

RESOLUTION # 7

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

23 **WHEREAS**, a Farm Credit analysis of the impacts of an E-Verify-type system being
24 implemented, without first establishing an adequate agricultural guest worker program,

25 shows severe impacts to farm operations, including the likelihood of farmers either switching
26 to non-labor-intensive crops or going out of business; and

27 **WHEREAS**, a bill introduced in the U.S. House of Representatives, known as the
28 “Agricultural Guestworker Act,” seeks to address problems farmers have reported in using
29 the federal government’s H-2A program, due to restrictive and often illogical provisions in
30 that program, when seeking to bring foreign guestworkers to the United States to fill
31 agricultural jobs for which there is no willing, experienced and legal workforce, either
32 domestic or foreign; and

33 **WHEREAS**, while the original version of the bill included some reasonable and
34 workable solutions to the current problems with H-2A, revisions to the bill in “mark-up” have
35 rendered it mostly useless for fixing the problems in current guestworker programs, and in
36 fact, in some instances, may make matters worse; and

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

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

46 **WHEREAS**, New Jersey farmers have reported encountering difficulty in anticipating
47 certain aspects of state-level farm-labor regulations, such as those governing how much the
48 farmer can charge workers for items such as sodas or snacks, because there are no set
49 rules regarding those charges, and the farmers can wind up being directed by NJDL&WD to
50 write individual checks to hundreds or thousands of workers, some of whom may no longer

51 even be present at the farm, to reimburse them for the difference between what they paid
52 and what NJDL&WD eventually determined was appropriate to be charged; and

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

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

62 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 103rd State
63 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 7-8, 2018,
64 support the efforts of the Department to ensure a stable source of well-trained and legal farm
65 workers, and that we support efforts to ensure the proper training and education of the farm
66 work force, especially as it relates to worker health and safety.

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

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

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

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

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

89 **BE IT FURTHER RESOLVED**, that we oppose the current version of the “Agricultural
90 Guestworker Act” as it exists in Congress, as the changes made to it since it was introduced
91 will render it mostly useless for fixing the problems in current guestworker programs, and in
92 fact, in some instances, may make matters worse.

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

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

102 **BE IT FURTHER RESOLVED**, that we urge the New Jersey Department of Labor
103 and Workforce Development to clarify rules regarding the rates farmers can charge workers

104 for items such as sodas, snacks or meals, so that farmers can determine ahead of time what
105 appropriate charges will be for that season.

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

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

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

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