

## RESOLUTION # 10

### FARM LABOR

1           **WHEREAS**, from the planting and harvesting of grains, fruits and vegetables, to the  
2           daily care of plants and animals, agriculture is a labor-intensive industry; and while most  
3           farms in New Jersey are family-owned and operated, many of them need to hire additional  
4           labor in order to operate successfully; and

5           **WHEREAS**, in order to ensure the future of its agriculture, New Jersey must not only  
6           preserve its farmland, but also address the needs of its farm workforce; and

7           **WHEREAS**, ensuring the availability of an adequate, legal farm labor workforce must  
8           be addressed on both the state and federal levels; and the federal government needs to  
9           create a counterfeit-resistant identification system, needs to establish an earned adjustment  
10          of status program, and needs to reform the current practices for obtaining temporary  
11          agricultural worker visas; and

12          **WHEREAS**, Congress has thus far failed to address immigration reform in a  
13          comprehensive manner that would establish a clear path to legal status and provide for an  
14          adequate seasonal and year-round workforce through guest worker programs, to be relied  
15          upon by agriculture and related industries, which cannot currently attract enough  
16          experienced and qualified United States citizens to fill their labor needs, both seasonal and  
17          full-time year-round; and

18          **WHEREAS**, the House of Representatives in December 2019 passed the Farm  
19          Workforce Modernization Act, which is aimed at reforming guest worker programs to make  
20          agricultural workers in those programs more readily available to farmers; and

21          **WHEREAS**, that bill was passed without several amendments that were sought by  
22          agricultural groups such as the American Farm Bureau Federation, amendments aimed at  
23          making the changes to the guest worker programs more equitable to farmers at all levels of  
24          production and addressing problems within the E-Verify system included in the bill that would  
25          disadvantage many New Jersey farmers; and

26           **WHEREAS**, Congress previously has considered legislation mandating that  
27           employers use an error-prone database (E-Verify) to check the legal status of prospective  
28           employees, and that those employers be held legally responsible for decisions that may  
29           result in workers of non-legal status being hired unwittingly by farmers as a result of  
30           database errors; and

31           **WHEREAS**, a Farm Credit analysis of the impacts of an E-Verify-type system being  
32           implemented, without first establishing an adequate agricultural guest worker program,  
33           shows severe impacts to farm operations, including the likelihood of farmers either switching  
34           to non-labor-intensive crops or going out of business; and

35           **WHEREAS**, finding local, domestic workers is exacerbated in rural areas, as rural  
36           areas typically have unemployment rates lower than the current average of 3.5 percent  
37           nationwide, have typically higher senior-citizen populations than the 16-percent national  
38           average, and typically do not have adequate public transportation to help get workers from  
39           their homes to the farm, all of which makes it difficult to secure local domestic employees;  
40           and

41           **WHEREAS**, labor supply and training are key for sustaining and growing the  
42           agricultural industry in New Jersey, and programs that support worker training, health and  
43           safety, and address issues such as housing, are, and will continue to be, part of the  
44           Department's outreach and education efforts on farm labor; and

45           **WHEREAS**, the New Jersey Departments of Agriculture and Labor & Workforce  
46           Development have revised New Jersey's agricultural-labor survey, with instructions that  
47           guide farmers to include more information about experience needed for certain farm jobs, in  
48           order to establish a database of information regarding prevailing practices on experience;  
49           and

50           **WHEREAS**, New Jersey farmers have reported encountering difficulty in anticipating  
51           certain aspects of state-level farm-labor regulations, such as those governing how much the  
52           farmer can charge workers for items such as sodas or snacks, because there are no set

53 rules regarding those charges, and the farmers can wind up being directed by NJDL&WD to  
54 write individual checks to hundreds or thousands of workers, some of whom may no longer  
55 even be present at the farm, to reimburse them for the difference between what they paid  
56 and what NJDL&WD eventually determined was appropriate to be charged; and

57 **WHEREAS**, New Jersey farmers also encounter difficulty when multiple labor  
58 inspections, some by state authorities and some by federal authorities, occur in a relatively  
59 short period, often during the height of the farm's season, and would benefit from  
60 coordination by state and federal authorities to visit the farm on the same day, thus limiting  
61 repeated disruption to the farm's operations; and

62 **WHEREAS**, New Jersey farm operators also utilize the H2B Nonagriculture Foreign  
63 Temporary Worker visa program to source the seasonal workers for their retail, agri-tourism,  
64 farmers markets, and landscape enterprises and are facing great hardship in obtaining  
65 necessary workers due to the annual federal visa cap of 66,000 workers per fiscal year; and

66 **WHEREAS**, New Jersey Farm Bureau's current position on the efforts to reform  
67 federal agricultural labor laws includes support for the following:

- 68 • Adjustment of status or workers ability to remain in the country on a guest worker  
69 program.
- 70 • H2A reform or by way of another new guest worker program that streamlines the  
71 process and mandates a wage lesser then the current Adverse Wage Rate and  
72 eases the requirement for advertising in local newspapers prior to hiring.
- 73 • A guest worker bill should not have a cap at all or have a cap that is sufficient to  
74 provide an adequate number of agricultural workers in the U.S.
- 75 • A work visa that provides year-round labor force for agribusinesses such as  
76 Dairy.
- 77 • NJFB opposes the requirement to use E-verify absent a revised agricultural  
78 industry supported guest worker program; and

79           **WHEREAS**, it behooves the state’s agricultural community to have, when possible,  
80           a consistent policy approach and public message on agricultural labor legislation moving  
81           through Congress.

82           **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 105<sup>th</sup> State  
83           Agricultural Convention, assembled in Atlantic City, New Jersey, on February 5-6, 2020,  
84           support the efforts of the Department to ensure a stable source of well-trained and legal farm  
85           workers, and that we support efforts to ensure the proper training and education of the farm  
86           work force, especially as it relates to worker health and safety.

87           **BE IT FURTHER RESOLVED**, that we support the immediate adoption and  
88           implementation of federal legislation which reforms the policies and procedures for  
89           temporary agricultural worker visas, creates counterfeit-resistant identification to ensure the  
90           availability and supply of farm labor, both seasonal and year-round, and that we urge the  
91           New Jersey Congressional Delegation to support these efforts in both the House and  
92           Senate.

93           **BE IT FURTHER RESOLVED**, that we strongly urge federal lawmakers and policy  
94           directors to delay the implementation of any E-Verify, or other employer-driven legal status  
95           verification system, until after the passage and implementation of an agricultural guest  
96           worker program that will ensure sufficient labor for America’s farmers.

97           **BE IT FURTHER RESOLVED**, that we urge the Department and New Jersey Farm  
98           Bureau to coordinate, as closely as possible, their positions and messaging on federal  
99           legislation to reform agricultural guest worker programs, in order to present the most unified  
100          front on the subject to the New Jersey Congressional delegation and all members of  
101          Congress.

102          **BE IT FURTHER RESOLVED**, that we urge the Department, New Jersey Farm  
103          Bureau and New Jersey Agricultural Experiment Station to work cooperatively with the  
104          Governor and the Legislature to develop an agricultural education program to help farmers  
105          navigate through complex federal guest-worker programs.

106                   **BE IT FURTHER RESOLVED**, that we support the use of USDA Farm Labor  
107                   Housing Programs to address the housing requirements needed to provide decent, safe and  
108                   sanitary living conditions for the agricultural workforce.

109                   **BE IT FURTHER RESOLVED**, that we request that the U.S. Congress and the U.S.  
110                   Department of Labor (USDOL) streamline the process for obtaining temporary visas for a  
111                   farm-worker verification process and establish a streamlined guest worker certification  
112                   process for agricultural workers, including the farm-labor workforce that may have worked on  
113                   our farm operations for a number of years but did not have, in the past, a legal status.

114                   **BE IT FURTHER RESOLVED**, that we urge government at both the state and  
115                   federal levels to devise and implement incentives sufficient to attract domestic workers to  
116                   agricultural jobs, and especially to focus those efforts on veterans of military service, who  
117                   have proven they can handle physically demanding jobs in challenging conditions.

118                   **BE IT FURTHER RESOLVED**, that we support the continued joint effort of the New  
119                   Jersey Departments of Agriculture and Labor & Workforce Development to improve the  
120                   state's agricultural labor survey in order to make guest workers more obtainable by New  
121                   Jersey farms and to create a database of information regarding worker experience as a  
122                   prevailing practice for certain farm jobs in New Jersey.

123                   **BE IT FURTHER RESOLVED**, that we urge the United States Department of Labor  
124                   to reconsider its ruling, as communicated to the NJDOL, to deny changing NJDOL's survey  
125                   form to help more fully develop a database of information regarding worker experience as a  
126                   prevailing practice for certain farm jobs in New Jersey.

127                   **BE IT FURTHER RESOLVED**, that we urge the New Jersey Department of Labor  
128                   and Workforce Development to clarify rules regarding the rates farmers can charge workers  
129                   for items such as sodas, snacks or meals, so that farmers can determine ahead of time what  
130                   appropriate charges will be for that season.

131           **BE IT FURTHERS RESOLVED**, the delegates support a permanent increase in the  
132           annual H2B visa cap and support the implementation of a “Returning Worker Exemption” for  
133           previous H2B workers so that their visas will not count against the annual cap.

134           **BE IT FURTHER RESOLVED**, that we urge the state Council on Affordable Housing  
135           (COAH) to allow municipalities to count non-seasonal farm labor housing towards COAH  
136           credits for municipalities to not only stimulate the provision of low- to moderate-income  
137           housing for agricultural workers, but to incentivize municipalities who may otherwise  
138           discourage the construction and provision of farm labor housing.

139           **BE IT FURTHER RESOLVED**, that we urge the New Jersey Department of Labor  
140           and Workforce Development and the United States Department of Labor to closely  
141           coordinate their labor inspections on New Jersey farms for the same day, instead of visiting  
142           on separate days, in order to minimize the disruption to New Jersey farming operations  
143           during the height of their seasons.

144           **BE IT FURTHER RESOLVED**, that we urge NJDL&WD to hold regular educational  
145           sessions with farmers prior to each growing season to ensure farmers understand the  
146           regulations under which they must operate.