

United States Senate

WASHINGTON, DC 20510

December 1, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Julie A. Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20001

Dear Acting Secretary Su:

We write to oppose the Department of Labor's (DOL) proposed regulation entitled "Improving Protections for Workers in Temporary Agricultural Employment in the United States," Docket No. ETA-2023-0003.

DOL's proposed regulation affecting H-2A visa holders will place an undue burden on American farmers. DOL grants H-2A visas to employers to hire temporary foreign workers to address agricultural workforce needs. Employers request these visas because they face a shortage of domestic workers. The new DOL proposal circumvents Congress' authority to legislate on the unionization of agricultural workers and adds unnecessary obstacles to a complicated visa process. It will discourage many smaller growers from participating in the program¹ and accelerate consolidation of the U.S. agricultural industry.² It will also hurt American families, who are already having a hard time making ends meet.³ Under Bidenomics, food prices have soared. Bread, baby formula, and frozen fruits and vegetables are up almost 25 percent since January 2021.⁴ If this rule is adopted, food prices will increase even more.

This proposed rule uses the Immigration and Naturalization Act to allow unions to unionize temporary agricultural workers, who are allowed to reside within the United States based on their working status, and organize strikes that would threaten the disruption that Congress intended to prevent.

¹ Farm wages increased 6.8 percent in 2022, compared to 5.3 percent for all private employees. AFBF Staff, *Examining the 2023 AEW*, American Farm Bureau Federation (November 29, 2022), <https://www.fb.org/market-intel/examining-the-2023-aewr>.

² Production has shifted to larger farms over the past three decades. James M. MacDonald, Robert A. Hoppe, & Doris Newton, *Three Decades of Consolidation in U.S. Agriculture*, Economic Information Bulletin No. (EIB-189), U.S. Department of Agriculture, Economic Research Service (March 2018), <https://www.ers.usda.gov/publications/pub-details/?pubid=88056>.

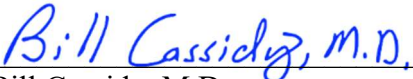
³ Food prices in the United States rose by 11 percent in 2022. *Summary Findings: Food Price Outlook, 2023 and 2024*, U.S. Department of Agriculture, Economic Research Service (October 25, 2023), <https://www.ers.usda.gov/data-products/food-price-outlook/summary-findings/>. The upward pressure on wages from unionized farmworkers will be reflected in even higher food prices.


⁴ *The Biden Inflation Tracker*, Heritage Foundation (October 19, 2023), <https://datavisualizations.heritage.org/markets-and-finance/the-biden-inflation-tracker/>.


The proposed rule advances unionization on U.S. farms by making H-2A workers vulnerable to pressure. It opens these workers up to coerced unionization and deprives workers of an informed choice about whether to unionize. Union officials would have unprecedented access to employees. Union officials could participate in employee disciplinary meetings and collect their private information for an organizing campaign. Farmers would have to allow union organizers to stay in employer-sponsored housing for workers, agree to negotiate in “good faith” with a potential union, and agree to a de-facto gag order prohibiting the farmer from discussing the organizing campaign.

DOL already dictates wage rates and regulates working conditions for H-2A workers. This proposed rule is unnecessary and will harm American consumers, American agriculture, and H-2A workers themselves.

Sincerely,

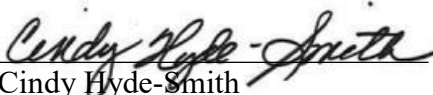

Bill Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health,
Education, Labor, and Pensions



John Barrasso
U.S. Senator


Kevin Cramer
U.S. Senator

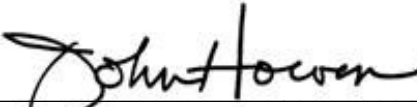

Bill Hagerty
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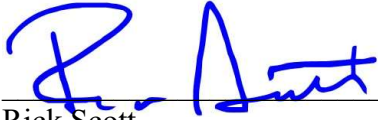

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Markwayne Mullin
U.S. Senator



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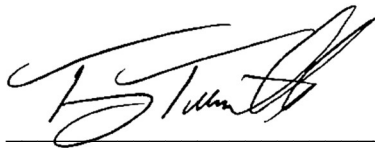
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John Thune
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Roger Wicker
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