

RESOLUTION # 3

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

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

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

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

69 **WHEREAS**, it behooves the state’s agricultural community to have, when possible,
70 a consistent policy approach and public message on agricultural labor legislation moving
71 through Congress; and

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

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

83 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 106th State
84 Agricultural Convention, assembled through a virtual platform hosted in Trenton, New
85 Jersey, in accordance with COVID-19 pandemic recommendations, on February 17, 2021,
86 support all efforts of the Department to ensure a stable source of well-trained and legal
87 farmworkers, and that we support efforts to ensure the proper training and education of the
88 farm workforce, especially as it relates to worker health and safety.

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

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

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

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