

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

2

SENATE BILL 881\*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/4/09

Short Title: AgRELIEF Act/Cost Share Program.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE TEMPORARY AGRICULTURAL LABOR COST SHARE  
3 PROGRAM TO PROVIDE REIMBURSEMENT OF EXPENSES FOR THE LEGAL  
4 INTERIM EMPLOYMENT OF FARMWORKERS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 106 of the General Statutes is amended by adding a new  
7 Article to read:

8 "Article 70.

9 "AgRELIEF Act; Temporary Agricultural Labor Cost Share Program.

10 "§ 106-840. Title.

11 This may be referred to as the Agricultural Reimbursement of Expenses for Legal Interim  
12 Employment of Farmworkers Act (AgRELIEF Act).

13 "§ 106-841. Temporary Agricultural Labor Cost Share Program established.

14 The Temporary Agricultural Labor Cost Share Program is established. The Program shall  
15 provide cost share funds to assist North Carolina farmers who use the federal H-2A visa  
16 program under the federal Immigration and Nationality Act, 8 U.S.C. §  
17 1324(a)(1)(A)(iv)(b)(iii), in North Carolina to legally fulfill their need for temporary  
18 agricultural labor to perform agricultural labor or services of a temporary or seasonal nature on  
19 North Carolina farms. The Temporary Agricultural Labor Cost Share Program shall, subject to  
20 the requirements and limitations under G.S. 106-842, assist North Carolina farmers with only  
21 the following costs that are paid exclusively by the North Carolina farmer and that are  
22 associated with using the federal H-2A visa program:

23 (1) All round-trip transportation and subsistence costs for an H-2A worker, to  
24 and from the worker's country of origin, if paid by the North Carolina  
25 farmer, but which shall be limited to a total reimbursable expense that does  
26 not exceed three hundred dollars (\$300.00) for each round trip for each H-  
27 2A worker; and

28 (2) All processing charges and administrative fees and dues, including, but not  
29 limited to, advertising and recruitment costs, charged by an agricultural trade  
30 association that is exempt from taxation under Section 501(c) of the Internal  
31 Revenue Code, to a North Carolina farmer, if paid by the North Carolina  
32 farmer, but which shall be limited to a total reimbursable expense that does  
33 not exceed three hundred twenty-five dollars (\$325.00) for each H-2A  
34 worker; and

35 (3) Any United States State Department Visa fees and Border Patrol Crossing  
36 fees for each H-2A worker, if paid by the North Carolina farmer; and



- 1           (4) Any United States Consulate application and appointment fees for each  
2           H-2A worker, if paid by the North Carolina farmer.

3 **"§ 106-842. Temporary Agricultural Labor Cost Share Advisory Committee;**  
4 **administration of Program; requirements and limitations.**

5       (a) The Temporary Agricultural Labor Cost Share Advisory Committee is established.  
6 The Advisory Committee shall be administratively located in the Department of Agriculture  
7 and Consumer Services, but shall exercise its statutory powers and duties independent of the  
8 Department. The Advisory Committee shall consist of seven members as follows:

- 9           (1) The Commissioner of Agriculture or the Commissioner's designee.  
10          (2) The President of the North Carolina Rural Economic Development Center,  
11           Inc., or the President's designee.  
12          (3) The Commissioner of Labor or the Commissioner's designee.  
13          (4) The Chairman of the Employment Security Commission or the Chairman's  
14           designee.  
15          (5) The Executive Vice President of the North Carolina Agribusiness Council or  
16           the Executive Vice President's designee.  
17          (6) The President of the North Carolina State Grange or the President's designee.  
18          (7) The President of the North Carolina Farm Bureau Federation, Inc., or the  
19           President's designee.

20       The Commissioner of Agriculture or the Commissioner's designee shall serve as the Chair  
21 of the Advisory Committee. A majority of the members of the Advisory Council shall  
22 constitute a quorum for the transaction of business.

23       (b) The Advisory Committee shall develop and administer the Temporary Agricultural  
24 Labor Cost Share Program and shall have the following powers and duties:

- 25           (1) Within funds available to this program, provide cost share funds to  
26 applicants, subject to all of the following limitations and requirements:  
27           a. Reimbursements shall be limited to:  
28               1. Fifty percent (50%) of the costs as provided in G.S. 106-841  
29               for each H2-A worker per year with the applicant providing  
30               fifty percent (50%) of these costs.  
31               2. A maximum of fifty thousand dollars (\$50,000) per applicant  
32               per year.  
33           b. Applicants shall be limited to farmers who have an adjusted gross  
34           income in each of the previous two years that is at or below two  
35           hundred fifty thousand dollars (\$250,000), unless at least  
36           seventy-five percent (75%) of this adjusted gross income is derived  
37           directly from farming, ranching, or forestry operations.  
38           c. To be eligible for cost share funds under this section, an applicant  
39           shall produce documentation for review that substantiates the  
40           applicant's compliance with all of the following requirements:  
41               1. The applicant has obtained federal certification to employ an  
42               H-2A visa worker and complies with all federal requirements  
43               for ensuring that no legally authorized United States worker  
44               is available, able, and willing to meet the temporary  
45               agricultural labor job requirements.  
46               2. The applicant provides housing for the H-2A workers that  
47               have been registered, inspected, and certified by Agricultural  
48               Safety and Health Bureau of the North Carolina Department  
49               of Labor for occupancy by workers during their time period  
50               of employment. Housing does not have to be owned by the  
51               applicant in order to meet this requirement.

- 1                   3.     The applicant provides each H-2A worker with workers'  
2                   compensation insurance.
- 3                   4.     The applicant provides insurance mandated for vehicles  
4                   transporting any H-2A worker.
- 5                   5.     The applicant provides training pursuant to pesticide worker  
6                   protection standards mandated by the Environmental  
7                   Protection Agency for any H-2A worker.
- 8                   6.     The applicant inspects documentation to ensure that all H-2A  
9                   visa documentation is valid and each worker is legally  
10                  authorized to work on the applicant's farm during the time  
11                  period of employment.
- 12                  d.     An applicant requesting cost share funds for fees and costs incurred  
13                  by the applicant and eligible for reimbursement under G.S. 106-841  
14                  shall provide, to the satisfaction of the Advisory Committee,  
15                  documentation to substantiate payment by the North Carolina farmer  
16                  of these costs, not to exceed the number of H-2A workers employed  
17                  by the applicant during the applicable year. Documentation required  
18                  under this sub-subdivision shall not exceed standards beyond what a  
19                  majority of applicants can reasonably obtain and submit as proof of  
20                  payment.
- 21                  e.     Nothing in this Article shall be construed to preclude an applicant  
22                  from submitting an application each year and being eligible each year  
23                  to receive cost share funding under this program. An application that  
24                  includes costs for an H-2A worker who returns in subsequent years  
25                  shall also be eligible to apply for the cost share funding during the  
26                  subsequent years.
- 27                  (2)    Develop a process for soliciting and reviewing applications and for selecting  
28                  farmers to participate in the Temporary Agricultural Labor Cost Share  
29                  Program based on the eligibility requirements and limitations under  
30                  G.S. 106-841 and this section. Approved applications shall be processed  
31                  based on the date of submission of the completed application until and as  
32                  long as funding is available for this program.
- 33                  (3)    Receive public and private donations, appropriations, grants, and revenues to  
34                  be credited to the Temporary Agricultural Labor Cost Share Program Fund  
35                  under G.S. 106-844.
- 36                  (4)    Limit the eligibility for submission of an application for Temporary  
37                  Agricultural Labor Cost Share Program funds to only the applicant who was  
38                  listed as the employer on the H-2A visa application, except individual and  
39                  group applications submitted by an agricultural trade association that is  
40                  exempt from taxation under Section 501(c) of the Internal Revenue Code,  
41                  shall be eligible, provided such group is also listed on all of the applicable  
42                  H-2A visa applications as a joint employer.

43    **"§ 106-843. Temporary Agricultural Labor Cost Share Program; report.**

44                  No later than March 31 of each year, the Advisory Committee shall prepare a  
45                  comprehensive report on the implementation of the Temporary Agricultural Labor Cost Share  
46                  Program for the previous calendar year and submit the report to the House of Representatives  
47                  and the Senate Appropriations Subcommittees on Natural and Economic Resources.

48    **"§ 106-844. Temporary Agricultural Labor Cost Share Program Fund.**

49                  There is established a "Temporary Agricultural Labor Cost Share Program Fund" to be  
50                  administered by the Commissioner of Agriculture. The Fund shall consist of all funds and  
51                  monies received from any source, whether as a grant, appropriation, gift, contribution, or

1 bequest; provided these funds are designated for the Temporary Agricultural Labor Cost Share  
2 Program Fund. Notwithstanding any provisions of law which might prohibit a transfer or  
3 donation, the Temporary Agricultural Labor Cost Share Program Fund also may receive funds  
4 from public and private sources. Funds in the Temporary Agricultural Labor Cost Share  
5 Program Fund shall be used for only the reimbursement to North Carolina farmers for fees and  
6 costs in accordance with G.S. 106-841 and G.S. 106-842. Any funds received in the  
7 Temporary Agricultural Labor Cost Share Program Fund shall be held separate and apart from  
8 all other moneys, funds, and accounts in an interest-bearing account and shall carry forward  
9 any balance remaining in the Fund at the end of any fiscal year for the next succeeding fiscal  
10 year."

11           **SECTION 2.** This act becomes effective July 1, 2009.