changes made to it to make it easier for farmers to use.

The green industry needs workers and this law has had adverse effects. Tell me one probationer who's going to do this type of work.

The hispanic culture wants to work. They want to provide for their families. They "Do" have a lot to bring to the table. They also need to pay their fair share of local & state infrastructure expenses. Treat them like their other visiting workers with visas. Require health insurance. We do not need to supply indigent care/ food stamps etc. require and avail a drivers license-perhaps a different classification.

The Hispanic workers we employee are dependable. The non-hispanics workers we have employed in the past are not dependable.

The immigrants will be harvesting our food whether its grown here, where we have quality control or in Mexico where there is none.

The immigration law has put a hurt on the vegetable industry due to lack of workers available
 The job of harvesting blueberries is not an unskilled job. Each berry must be handled in a way as to not damage the fruit, but at the same time be able to quickly differentiate between green, ripe, or over ripe fruit. This is a skill that the migrant labor force has developed and acquired over the past years of field labor

The landscaping industry has taken a big hit with the fall of the construction industry. Immigration reform has dealt another blow. Surely there is some way to allow these workers to work legally for at least 9 months of the year. There are no natural American citizens coming to apply for these jobs. The average American teenager does not want to work 10 hours a day in heat, cold and rain.

The law makers in Atlanta have lost their minds. If the government would stop paying people NOT TO WORK (welfare & unemployment) we would not have the problems finding willing labor.
 The legal immigration process needs to be enforced. Many Georgians are looking for work and should not have to compete against illegal immigrants. They should have to compete with each other, however, based on skill, work ethic and attitude. We are a nation of laws, and these laws need to be enforced. Taxes & fees need to be reduced so that capitol expansion can take place and allow the free market to function as it is meant to.

The Mexicans will do the hard work Americans will not. We are using a labor temp agency and it is costing an arm and a leg. We pass the cost to the consumer.

The nature of our farm's work is labor intensive, it is not necessarily manual labor intensive. Therefore with the type of farm we have we can operate without any immigrant workers.

The people in power don't seem interested in stopping illegal immigration. Immigration should be slowed down. Our infrastructure will soon be overrun. Housing, medical care, food & water will soon have more than it can stand the Government paying people not to work is the main reason for immigration.

The political posturing is pathetic! Solve the issue!

The problem w/ the reform is that the media exaggerated the bill that was actually passed to the nth degree. Therefore all seasonal workers whether legal or not have & will avoid Georgia! The H-2A program is in most cases useless to most producers, especially in blueberries due to its restrictions & requirements as well as its expense! Short seasons make it very difficult to utilize H-2A! There are many expenses outside of the program itself that are incurred due to administrative responsibilities!

The problems described in question #32 are problems that have been argued for many years. These problems are not going to change. Immigrant labor is willing to perform these tasks. (FYI- I am part of the work force and work alongside my employees. I am at the farm 7 days a week & Do Not ask employees to do any task that I am not willing to do.)

The system was broken before the governor's new reforms. Now the system is even worse. There are economic problems that need to be resolved within an economic context, not a political context. The

reforms have done nothing to fix these problems nor could they since those who support the reforms lack a basic understanding of the problems themselves.

The usual problems - Finding a labor force that will get of the porch for something other than checking the mail box for a check

The work visa needs to be easier to get in Mexico. Employers should be able to sponsor a worker with little money involved.

THE WORKERS I HAVE HIRED OVER THE PAST 15 YEARS ARE VERY LOYAL, RELIABLE, DEPENDABLE, TRUSTWORTHY, DEDICATED AND ARE JUST GOOD PEOPLE, WOULD VERY MUCH LIKE TO "ADOPT" THEM TO GET THEM LEGAL. THEY WOULD MAKE GOOD TAX PAYING CITIZENS, I BELIEVE.
THERE ARE PLENTY OF NON-VIOLENT PRISONERS WHO COULD WORK HTE FEILDS TO BRING CROPS IN.

There aren't many american people willing to do hand labor on our farm. Most of our mand labor is done by migrant workers. As long as this country pays people not to work we need our migrant workers to get our crops harvested.

There is a reason Americans started using illegal workers. The reason is obvious and is because its jobs that Americans won't do. Why would they want to go to work when they can sit at home and get a check for doing nothing and free food and medical care to boot. most if the illegals want to work and will show up for work on time and will get the job done. It sounds like a good idea to send all illegals back to their country and give Americans their jobs back. Americans do not want those jobs back though. If Americans wanted those jobs we would have never started using illegals anyway. It's fine to send all illegals back to their country but we have to quit with all the handouts to Americans so they will want to go back to work and they will want to show up for work on time and they will want to keep their job because they know they will have to buy foods & other to live. I know there is a huge problem with illegals being in this country, yes, I would love to send all the illegals back to their country but it's not going to work unless we quit babying Americans. Stop with the handouts and give those Americans back a job so they will have some self-worth and pride to be an American! Quit letting these Americans be a drag on our country! they get most everything for free and then bitch about how they don't get enough. When will this end? It won't unless we do something about it. It will actually get a lot worse if we don't stop it now. To sum it up 1)stop handouts, 2)send illegals home, 3)put Americans to work. If it doesn't happen this way employers will pay the price!

There is a skill motivated work force in Georgia. They are essential to the efficiency of business in Agriculture, food processing, service, construction industries. Many are illegal. They need a process to pay a fine but stay in place and keep businesses running smoothly.

There needs to be a work program. Charge the employee \$250 for a green card for each worker and have a state insurance policy. Have a worker driver's license program and charge for all of these services. We need workers and do not mind paying for the work force but don't put us out of business and let the other states around us have an advantage.

There needs to be an extraordinarily easy program to allow legal workers into Georgia to be employed in agriculture. It does NOT need to be encumbered with NEEDLESS paperwork. It should allow good law-abiding people to work in our state. There should be an EASY way to collect taxes from them if they receive benefits

They ARE HERE ! Give them a card of some kind. Where is our Social-Security money. My labor will for just the last 3 year's \$708,000 an. some of these people are ILLEGAL We have been taking out the money's for S-S 25 year's : who is going to collect OUR S-s money. for the Illegal's
They cut prices back so far that it's hard to compete with them. They will start up Businesses of their own and don't have proper licensing

They need to be legal or stay in their country. Biggest problem it is too easy for someone to draw unemployment in USA and not checked up on to see if they are really hunting a job. Community service or something I think would be appropriate if you get check from Gov.

THINK IT GOES TO FAR. WE TAKE TAXES OUT ON ALL OUR EMPLOYEES AN PAY FROM 8.50 TO \$15.00 / HR. IF YOU THINK THAT YOU CAN HIRE COMPETENT LABOR TO DO THIS TYPE WORK WITHOUT USING SOME IMMIGRANT WORKERS THEN YOU DONT LIVE IN THE REAL WORLD.

This farming operation in its present condition has been on operation for more than 75 years. We have seen great changes in labor and mechanization. In the 1950's we had a permanent work force of 78 souls. Today we have a permanent work force of three. If we cannot find temporary labor for our perishable crops we must be innovative with our machinery or stop growing those commodities, or quit. Every year we marvel at the number of farmers and farms that give up to urban sprawl. We are getting old and the course-of-least-resistance is more apparent than it ever has been. Were it not for our young-one's, government regulations tell us it's time to move on. There are no new frontiers.

This is easy. Document and screen the illegals. Many have been here for years working hard & paying taxes. Expand the HB2 to get more workers on the jobs that Americans won't perform. If they can come here legally to work then we would not have the costly mess at the border and no employer would hire undocumented illegal workers for cash and no taxes.

This landscape industry needs a legal avenue in which to hire hispanics. We need a way to sponsor workers. It is a myth that these people take jobs from Americans. A total myth. Americans will NOT do this work NO MATTER WHAT THE PAY! Policitals use this LIE to pass reforms! It HURTS employers who boost this economy.

This new immigration reform bill will hurt our business considerable, and it may end up cutting our production by more than 30% due to not having the available work force needed. This will in turn cut our future sales by more than 30% which will make it hard for us to stay in business.

This presents a major problem for our industry. The workforce is dominated by illegal immigrants who have been willing to endure the physical demands of the green industry and be paid well to do so. In the past 12 years, I have yet to see lines of unemployed American knocking on my door for a job. The Americans that I have employed over the years do not touch the level of performance and dedication that the Hispanic community brings to our industry. The illegal workforce has supported our industry and economy for decades and now would be an opportune time to legally bring them into our economy and since they have for so long supported our economy. My workforce are already paying taxes and contributing to society. The reality is that we need them.

This problem does not really pertain to us much - we are a small farm - (only 1 or 2 employees) but I hear neighbors & friends complain about the problem of not being able to find workers when they need them - what I say is your republican politicians made this bed so you might as well lay in it since you voted for them.

Unfortunately, there is nothing which seems to work to legalize illegal workers. Lawyers start processes & then supposedly hit 'brick walls' with a portion who do try to become legal. Some fear it's a trap to be brought onto the government's radar & a quick deportation & none of this should be this difficult. Most of the workers we have come in contact with over the years are the most loyal & hard working, people I have been privileged to know. Government in general has become much more difficult to maneuver through to get answers & action.

UNLESS YOU ARE GOING TO REQUIRE A WELFARE CANDIDATE TO HAVE A HIGH SCHOOL GRADUATION CERTIFICATE, YOU MUST PROVIDE FOR GEORGIA AGRICULTURE TO HAVE ACCESS TO SOMEONE WORKERS. I HAVE WORKED IN THE HEAVY CONSTRUCTION BUSINESS ALL OVER THE WORLD, AND ALBANY, GEORGIA IS THE MOST UNPRODUCTIVE LABOR MARKET I HAVE EVER ENCOUNTERED.

We are desperate for qualified workers. We are unable to sustain our business much less grow it. We have tried the Department of Labor and it was a disaster. We had a job fair in Puerto Rico and hired 7 people after interviewing many. This also was a failure. Labor shortage is the number one crisis our industry is facing.

We are unable to grow our business because of lack of workers and new cost of workers. I answered H2A questions as if they were H2B.

We can foresee many difficulties ahead in getting our crops and our growers' crops for 2012 & forward. We were not affected in 2011 as were many producers. However, we did not need as many workers because we lost about 1/2 of our crops due to drought.

We certainly do not have any immigrant labor but certainly consider them if we could verify their status as legal

We could not find enough legal workers for our operation (7 days a week, 12 hour shifts, 10 weeks) We could probably find the number we needed but their work production would be -unsatisfactory. I think you know what I mean

We have a hispanic work force that are already here and training and willing to do the work., The work force income taxes and property taxes just like the rest of the work force in GA but are willing to do the work we need. We need a way to get these workers a work permit so they can work legally and continue to help the number of industry in our state Agriculture.

We have a work permit for migrant labor. Let them pay taxes while they are here. H2A seems designed to discourage farmers to use. There are too many stipulations. Farmers shouldn't be forced to provide transportation and housing.

We have always had help to gather crops until the immigration reform began. Migrant workers have been paid fairly & earned their money. Illegal migrant workers work in large corp. - Hopefully they are

being harassed just like farmers. If something does not change - farmers will not be able to afford to farm due to crop loss. Let them work - pay taxes - & not draw welfare -

We have a very good workforce that includes Hispanics who are hard-working and very family oriented. Many have been with us for years, the longest being 13 years. No American employees have stayed that long. We need a "guest worker program" to supply workers to the agriculture industry. The workers or employees would have to pay a fee to work in the U.S. This fee would be renewable and would not be a path to citizenship. The workers would be legal and able to obtain a driver's license, insurance and car tags. The dairy industry needs year round workers because of the extensive training involved and the technical nature of work required. After the dairymen invest the time and money required to train these workers, they need to be able to stay longer than a year at the time. Successful dairies need a stable, long term work force to be profitable and competitive in today's economic climate. This is not possible when they are forced to train a new work force annually

We have concerns about the "e-verify" requirements and the effects this will have.

We have got to have a solution! Local people are not going to do this work, we are going to go to mechanical harvesting. Therefore we will not be hiring as many employees in the future. Therefore payroll taxes will not be as much for the economy of GA. Migrant labor is very needed. They contribute to our society and the economy by buying gas, food, supplies. I do not understand why we do not allow them to have a work visa that allows them to have a type of driver license and insurance while they are here. They are hardworking family oriented people.

We have had a trained workforce available to travel from state to state providing workers that we needed. What we need NOW is a way to provide them a legal work permit to avoid majority of food product from being produced out of country and to provide jobs and stability for farm economics.

We have too many people in the U.S. that have become "lazy because of Gov. programs. There are many jobs available especially in agriculture but no one (Americans) wants them! If Americans would do these jobs we won't have the immigration problem. There would be no jobs for the immigrants to come for! Some people say they are taking Americans jobs. I ask who's job have they taken? If the workers could be legalized and pay their fair share of taxes the deficit could be reduced.

We have trained our help and don't need to train new ones. Untrained help is a major safety problem.

We have tried hiring blacks & Whites -Mexicans work circles around them. They have to work hard to survive -Others rely on government to support them

We have used and are using 2 who are classified as immigrants but they were either born here or were brought here as young children and they don't know any other home. It doesn't seem right to deport them yet, under the new law that may happen.

We have used the program for the last few years. Our local competitors have that puts us at a disadvantage. The second concern that I have is the provision that forces us to hire & keep locals that apply. I really can live with the hiring of locals but in order to reasonably work people you have to have the ability to fire the ones that cannot or will not do job.

We must hire only (American citizens) for our labor force. Our country cannot tote the load of aliens. This has a direct impact on me. it causes higher school tax, stress at our county hospitals, and a burden on all infrastructure. The answer is higher prices for commodities and in return a strict regulation of not hiring aliens. These higher prices will allow in return for better labor wages and more qualified people. Please stop the hiring of Aliens. If you are not a citizen of this country you should not be eligible for work or any other benefit programs from our Great Nation. Thanks

We must make e-verify mandatory, we must deter illegal immigration by hitting it where it make the most impact. If there is no work for them, they will leave our state thus reducing costs, i.e., medicare, WIC, food stamps and public school overcrowding and other benefits that they receive for their "anchor children"

We need a legal migrant work force. Locals will not work. They don't have to. Most are on disability. H2A program is redievloous and too expensive. If we don't get farm labor, America will starve to death.

We need a legal work force! we need policy that will encourage workers to be documented legally, (fingerprint, retina scan etc) so that when you are presented with social security and other ID cards, it does not have to look like a deck of playing cards and the employer is to one to "go fish". Yes we know about e-verify and other sources, but sometimes workers in your crew change during the "day". It is frustrating for small growers who have short harvest window of only a few weeks to guarantee H-2-A workers a certain salary, housing etc, for a perishable crop that sometimes fails due to weather, disease or other factors. Thanks!

We need a less expensive, less paperwork intensive way to hire legal workers.

We need a simple, legal way to connect farmers who need workers with workers who need jobs. Quick and easy. In and out with no strings, bells, or whistles such as path to citizenship etc. They need jobs and we need them! What's so difficult to figure out here is how our government continues to complicate a simple solution!

We need a work program managed by the Dept. of Agric. That would allow us to bring in legal labor on a seasonal basis so the workers would go home at the end of the season and some back next season without all of the red tape and problem we now have. They would not bring their family with them. We use to go to Canada to harvest tobacco each year under a program like this. Mexico is already shipping in large amounts of Veg. into the US. We need help or more and more of our food will be imported-no good. Because of all of the gov. programs we have for our local work force, they will not or do not have work to live as they like.

We need a workable H2A program that's user friendly. My business & any seasonal business need worker's only in season. Using migrants through H2A allows me to get the same, trained people back each year. If I have to hire new untrained workers each season-by the time the training period is over - the season is over. Makes no sense.

We need immigrant labor (workers provided by (GA Depr Labor) proved this, only (1 out of approximately 20) worked more than 1 day. Immigrant, dont need citizenship they need temporary WORK PERMITS and TEMPORARY DRIVERS LICENSE, They need to pay taxes while they are here to cover emergency medical expense et. In the USA human rights are hold in high regard, we shouldn't allow our law enforcement to become Thugs and treat people less than human American people will not work,

they have been raised on welfare checks, or have been taken care of by the prison system. GA legal services has made the H2A program worthless. In the 1960s migrant labor was placed on farms through the county extension office (County Assent) we need the lawyers out of the circle. 1- got farmers orba labor though county extenso office 2- let immigrants register with GA Dept of Labor 3- Give illegal amnesty to registor with GA Dept of labor 4- Resume all wakkan to pay tax 5- Let Ga Dept of Labor and county extention office work together to fill labor needs in Georgia

We need immigration labor because we support those that don't want to work. Give them green cards and charge them taxes

We need immigration reform so people can get green cards to work. They are able and willing, but must look over their shoulders constantly. most are moving out of the state from fear of new law.

We need Indians and not chiefs. We need people who will do a job I which they are asked and not complain.

We need migrant workers, Mexican, Haitians, etc. Georgia immigration reform will hurt Georgia farmers, construction, timer and others. We need them more than they need us. They will go to states with more liberal immigration laws. Georgia needs to back off.

We need to come up with a solution to make the ones who are here now that are working hard and trying to do better to get legal and keep them here. In our industry, we cannot operate without them. They are very important to our economy. The white, young generation does not want these jobs. I try to hire them all the time and I have nothing but problems out of them. This is a shame that it has come to do

WE need to fix it NOW not tomorrow tomorrow is too late. you cannot have a crop once it is ripe

We need to have immigrants in our workforce. But we need to be able to charge them for the services they receive. Maybe allow them to have a non-citizen number to work and pay taxes, and be able to buy insurance, etc. If they run up a medical expense then their number will be tagged as having to pay back the debt. They have a right to work, but not vote. They can operate in the system, and help pay for the system's infrastructure.

We need to restrict illegal immigrants from the state

We realize that our country (state) has a problem with illegal immigration, as we also realize that Georgia has a (serious) problem with the (field) workforce that Georgia needs, and has to have (less) a very big impact of Georgia's Income. Without the (field) type workers own farm has to have, own farm will be forced out of business. We ask that Georgia elected officials help keep our Georgia farm in business, Not put as out of business. Thanks for your efforts and support in Georgia Farming.

We use the H2A program & employee locals/ American citizens who are currently unemployed. We have advertised in surrounding counties and currently have more applications on file than we have had in the past years. There are citizens who need jobs!

We were using e-verify before this year because we did not want to be responsible for determining if the documents presented to us were illegal or invalid. E-verify removes this responsibility from us and puts it back on the government which is where it should be.

We would like to see a large legal workforce that is willing and able to do labor intensive work, such as working with the cotton gin.

Well, we cannot get Caucasian men to do this kind of work. I'm not old enough to know how America made opportunities for all the European immigrants in the early 1900s, but the Hispanic labor force needs an opportunity to become legal. Not amnesty for all, including the criminal sector, but an honest workable chance for the honest hard working families that are trying to make a life for themselves.

What can I say that anyone would really listen to? We work 60 hour weeks, bust our butts, build a business, pay exorbitant taxes and then are told by knee jerk reactionary politicians that Americans will fill these jobs. I've been at this 22 years and that is simply not true. Americans will apply, and they will show up until the first pay day, but 95% of them self-destruct. Hispanics aren't taking jobs by working for less. All my employees have the same pay scale. In most cases my Hispanics make more than my Americans because THEY EARNED IT. Hispanics are here because nature abhors a vacuum. They took the jobs Americans won't or can't do. No politician is really interested in hearing this. The problem isn't the Hispanics here, the problem is lousy schools, rampant drugs, etc. You are merely putting a band aid on the problem and the unintended consequences will be closing businesses and rotting crops in the fields. What most people do not understand is that these "illegal workers" pay in there payroll taxes. They are hard workers, I suggest finding a way to use the workers that are already here. I don't care what you say our local legal citizens are NOT GOING TO DO THESE JOBS. The Agriculture Industry is going to collapse without these workers.

While I do not non-citizen workers many friends do. There is a real need for an inexpensive guest worker program that keeps workers in Georgia when needed.

Why in the world can the government not come up with a functional and cost effective guest worker program????

Will someone please step forward and ignore public opinion and look at facts. America is all immigrants. The US and the state are not capable of arresting and deporting these undocumented workers. Hey, they're standing on every Home Depot and Lowes parking lots in plain sight. Close the border, ID them for security reasons, provide access to citizenship, and get the tremendous revenue they're able to pay in income taxes and fines and fees to pay for the services they use (schools, hospitals, roads, etc.) I remember in the 70's everyone saying if you bought a foreign car you put Americans out of work. Nothing stopped the trend, and nothing will stop this. Deal with it, it isn't reversible either.

Without some kind of reform my operation will be severely impaired.

Workers are needed from somewhere. Even though the local population don't have jobs, they will not work. They don't necessary need the income, make all of their basic needs are taken care of by the government programs, that of help fund

Would like to see a guest worker program implemented that would allow migrant workers to come in legally for a period of time, but must return at the end of harvest. H2A program is too expensive. Farmer cannot guarantee a monetary amount if work is not available due to weather, low price etc. Guest workers should not be allowed to have "free" health care or be allowed to participate in any social programs except emergency care while they are here.

You can't stop them You can't send back STOP Cuddling them issue Red Social Security Card Take out taxes & let them support themselves Tax money going out of country

Appendix 4: Collins, Georgia Planting and Harvesting Contract Comparison

Planting Contract 2010

10/27/2010 - 12/31/2010

62 domestic workers hired (11 of which are migrant workers)
6 completed the contract (5 of which are migrant workers)

| | | | |
|------------------|------------------------------|-------------------------------------|--------------------------|
| 11/1/2010 | | | |
| 18 | non migrant domestic workers | 9,691.50 feet planted | 538 avg feet per worker |
| 7 | migrant domestic workers | 8,862.50 feet planted | 1269 avg feet per worker |
| <u>34</u> | total workers planting | <u>18,574.00</u> total feet planted | |

| | | | |
|------------------|------------------------------|-------------------------------------|---------------------------|
| 11/2/2010 | | | |
| 22 | non migrant domestic workers | 16,649.50 feet planted | 757 avg feet per worker |
| 9 | migrant domestic workers | 12,685.25 feet planted | 1,409 avg feet per worker |
| <u>36</u> | total workers planting | <u>29,333.75</u> total feet planted | |

| | |
|----------|--|
| 4 | total acres in 2 days with an average of 20 non migrant domestic workers |
| 3 | total acres in 2 days with an average of 8 migrant domestic workers |
| <u>7</u> | |

17 total acres in 1 day with an average of 50 crew leader migrant workers

11/23/2010

14 total acres planted by 42 H2A workers
(random date selected)

Harvest Contract 2011

4/02/2011 - 06/10/2011

60 domestic workers hired (22 of which were migrant workers)
16 completed the contract (12 of which were migrant workers)
(9 of these workers actually worked in the field but only 4 of these workers clipped at a piece rate and only 1 of these workers clipped full time)

Average \$ earned per hour

| | | | |
|----------|----------|---|--|
| H2A | \$ 12.18 | total average for length of contract | |
| | \$ 15.14 | highest worker average for length of contract | **\$19.72 highest daily rate for this worker** |
| | \$ 8.25 | lowest worker average for length of contract | |
| Domestic | \$ 9.74 | total average for length of contract | (\$12.29 migrant worker and \$7.06 non migrant worker) |
| | \$ 13.87 | highest worker average for length of contract | (migrant worker) |
| | \$ 3.11 | lowest worker average for length of contract | (non migrant worker) |

