NCFC

STATEMENT OF CHARLES CONNER

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TESTIMONY BEFORE THE COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

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Chairman Leahy, Ranking Member Grassley and members of the Committee, thank you for the invitation to testify on comprehensive immigration reform legislation, in particular, the agriculture worker program included in the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744).

I am Chuck Conner, President and Chief Executive Officer of the National Council of Farmer Cooperatives (NCFC). NCFC represents the interests of America's farmer cooperatives. There are nearly 3,000 farmer cooperatives across the United States whose members include a majority of our nation's more than 2 million farmers.

I am also here on behalf of the Agriculture Workforce Coalition (AWC). The AWC brings together nearly 70 organizations representing the diverse needs of agricultural employers across the country. A list of AWC members and supporters follows this testimony. The AWC came together out of the realization that, while America's farms and ranches are among the most productive in the world, they have struggled in recent years to find enough workers to pick crops or care for animals. The great success story that is American agriculture is threatened by this situation, and AWC has been working to develop an equitable solution to the problem.

As many of you know, the formation of the AWC represents a significant change from the past. For many years, agriculture and the farming sector have spoken with many voices on immigration; today we speak with one voice. And we are loudly saying that without people to work on America's farms and ranches, pick the crops, or milk the cows, all other issues in agriculture become irrelevant.

Team Effort

On behalf of the NCFC and the AWC, we commend the leadership, tenacity and commitment of Senator Dianne Feinstein throughout our negotiations as we worked toward a balanced approach for an agriculture worker program. Her efforts in collaboration with Senators Marco Rubio, Orrin Hatch, and Michael Bennet got us to where we are today. Additionally, I thank the bipartisan group of champions in the Senate who have heard our concerns, challenged us to compromise, and introduced a workable solution to a problem we have been struggling with for years.

The agreement – reflected in S. 744 introduced by the bipartisan "Gang of 8" – includes both the short- and long-term workforce requirements of all of agriculture; both those producers with seasonal labor needs and those with year-round needs.

And a key to this landmark agreement that was reached recently was the discussions that the AWC had been having with representatives of the United Farm Workers (UFW) union. So it is my great pleasure to be joined on the panel by Arturo Rodriguez, President of the UFW.

Agriculture Worker Program in S. 744

U.S. agriculture competes both domestically and internationally, and the inability to find enough employees poses threats to our competitiveness and food security. The question is not whether foreign-born workers will be the ones harvesting many of our crops. The question is whether they will be picking those crops here in the U.S., or in other countries. To remain competitive, we need the stability of the earned legalization in the Blue Card Program and also future access to new workers in the Agriculture Worker Program offered in S. 744.

In spite of producers' good faith efforts to verify work authorization, the agriculture industry acknowledges the reality that a majority of agriculture's current workforce is unauthorized. In the short-term, the legislation provides that current unauthorized farm workers would be eligible to obtain legal status through the Blue Card Program. Granting work authorization for current experienced agricultural workers will preserve agriculture's workforce and maintain stability in the sector. These workers would have a future obligation to work in agriculture. After this obligation is fulfilled, along with having paid all taxes and required fines, and barring conviction of any felony or violent misdemeanor, these employees could obtain permanent legal status.

For long-term stability, a new agriculture worker visa program is established that has two work options:

- ✓ "At-Will" visa employees have the freedom to move from employer to employer without any contractual commitment, replicating the way market forces allocate the labor force now.

- ✓ Contract visa employees commit to work for an employer for a fixed period of time, giving both parties increased stability where it is mutually preferred.

Importantly, we take great comfort in the fact that the new visa program will be administered primarily by the U.S. Department of Agriculture. This is a significant change from the current regime administered by the Department of Labor, who has demonstrated a complete lack of understanding of agriculture and our labor needs.

Achieving agreement on wages was one of the most time consuming aspects of our negotiations. For agriculture, it was important that we could quantify to the average producer the costs of the program. For many in agriculture, wages are the lion's share of their variable production costs. Thus, it was absolutely critical that we get this right. The negotiated wages included in S. 744 provide our farmers and ranchers with the certainty they need to plan for the future.

The bottom line with our efforts was to create a program that farmers and ranchers could easily navigate – whether they are growing almonds in California, peaches in South Carolina or apples in Vermont; or whether they raise beef cattle in Texas or dairy cows in Iowa. We believe the agreement reached, and reflected in S. 744, would provide both producers and their employees with a flexible yet predictable program. We look forward to working with the Committee as necessary on perfecting S. 744 to ensure our landmark agreement with the UFW is fully captured in the legislative text.

<u>H-2A Beyond Repair</u>

Given the difficulties of finding an adequate domestic workforce for production agriculture, the only option for farmers and ranchers to legally find the workers they need is the H-2A program, Unfortunately, this program has not worked for the vast majority of agricultural employers.

I have been asked by policy makers why we don't just try to reform what we have in place now. In fact, past efforts have attempted to reform the existing H-2A program, but the situation agriculture faces today is simply beyond repair.

The H-2A program's basic framework is overly restrictive and difficult for an employer to maneuver. Furthermore, the H-2A program is only accessible for producers with seasonal needs, excluding the year-round needs of many producers of commodities such as dairy, livestock, and mushrooms, as well as other crops. In recent years it has become even more unworkable and costly to use. The program has become so burdensome, in fact, that producers use it only when they absolutely have to, thus the H-2A program provides only about two to five percent of agriculture's total workforce.

A national survey of H-2A employers conducted by the National Council of Agricultural Employers illustrates some of the program's significant shortcomings. It showed that administrative delays caused an economic loss of nearly $320 million for farms in 2010 alone. Seventy-two percent of growers using the program reported that workers arrived after the "date of need," on average 22 days late. Mother Nature does not wait for workers that might – or might not – show up.

Additionally, the U.S. Department of Labor's Foreign Labor Certification Data Center reports that denials of H-2A applications have increased dramatically in recent years, further complicating the situation and increasing costs. If there is a silver lining, the dysfunction of the H-2A program has led to a growing bipartisan consensus that the program is beyond repair and should be replaced. S. 744 would in fact sunset the H-2A program one year after the new visa program is enacted.

Our goal with the new, more flexible and market-oriented program contained in S. 744 is that it meets the diverse needs of American agriculture—from the seasonal needs of many fruit and vegetable growers to the year-round needs of dairy producers, nursery owners and others. We also hope that such a visa program would benefit the great majority of farm workers who would now have greater freedom in choosing where and when they work.

Why Action is Needed

It is widely recognized that one of the industries most affected by our outdated and flawed immigration system is the agriculture industry. The labor situation in agriculture has been a concern for many years, but is moving towards a breaking point. There are roughly 1.8 to 2 million people who perform hired farm work in the U.S. Each of these workers supports two to three other employees in jobs like sales, marketing and transportation. Yet, a combination of government statistics and other evidence suggest that at least 50 percent and likely 70 percent or more is unauthorized to work in the U.S., though the workers typically show employers documents which appear genuine on their face.

Today, large segments of American agriculture face a critical lack of workers, a shortage that makes our farms and ranches less competitive and that threatens the abundant, safe and affordable food supply American consumers enjoy. For example, a 2012 survey by the California Farm Bureau found that 71 percent of the tree fruit growers, and nearly 80 percent of raisin and berry growers, were unable to find an adequate number of employees to prune trees and vines or pick crops. This has been an ongoing problem. In 2008, Texas A&M University reported that 77 percent of vegetable farmers reported scaling back operations. More than 80,000 acres of fresh produce that was once grown in California have been moved to other countries. Without adequate labor, estimates are that thousands of farms could fail and farm income could drop by five to nine billion dollars.

With labor costs and labor instability being a significant factor to our global competitiveness, we are seeing our market share slip to countries with lower costs of production. Already, imports are fast commanding a larger share of U.S. consumption. For example, the value of U.S. fruits and vegetable imports has grown to more than twice the value of exports. U.S. strawberries have moved from a comfortable trade surplus to a trade deficit in just four years. In fact, the Florida strawberry and tomato industries are fighting for their survival in the face of a fast-changing import picture. Likewise, each American apple – over 20 billion—must be picked by hand in over 36 states. And we need a reliable and skilled workforce to do that, otherwise we export our jobs to foreign orchards. Collectively, the apple industry alone needs over 70,000 harvest workers to get the crop off of the trees each year.

The problem exists for all facets of agriculture, beyond just fruits, vegetables, nuts and nursery crops. A separate Texas A&M study in 2012 focused on dairy, and found that farms using an immigrant workforce produce more than 60 percent of the milk in our country. Without these employees, economic output would decline by $22 billion and 133,000 workers would lose their jobs. Dairy farmers in this country have faced more months since late 2008 with flat to negative operating margins than they have profitable months.

Dairy is a labor intensive industry – cows must be milked two to three times a day, 365 days a year, including Thanksgiving, Christmas, Easter and the Fourth of July. Other commodities have their harvest over the course of a few weeks once, maybe twice a year. For dairy farmers, their harvest comes multiple times per day, every day.

This labor situation is simply not consistent with those who say that U.S. agriculture should just offer better wages. According to a 2009 Cornell University study, jobs on dairy farms in New York averaged nearly $10 per hour, and usually included benefits as well. In spite of stable year-round jobs with wages averaging well above minimum wage and often with some benefits, few if any workers born in this country respond to job postings for dairy farm work.

Furthermore, an adequate and skilled workforce is a must to help ensure the well-being, health and productivity of herds. These are not entry-level jobs. Caring for herds of 1,500-pound cows that must be fed several times a day, given health exams routinely, milked multiple times a day, and bred and calved about once a year takes training and experience. And while others in agriculture at least have the H-2A guest worker program, those with dairy or other livestock operations have been left without a legal channel to find workers.

NCFC's membership also includes many of the banks in the Farm Credit System who work with their farmer members to address various risk factors including input and price risk, weather risk, and risk associated with changing interest rates. Increasingly concern with maintaining a stable labor supply is the risk factor with which agriculture producers are most concerned.

Talk to farmers and they will tell you that this is the issue that keeps them awake at night. A recent article in *The New York Times* detailed the challenges farmers there face, partly because they are so close to the Canadian border and as a result experience stronger federal immigration enforcement operations in their area. One farmer reported having to let 12 of his 14 workers go after a labor audit. Two I-9 audits on Idaho dairy farms resulted in upwards of an 80 percent dismissal rate. The list goes on.

The concern over farm labor availability is already influencing farm investment and management decisions. Many successful, progressive operations that have positioned themselves for growth opportunities are holding back over concern with I-9 audits, ICE activities, burdens associated with use of the H-2A program and the possibility of mandatory E-Verify without a workable visa program.

Even more concerning is that the lack of a stable labor supply will cause farms to go out of business, shrink in size, or shift to low-labor, but less profitable commodities. The economic impact of that will be dramatic. For example, a recent study by Farm Credit East, which I am submitting along with my testimony, examines the northeastern U.S. agricultural sector. It estimates that, without an adequate farm labor workforce, over 1,650 farms across the region could go out of business, meaning a loss of $1.6 billion in lost agricultural production and nearly

20,000 jobs destroyed. Without workers to count on, our farmers and ranchers simply cannot continue to provide for America.

In closing, I believe we are facing a once in a generation opportunity to reform our nation's immigration policy. We've done a lot of work; we have more work to do. All facets of American agriculture – from big to small, from all regions and all commodities – stand ready to work with this committee as you advance S. 744 through the legislative process.

Thank you again for holding this hearing and recognizing the unique needs of agriculture in this important debate. I look forward to responding to your questions.

Founding Association Members of AWC:

American Farm Bureau Federation
American Nursery & Landscape Association
Florida Fruit & Vegetable Association
National Council of Agricultural Employers
National Council of Farmer Cooperatives
National Milk Producers Federation
USA Farmers
U.S. Apple Association
United Fresh Produce Association
Western Growers Association
Western United Dairymen

Coalition Partners:

Agriculture Coalition for Immigration Reform

AWC Supporters:

Agricultural Council of California
American AgriWomen
American Beekeeping Federation
American Frozen Food Institute
American Mushroom Institute
American Sheep Industry Association
California Association of Winegrape Growers
California Avocado Commission
California Citrus Mutual
California Giant Berry Farms
California Grape and Tree Fruit League
California Women for Agriculture
Certified Greenhouse Farmers
Colorado Nursery & Greenhouse Association
CoBank
Cooperative Network
Farm Credit East
Florida Citrus Mutual
Florida Farm Bureau
Florida Nursery, Growers & Landscape Association

Georgia Farm Bureau Federation
Georgia Fruit and Vegetable Growers Association
Georgia Green Industry Association
Hispanic American Growers Association
Idaho Dairymen's Association
Illinois Farm Bureau
Louisiana Farm Bureau Federation
MBG Marketing/The Blueberry People
National Christmas Tree Association
National Farmers Union
National Grange
National Onion Association
National Peach Council
National Potato Council
Northeast States Association for Agricultural Stewardship
Northwest Farm Credit Services
OFA, An Association of Horticulture Professionals
Oregon Association of Nurseries
Produce Marketing Association
Red Gold, Inc.
Society of American Florists
South East Dairy Farmers Association
Southeast Milk, Inc.
State Agriculture and Rural Leaders
Sweet Potato Council of California
Texas Citrus Mutual
Texas International Produce Association
Texas Vegetable Association
U.S. Custom Harvesters, Inc.
United Ag
United Dairymen of Arizona
Utah Dairy Producers
United Egg Producers
Village Farms International, Inc.
Wine America
Wine Institute
Yankee Farm Credit
Yuma Fresh Vegetable Association

Farm Credit East

Knowledge Exchange Report

August 2011

Farm Labor and Immigration Enforcement

Economic Impact to the Northeast

Farm businesses throughout the Northeast United States depend on a stable workforce to produce a safe, reliable food supply as well as other horticultural products. Immigrant workers have been and will likely continue to be a significant part of this workforce. Farm Credit East has undertaken the following analysis to better understand the economic impact of a potential farm labor shortage resulting from significantly enhanced immigration enforcement actions, with no new agricultural guest worker provisions. Without foreign labor, many farm businesses in the Northeast and nationwide will face critical labor shortages.

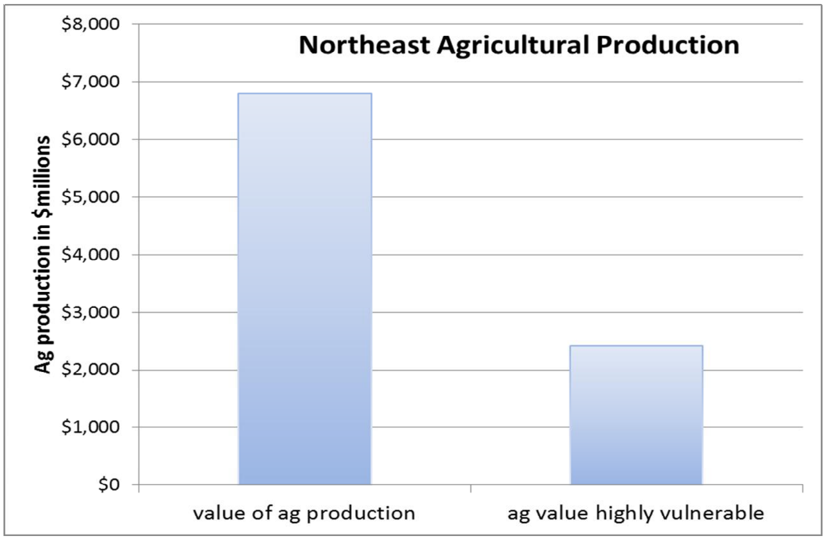
Northeast agriculture includes significant labor-intensive production such as vegetable, fruit, greenhouse, nursery, and dairy. These sectors can be highly vulnerable[1] to shortages of labor. The fact is that labor disruptions can quickly result in severe operational and financial problems for many farms. Most farms simply do not have the financial resources to survive for very long if they cannot produce and market their products. With the increasing consumer demand for quality products, a delay in harvest caused by a labor shortage can have a dramatic negative impact.

Northeast agricultural employers comply with existing federal and state laws in hiring workers. Some of this workforce has evolved into a population who presents identity documents and is then employed on the same federal and state terms as native-born workers. This includes deducting and remitting the appropriate payroll taxes and assessments on behalf of these workers. These foreign-born farmworkers that are an integral part of American agriculture are hard-working individuals filling an unmet need in the labor market. It has become apparent, that even with today's high unemployment levels, those on the unemployment rolls in the Northeast are simply not seeking jobs as farm laborers. Indeed, agricultural employers have had little success attracting and keeping local Americans in farm jobs. Whether it is their location, often away from population centers, working in variable weather conditions, the physical nature of the work, or the fact that many farm jobs are intermittent or seasonal, American-born workers have shown little interest in farm labor.

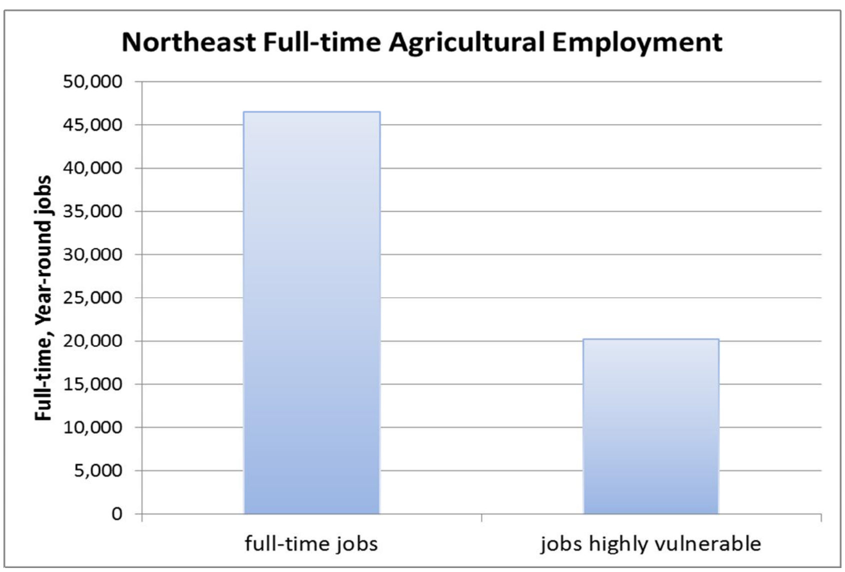
[1] This analysis defines "highly vulnerable" farms as those that could be forced to close or reduce operations by two-thirds or more, after a two year period in which no undocumented farm workers were available and no new guest worker provisions were offered. This analysis covers the states of New York, New Jersey, Connecticut, Massachusetts, New Hampshire and Rhode Island.

In light of these considerations, we present the Farm Credit East analysis:

- Approximately 1,732 Northeast farms are highly vulnerable to going out of business or being forced to severely cut back their operations due to a labor shortage caused by an aggressive, enforcement-only immigration policy.
- These 1,732 highly vulnerable farms are some of the largest in the region; their total sales of farm product are estimated to exceed $2.4 billion. This is approximately 36% of the value of the region's agricultural output.



- On-farm employment: 20,212 full-time, year-round positions could be eliminated (this is on top of seasonal jobs lost, and not counting farm owners)



- Productive cropland: These farms operate over 1.1 million acres of cropland. If these highly vulnerable farms were to cease or reduce operations, some of this acreage might switch into less intensive agriculture, but thousands of acres would potentially be converted to non-agricultural uses. This would be at cross purposes to the region's long standing efforts to preserve farmland.

- Farm-related economic impact: The impact goes beyond the farm gate, and could undermine, in part, the region's agri-business sector that our local and state economics depend on. In addition to the loss of farm employment, it is estimated that **55,311 off-farm jobs** in agriculturally related businesses in the Northeast could be impacted. Many of these positions are full-time jobs held by local citizens.

Profile of Six Northeastern States

Total Farms All Sizes	64,671
Farms with sales > $10,000	44,545
Farms with Sales > $50,000	13,375
Farms with Hired Workers	15,948
Value of Agricultural Production	$ 6,793,432,000
Total Acreage in Cropland	5,308,138
Number of Farm Workers	116,829

Profile of Northeast Agricultural Industry Considered Vulnerable

Farm Type	Number of Farms	Value of Farm Sales ($)	Cropland (Acres)	Total Workers	Seasonal Workers	Year Round Workers
Total	64,671	6,793,432,000	5,308,138	116,829	70,351	46,478
Dairy	6,058	2,754,114,000	1,877,316	16,114	5,710	10,404
Fruit	6,640	643,826,000	210,111	27,940	22,116	5,823
Nursery/GH	6,603	1,386,739,000	161,535	27,602	13,593	14,009
Vegetable	4,268	653,841,000	358,873	17,340	11,154	6,186
Other Crops[2]	70	58,400,000	6,115	2,624	1,972	652

Farm Labor Shortages
Farms Considered Highly Vulnerable*

By Farm Type

Farm Type	Number of Farms	Value of Farm Sales ($)	Cropland (Acres)	Total Workers	Seasonal Workers	Year Round Workers
Total	1,732	2,420,504,000	1,109,448	50,103	29,894	20,212
Dairy	528	1,076,496,000	732,664	8,679	3,071	5,609
Fruit	407	309,975,000	101,624	15,345	11,987	3,017
Nursery/GH	429	627,008,000	68,043	13,970	6,523	6,585
Vegetable	332	281,607,000	201,685	9,909	7,113	4,455
Other Crops	36	51,577,000	5,401	2,201	1,654	547

[2] Other crops were measured only for CT, and include tobacco.

By State

State	Number of Farms	Value of Farm Sales ($)	Cropland (Acres)	Total Workers	Seasonal Workers	Year Round Workers
Connecticut	164	273,090,000	45,487	6,558	3,973	2,585
Massachusetts	100	109,914,000	18,431	2,954	1,756	1,198
New Hampshire	40	55,136,000	18,425	1,322	843	479
New Jersey	350	461,235,000	103,852	13,481	8,319	5,162
New York	1,049	1,508,996,000	919,241	25,247	14,737	10,510
Rhode Island	31	12,133,000	4,012	544	266	278

Percentage Considered Highly Vulnerable

By Farm Type

Farm Type	Value of Sales $50,000 or more	Value of Farm Sales ($)	Cropland (Acres)	Total Workers	Seasonal Workers	Year Round Workers
Total	13%	36%	21%	43%	42%	43%
Dairy	10%	39%	39%	54%	54%	54%
Fruit	27%	48%	48%	54%	54%	52%
Nursery/GH	23%	45%	42%	47%	48%	47%
Vegetable	23%	43%	56%	67%	64%	72%
Other Crops	68%	88%	88%	84%	84%	84%

By State

State	Value of Sales $50,000 or more	Value of Farm Sales ($)	Cropland (Acres)	Total Workers	Seasonal Workers	Year Round Workers
Connecticut	22%	49%	71%	50%	53%	46%
Massachusetts	8%	22%	10%	23%	26%	28%
New Hampshire	9%	27%	14%	26%	26%	28%
New Jersey	22%	46%	21%	55%	57%	53%
New York	11%	34%	21%	42%	41%	44%
Rhode Island	17%	18%	16%	33%	31%	35%

In summary, an aggressive, enforcement-only approach to undocumented immigrants could result in a severe labor shortage for Northeast farms, which would be not only disastrous to Northeast agriculture, but would have ripple effects throughout the economy as well.

Notes about methodology:

Raw data for this analysis was obtained from the USDA 2007 Census of Agriculture. FCE broke down the data by number of workers (those with a greater number were considered more vulnerable), farm types (some types are more labor-intensive than others), as well as the value and land area of their production. Each category was given a subjective assessment of vulnerability determined by a survey of Farm Credit staff based upon their knowledge of Northeast agriculture. Responses were averaged and multiplied against total number of farms. Upstream and downstream impact was estimated by taking data from the U.S. Bureau of Census, County Business Pattern, and multiplying it by a percentage reduction in agricultural output.

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Farm Credit East, ACA serves approximately 12,000 customers in the states of New Jersey, Connecticut, Massachusetts, Rhode Island and major parts of New York and New Hampshire. Part of the nationwide Farm Credit System, Farm Credit East is a customer-owned lender dedicated to serving farmers, commercial fishermen and the forest products sector. Farm Credit East is committed to providing economic information constructive to the advancement of Northeast agriculture.