



NORTH CAROLINA GROWERS
ASSOCIATION INC.

**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

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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.