

U.S. House of Representatives
Committee on Agriculture

Hearing on the Labor Needs of American Agriculture

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Mr. Chairman and Members of the Agriculture Committee, thank you for the opportunity to testify today on the labor needs of American agriculture. My organization, Farmworker Justice, is a 26-year old national advocacy group that seeks to empower migrant and seasonal farmworkers to improve labor rights, immigration policy, and occupational safety and health. We have numerous publications on the issues the Committee is considering; I invite Members to visit our website, www.farmworkerjustice.org, to take advantage of these resources.

Congress needs to address the farm labor problem in this country now. A conflict over policy has been festering since 1995. A remarkable compromise endorsed by farmworker unions, agricultural employers, and a wide array of other constituencies has won substantial support from Republicans and Democrats across the ideological spectrum. The majority of responsible legislators should assert themselves and end the stalemate.

The principal farm labor problem is that the majority of farm workers in the United States are undocumented. Out of about 2.5 million agricultural employees in the U.S., probably 60% or 1.5 million, possibly more, are immigrants who are not authorized to work.

The presence of so many undocumented workers in an occupation translates into weak bargaining power for all farmworkers. Most are too fearful of deportation to challenge unfair or illegal conduct or join a labor union. Even the citizens and authorized immigrants are reluctant to make demands on their employers if they won't have the support of their exploitable co-workers. The consequences of this untenable situation are serious. Farmworkers' incomes are very low, usually less than \$13,000 a year. Housing is scarce and often decrepit. Very few farmworkers receive even basic fringe benefits, such as paid sick leave or holidays. Health care is rarely offered to farmworkers by their employers, and the undocumented and even new authorized immigrants to the U.S. are not eligible for Medicaid or other public benefits. Agriculture is ranked among the three most dangerous jobs in the United States. Without a legal immigration status, farmworkers find it difficult to win better job terms or government policy..

Employers who hire farmworkers now face a greater threat of immigration raids, border control and other immigration enforcement that can deprive them of an adequate labor force. Many growers have sought to evade immigration law sanctions by using farm labor contractors to recruit and supervise workers in the fields. Some growers frivolously claim that they are not the "employer" of the farmworkers in their fields and that only the labor contractor is liable for violations of immigration and labor laws.

Of course, agricultural employers should end labor contracting abuses and improve wages and working conditions to attract job applicants and retain them. Congress should end the discrimination in overtime pay, safety and health regulations, and other laws that deprive of farmworkers of needed labor protections that other employees enjoy. The government also needs to increase its labor law enforcement efforts drastically.

The reality is, however, that if we deported a substantial number of undocumented farmworkers there would be a tremendous labor shortage. Robots and other machines are not yet available to replace human beings in harvesting many of the fresh fruits and vegetables we consume.

America needs its farmworkers. We are eating healthier and are buying more fruits and vegetables. In fact, the U.S. Department of Agriculture has good news for us on trade: we are exporting more and more fruits and vegetables to consumers in other nations. The people who create this bounty and place the food on the world's dining tables should be treated with dignity.

We as a nation are concerned about security. We should want to know who is living and working in this country, but we don't really know who is performing more than half the farm work in this country. A responsible solution to this farm labor problem would allow our law enforcement agencies to focus on finding criminals and terrorists, rather than on deporting poor immigrants simply seeking to support their families by producing America's food.

For years, there had been a stalemate in Congress that had three main warring positions. First, we farmworker advocates wanted Congress to follow the precedent of the 1986 immigration law that permitted undocumented farmworkers, after proving their recent agricultural work in the U.S. and complying with other immigration law obligations, to obtain a temporary immigration status and later a permanent status with a path to citizenship. Our argument being that if we need workers in America to perform jobs, we should invite people in as immigrants, rather than as exploitable indentured servants. This country experimented with the massive Bracero guestworker program for 22 years, ending in 1964. Despite significant labor protections in the Bracero program, it was widely recognized as abusive and a national embarrassment. We farmworker advocates had not been successful in our legislative advocacy for a replay of the 1986 legalization program.

Second, many agribusiness groups lobbied heavily in the 1990's for changes to the H-2A agricultural guestworker program. They sought to make it easier for employers to hire guestworkers on temporary work visas with no path to immigration status (or citizenship), lower the program's wage rates dramatically, minimize U.S. workers' opportunities to obtain jobs, weaken housing requirements, prevent guestworkers from obtaining legal aid, and reduce government oversight. The growers sought to transform the farm labor system into a system of exploitable guestworkers and set their wages and other job terms at unconscionably low levels. H-2A workers have little bargaining power: they may not switch employers; they must leave the country when their job ends; if they wish to return the following season they must hope that their employer will apply for a visa for them. Thus, guestworkers lack the economic freedoms and democratic rights that this country prides itself on. The grower groups failed to pass their bill and most eventually began to discuss a compromise. However, some legislators, egged on by

some employer organizations and others, have continued efforts to pass similar legislation that also have failed.

Third, there is a group that seeks to do nothing except perhaps allow the problem to worsen as immigration enforcement expands and both farmworkers and employers suffer the consequences.

Doing nothing, in our view, is extraordinarily irresponsible. Congress should end its stalemate. A vocal minority of opponents should not be permitted to perpetuate this absurd status quo. There is a reasonable solution that has widespread support. AgJOBS is the nickname for the Agricultural Job Opportunity, Benefits and Security Act. The United Farm Workers played the leading role in negotiating on behalf of farmworkers with major agribusiness groups to resolve years of harsh conflict. A bipartisan group of legislators in the House and the Senate spent many, many hours ironing out the settlement of hard-fought positions among organizations that had traditionally refused to negotiate with one another.

The bill contains two parts. First, it would create an “earned legalization” program. Applicants could obtain a temporary immigration status by proving that they been employed in U.S. agriculture in the past two years, either as a legal guestworker or as an undocumented worker. If the temporary resident then performs a specified amount of agricultural work, during a three to five year period, he or she could convert to lawful permanent resident status and receive a “green card.” Security checks would prevent terrorists, criminals and other unwanted individuals from using the program. During the three to five years of the future work requirement, the participants would be permitted to work for any employer and in any occupation as long as the agricultural work was performed. The farmworker’s spouse and minor children also would eventually become eligible to be immigrants. Several hundred thousand current farmworkers would be eligible for this program.

Second, AgJOBS would revise the existing H-2A agricultural guestworker program, which allows employers to hire foreign citizens on temporary, nonimmigrant work visas. The H-2A program’s history of abuses made negotiations by farmworker advocates with employers difficult. The reforms would benefit employers by making the program easier and quicker to use and lowering the wage rates. The compromise would retain important wage protections that employers had sought to eliminate. AgJOBS also retains or expands other important labor standards to prevent job losses and wage cuts among U.S. workers (including the participants in the new earned legalization program) and protect foreign workers from exploitation. Regrettably, the compromise would not permit H-2A workers to earn a path to citizenship.

The compromise is win-win-win solution even though (or, perhaps, because) it required painful concessions all around. Farmworkers who earn immigration status would increase their bargaining power with employers. Businesses would obtain a legal, stable labor supply of experienced farmworkers. If labor shortages were to occur in the future, the H-2A program would be available. Moreover, the U.S. government would know who resides within our borders and would be better able to enforce immigration and labor laws in agriculture.

Some object to AgJOBS saying that it’s not a good enough deal for agricultural employers; they want the H-2A wage rates lowered even further, the housing requirement stripped out, the

elimination of the job preference for U.S. workers, and other changes. These selfish demands were made in earlier legislation and failed. Congress needs to move forward.

Some opponents argue that people who crossed our borders illegally should not be rewarded with an “amnesty.” AgJOBS is not an “amnesty.” It contains tough, multi-year work requirements, financial costs, and other obstacles to earn immigration status.

The opponents would preserve the current unacceptable situation. They have no reasonable solution. They certainly have no legislation that could pass Congress. In the meantime, farmworkers face terrible choices, employers risk losing their businesses and this nation continues to allow a situation in which a majority of the employees of an entire economic sector lack authorized immigration status.

We need solutions, not hollow rhetoric or more ideological stalemate. AgJOBS is not perfect but it is a responsible, balanced approach to meet the needs of American agriculture.

Thank you for the opportunity to present testimony on behalf of farmworkers.