

RESOLUTION # 29

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 4.2 percent
37 nationwide, have typically higher senior-citizen populations than the 16-percent national
38 average, have experienced greater impacts from the COVID-19 pandemic in disruptions to
39 supply chains and typically do not have adequate public transportation to help get workers
40 from their homes to the farm, all of which makes it difficult to secure local domestic
41 employees; and

42 **WHEREAS**, labor supply also has been heavily impacted by the COVID-19
43 pandemic, as well as by the measures taken in Washington to help people cope with
44 disruptions to their workplace, in particular those increased payments to people that create a
45 situation where it makes more financial sense for them to remain unemployed than to return
46 to the workforce and incur the expenses of transportation, childcare, etc., that can come from
47 returning to work; and

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

52 **WHEREAS**, New Jersey farmers have reported encountering difficulty in anticipating
53 certain aspects of state-level farm-labor regulations, such as those governing how much the
54 farmer can charge workers for items such as sodas or snacks, because there are no set
55 rules regarding those charges, and the farmers can wind up being directed by NJDL&WD to
56 write individual checks to hundreds or thousands of workers, some of whom may no longer
57 even be present at the farm, to reimburse them for the difference between what they paid
58 and what NJDL&WD eventually determined was appropriate to be charged; and

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

- 61 • Adjustment of status or workers ability to remain in the country on a guest worker
62 program.
- 63 • H2A reform or by way of another new guest worker program that streamlines the
64 process and mandates a lesser wage than the current Adverse Wage Rate and
65 eases the requirement for advertising in local newspapers prior to hiring.
- 66 • A guest worker bill that does not have a cap at all or have a cap that is sufficient to
67 provide an adequate number of agricultural workers in the U.S.
- 68 • A work visa that provides year-round labor force for agribusinesses such as Dairy.

69 NJFB opposes the requirement to use E-verify absent a revised agricultural industry
70 supported guest worker program; and

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

75 **WHEREAS**, it behooves the state's agricultural community to have, when possible, a
76 consistent policy approach and public message on agricultural labor legislation moving
77 through Congress; and

78 **WHEREAS**, legislation has been drafted and introduced that would require farm
79 operators to pay all farmworkers overtime if they work beyond 40 hours in a given week, and
80 this legislation does not capture an understanding of the rhythm of farm work in the
81 temperate Northeastern region of the country, and the compressed timeframe in which
82 farmers must bring the harvest in from the field; and

83 **WHEREAS**, bills such as the one on overtime pay also do not capture an
84 understanding of how, when increased labor costs are imposed upon farmers in just one
85 state, such as New Jersey, that all other states, especially those surrounding this state, enjoy
86 a competitive advantage of selling their agricultural products into the market at a much lower
87 cost than the state that imposed overtime pay for farmworkers, placing New Jersey farmers
88 on an island unto themselves and harming the viability of farms in the state.

89 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 107th State
90 Agricultural Convention, assembled in Atlantic City, N.J., on February 9-10, 2022, do hereby
91 support all efforts of the Department to ensure a stable source of well-trained and legal
92 farmworkers, and that we support efforts to ensure the proper training and education of the
93 farm workforce, especially as it relates to worker health and safety.

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

100 **BE IT FURTHER RESOLVED**, that we strongly urge the Department and other
101 agricultural organizations to support the New Jersey Farm Bureau positions (enumerated
102 above) on reforming federal agricultural labor laws.

103 **BE IT FURTHER RESOLVED**, that we strongly urge federal lawmakers and policy
104 directors to delay the implementation of any E-Verify, or other employer-driven legal status

105 verification system, until after the passage and implementation of an agricultural guest
106 worker program that will ensure sufficient labor for America's farmers.

107 **BE IT FURTHER RESOLVED**, that we strongly oppose any state-level effort to
108 mandate overtime pay for farmworkers that would, when enacted unilaterally, put New
109 Jersey farmers at a competitive disadvantage to farmers in surrounding states.

110 **BE IT FURTHER RESOLVED**, the delegates support a permanent increase in the
111 annual H2B visa cap and support the implementation of a "Returning Worker Exemption" for
112 previous H2B workers so that their visas will not count against the annual cap.