



Statement of the American Farm Bureau Federation

**SUMMITTED FOR THE RECORD
HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION & BORDER SECURITY
U.S. HOUSE OF REPRESENTATIVES**

HEARING RE: H.R. 1773, THE “AGRICULTURAL GUESTWORKER ACT”

May 16, 2013

The American Farm Bureau Federation appreciates this opportunity to submit a statement for the record on the *Agricultural Guestworker "AG" Act* (H.R. 1773). H.R. 1773 properly recognizes that America's farmers and ranchers need congressional action to ensure a legal and stable workforce and this legislation represents an important first step in the House of Representatives in addressing this issue.

The labor shortage situation in agriculture has been a growing concern for many years and is moving toward a breaking point. Today, large segments of American agriculture face a critical lack of workers that undermines the competitiveness of our farms and ranches and threatens the abundant, safe and affordable food supply American consumers enjoy today. To ensure consistent delivery of high-quality food products, farmers and ranchers must have access to a stable, legal work force that is available when needed. More than one million workers are required to ensure that perishable, fragile crops, such as fruits and vegetables, are harvested and our cows are milked on time.

Agriculture has long experienced difficulty in hiring sufficient numbers of domestic workers who are willing and able to work on farms and in fields. Jobs in agriculture are physically demanding, conducted during all seasons and are often transitory, conditions many U.S. residents seeking employment do not find attractive. As repeatedly evidenced over the past few decades, there are some jobs in agriculture that most Americans simply do not want to do even though many of these jobs offer wages competitive with similar, non-agricultural occupations.

It is for this fundamental reason that farmers have grown to rely on foreign workers, many of whom are of undocumented status; while some put the figure at more than 50 percent or even higher, in fact, the exact number is unknown. Farmers have done their best in the last two decades to work within the system Congress established in 1986. A few have been able to navigate the difficulties and expense of the H-2A program. Others have relied upon work authorization documents that in too many instances prove to be fraudulent. Unfortunately, while farmers and ranchers strive to ensure the workers they hire are legal and documented, federal law strictly bars them from questioning those documents. This combination of factors – a limited H-2A program that is poorly run; demographic shifts; an aging workforce; and the likelihood of heightened enforcement – has forced agriculture producers to rely on a system that is near collapse and in dire need of reform.

There are numerous reports from all over the U.S. of crops left to rot in the fields because growers lacked sufficient workers to bring in the harvest. It is estimated that in California alone, some 80,000 acres of fresh fruit and vegetable production has moved overseas because of the labor shortage.

In an effort to achieve a lasting solution for current and future agricultural labor in the U.S., AFBF, as a member of the Agriculture Workforce Coalition (AWC), came together with the United Farm Workers (UFW) to negotiate a solution suitable for both agricultural employers and

farm workers. This agreement between the AWC and UFW has two components: it includes an adjustment for current, experienced, unauthorized agricultural workers and creates a new program to provide access to a legal workforce into the future.

In the short-term, to preserve agriculture's workforce and maintain stability in the sector, undocumented farm workers would have the opportunity to obtain earned legal status by continuing to work in agriculture for several years. After this obligation is fulfilled, these employees could obtain permanent legal status and the right to work in whichever industry they choose, including agriculture.

To build long-term stability to meet future needs, a flexible agricultural worker visa program would be established to provide farmers and ranchers access to a documented legal and reliable workforce that meets the needs of all producers. This program would offer both employer and employee choice and flexibility through two different work options: an "At-Will" visa and a "Contract" visa.

- "At-Will" visa employees have the freedom to move from employer to employer without any contractual commitment, replicating the way market forces allocate the labor force now.
- "Contract" visa employees would commit to work for an employer for a fixed period of time, giving both parties increased stability where it is mutually preferred.

These three-year visas would be valid for employment with agricultural employers registered through the United State Department of Agriculture and are separate from the low-skilled worker visas available for the general business community's needs.

"The AWC remains committed to the agreement on agricultural immigration reform reached with the UFW. The principles of the AWC/UFW agreement will continue to guide our efforts as work on the immigration issue progresses in Congress.

H.R. 1773 is the initial action taken to advance the immigration discussion in the House, reflecting an understanding of the issues facing the agricultural industry and taking positive steps toward ensuring agricultural producers have access to a legal, stable workforce. . We appreciate that H.R. 1773 is reflective of some of the principles contained in the agreement, including a new two-pronged guest worker visa program that allows employers to hire foreign workers based on a contract or at-will; coverage of year round agricultural jobs, such as dairy and livestock; a longer visa than currently allowed in the H-2A; transfer of program administration to the USDA; and a more streamlined application and recruitment process. These steps are in agreement with AFBF policy set by our grassroots members and with the guiding principles set by our leadership, as well as with elements of the AWC/UFW agreement.

However, there are provisions in H.R. 1773 that AFBF believes could be improved to better meet the needs of agriculture. First, AFBF has consistently advocated for a separate work authorization for experienced agricultural workers that are in undocumented status. Funneling these workers into the proposed H-2C program would allow those workers to continue to work in agriculture, but would require growers to comply with all terms and conditions of the program, including heightened standards that do not currently apply to this workforce.

Second, the bill requires workers to return to their home country at least one-sixth the duration of their visa length. Touchback provisions are extremely disruptive to normal farm and ranch business practices and are especially burdensome for year-round employers who would be required to do without experienced and trained employees for three months at a time. Even with detailed business planning that incorporates complicated rotations of employees, losing experienced workers for an extended period is disruptive and impractical.

Third, AFBF has concerns about the design of the proposed at-will program. Farmers crave simplicity in procedures to secure short-term, seasonal employment. Requiring all employers to initially enter into contracts is concerning. We advocate that acceptance of a job offer, whether under contract or at-will, provides the assurances that the visa workers have valid grounds to enter the United States, but isn't overly burden to those employers requiring more flexibility. We will continue to work as a resource in order to improve these elements and others that may arise through the legislative process.

We commend Committee Chairman Bob Goodlatte (R-Va.) on his forceful advocacy over the years to help agriculture ensure a secure, legal workforce. As the process unfolds in the House, the AWC will continue to work with Chairman Goodlatte and other members to ensure that any legislation achieves a workable, flexible and market-based solution that addresses the labor needs of agricultural employers both in the short and long terms.

We also note the subcommittee has heard from witnesses on the *Legal Workforce Act* (H.R. 1772). This legislation deals with an enforcement mechanism, E-verify, that would greatly impact the agriculture industry. As we have indicated in the past, AFBF opposes immigration enforcement that does not include a worker program for U.S. agriculture.

The effects of mandatory E-verify will go far beyond the farm gate as industry sectors upstream and downstream from the farm cope with tight supplies and increased costs when farmers have no one to harvest their crops. Each of the 1.6 million hired farm employees who work in labor-intensive agriculture supports two to three fulltime American jobs in the food processing, transportation, farm equipment, marketing, retail and sectors. Mandatory E-Verify without workable labor solutions for agriculture puts these American jobs and the economies of communities across the country in jeopardy.

AFBF supports a phase-in approach to E-verify for agriculture due to our industry sector's unique hiring circumstances, which often occur in remote rural areas. A rushed approach to

implement and enforce E-verify could hurt agriculture, even with a short-term fix to meet our current needs and long-term solution for future workforce needs. We urge you to consider providing for a delay in requiring industry compliance with E-verify until Congress is able to make the necessary adjustments and enhancements to the program.

Thank you again for holding these hearings and for your leadership as the committee moves forward. We stand ready to work with you and other members to ensure that the labor needs of agriculture both now and in the future are addressed in immigration reform legislation.