



NHCSL

THE NATIONAL HISPANIC CAUCUS OF STATE LEGISLATORS

EMERGENCY RESOLUTION No. 2020-01

Grant residency and a path to citizenship to COVID-19 farmworkers and other essential pandemic workers

Reported to the Caucus by the NHCSL Immigration Task Force
Sen. Richard Martínez (NM), Chair

Sponsored by Rep. John Alcala (KS)

Unanimously approved by the NHCSL Executive Committee on behalf of the entire
Caucus on September 18, 2020

1 **WHEREAS**, in responding to the COVID-19 pandemic, following public health
2 guidance, most of the nation has established stay-at-home directives that exempt
3 workers in essential sectors;¹ and,

4 **WHEREAS**, for those exempted from stay-at-home orders, and for all of us who must
5 leave our homes for approved reasons, a nationwide social-distancing (physical

¹ As of April 8, 2020, forty-three states, the District of Columbia and Puerto Rico had stay-at-home orders; two states had partial stay-at-home orders; and one state had a stay-at-home advisory. Forty nine states, the District of Columbia and Puerto Rico had closed or severely limited retail. Forty states, the District of Columbia and Puerto Rico had ordered all non-essential businesses closed. For a continually updated number see: Stateside Associates, *2020 State and Local Government Responses to COVID-19*. Available at, <https://www.stateside.com/blog/2020-state-and-local-government-responses-covid-19>

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6 distance) guidance from the Centers from Disease Control and Prevention (CDC) is in
7 effect;² and,

8 **WHEREAS**, one of the essential sectors in which workers are still expected to work
9 on-location is food and agriculture, in general, and farm work, specifically;³ and,

10 **WHEREAS**, the nature of farm work, and the equipment currently available in most
11 farms, makes social distancing impractical or impossible for farmworkers, which
12 means that they are at much heightened risk of contracting COVID-19; and,

13 **WHEREAS**, family members residing in the same household as farmworkers and
14 other essential workers are also at heightened risk because they could get infected in
15 turn by their exposed working family member; and,

16 **WHEREAS**, since mid-March, President Donald J. Trump has correctly analogized the
17 fight against COVID-19 as a war, “our big war... a medical war”⁴ and has started to use
18 presidential wartime powers to fight it;⁵ and,

19 **WHEREAS**, farmworkers and other essential workers, especially those who cannot
20 practice social distancing at work, along with their immediate families, are all taking
21 a substantially similar risk of their lives and health for our safety during the COVID-
22 19 crisis as servicemembers do during war; and,

23 **WHEREAS**, Federal law currently grants the right to naturalization and citizenship to
24 all English-speaking persons of good moral character who serve in our armed forces
25 during wartime or hostilities, even when they are undocumented immigrants,⁶ under
26 the rationale that they put their lives at risk for us, showing commitment to our safety,
27 and we should be thankful; and,

² CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

³ Christopher Krebs, Director, US Cybersecurity and Infrastructure Security Agency, *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response* (March 19, 2020). Available at <https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf>

⁴ Brian Bennett and Tessa Berenson, 'Our Big War.' *As Coronavirus Spreads, Trump Refashions Himself as a Wartime President* (Time, March 19, 2020). Available at <https://time.com/5806657/donald-trump-coronavirus-war-china/>

⁵ John Fritze and Phoebe Wall Howard, *Trump uses wartime powers to place first order with General Motors for 30,000 ventilators* (USA Today, April 8, 2020). Available at <https://www.usatoday.com/story/news/politics/2020/04/08/trump-uses-wartime-powers-order-coronavirus-ventilators-gm/2970411001/>.

⁶ Those servicemembers must also show basic knowledge of the United States and read, write and speak basic English. See *USCIS Policy Manual*, Vol. 12, Part 1, Ch. 3 (describing agency interpretation of the requirements of Section 329 of the Immigration and Naturalization Act, 8 USC § 1440). Available at <https://www.uscis.gov/policy-manual/volume-12-part-i-chapter-3>

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28 **WHEREAS**, between half and three quarters of farmworkers in the United States are
 29 undocumented immigrants,⁷ and, according to Farmworker Justice, 83% of
 30 farmworkers are Hispanic;⁸ and,

31 **WHEREAS**, unlike US servicemembers in war, farmworkers generally do not need to
 32 conduct their daily lives using the English language and most do so using the Spanish
 33 language.⁹

34 **THEREFORE, BE IT RESOLVED**, that the National Hispanic Caucus of State
 35 Legislators calls on the United States Congress and the President to grant the right of
 36 residency and naturalization, to all farmworkers and other essential workers, who
 37 have at any time worked as such in the United States during the COVID-19 crisis;
 38 and,

39 **BE IT FURTHER RESOLVED**, that this right of residency and naturalization should be
 40 granted without regard to previous immigration status, should permit naturalization
 41 exams to be taken in their native language, and should be extended to their family
 42 members residing in the same household; and,

43 **BE IT FINALLY RESOLVED**, that, in order to facilitate the identification of these
 44 essential workers, employers and their agents should be granted immunity from
 45 adverse action for having employed (or otherwise acquired the services of) persons
 46 who were identified as being essential workers during the COVID-19 crisis.

47 PURSUANT TO THE IMMEDIATE NEEDS PROCESS OUTLINED IN THE BYLAWS, THE
 48 NHCSL EXECUTIVE COMMITTEE UNANIMOUSLY ADOPTED THIS RESOLUTION, ON
 49 BEHALF OF THE CAUCUS, AT ITS VIRTUAL MEETING OF SEPTEMBER 18, 2020.

⁷ Miriam Jordan, *Farmworkers, Mostly Undocumented, Become ‘Essential’ During Pandemic* (New York Times, April 2, 2020). Available at <https://www.nytimes.com/2020/04/02/us/coronavirus-undocumented-immigrant-farmworkers-agriculture.html>. And see, Farmworker Justice, *National Farmworker Awareness Week Blog: Immigration* (Harvesting Justice, March 30, 2020). Available at <https://www.farmworkerjustice.org/fj-blog/2020/03/national-farmworker-awareness-week-blog-immigration>.

⁸ Farmworker Justice, *Selected Statistics on Farmworkers (2015-16 Data)* (2019). Available at <https://www.farmworkerjustice.org/sites/default/files/resources/NAWS%20Data%20FactSheet%2005-13-2019%20-%20final.pdf>

⁹ Ibid.