FARMWORKER JUSTICE

The "Family Farm Relief Act" Provides No Relief for Workers

Representative Stefanik (R-NY) has re- introduced the so-called "Family Farm Relief Act of 2017," HR 281, along with co-sponsor Rep. Collins (R-NY). The bill proposes to revise the H-2A agricultural guestworker program in ways that would deprive U.S. citizens and permanent resident immigrants of job opportunities and allow exploitation of vulnerable foreign citizens who are hired on temporary work visas. The bill also would permit employers of year-round livestock workers to hire foreign workers under the H-2A program rather than keep its focus on addressing the alleged difficulty of filling jobs that are seasonal or temporary. Lacking in this bill are any meaningful steps to stop rampant labor abuses under the H-2A program or to provide a path to immigration status and citizenship for current experienced agricultural workers who are undocumented.

HR 281 would eliminate H-2A program requirements to recruit and hire US workers and protect job standards.

Although roughly half of agricultural workers are either U.S. citizens or lawful permanent residents, HR 281 would strip recruitment protections for US workers who are seeking H-2A agricultural jobs. U.S. workers need these jobs to support themselves and their families. Congress should not eliminate important protections in the H-2A program aimed at preventing US workers from being displaced by guestworkers.

This bill proposes to strike H-2A program requirements aimed at protecting US workers from being displaced by guestworkers. These protections are necessary because many employers prefer H-2A workers as they are dependent on their employer for continued employment, making them both highly productive and reluctant to complain. Compounding this situation is the fact that many H-2A guestworkers arrive deeply in debt, having paid recruiters' fees in their home countries, leaving them desperate to work to repay their debt and unable to challenge onerous and illegal conditions that would be rejected by workers who have a union contract or the freedom to quit and find another job.

Among its provisions, HR 281 would:

- **Eliminate the H-2A program's longstanding "50% rule**," the principal method of giving U.S. workers a job preference with employers that hire H-2A guestworkers based on a claimed labor shortage. The "50% rule" requires employers to hire any qualified U.S. worker who applies for work during the first half of the season, even if a guestworker must be discharged (which rarely happens). A Congressionally-required study concluded that the rule should be extended.

- **Replace the requirement that employers recruit from areas of traditional labor supply** (ie. from states in their traditional migrant stream) with a requirement that

employers recruit within a 150 mile radius of the employer within the US. This is arbitrary and ignores traditional migration patterns.

- **Prohibit the H-2A program from having any rules that require employers** to 1) advertise on a specific date or in a specific publication; 2) contact former employees from the previous year or season-for anyone concerned about protecting US workers jobs, a requirement that an H-2A employer contact employees from the previous season to offer them the job is a no brainer; or 3) submit a recruitment report or certification of advertisements.

HR 281 would broaden the program's coverage from temporary and seasonal agriculture to year-round livestock work, including dairy operations. Congress should not expand the scope of the H-2A program, which is intended to help address labor shortages for temporary or seasonal work. Employers at year-round jobs should be improving wages to attract workers, not displacing them by bringing in vulnerable guestworkers.

The year-round livestock workers could be admitted for up to three years, yet there is no language ensuring that workers' family members would be able to join them. Currently under the H-2A program, family members may apply for a visa to accompany a worker; however, family members rarely accompany H-2A workers to the U.S. American immigration policy should promote family unity, not separation.

HR 281 would remove essential DOL oversight by transferring the H-2A program from the DOL to the USDA, despite the fact that the USDA has no experience running any such programs.

HR 281 would grant employers increased access to workers while minimizing employer responsibility to workers. HR 281 would allow an association of agricultural employers to transfer their H-2A workers among their members, even when they are not joint employers. This represents an effort to allow farm operators to evade their role as an employer responsible for complying with employment law. HR 281 also would make it easier for employers to replace H-2A workers who leave their employment. Employers should not be provided an unlimited supply of H-2A workers with no requirement to demonstrate a continued need for requested workers and with no scrutiny for employers with high turn-over in their workforce.

Conclusion: HR 281 would harm the hundreds of thousands of U.S. workers employed in agriculture, eliminate key oversight and protections in an already flawed guestworker program, and provide no solution for the roughly 1.2 million experienced undocumented workers productively working here. Rather than adopt this disastrous approach, Congress should ensure farmworkers already here are provided a road map to citizenship and any needed future workers from abroad must be afforded the same legal rights as U.S. workers and should be given the opportunity to earn citizenship. Immigration reform should be a stepping stone toward modernizing agricultural labor practices and treating farmworkers with the respect they deserve.