February 11, 2015

The Honorable Jim Renacci
U.S. House of Representatives
Washington, DC 20515

The Honorable Kurt Schrader
U.S. House of Representatives
Washington, DC 20515

The Honorable Lynn Jenkins
U.S. House of Representatives
Washington, DC 20515

The Honorable Jim Costa
U.S. House of Representatives
Washington, DC 20515

Dear Representatives Renacci, Schrader, Jenkins and Costa:

Thank you for your leadership in introducing, H.R. 863, the “STARS Act of 2015.” This bipartisan legislation provides desperately needed technical corrections and clarity at a time when employers with highly seasonal workforces are having significant difficulty in determining their employer size and employer shared responsibility requirements under the Patient Protection and Affordable Care Act (ACA). We appreciate your recognition of the challenges that our members have encountered as they attempt to understand and comply with the law’s requirements.

We commend the Department of the Treasury for its continued recognition of the challenges that seasonal employment pose for small employer compliance in its final rule on IRC §4980H. It is clear that the Administration both acknowledged and intended to fix the significant issues that the unique seasonal employment paradigm pose within the construct of the ACA. We agree with Treasury’s fact sheet that accompanied the final rule: “those in positions in which customary employment is six months or less” should not be considered full-time employees.

While the regulatory definition of seasonal employee is clear at 6 months, the statute itself still contains the second seasonal worker definition, which leaves more room for interpretation and continues to confuse small employers as they work to comply with the law. The attached guidance document from the Internal Revenue Service, from an FAQ published on May 13, 2014, demonstrates the unnecessary complexity that small, seasonal employers with limited human resource capabilities have encountered when attempting to comply with the ACA. And though Treasury has appropriately recognized these challenges, it lacks the statutory flexibility to fully address compliance issues through regulation. Hence, Congress must act.

The STARS Act adopts the Administration’s definition of seasonal employment while simplifying and aligning the seasonal provisions of the ACA to better enable employer compliance. This targeted approach provides critical relief without fundamentally upsetting the intent of the ACA’s employer provisions. The bill does not eliminate an applicable large employer’s requirement to offer affordable

coverage to qualifying full-time employees, nor does it alter the Administration’s preferred treatment of seasonal employees. It simply provides seasonal employers with the clarity needed to assess their obligations under the ACA.

Specifically, the STARS Act:

- *Aligns* the separate definitions of “seasonal” found in statute and in the final regulation to the Treasury Department’s preferred definition from the final regulation on IRC §4980H (six months or less, customary, annual, recurring);
- *Simplifies* the determination of Applicable Large Employer size and the determination of a seasonal employee’s full-time status for the purposes of the ACA’s Employer Shared Responsibility provisions.

Thank you again for introducing the “STARS Act of 2015.” This well-crafted, bipartisan legislation appropriately addresses the unique challenges that seasonal employment poses for small employer compliance with the ACA. By passing STARS, Congress can ensure that small seasonal employers with limited HR capabilities have the tools and understanding necessary to comply with the ACA and to continue to grow their businesses. We look forward to working with you and members of Congress to address the challenges of seasonal employer compliance under the ACA and greatly appreciate your leadership on this issue.

Sincerely,

Accredited Snow Contractors Association
Agricultural Retailers Association
American Farm Bureau Federation
American Honey Producers Association
AmericanHort® (American Horticulture Industry Association)
American Hotel and Lodging Association
American Sugar Cane League
Arizona Farm Bureau
Arkansas Hospitality Association
Associated Builders and Contractors
Associated General Contractors
Associated Landscape Contractors of Colorado
Building Stone Institute
California Association of Winegrape Growers
California Grape and Tree Fruit League
Colorado Arborists & Lawn Care Professionals
Colorado Nursery & Greenhouse Association
Connecticut Association of Theatre Owners
Connecticut Environmental Council, Inc.
Federation of Employers & Workers of America
Florida Farm Bureau Federation
Florida Fruit & Vegetable Association
Florida Nursery, Growers & Landscape Association
Florida Restaurant and Lodging Association
Forest Resources Association Inc.
Georgia Fruit and Vegetable Growers Association
Georgia Restaurant Association
Golf Course Superintendents Association of America
Gulf Citrus Growers Association
Heartland National Association of Theater Owners
Idaho Nursery and Landscape Association
Idaho Lodging & Restaurant Association
Iowa Restaurant Association
Illinois Green Industry Association
Illinois Landscape Contractors Association
Indiana Nursery and Landscape Association
International Association of Fairs and Expositions
International Franchise Association
Kentucky Nursery and Landscape Association
Louisiana Farm Bureau Federation
Maine Innkeepers Association
Maine Landscape and Nursery Association
Maine Restaurant Association
Massachusetts Nursery & Landscape Association, Inc.
Massachusetts Restaurant Association
Michigan Restaurant Association
Mid-America Green Industry Council
Mid-Atlantic National Association of Theater Owners
Minnesota Nursery & Landscape Association
Minnesota Restaurant Association
Missouri Landscape & Nursery Association Motion Picture Exhibitors of
Washington, Alaska and Oregon
Mulch and Soil Council
National Association of College Stores
National Association of RV Parks & Campgrounds
National Association of Theatre Owners
National Association of Theatre Owners of NY State
National Christmas Tree Association
National Club Association
National Council of Agricultural Employers
National Council of Farmer Cooperatives
National Federation of Independent Business
National Hispanic Landscape Alliance
National Onion Association
National Potato Council
National Restaurant Association
National Retail Federation
Virginia Hospitality & Travel Association
Virginia Nursery and Landscape Association
Washington Association of Landscape Professionals
Washington Potato Commission
Washington State Nursery and Landscape Association
Western Growers
Wisconsin Green Industry Federation
Wisconsin Hotel & Lodging Association
Wisconsin Landscape Contractors Association
Yuma Fresh Vegetable Association