The vote was taken by electronic device, and there were—yeas 196, nays 170, not voting 64, as follows:

(Roll No. 671)

YEAS—196

Adams  
Aguilar  
Alford  
Amash  
Axe  
Beatty  
Bera  
Bishop (GA)  
Blumenauer  
Blinken  
Boehncke  
Brooks (AL)  
Brooks (IN)  
Buchanan  
Buck  
Buechler  
Burgess  
Byrne  
Calvert  
Carter (GA)  
Carter (TX)  
Chabot  
Cline  
Comer  
Cook  
Crawford  
Crenshaw  
Curtis  
Davis (GA)  
Davis, Rodney  
DeSaulnier  
DeWayne  
DeLauro  
DeLauro (CT)  
Delgado  
Delgado (NY)  
DeSaulnier (CA)  
Dingell  
Dodd  
Doyle  
Engel  
Espaillat  
Engel  
Evans  
Fleming  
Frankel  
Francisco  
Gallego  
Garamendi  
Garcia (CA)  
Garcia (TX)  
Garcia (NY)  
Garrison  
Gosar  
Graves (MO)  
Graves (LA)  
Granger  
Gosar  
Gooden  
Grucci  
Gunderson  
Crawford  
Crenshaw  
Curtis  
Davis (GA)  
Davis, Rodney  
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Garcia (NY)  
Garrison  
Gosar  
Graves (MO)  
Gosar  
Gooden  
Grucci  
Gunderson  

NAYS—170

Abraham  
Amodei  
Armstrong  
Arrington  
Babin  
Baird  
Balakrishna  
Balderson  
Banks  
Barr  
Bergman  
Biggs  
Bilirakis  
Bishop (NC)  
Bishop (UT)  
Brooks (AL)  
Brooks (IN)  
Buchanan  
Buck  
Buechler  
Burgess  
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Carter (TX)  
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Garcia (TX)  
Garcia (NY)  
Garrison  
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Graves (MO)  
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Graves (MO)  
Gosar  
Gooden  
Grucci  
Gunderson  

FARM WORKFORCE MODERNIZATION ACT OF 2019

Mr. NADLER. Mr. Speaker, pursuant to House Resolution 758, I call up the bill (H.R. 5038) to amend the Immigration and Nationality Act to provide for
Sec. 1. Short title; table of contents.

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

follows:

The text of the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 5008

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Farm Workforce Modernization Act of 2019”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLES I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Temporary Status for Certified Agricultural Workers

Sec. 101. Certified agricultural worker status.

Sec. 102. Terms and conditions of certified status.

Sec. 103. Extensions of certified status.

Sec. 104. Determination of continuous presence.

Sec. 105. Employer obligations.

Sec. 106. Administrative and judicial review.

Subtitle B—Optional Earned Residence for Long-Term Workers

Sec. 111. Optional adjustment of status for long-term agricultural workers.

Sec. 112. Payment of taxes.

Sec. 113. Adjudication and decision; review.

Subtitle C—General Provisions

Sec. 121. Definitions.

Sec. 122. Application fees, including the required processing fees.

Sec. 123. Background checks.

Sec. 124. Protection for children.

Sec. 125. Limitation on removal.

Sec. 126. Documentation of agricultural work history.

Sec. 127. Employer protections.

Sec. 128. Correction of social security records.

Sec. 129. Disclosures and privacy.

Sec. 130. Penalties for false statements in applications.

Sec. 131. Dissemination of information.

Sec. 132. Exemption from numerical limitations.

Sec. 133. Reports to Congress.

Sec. 134. Grant program to assist eligible applicants.

Sec. 135. Authorization of appropriations.

TITLES II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

Subtitle A—Reforming the H-2A Temporary Work Program

Sec. 201. Comprehensive and streamlined electronic h-2a platform.

Sec. 202. H-2a program requirements.

Sec. 203. Agency roles and responsibilities.

Sec. 204. Worker protection and compliance.

Sec. 205. Report on wage protections.

Sec. 206. Portable h-2a visa pilot program.

Sec. 207. Improving access to permanent residence.

Subtitle B—Preservation and Construction of Farmworker Housing

Sec. 220. Short title.

Sec. 221. Permanent establishment of housing preservation and revitalization program.

Sec. 222. Eligibility for rural housing vouchers.

Sec. 223. Amount of voucher assistance.

Sec. 224. Rental assistance contract authority.

Sec. 225. Funding for multifamily technical improvements.

Sec. 226. Plan to improve affordability of rental projects.

Sec. 227. Covered housing programs.

Sec. 228. New farmworker housing.

Sec. 229. Loan and grant limitations.

Sec. 230. Operating assistance subsidies.

Sec. 231. Eligibility of certified workers.

Subtitle C—Foreign Labor Recruiter Accountability

Sec. 251. Registration of foreign labor recruiters.

Sec. 252. Enforcement.

Sec. 253. Appropriations.

Sec. 254. Definitions.

TITLES III—ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY

Sec. 301. Electronic employment eligibility verification system.

Sec. 302. Mandatory electronic verification for the agricultural industry.

Sec. 303. Coordination with E-Verify Program.

Sec. 304. Fraud and misuse of documents.

Sec. 305. Technical and conforming amendments.

Sec. 306. Protection of Social Security Administration programs.

Sec. 307. Report on the implementation of the electronic employment verification system.

Sec. 308. Modernizing and streamlining the employment eligibility verification process.

Sec. 309. Rulemaking and Paperwork Reduction.

TITLES IV—CONSUMER AND WORKER PROTECTIONS

Sec. 401. Worker protections.

Sec. 402. Discrimination.

Sec. 403. Enforcement.

Sec. 404. Interagency coordination.

Sec. 405. Authorization of appropriations.

TITLES V—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 501. Temporary worker programs.

Sec. 502. Non-agricultural work eligibility.

Sec. 503. Enforcement.

Sec. 504. Authorization of appropriations.

TITLES VI—WORKER PROTECTION AND COMPLIANCE

Sec. 601. Worker protection and compliance.

Sec. 602. Enforcement.

Sec. 603. Optimization of existing programs.

Sec. 604. Authorization of appropriations.

TITLES VII—ENHANCED PENALTY PROVISIONS

Sec. 701. Criminal penalties.

Sec. 702. Civil penalties.

Sec. 703. Authorization of appropriations.

TITLES VIII—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 801. Temporary worker programs.

Sec. 802. Non-agricultural work eligibility.

Sec. 803. Enforcement.

Sec. 804. Authorization of appropriations.

TITLES IX—WELFARE OF CHILDREN

Sec. 901. Children’s welfare.

Sec. 902. Eligibility.

Sec. 903. Enforcement.

Sec. 904. Authorization of appropriations.

TITLES X—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1001. Temporary worker programs.

Sec. 1002. Non-agricultural work eligibility.

Sec. 1003. Enforcement.

Sec. 1004. Authorization of appropriations.

TITLES XI—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1101. Temporary worker programs.

Sec. 1102. Non-agricultural work eligibility.

Sec. 1103. Enforcement.

Sec. 1104. Authorization of appropriations.

TITLES XII—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1201. Temporary worker programs.

Sec. 1202. Non-agricultural work eligibility.

Sec. 1203. Enforcement.

Sec. 1204. Authorization of appropriations.

TITLES XIII—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1301. Temporary worker programs.

Sec. 1302. Non-agricultural work eligibility.

Sec. 1303. Enforcement.

Sec. 1304. Authorization of appropriations.

TITLES XIV—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1401. Temporary worker programs.

Sec. 1402. Non-agricultural work eligibility.

Sec. 1403. Enforcement.

Sec. 1404. Authorization of appropriations.

TITLES XV—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1501. Temporary worker programs.

Sec. 1502. Non-agricultural work eligibility.

Sec. 1503. Enforcement.

Sec. 1504. Authorization of appropriations.

TITLES XVI—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1601. Temporary worker programs.

Sec. 1602. Non-agricultural work eligibility.

Sec. 1603. Enforcement.

Sec. 1604. Authorization of appropriations.

TITLES XVII—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1701. Temporary worker programs.

Sec. 1702. Non-agricultural work eligibility.

Sec. 1703. Enforcement.

Sec. 1704. Authorization of appropriations.

TITLES XVIII—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1801. Temporary worker programs.

Sec. 1802. Non-agricultural work eligibility.

Sec. 1803. Enforcement.

Sec. 1804. Authorization of appropriations.

TITLES XIX—IMMIGRATION AND THE AGRICULTURAL INDUSTRY

Sec. 1901. Temporary worker programs.

Sec. 1902. Non-agricultural work eligibility.

Sec. 1903. Enforcement.

Sec. 1904. Authorization of appropriations.
(A) Evidence of Application—As soon as practicable after receiving an application for certified agricultural worker status, the Secretary shall provide the applicant with a document acknowledging the receipt of the application. Such document shall serve as interim proof of the alien’s authorization to accept employment in the United States and shall be accepted by the alien and removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for certified agricultural worker status.

(C) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(D) may not be considered an unauthorized alien (as defined in section 274a(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(E) with respect to providing the alien with a document acknowledging the receipt of the application for certified agricultural worker status, if the alien—

(A) submits a completed application, including supporting documentation and fees that were missing from the initial application, and

(B) is not subject to the rules applicable to ineligibility or the deficiencies in the evidence submitted.

(4) WAIVER FOR LATE FILINGS.—The Secretary may waive an alien’s failure to timely file an application for certified agricultural worker status under subsection (a) of section 101(b) if the alien—

(A) except as provided in section 126(c), has performed agricultural labor or services in the United States for at least 75 hours (or 100 work days) during the prior five years in which the alien held certified agricultural worker status; and

(B) has not become ineligible for certified agricultural worker status under section 101(b).

(5) Documentation.—In addition to any other evidence required by the Secretary, an application for certified agricultural worker status shall contain the following:

(A) documentary evidence of such status to the applicant; and

(B) documentary evidence of certified agricultural dependent status to any qualified dependent included on such application.

(2) Deportation.—In addition to any other factors that the Secretary may prescribe, the documentary evidence described in paragraph (1)–

(A) shall be machine-readable and tamper-resistant;

(B) shall contain a digitized photograph;

(C) shall serve as a valid travel and entry document for purposes of applying for admission to the United States; and

(D) shall be accepted during the period of its validity by an employer as evidence of employment authorization.

(3) Waiver.—If the Secretary is satisfied that the period of five and one-half years has not been met by the alien, the Secretary may extend the period of five and one-half years for a further period of five and one-half years if the alien—

(A) demonstrates that the period of agricultural labor or services set forth in paragraph (1) is not met because of a temporary purpose for the duration of their status, except that such aliens—

(1) shall be ineligible for Federal means-tested public benefits to the same extent as other individuals who are not qualified aliens under section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641); (2) are entitled to the same benefits as aliens who are not qualified aliens under section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641);

(3) shall be subject to the rules applicable to individuals who are not lawfully present set forth in subsection (a) of section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)); and

(4) shall be subject to the rules applicable to individuals who are not lawfully present set forth in section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)).

(3) Extending Status.—As soon as practicable after receipt of an application to extend such status under subsection (a) of section 101(b), the Secretary shall issue a document to the alien acknowledging the receipt of such application and the opportunity to provide evidence in support of the proposed extension.

(4) Determination.—The Secretary shall provide the alien with—

(A) written notice that describes the basis for ineligibility or the deficiencies in the evidence submitted; and

(B) at least 90 days to contest ineligibility or submit additional evidence.

(5) Method of Decision.—The Secretary shall provide the alien with a document acknowledging the receipt of the application to extend such status under subsection (a) of section 101(b), and shall be subject to the rules applicable to individuals who are not lawfully present set forth in subsection (a) of section 101(b).
SEC. 104. DETERMINATION OF CONTINUOUS PRESENCE.

(a) EFFECT OF NOTICE TO APPEAR.—The continuous presence in the United States of an applicant for long-term agricultural worker status under section 101 shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraph (2) and (3), an alien shall be considered to have failed to maintain continuous presence in the United States under this subtitle if the alien departed the United States for any period exceeding 90 days, or for any periods, in the aggregate, exceeding 180 days.

(2) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances for which the alien was not responsible.

(3) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary shall not be counted toward any period of departure from the United States under paragraph (1).

SEC. 105. EMPLOYER OBLIGATIONS.

(a) RECORD OF EMPLOYMENT.—An employer of an alien in certified agricultural worker status shall provide such alien with a written record of employment each year during which the alien provides agricultural labor or services to such employer.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—If the Secretary determines, after notice and a hearing, that an employer of an alien in certified agricultural worker status has knowingly failed to provide the record of employment required under subsection (a), or has provided a false statement of information with respect to such a record, the employer shall be subject to a civil penalty in an amount not to exceed $500 per violation.

(2) LIMITATION.—The penalty under paragraph (1) shall not apply unless the amount of the penalty is 50 percent or more of the amount of any entire tax liability.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for certified agricultural worker status under this subtitle, an application to extend such status, or revocation of such status.

(b) ADMISSIBILITY IN IMMIGRATION COURT.—Each record of an alien’s application for certified agricultural worker status under this subtitle, an application to extend such status, or revocation of such status, and each record created pursuant to the administrative review process under subsection (a) is admissible in immigration court, and shall be included in the administrative record.

(c) JUDICIAL REVIEW.—Notwithstanding any other provision of law, judicial review of the Secretary’s decision on an application for certified agricultural worker status, an application to extend such status, or the decision to revoke such status, shall be limited to the review of an agency action, as defined in section 551(12) of title 5, United States Code, of the Immigration and Nationality Act (8 U.S.C. 1252).

Subtitle B—Optional Earned Residence for Long-term Workers

SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-TERM AGRICULTURAL WORKERS.

(a) REQUIREMENTS FOR ADJUSTMENT OF STATUS.—

(1) PRINCIPAL ALIENS.—The Secretary may adjust the status of an alien in certified agricultural worker status to that of a lawful permanent resident if the alien submits a completed application, including the required processing and penalty fees, and the Secretary determines that—

(A) except as provided in section 212(c), the alien performed agricultural labor or services for at least 575 hours (or 100 work days) each year—

(i) for at least 10 years prior to the date of the enactment of this Act and for at least 4 years in certified agricultural worker status; or

(ii) for fewer than 10 years prior to the date of the enactment of this Act and for at least 8 years in certified agricultural worker status; and

(B) the alien has not become ineligible for certified agricultural worker status under section 101(b).

(2) DEPENDENT ALIENS.—

(A) IN GENERAL.—The spouse and each child of an alien described in paragraph (1) whose status has been adjusted to that of a lawful permanent resident may be granted lawful permanent resident under this subtitle if—

(i) the qualifying relationship to the principal alien existed on the date such alien was granted adjustment of status under this subtitle; and

(ii) the spouse or child is not ineligible for certified agricultural worker dependent status under section 101(b).

(B) PROTECTIONS FOR SPOUSES AND CHILDREN.—The Secretary shall establish procedures to allow an alien to file an application for adjustment of status under this subtitle on behalf of his or her spouse or child.

(2) DETERMINATION OF WORK HISTORY.—An applicant for adjustment of status under this section shall be required to resubmit evidence of work history that has been previously submitted to the Immigration and Naturalization Service in support of an application for adjustment of status under this subtitle.

(3) APPLICABLE FEDERAL TAX LIABILITY.—The alien has not been granted adjustment of status under this Act or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 112. PAYMENT OF TAXES.

(a) IN GENERAL.—An alien may not be granted adjustment of status under this subtitle unless the applicant has satisfied any applicable Federal tax liability.

(b) COMPLIANCE.—An alien may demonstrate compliance with subsection (a) by submitting such documentation as the Secretary, in consultation with the Secretary of the Treasury, may require by regulation.

SEC. 113. ADJUDICATION AND DECISION; REVIEW.

(a) IN GENERAL.—Notwithstanding the requirements of section 123, the Secretary shall render a decision on an application for adjustment of status under this subtitle not later than 180 days after the date on which the application is filed.

(b) NOTICE.—Prior to denying an application for adjustment of status under this subtitle, the Secretary shall provide the alien with written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(c) JUDICIAL REVIEW.—Notwithstanding any other provision of law, judicial review of a denial of an application for adjustment of status under this title in an appropriate United States district court.

Subtitle C—General Provisions

SEC. 111. DEFINITIONS.

In this title:

(1) IN GENERAL.—Except as otherwise provided, any term used in this title that is used in the Immigration laws shall have the meaning given such term in those laws (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(2) AGRICULTURAL LABOR OR SERVICES.—The term “agricultural labor or services” means—

(A) agricultural labor or services as such term is used in section 101(a)(15)(H)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(I)), without regard to whether the labor or services are of a seasonal or temporary nature; and

(B) agricultural labor or services as such term is defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1902), without regard to whether the specific seasonal or temporary nature; and

(3) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability” means...
all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986 beginning on the date on which the applicant was authorized to work in the United States.

(4) APPROPRIATE UNITED STATES DISTRICT COURT.—The term ‘‘appropriate United States district court’’ means the United States District Court for the District of Columbia or any other United States district court with jurisdiction over the alien’s principal place of residence.

(5) CHILD.—The term ‘‘child’’ has the meaning given in section 101(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(6) UNCONVICTED OR CONVICTED.—The term ‘‘convicted’’ or ‘‘conviction’’ does not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

(7) EMPLOYER.—The term ‘‘employer’’ means any person or entity, including any labor contractor or any agricultural association, that employs workers in agricultural labor or services.

(8) QUALIFIED Designated Entity.—The term ‘‘qualified designated entity’’ means—

(A) a qualified farm labor organization or an association of employers designated by the Secretary; or

(B) any other entity that the Secretary designates to conduct an efficient, comprehensive, and demonstratory examination of the alien’s work history and that has a demonstrated competence, and a history of long-term involvement in the preparation and submission of application for adjustment of status under this subchapter.

(9) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Homeland Security.

(10) WORK DAY.—The term ‘‘work day’’ means any day in which the individual is employed 5.75 or more hours in agricultural labor or services.

SEC. 122. RULEMAKING; FEES.

(a) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, an interim final rule implementing this title. Notwithstanding section 553 of title 5, United States Code, the rule shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for comment. The Secretary shall finalize such rule not later than 1 year after the date of the enactment of this Act.

(b) FEES.—

(1) IN GENERAL.—The Secretary may require an alien applying for any benefit under this title to pay a reasonable fee that is commensurate with the cost of processing the application.

(2) FEE WAIVER; INSTALLMENTS.—

(A) The Secretary shall establish procedures to allow an alien to—

(i) request a waiver of any fee that the Secretary may assess under this title if the alien demonstrates to the satisfaction of the Secretary that the alien is unable to pay the prescribed fee;

(ii) pay any fee or penalty that the Secretary may assess under this title in installment payments.

(B) CLARIFICATION.—Nothing in this section shall be read to prohibit an employer from paying any fee or penalty that the Secretary may assess under this title on behalf of an alien and the alien’s spouse or children.

SEC. 123. BACKGROUND CHECKS.

(a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant or extend certified agricultural worker or certified agricultural dependent status under subtitle A, or grant adjustment of status to that of a lawful permanent resident under subtitle B, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative means of identification for aliens who cannot provide all required biometric or biographic data because of a physical impairment.

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks. The Secretary shall ensure that there is any criminal, national security, or other factor that would render the alien ineligible for status under this title. An alien may not be granted any status under this title unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

SEC. 124. PROTECTION FOR CHILDREN.

(a) IN GENERAL.—In General.—(1) In General.—(A) The Secretary may, in his discretion, provide in subsection (b), for purposes of eligibility for certified agricultural dependent status or lawful permanent resident status under this title, a determination of whether the child is a child of an alien who was unable to work in the United States if the alien was unable to perform the required agricultural labor or services due to—

(A) pregnancy, illness, disease, disabling injury, or physical limitation of the alien; or

(B) injury, illness, disease, or other special needs of the alien’s child;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services; or

(D) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(2) EFFECT OF DETERMINATION.—A determination under paragraph (1)(D) shall not be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or proceeding between the alien and a current or prior employer of the alien or any party.

(b) LIMITATION.—Subsection (a) shall apply for no more than 10 years after the date on which the initial application for certified agricultural worker status is filed with the Secretary of Homeland Security.

(c) EXCEPTION FOR EXTRAORDINARY CIRCUMSTANCES.—

(1) IN GENERAL.—In determining whether an alien has met the requirements under section 103(a)(1)(A) or 111(a)(1)(A), the Secretary may credit the alien with not more than 357 hours (or 100 work days) of agricultural labor or services in the United States if the alien was unable to perform the required agricultural labor or services due to—

(A) pregnancy, illness, disease, disabling injury, or physical limitation of the alien; or

(B) injury, illness, disease, or other special needs of the alien’s child;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services; or

(D) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(a) IN GENERAL.—An alien who appears to the Secretary to be prima facie eligible for status under this title shall be granted the benefit to apply for such status. Such an alien may not be placed in removal proceedings or removed from the United States until a final administrative decision establishing eligibility for such status is rendered.

(b) ALIENS IN REMOVAL PROCEEDINGS.—Notwithstanding any other provision of the law, the Attorney General shall (upon motion by the Secretary with the consent of the alien, or motion by the alien) terminate removal proceedings, without prejudice against an alien who appears to be prima facie eligible for status under this title, and provide such alien a reasonable opportunity to apply for such status.

(c) EFFECT OF FINAL ORDER.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for status under this title. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal to establish eligibility for status under this title.

(d) EFFECT OF DEPARTURE.—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien who departs from the United States if the alien was unable to work in the United States if the alien was unable to perform the required agricultural labor or services due to—

(A) pregnancy, illness, disease, disabling injury, or physical limitation of the alien; or

(B) injury, illness, disease, or other special needs of the alien’s child;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services; or

(D) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(2) EFFECT OF DETERMINATION.—A determination under paragraph (1)(D) shall not be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or proceeding between the alien and a current or prior employer of the alien or any party.

(2) EMPLOYER PROTECTIONS.

(a) CONTINUING EMPLOYMENT.—An employer that continues to employ an alien knowing that the alien intends to apply for certified agricultural worker status or adjustment of status under subtitle A shall not violate section 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(2)) by employing an alien who has been or is employed in the United States if the alien was unable to perform the required agricultural labor or services due to—

(A) pregnancy, illness, disease, disabling injury, or physical limitation of the alien; or

(B) injury, illness, disease, or other special needs of the alien’s child;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services; or

(D) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(2) USE OF EMPLOYMENT RECORDS.—Copies of employment records or other evidence of employment provided by an alien, but not by an employer in support of an alien’s application for certified agricultural worker or adjustment of status under this title may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) or the Internal Revenue Code of 1986 for the prior unavailability of employment or the duration of the application period under section 101(c), and with respect to an alien who applies for certified agricultural status, for the duration of the period during which the alien’s application is pending final determination.

(b) USE OF EMPLOYMENT RECORDS.—Copies of employment records or other evidence of employment provided by an alien, but not by an employer in support of an alien’s application for certified agricultural worker or adjustment of status under this title may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) or the Internal Revenue Code of 1986 for the prior unavailability of employment or the duration of the application period under section 101(c), and with respect to an alien who applies for certified agricultural status, for the duration of the period during which the alien’s application is pending final determination.

(c) ADDITIONAL PROTECTIONS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment in support of an application for certified agricultural worker status or adjustment of status under this title shall not be subject to civil or criminal liability pursuant to section 274A for employing such unauthorized aliens. Records or other evidence of employment provided by employers in response to a request for information establishing eligibility for status under this title may not be used for any purpose other than establishing such eligibility.

SEC. 127. PROTECTION ON PROTECTION.—The protections for employers under this section shall not apply if the employer provides employment
records to the alien that are determined to be fraudulent.

SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS; CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "or" at the end;

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:—

"(D) who is granted certified agricultural worker status, certified agricultural dependent status, or cultural dependent status under title I of the Farm Work Modernization Act of 2019,"; and

(4) in the undesignated matter following subparagraph (D), as added by paragraph (3), by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted status under title I of the Farm Work Modernization Act of 2019."

(b) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 210(a)(1) of the Social Security Act (42 U.S.C. 410(a)(1)) is amended by inserting before the semicolon the following:—

"(other than aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the Farm Work Modernization Act of 2019)."

(2) INTERNAL REVENUE CODE OF 1986.—Section 3131(b)(4) of the Internal Revenue Code of 1986 is amended by inserting before the semicolon the following:—

"(other than aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the Farm Work Modernization Act of 2019)."

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to service performed after the date of the enactment of this Act.

(d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECURITY ACCOUNT NUMBERS.—Section 209(c)(2)(B) of the Social Security Act (42 U.S.C. 409(c)(2)(B)) is amended by adding at the end the following:

"(iv) the Commissioner of Social Security shall, to the extent practicable, coordinate with the Secretary of the Department of Homeland Security to implement an automated system for the Commissioner to assign social security account numbers and a social security card from the Commissioner through such system. The Secretary shall collect and provide to the Commissioner such information as the Commissioner deems necessary to identify applicants for social security cards.

(II) computerized data held by the Commissioner by virtue of the provisions of Federal law. The Commissioner may maintain, use, and disclose such information only as permitted by the Privacy Act and other Federal law."

SEC. 129. DISCLOSURES AND PRIVACY.

(a) IN GENERAL.—The Secretary may not disclose or use information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during administrative or judicial review) for the purpose of immigration enforcement.

(b) REFERRALS PROHIBITED.—The Secretary, based solely on information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during administrative or judicial review), may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) EXCEPTIONS.—Notwithstanding subsections (a) and (b), information provided in an application for certified agricultural worker status or adjustment of status under this title may be shared with Federal security and law enforcement agencies:

(1) for assistance in the consideration of an application for this title;

(2) to identify or prevent fraudulant claims or schemes;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony not related to immigration status.

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(e) PRIVACY.—The Secretary shall ensure that appropriate administrative and physical safeguards of security, confidentiality, and integrity of personally identifiable information collected, maintained, and disseminated under this title.

SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.

(a) CRIMINAL PENALTY.—Any person who—

(1) files an application for certified agricultural worker status or adjustment of status under this title and knowingly falsifies, conceals, or coerces up a material fact or makes any false, fictitious, or fraudulent statements or representations or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry;

(2) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(b) INADMISSIBILITY.—An alien who is convicted under subsection (a) shall be deemed inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(c) DEPORTATION.—Fines collected under subsection (a) shall be deposited in the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

SEC. 131. DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Beginning not later than the first day of the application period described in section 101(c)—

(1) the Secretary of Homeland Security, in cooperation with qualified designated entities, shall broadly disseminate information described in subsection (b); and

(2) the Secretary of Agriculture, in consultation with the Secretary of Homeland Security, shall disseminate to agricultural employers a document containing the information described in subsection (b) for posting at employer work sites.

(b) INFORMATION DESCRIBED.—The information described in this subsection shall include—

(1) the benefits that aliens may receive under this title; and

(2) the requirements that an alien must meet to receive such benefits.

SEC. 132. EXEMPTION FROM NUMERICAL LIMITATIONS.

The numerical limitations under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) shall not apply to the adjustment of status under this title, and such aliens shall not be counted toward any such numerical limitation.

SEC. 133. REPORTS TO CONGRESS.

Not later than 180 days after the publication of the final rule under section 122(a), and annually thereafter for the following 10 years, the Secretary shall submit to Congress a report that identifies, for the previous fiscal year—

(1) the number of principal aliens who applied for certified agricultural worker status under subtitle A, and the number of dependent spouses and children included in such applications;

(2) the number of principal aliens who were granted certified agricultural worker status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status;

(3) the number of principal aliens who applied for an extension of their certified agricultural worker status under subtitle A, and the number of dependent spouses and children included in such applications;

(4) the number of principal aliens who were granted an extension of certified agricultural worker status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status under such an extension;

(5) the number of principal aliens who applied for adjustment of status under subtitle B, and the number of dependent spouses and children included in such applications;

(6) the number of principal aliens who were granted lawful permanent agricultural status under subtitle B, and the number of spouses and children who were granted such status as dependents;

(7) the number of principal aliens included in petitions described in section 101(e), and the number of dependent spouses and children included in such applications; and

(8) the number of principal aliens who were granted H-2A status pursuant to petitions described in section 101(e), and the number of dependent spouses and children who were granted H-4 status.

SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants, on a competitive basis, to eligible nonprofit organizations to assist eligible applicants under this title by providing them with the services described in subsection (c).

(b) ELIGIBLE NONPROFIT ORGANIZATION.—For purposes of this section, the term ‘eligible nonprofit organization’ means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (excluding a recipient of funds under title X of the Economic Opportunity Act of 1964 (42 U.S.C. 1066) that has demonstrated qualifications, experience, and expertise in providing quality services to farm workers or aliens).

(c) USE OF FUNDS.—Grant funds awarded under this section may be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of certified agricultural worker status authorized under this title; and

(2) assistance, within the scope of authorized practice of immigration law, to individuals applying for adjustment of status under this title, including—

(a) screening prospective applicants to assess their eligibility for such status;

(b) completing applications, including providing assistance in obtaining necessary documents and supporting evidence; and

(c) providing any other assistance that the Secretary determines useful to assist aliens in applying for certified agricultural worker status or adjustment of status under this title.

(d) SOURCE OF FUNDS.—In addition to any funds appropriated to carry out this section, the Secretary may use up to $10,000,000 from the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to carry out this section.
TITLES AND OTHER MATTERS.

SEC. 201. COMPREHENSIVE AND STREAMLINED ELECTRONIC H–2A PLATFORM.

(a) STREAMLINED H–2A PLATFORM. —

(1) IN GENERAL. — Not later than 12 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and United States Digital Service, shall ensure the establishment of an electronic platform through which petitions for an H–2A worker may be filed. Such platform shall—

(A) serve as a single point of access for an employer to input all information and supporting documentation required for obtaining labor certification from the Secretary of Labor and the adjudication of the H–2A petition by the Secretary of Homeland Security;

(B) as a single point of access for the Secretary of Homeland Security, the Secretary of Labor, and State workforce agencies to concurrently perform their respective review and adjudicatory responsibilities in the H–2A process;

(C) facilitate communication between employers and applicants, including by allowing employers to—

(i) receive and respond to notices of deficiency and requests for information;

(ii) submit requests for inspections and licensing;

(iii) receive notices of approval and denial; and

(iv) request reconsideration or appeal of agency decisions; and

(D) provide information to the Secretary of State, the Attorney General, and Under Secretary for Terrorism and State Security necessary for the efficient and secure processing of H–2A visas and applications for admission.

(b) OBJECTIVES. — In developing the platform described in subsection (a), the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and United States Digital Service, shall streamline and improve the H–2A process, including by—

(A) eliminating the need for employers to submit duplicate information and documentation to multiple agencies;

(B) eliminating redundant processes, where a single matter in a petition is adjudicated by more than one agency;

(C) reducing the occurrence of common petition errors, and otherwise improving and expediting the processing of H–2A petitions; and

(D) ensuring compliance with H–2A program requirements and the protection of the wages and working conditions of workers.

(2) NONDISPLACEMENT OF UNITED STATES WORKERS. — The employer shall establish a separate job opportunity. Such posting shall remain on the job registry as an active job order through the period described in paragraph (2)(B).

(3) PROVISION OF WAGES AND WORKING CONDITIONS. — The employer shall—

(A) provide for public access of job orders approved under section 218(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1188); and

(B) make reasonable efforts to contact any United States worker to offer substantially equivalent wages and working conditions.

(4) WORKER HIRING AND PROTECTION. — The employer shall—

(A) provide such employers with access to the national, publicly-accessible online job registry in every State, and database of all job orders submitted by H–2A employers.

(b) REGULATIONS. — The Secretary of Labor shall—

(1) be searchable using relevant criteria, including the types of jobs needed to be filled, the date(s) and location(s) of need, and the employers making the offer; and

(2) provide an interface for workers in English, Spanish, and any other language that the Secretary of Labor determines to be appropriate; and

(3) provide for public access of job orders approved under section 218(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1188) is amended to read as follows:

"SEC. 218. ADMISSION OF TEMPORARY H–2A WORKERS.

(1) Labor Certification Conditions. — The Secretary of Homeland Security may not approve a petition for an H–2A worker unless the Secretary of Labor has certified that—

(a) there are not sufficient United States workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the agricultural labor or services described in the petition; and

(b) the employment of the H–2A worker in such labor or services will not adversely affect the wages and working conditions of workers in the United States who are similarly employed.

(2) H–2A PETITION REQUIREMENTS. — An employer filing a petition for an H–2A worker to perform agricultural labor or services shall attest to and demonstrate compliance, as and when appropriate, with all applicable requirements under this section, including the following:

(A) need for labor or services. — The employer has demonstrated a need for agricultural labor or services in a job order that includes a description of the nature and location of the work to be performed, the anticipated period or periods (expected start and end dates) for which the workers will be needed, and the number of job opportunities in which the employer seeks to employ the workers.

(B) non-displacement of United States workers. — The employer has not and will not displace United States workers employed by the employer during the period of employment of the H–2A worker and during the 90-day period immediately preceding such period of employment in the job for which the employer seeks approval to employ the H–2A worker.

(C) strike or lockout. — Each place of employment described in the petition is not, at the time of filing the petition and until the petition is approved, subject to a strike or lockout in the course of a labor dispute.

(D) recruitment of United States workers. — The employer shall engage in the recruitment of United States workers as described in subsection (b)(4). During the period of recruitment, the employer shall maintain a recruitment report through the applicable State workers’ compensation law.

(E) workers’ compensation. — If the job opportunity is not covered by or is exempt from the workers’ compensation law, the employer shall provide, at no cost to the worker, insurance covering the employee and dependents arising out of, and in the course of, the employee’s employment which will provide benefits at least equal to those provided under the State workers’ compensation laws.

(F) compliance with labor and employment laws. — The employer shall comply with all applicable Federal, State and local employment-related laws and regulations.

(G) compliance with foreign labor recruitment laws. — The employer shall comply with the Labor Certification Act of 1990 and the Farm Workforce Modernization Act of 2019.

(H) recruiting requirements. —

(i) IN GENERAL. — The employer may satisfy the recruiting requirement described in subsection (b)(4) by satisfying all of the following:

(A) Job Order. — As provided in subsection (h)(1), the employer shall complete a job order for posting on the electronic job registry maintained by the Secretary of Labor and for distribution by the appropriate State workforce agency.

(B) Former Workers. — At least 45 days before each start date identified in the petition, the employer shall—

(i) make reasonable efforts to contact any United States worker employed by the employer in the previous year in the same occupation and area of intended employment for which an H–2A worker is sought (excluding workers who were terminated for cause or abandoned the workplace), and

(ii) post such job opportunity in a conspicuous location or locations at the place of employment.

(ii) positive recruitment. — During the period of recruitment, the employer shall complete any other positive recruitment steps within a multi-State region of traditional or expected labor supply where there are likely to be sufficient United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed.

(i) Period of Recruitment. —

(A) In General. — For purposes of this subsection, the period of recruitment begins on the date on which the job order is posted on the online job registry and ends on the date that H–2A workers depart for the employer’s place of employment. For a petition involving more than 1 start date under subsection (h)(1)(C), the end of the period of recruitment shall be determined by the date of departure of the H–2A workers for the final start date identified in the petition.

(B) Requirement to Hire US Workers. —

(i) In General. — Notwithstanding the limitations of subparagraph (A), the employer may satisfy the employment requirements under this Act by employing a United States worker who applies to the employer for any job opportunity included in the petition until the later of—

(I) the date that is 30 days after the date on which work begins; or

(II) the date on which—

(aa) 33 percent of the work contract for the job opportunity has elapsed; or

(bb) if the employer is a labor contractor, 50 percent of the work contract for the job opportunity has elapsed.

(iii) Exempted Entry. — For a petition involving more than 1 start date under subsection (h)(1)(C), each start date designated in the petition shall be the start date established for the job opportunity. An employer may not reject a United States worker because the worker is unable or unwilling to fill more than 1 job opportunity included in the petition.

(iv) Exceptions. — Notwithstanding clause (i), the employer may offer a job opportunity to an H–2A worker instead of an alien granted certification as an agricultural worker under title C of the Farm Workforce Modernization Act of 2019 if the H–2A worker was employed by the employer in each of the 3 years during the most recent 4 years.

(ii) Recruitment Report. —

(A) In General. — The employer shall maintain a recruitment report through the applicable State workers’ compensation law and in the course of, the worker’s employment which will provide benefits at least equal to those provided under the State workers’ compensation laws.
shall retain the recruitment report, and all associated recruitment documentation, for a period of 3 years from the date of certification.

(B) BURDEN OF PROOF.—If the employer asserts that an individual who applied or was referred is not able, willing, or qualified, the employer bears the burden of proof to establish that the individual is not able, willing, or qualified due to a lawful, employment-related reason.

(2) WAGE REQUIREMENTS.—

(A) IN GENERAL.—Each employer under this section shall pay the worker, during the period of authorized employment, wages that are at least the great of—

(1) the agreed-upon collective bargaining wage;

(2) the adverse effect wage rate (or any successor wage established under paragraph (7));

(3) the prevailing wage (hourly or piece rate); or

(4) the Federal or State minimum wage.

(B) ADVERSE EFFECT WAGE RATE DETERMINATIONS.

(A) IN GENERAL.—Except as provided under subparagraph (B), the applicable adverse effect wage rate for each State and occupational classification for a calendar year shall be as follows:

(i) The national annual average hourly wage for the occupational classification as reported by the Secretary of Labor based on a wage survey conducted by such Secretary, for which recruitment efforts have commenced at the time of petition filing; or

(ii) If a wage described in clause (i) is not reported, the national annual average hourly wage for the standard occupational classification, as recommended by the Secretary of Labor based on a wage survey conducted by such Secretary.

(B) LIMITATIONS ON WAGE FLUCTUATIONS.

(1) WAGE FREEZE FOR CALENDAR YEAR 2020.—For calendar year 2020, the adverse effect wage rate for each State and occupational classification that was in effect for H–2A workers in the applicable State in calendar year 2019 shall remain in effect through calendar year 2020.

(ii) CALENDAR YEARS 2021 THROUGH 2029.—For each calendar year following 2020, for purposes of paragraph (1), the Secretary of Labor shall determine an updated adverse effect wage rate and the prevailing wage rate guaranteed in any approved job order for each applicable wage area or standard occupational classification.

(3) PUBLICATION; WAGES IN EFFECT.—(A) PUBLICATION.—Prior to the start of each calendar year, the Secretary of Labor shall publish the applicable adverse effect wage rate or prevailing wage for a State and occupational classification.

(4) PUBLICATION; WAGES IN EFFECT.—(A) PUBLICATION.—Prior to the start of each calendar year, the Secretary of Labor shall publish the applicable adverse effect wage rate or prevailing wage for a State and occupational classification.

(5) WORKERS PAID ON A PIECE RATE OR OTHER INCENTIVE BASIS.—(A) IN GENERAL.—When the employer pays by the piece rate or other incentive method and requires 1 or more minimum productivity standards as a condition of job retention, such standards shall be the wage rate guaranteed in any approved job order for which recruitment efforts have commenced at the time of petition filing.

(B) IN GENERAL.—In conducting the study under subsection (A) and preparing the report under subparagraph (B), the Secretary of Agriculture and Secretary of Labor shall consult with representatives of agricultural employers and an equal number of representatives of agricultural workers, at the national, State and local level.

(6) WAGE DETERMINATION AFTER 2029.—Upon publication of the report described in subparagraph (B), the Secretary of Labor, in consultation with and the approval of the Secretary of Agriculture, shall make a rule to establish a process for annually determining the wage rate for purposes of paragraph (1)(B) for fiscal years after 2029. Such process shall be designed to ensure that the employment of H–2A workers does not undermine the wages and working conditions of similarly employed United States farm workers.

(C) HOUSING REQUIREMENTS.—Employers shall furnish housing in accordance with regulations established by the Secretary of Labor. Such regulations shall be consistent with the following:

(1) IN GENERAL.—The employer shall provide the worker with an opportunity to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation.

(2) FAMILY HOUSING.—Except as otherwise provided in subsection (C)(5), the employer shall
provide family housing to workers with families who request it when it is the prevailing practice in the area and occupation of intended employment to provide family housing.

(3) FIRM EMPLOYERS.—Notwithstanding paragraphs (1) and (2), an employer is not required to provide housing to United States workers who are reasonably able to return to their residence within the same day.

(4) TIMING OF INSPECTION.—

(A) IN GENERAL.—The Secretary of Labor shall establish a procedure for—

(i) an employer to request inspection of housing up to 60 days before the date on which the employer will file a petition under this section;

(ii) annual inspection of housing for workers who are engaged in agricultural employment that is not of a seasonal or temporary nature.

(B) TIMELY INSPECTION.—The Secretary of Labor shall by regulation establish a process for—

(i) an employer to request inspection of housing up to 60 days before the date on which the employer will file a petition under this section; and

(ii) a process for transportation and subsistence may be reimbursed by the employer for the cost of the aggregated employment with multiple start dates if—

(I) the petition involves temporary or seasonal employment and no more than 10 start dates;

(II) the need for multiple start dates arises from variations in labor needs associated with the job opportunity identified in the petition;

(III) the labor contractor may file a request for labor certification in clause (ii) unless the labor contractor—

(A) is filing as a joint employer with its association, the denial shall apply only to the association or other member participating in, had knowledge of, or reason to know that the association or other member participated in, had knowledge of, or reason to know of, the violation.

(B) ASSOCIATION'S VIOLATION DOES NOT NECTARISE DISQUALIFICATION OF OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that results in the denial of the requested labor certification under this section, the denial shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

(C) PARTIAL VIOLATION.—A petition for multiple named beneficiaries may be partially approved with respect to eligible beneficiaries notwithstanding the ineligibility, or potential ineligibility, of one or more of the named beneficiaries.

(D) POST-CERTIFICATION AMENDMENTS.—The Secretary of Labor shall provide a process for an application for a labor certification in conjunction with an H-2A petition, subsequent to certification by the Secretary of Labor, in cases in which the requested amendment does not materially change the petition (including the job order).

(E) ROLES OF AGRICULTURAL ASSOCIATIONS.—

(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that results in the denial of the requested labor certification under this section, the denial shall apply only to that member of the association unless the Secretary of Homeland Security determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an association representing agricultural producers as a joint employer is determined to have committed an act that results in the denial of a petition for labor certification by the Secretary of Homeland Security, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.
“(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that results in the denial of a petition with respect to the association, no independent member of such association shall be the beneficiary of the services of H-2A workers in the commodity and occupation in which such aliens were employed by the association without the written consent of the Secretary of Agriculture and Secretary of Homeland Security. Such association may be found to have committed such an act if the Secretary determines that such modifications are required due to the unique nature of the work involved.

(4) any amendments or modifications to the petition by the employer may not file a petition under this section on behalf of a worker if the majority of the worker’s duties will fall within a construction or extraction occupational classification.

(5) SPECIAL PROCEDURES.—The Secretary of Labor, in consultation with the Secretary of Agriculture and Secretary of Homeland Security, may, by regulation establish alternate procedures that reasonably modify program requirements under this section, when the Secretary determines that such modifications are required due to the unique nature of the work involved.

(6) Provisional certification of such workers; and

(7) the actual cost to the worker of the transportation and subsistence involved.

(8) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

(9) FAMILY HOUSING.—An employer seeking to employ an H-2A worker pursuant to this subsection shall offer housing to workers with families if such workers are engaged in agricultural employment that is not of a seasonal or temporary nature. The worker may reject such an offer. The employer may not charge the worker for the housing, unless that the worker accepts family housing, a prorated rent based on the fair market value for such housing may be charged for the worker’s family members.

(10) WORKPLACE SAFETY PLAN FOR DAIRY EMPLOYEES.—

(A) IN GENERAL.—If an employer seeking to employ a worker in agricultural labor or services in the dairy industry pursuant to this subsection, the employer must report incidents consistent with the requirements under section 1904.39 of title 29, Code of Federal Regulations, and maintain an effective worksite safety and compliance plan to prevent workplace accidents and otherwise ensure safety. Such plan shall—

(i) be in writing in English and, to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English; and

(ii) be posted at a conspicuous location at the worksite and provided to employees prior to the commencement of labor or services.

(B) CONTENTS OF PLAN.—The Secretary of Labor, in consultation with the Secretary of Agriculture, shall establish by regulation the minimum requirements for the plan described in subparagraph (A). Such plan shall include measures to—

(i) require workers (other than the employer’s family members) whose positions require contact with animals to receive animal care training, including animal handling and job-specific animal care;

(ii) protect against sexual harassment and violence, and resolve complaints involving harassment or violence, and protect against retaliation against workers reporting harassment or violence; and

(iii) contain other provisions necessary for ensuring workplace safety, as determined by the Secretary of Labor, in consultation with the Secretary of Agriculture.

(C) CLARIFICATION.—Nothing in this paragraph is intended to apply to persons or entities that are not seeking to employ workers under this section. Nothing in this paragraph is intended to limit any State or local authority to promulgate, enforce, or maintain health and safety standards related to the dairy industry.

(D) ELIGIBILITY FOR H-2A STATUS AND ADMISSION TO THE UNITED STATES.—

(I) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States as an H-2A worker pursuant to a petition filed under this section if the alien was admitted to the United States as an H-2A worker within the past 5 years of the date the petition was filed and

(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien’s authorization to engage in the agricultural employment expires and

(B) committed an act involving any other Federal or State authority to promulgate, enforce, or maintain health and safety standards related to the dairy industry.

II. Minors not less than 16 years old may be employed as follows: (A) In agriculture, (B) In forestry, (C) In the processing of agricultural products, (D) In the processing of fish and fish products, (E) In the processing of meat and meat products, (F) In the processing of poultry and poultry products, (G) In the processing of dairy products, (H) In the processing of eggs, (I) In the processing of fruits and vegetables, (J) In the processing of seafood, (K) In the processing of nuts and seeds, (L) In the processing of flowers and plants, (M) In the processing of food for human consumption, (N) In the processing of paper and paper products, (O) In the processing of plastics and rubber products, (P) In the processing of textiles and clothing, (Q) In the processing of leather and furs, (R) In the processing of stone and clay products, (S) In the processing of metal products, (T) In the processing of electrical and electronic products, (U) In the processing of machinery and equipment, and (V) In the processing of other manufactured goods.

III. No minor shall be employed under this section if the minor is less than 16 years old.

IV. No minor shall be employed under this section if the minor is less than 16 years old and if the employment involves any of the following activities: (A) In agriculture, (B) In forestry, (C) In the processing of agricultural products, (D) In the processing of fish and fish products, (E) In the processing of meat and meat products, (F) In the processing of poultry and poultry products, (G) In the processing of dairy products, (H) In the processing of eggs, (I) In the processing of fruits and vegetables, (J) In the processing of seafood, (K) In the processing of nuts and seeds, (L) In the processing of flowers and plants, (M) In the processing of food for human consumption, (N) In the processing of paper and paper products, (O) In the processing of plastics and rubber products, (P) In the processing of textiles and clothing, (Q) In the processing of leather and furs, (R) In the processing of stone and clay products, (S) In the processing of metal products, (T) In the processing of electrical and electronic products, (U) In the processing of machinery and equipment, and (V) In the processing of other manufactured goods.

V. No minor shall be employed under this section if the minor is less than 16 years old and the employment involves any of the following activities: (A) In agriculture, (B) In forestry, (C) In the processing of agricultural products, (D) In the processing of fish and fish products, (E) In the processing of meat and meat products, (F) In the processing of poultry and poultry products, (G) In the processing of dairy products, (H) In the processing of eggs, (I) In the processing of fruits and vegetables, (J) In the processing of seafood, (K) In the processing of nuts and seeds, (L) In the processing of flowers and plants, (M) In the processing of food for human consumption, (N) In the processing of paper and paper products, (O) In the processing of plastics and rubber products, (P) In the processing of textiles and clothing, (Q) In the processing of leather and furs, (R) In the processing of stone and clay products, (S) In the processing of metal products, (T) In the processing of electrical and electronic products, (U) In the processing of machinery and equipment, and (V) In the processing of other manufactured goods.

VI. No minor shall be employed under this section if the minor is less than 16 years old and the employment involves any of the following activities: (A) In agriculture, (B) In forestry, (C) In the processing of agricultural products, (D) In the processing of fish and fish products, (E) In the processing of meat and meat products, (F) In the processing of poultry and poultry products, (G) In the processing of dairy products, (H) In the processing of eggs, (I) In the processing of fruits and vegetables, (J) In the processing of seafood, (K) In the processing of nuts and seeds, (L) In the processing of flowers and plants, (M) In the processing of food for human consumption, (N) In the processing of paper and paper products, (O) In the processing of plastics and rubber products, (P) In the processing of textiles and clothing, (Q) In the processing of leather and furs, (R) In the processing of stone and clay products, (S) In the processing of metal products, (T) In the processing of electrical and electronic products, (U) In the processing of machinery and equipment, and (V) In the processing of other manufactured goods.
“(B) otherwise violated a term or condition of admission into the United States as an H–2A worker.

(2) VISA VALIDITY.—A visa issued to an H–2A worker, in a period of authorized stay from 3 years or any multiple thereof, shall allow for multiple entries during the approved period of admission.

(3) PERIOD OF AUTHORIZED STAY; ADMISSION.—

“(A) IN GENERAL.—An alien admissible as an H–2A worker shall be authorized to stay in the United States for the period of employment specified in the petition approved by the Secretary of Homeland Security under this section. The maximum continuous period of authorized stay for an alien admitted under this paragraph (B), an H–2A worker who abandons the employment which was the basis for the worker’s authorized stay, without good cause, shall be considered to have failed to maintain H–2A status and shall depart the United States or be subject to removal under section 237(a)(1)(C).”

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—In the case of an H–2A worker whose maximum continuous period of authorized stay (including any extensions) has expired, the alien may not again be eligible for such stay until the alien remains outside the United States for a cumulative period of at least 45 days.

“(C) EXCEPTIONS.—The Secretary of Homeland Security may grant exceptions to the requirements of subparagraph (B) if the Secretary finds, after notice and opportunity for public hearing, that it is in the national interest to allow the alien to remain in the United States.

(4) CONTINUING H–2A WORKERS.—

“(A) SUCCESSIVE EMPLOYMENT.—An H–2A worker is authorized to stay for new or concurrent employment upon the filing of a nonfraudulent H–2A petition, or as of the requested start date, whichever is later if

“(i) the petition to start new or concurrent employment was filed prior to the expiration of the period of authorized stay from 3 years or any multiple thereof, as defined in paragraph (3); and

“(ii) the alien has not reached the maximum continuous period of authorized stay set forth in subparagraph (A) subject to the exceptions in subparagraph (C).

“(B) CONTINUING STAY.—An H–2A worker is authorized to stay for new or concurrent employment upon the filing of a nonfraudulent H–2A petition, or as of the requested start date, whichever is later if

“(1) the alien has not been employed without authorization in the United States in H–2A status through the filing of the petition for new employment.

“(B) PROTECTION DUE TO IMMIGRANT VISA BACKLOGS.—Notwithstanding the limitations on the period of authorized stay described in paragraph (3), any H–2A worker who—

“(i) has been granted a nonfraudulent petition, filed under section 294(a)(1)(E) or (F) for preference status under section 203(b)(3)(A); or

“(ii) is eligible to be granted such status but for the backlogs in the adjudications on visas under section 294(a)(3), may apply for, and the Secretary of Homeland Security may grant, an extension of such nonimmigrant status until the Secretary of Homeland Security issues a final administrative decision on the alien’s application for adjustment of status or the Secretary of State issues a final decision on the alien’s application for an immigrant visa.

“(D) ABANDONMENT OF EMPLOYMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the failure of an alien to abandon the employment which was the basis for the worker’s authorized stay, without good cause,
against, or to cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, an employee, including a former employee or an applicant for employment, for exercising rights or attempting to exercise rights relating to this section; and

‘(A) has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation under this section, or any rule or regulation relating to this section;

‘(B) has filed a complaint concerning the employer’s compliance with the requirements under this section or any rule or regulation pertaining to this section;

‘(C) cooperates or seeks to cooperate in an investigation or proceeding concerning the employer’s compliance with the requirements under this section or any rule or regulation pertaining to this section; or

‘(D) a Labor Certification Authority steeps to exercise or assert any right or protection under the provisions of this section, or any rule or regulation pertaining to this section, or any other relevant Federal, State, or local law.

(5) INTERAGENCY COMMUNICATION.—The Secretary of Labor, in consultation with the Secretary of Homeland Security, Secretary of State and the United States Employment Opportunity Commission, shall establish mechanisms by which the agencies and their components share information, including by public electronic means, regarding the terms and conditions of employment, including obligations and responsibilities under this section.

(6) DEFINITIONS.—In this section:

‘(1) DISPLACED.—The term ‘displaced’ means to lay off a similarly employed United States worker, other than for lawful job-related reasons, in the occupation and area of intended employment for the job for which H–2A workers are sought.


‘(3) JOB ORDER.—The term ‘job order’ means the document containing the material terms and conditions of employment, including obligations and assurances required under this section or any other law.

‘(4) ONLINE JOB REGISTRY.—The term ‘online job registry’ means the online job registry of the Secretary of Labor required under section 201(b) of the Modernization of Agriculture Certification Act of 2019 (or similar successor registry).

‘(5) SIMILARLY EMPLOYED.—The term ‘similarly employed’, in the case of a worker, means a worker who is able, willing and qualified United States workers who will be available at the time and place needed;

‘(6) DETERMINING WHETHER THE EMPLOYER HAS MET THE CONDITIONS FOR APPROVAL OF THE H–2A PETITION.—The term ‘determining whether the employer has met the conditions for approval of the H–2A petition described in section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

(7) WORKER PROTECTION AND COMPLIANCE

SEC. 203. AGENCY ROLES AND RESPONSIBILITIES.

(a) RESPONSIBILITIES OF THE SECRETARY OF LABOR.—With respect to the administration of the H–2A program, the Secretary of Labor shall be responsible for—

‘(1) consulting with State workforce agencies to—

‘(A) review and process job orders;

‘(B) facilitate the recruitment and referral of willing and qualified United States workers who will be available at the time and place needed;

‘(C) determine prevailing wages and practices; and

‘(D) conduct timely inspections to ensure compliance with applicable Federal, State, or local housing standards and Federal regulations for H–2A housing;

‘(2) determining whether the employer has met the conditions for approval of the H–2A petition described in section 218 of the Immigration and Nationality Act (8 U.S.C. 1188);

‘(3) determining, in consultation with the Secretary of Agriculture, whether a job opportunity is of a seasonal or temporary nature;

‘(4) determining whether the employer has met the conditions for approval of the H–2A program set forth in section 218 of the Immigration and Nationality Act (8 U.S.C. 1188);

‘(5) processing and investigating complaints to the Inspector General of the Department of Labor to exercise or assert any right or protection under the provisions of this section; or

‘(6) referring any matter as appropriate to the Inspector General of the Department of Labor for investigation;

‘(7) ensuring that guidance to State workforce agencies to conduct wage surveys is regularly updated;

‘(8) issuing such rules and regulations as are necessary to carry out the Secretary of Labor’s responsibilities under section 218 of the Immigration and Nationality Act (8 U.S.C. 1188);

‘(9) ensuring that United States workers employed by the same employers (and United States workers employed by the same employers) are employed in the United States;

‘(10) enabling the Secretary of Agriculture to carry out the Secretary of Agriculture’s duties and responsibilities under this section.

(b) APPLICABILITY OF OTHER LAWS.—The term ‘similarly employed’ means a seasonal or temporary nature;

‘(4) investigating and preventing fraud in the program, including the utilization of H–2A workers for other than allowable agricultural labor services;

‘(5) issuing such rules and regulations as are necessary to carry out the Secretary of Homeland Security’s responsibilities under section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

(c) ESTABLISHMENT OF ACCOUNT AND USE OF FUNDS.—

(1) ESTABLISHMENT OF ACCOUNT.—There is established in the general fund of the Treasury a single account, which shall be known as the ‘H–2A Labor Certification Fee Account’.

(2) USE OF FEES.—Amounts deposited into the H–2A Labor Certification Fee Account shall be available (except as otherwise provided in this paragraph) without fiscal year limitation and without the requirement for specification in appropriation Acts to the extent the Secretary deems necessary for the costs of Federal and State administration in carrying out activities in connection with labor certification under section 218 of the Immigration and Nationality Act. Such costs may include personnel salaries and expenses, equipment and infrastructure for adjudication and customer service processes, the operation and maintenance of an on-line job registry, and program integrity activities. The Secretary, in determining what amounts to transfer to States for State administration in carrying out activities in connection with labor certification under section 218 of the Immigration and Nationality Act shall consider the number of H–2A workers employed in that State and shall adjust the amount transferred to that State accordingly.

(3) ADDITIONAL FUNDS.—Amounts available under paragraph (1) shall be available in addition to any other funds appropriated or made available to the Department of Labor under other laws, including section 218(o)(2) of the Immigration and Nationality Act.

SEC. 204. WORKER PROTECTION AND COMPLIANCE

(a) EQUALITY OF TREATMENT.—H–2A workers shall not be denied any right or remedy under any provision of this Act or any rule or regulation applicable to United States workers engaged in agricultural employment.

(b) APPLICABILITY OF OTHER LAWS.—

(1) MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—H–2A workers shall be considered migrant agricultural workers for purposes of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1981 et seq.).

(2) WATER OF RIGHTS PROHIBITED.—Agreements between H–2A workers to seize or modify any rights or permissions under this Act or section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) shall be considered void or contrary to public policy except under a collective bargaining agreement with a bona fide labor organization.
(3) MEDIATION.—
   (A) FREE MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under the H–2A program between laborers and agricultural employers without charge to the parties.
   (B) COMPLAINT.—If an H–2A worker files a civil complaint alleging one or more violations of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), not later than 60 days after the filing of proof of service of the complaint, a party to the lawsuit may file a request for mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute.

(C) NOTICE.—Upon filing a request under subparagraph (B) and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B), except that nothing in this paragraph shall limit the ability of a court to order preliminary injunctive relief to protect health or safety or to otherwise protect the public.

(D) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives a request for assistance under subparagraph (B) unless the parties agree to an extension.

(E) AUTHORIZATION OF APROPRIATIONS.—
   (1) IN GENERAL.—Subject to clause (ii), there is authorized to be appropriated to the Federal Mediation and Conciliation Service, such sums as may be necessary for each fiscal year to carry out this subparagraph.
   (ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized—
   (A) to conduct the mediation or other dispute resolution activities from any other account that is available to the Director; and
   (B) to reimburse such account with amounts appropriated pursuant to clause (i).

(F) PRIVATE MEDIATION.—If all parties agree, a private mediator may be employed as an alternative to the Federal Mediation and Conciliation Service.

(c) FARM LABOR CONTRACTOR REQUIREMENTS.—
   (1) SURETY BONDS.—
   (A) REQUIREMENT.—Section 101 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1811) is amended by adding at the end of such section—

   "(e) A farm labor contractor shall maintain a surety bond in an amount determined by the Secretary to be sufficient for ensuring the ability of the farm labor contractor to discharge its financial obligations, including payment of wages and benefits to employees. Such a bond shall be available to satisfy any amounts ordered to be paid by the Secretary or by court order pursuant to the provisions of this Act. The Secretary of Labor shall annually publish in the Federal Register a schedule of required bond amounts that are determined by such a bond to be sufficient for farm labor contractors to discharge financial obligations based on the number of workers to be covered.

   (B) REGISTRATION DETERMINATIONS.—Section 103(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1813(a)), is amended—

   (i) in paragraph (4), by striking “or” at the end;
   (ii) in paragraph (5)(B), by striking “or” at the end;
   (iii) in paragraph (6), by striking the period at the end and inserting “; and”;
   and
   (iv) by adding at the end the following:

   "(7) the number and percentage of farmworkers in the United States whose incomes are below the poverty line;"

   (B) LIMITATIONS.—Registered agricultural employers may employ aliens with portable H–2A status without filing a petition. Such employers shall be provided the ability to seek designation as registered agricultural employers. Reasonable fees may be assessed commensurate with the cost of such services. Registration applications for designation shall be valid for a period of up to 3 years unless revoked for failure to comply with program requirements. Registered employers may apply to renew such designation for additional periods of up to 3 years for the duration of the pilot program.

   (4) AGRICULTURAL WORKERS.—Registered agricultural employers may employ aliens with portable H–2A status without filing a petition. Such employers
shall pay such aliens at least the wage required under section 218(d) of the Immigration and Nationality Act (8 U.S.C. 1188(d)).

(C) WORKERS’ COMPENSATION.—If a job opportunity exists, or is expected from the State workers’ compensation law, a registered agricultural employer shall provide, at no cost to the worker, insurance covering injury and disease occurring in the course of the worker’s employment, which will provide benefits at least equal to those provided under the State workers’ compensation law.

(2) LIMITATIONS ON AVAILABILITY OF PORTABLE H–2A STATUS.—

(i) INITIAL OFFER OF EMPLOYMENT REQUIRED.—No alien may be granted portable H–2A status without an initial valid offer of employment to perform temporary or agricultural labor or services from a registered agricultural employer.

(ii) NUMERICAL LIMITATIONS.—The total number of aliens who may hold valid portable H–2A status at any one time may not exceed 10,000.

Notwithstanding the limitation, the Secretary of Homeland Security may further limit the number of aliens who may hold valid portable H–2A status if the Secretary determines that there are an insufficient number of registered agricultural employers or job opportunities to support the employment of all such portable H–2A workers.

(C) MAINTENANCE OF STATUS.—During the period of admission, a portable H–2A worker may perform temporary or seasonal agricultural labor or services for any employer in the United States that is designated as a registered agricultural employer pursuant to paragraph (1). An employment arrangement under this section may be terminated by either the portable H–2A worker or the registered agricultural employer at any time.

(D) TRANSFER TO NEW EMPLOYMENT.—At the cessation of employment with a registered agricultural employer, a portable H–2A worker shall have 60 days to secure new employment with a registered agricultural employer.

(E) MAINTENANCE OF STATUS.—A portable H–2A worker who has secured new employment with a registered agricultural employer within 60 days shall be considered to have failed to maintain such status and shall depart the United States or be subject to removal under section 237(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)(ii)).

(3) THE SECRETARY OF LABOR SHALL BE RESPONSIBLE FOR CONDUCTING INVESTIGATIONS AND RANDOM AUDITS OF EMPLOYERS TO ENSURE COMPLIANCE WITH THE EMPLOYMENT-RELATED REQUIREMENTS OF THIS SECTION, CONSISTING WITH SECTION 218(m) OF THE IMMIGRATION AND NATIONALITY ACT (8 U.S.C. 1188(m)). THE SECRETARY OF LABOR SHALL HAVE THE AUTHORITY TO COLLECT REASONABLE FEES FOR INSPECTIONS AND ENFORCEMENT OF THE PROVISIONS OF THIS SECTION.

(4) ELIGIBILITY FOR SERVICES.—Section 305 of Public Law 99–603 (100 Stat. 3434) is amended by striking “other employment rights as provided in the worker’s specific contract under which the worker is employed” and inserting “employment-related rights”.

(c) REPORT.—Not later than 6 months before the end of the third fiscal year of the pilot program, the Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall prepare and submit to the Committees on the Judiciary of the House of Representatives and the Senate, a report that provides:

(1) the number of employers designated as registered agricultural employers, broken down by geographic region, farm size, and the number of job opportunities offered by such employers;

(2) the number of employers whose designation as a registered agricultural employer was revoked;

(3) the number of individuals granted portable H–2A status in each fiscal year, along with the number of such individuals who maintain portable H–2A status during all or a portion of the 3-year period of the pilot program;

(4) an assessment of the impact of the pilot program, the wages and working conditions of United States farm workers;

(5) the results of a survey of individuals granted portable H–2A status, detailing their experiences with and feedback on the pilot program;

(6) the results of a survey of registered agricultural employers, detailing their experiences with and feedback on the pilot program;

(7) an assessment as to whether the program should be continued and if so, any recommendations for improvements;

(8) recommendations regarding effective recruitment mechanisms, including use of new technology to match workers with employers and employer compliance with applicable labor laws and regulations.

SEC. 207. IMPROVING ACCESS TO PERMANENT RESIDENCE.

(a) WORLDWIDE NUMERICAL LIMITATION.—Section 214(d)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(d)(1)(A)) is amended by striking “140,000” and inserting “180,000”.

(b) NUMERICAL LIMITATION.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)) is amended—

(1) in paragraph (1) by striking “28.6 percent of such worldwide level” and inserting “40,040”;

(2) in paragraph (2) by striking “28.6 percent of such worldwide level” and inserting “40,040”;

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter before clause (i), by striking “28.6 percent of such worldwide level” and inserting “40,040”;

(ii) by amending clause (ii) to read as follows:

(III) other qualified immigrants described in subparagraph (A)(iii);

(IV) other qualified immigrants described in subparagraph (A)(iv);

(5) the results of a survey of registered agricultural employers, broken down by farm size and percentage of workers employed by foreign principals.

(b) DUAL INTENT.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(E)) is amended by inserting “or 203(b)(3)(A)(ii)(I)” after “203(b)(3)(A)”.

(c) PETITIONING PROCEDURE.—Section 204(a)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(E)) is amended by inserting “or” after “or”.

Subsection B—Preservation and Construction of Farmworker Housing

SEC. 220. SHORT TITLE.

This subsection may be cited as the “Strategy and Investment in Rural Housing Preservation Act of 2019”.

SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRESERVATION AND REVITALIZATION PROGRAM.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

SEC. 545. HOUSING PRESERVATION AND REVITALIZATION PROGRAM.

ESTABLISHMENT.—The Secretary shall carry out a program under this section for the preservation and revitalization of multifamily rental housing projects financed under section 515 or both sections 514 and 516.

(a) NOTICE OF MATURING LOANS.—

(1) TO OWNERS.—On an annual basis, the Secretary shall provide written notice to each owner of a property financed under section 515 or both sections 514 and 516, not later than the date that is 1 year prior to the date that the loan will mature, informing them of the date of the loan maturity, the property debt; and any mortgage payments that are due in accordance with the loan terms.

(b) NOTICE TO TENANTS.—

(1) SUBJECT TO CLAUSE (i), THE SECRETARY MAY RESTRICT THE TERMINATION OF TENANCY OR THE OPTION TO DECouple A RENTAL ASSISTANCE CONTRACT PURSUANT TO SUBPARAGRAPH (i).

(2) CANCELLATION.—(A) IN GENERAL.—For each property financed under section 515 or both sections 514 and 516, not later than the date that the loan will mature, the Secretary shall provide written notice to each household residing in that property that informs them of the date of the loan maturity, the possible actions that may happen with respect to the property upon such maturity, and how to protect their right to reside in Federally assisted housing after such maturity.

(3) LANGUAGE.—Under this paragraph shall be provided in plain English and shall be translated to other languages in the case of any property located in an area in which a significant number of residents speak such other languages.

(c) LOAN RESTRUCTURING.—Under the program for the program under this section, the Secretary may restructure such existing housing loans as the Secretary considers appropriate, for the purpose of ensuring that such projects have sufficient resources to provide safe and affordable housing for low-income residents and farm laborers, by—

(1) reducing or eliminating interest; and

(2) subordinating, reducing, or reamortizing loan debt; and

(d) MONITORING.—The Secretary shall monitor the implementation of this subsection and shall report to Congress on the status of the Secretary’s efforts to carry out this subsection.
"(4) providing other financial assistance, including advances, payments, and incentives (including the ability of owners to obtain reasonable returns on investment) required by the Secretary.

"(d) RENEWAL OF RENTAL ASSISTANCE.—When the Secretary offers to restructure a loan pursuant to subsection (c), the Secretary shall offer to renew the rental assistance contract under section 521(a)(2) for a 20-year term that is subject to annual appropriations, provided that the owner agrees to bring the property up to such standards of decent, safe, and sanitary housing for the full term of the rental assistance contract.

"(e) AGREEMENTS.—

"(1) REQUIREMENT.—As part of the preservation and revitalization agreement for a project, the Secretary shall obtain a restrictive use agreement that obligates the owner to operate the project in accordance with this title.

"(2) TERM.—(A) NO EXTENSION OF RENTAL ASSISTANCE CONTRACT.—Except when the Secretary enters into a 20-year extension of the rental assistance contract for the project, the term of the restrictive use agreement for the project shall be consistent with the term of the restructured loan for the project.

"(B) EXTENSION OF RENTAL ASSISTANCE CONTRACT.—If the Secretary enters into a 20-year extension of the rental assistance contract for a project, the term of the restrictive use agreement for the project shall be for 20 years.

"(f) DECOUPLING OF RENTAL ASSISTANCE.—

"(1) RENEWAL OF RENTAL ASSISTANCE CONTRACT.—A property which has entered into a restructuring loan for a project cannot reasonably be restructured in accordance with subsection (c) and the project was operating with rental assistance under section 521, the Secretary may renew the rental assistance contract, notwithstanding any provision of section 521, for a term, subject to annual appropriations, of at least 10 years but not more than 20 years.

"(2) RENTS.—Any agreement to extend the term of the rental assistance contract under section 521 for a project shall obligate the owner to continue the project as a rental project as defined by law and sanitary housing and to operate the development in accordance with this title, except that rents shall be based on the lesser of—

"(A) the needs of the project; or

"(B) the operating cost adjustment factor as a payment standard as provided under section 524 of the Multifamily Housing and Affordability Act of 1997 (42 U.S.C. 1437 note).

"(g) MULTIFAMILY HOUSING TRANSFER TECHNICAL ASSISTANCE.—Under the program under this subsection, the Secretary may provide grants to qualified nonprofit organizations and public housing agencies to provide technical assistance, including financial and legal services, to borrowers under this title or multifamily housing to facilitate the acquisition of such multifamily housing properties in areas where the Secretary determines there is a risk of loss of affordable housing.

"(h) TRANSFER OF RENTAL ASSISTANCE.—After the loan or loans for a rental project originally financed under section 515 or both sections 514 and 516 have matured or have been prepaid and the owner has chosen not to restructure the loan pursuant to subsection (c), a tenant residing in such project shall have 18 months prior to loan maturity to enter into a transfer agreement to transfer the rental assistance assigned to the tenant’s unit to another rental project originally financed under section 515 or both sections 514 and 516, and the owner of the project may reserve the tenant’s previous unit to a new tenant without in- come restrictions.

"(i) ADMINISTRATIVE EXPENSES.—Of any amounts made available for the program under this section for any fiscal year, the Secretary may use not more than $1,000,000 for administrative expenses for carrying out such program.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the program under this section $200,000,000 for each of the fiscal years 2020 through 2030.

SEC. 222. ELIGIBILITY FOR RURAL HOUSING VOUCHERS.

Section 542 of the Housing Act of 1949 (42 U.S.C. 1471f) is amended—

"(c) ELIGIBILITY FOR RENTAL ASSISTANCE.—In the case of any low-income household (including those not receiving rental assistance) residing, during which the owner may use such assistance to continue maintenance of the property in accordance with this title.

"(d) FUNDING FOR MULTIFAMILY TECHNICAL ASSISTANCE.

There is authorized to be appropriated to the Secretary of Agriculture $35,000,000 for fiscal year 2020 for improving the technology of the Department of Agriculture used to process loans for multifamily rental projects, and for financing and technical assistance for preserving the affordability of such housing.

"(e) FUNCTIONS.—In providing assistance to the Secretary to carry out its purpose, the advisory committee shall include—

"(1) set forth specific performance goals and measures;

"(2) set forth the specific actions and mechanisms by which such goals will be achieved;

"(3) set forth specific measurements by which progress towards achievement of each goal can be measured;

"(4) provide for detailed reporting on outcomes; and

"(5) include any legislative recommendations to enhance achievement of the goals under the plan.

"(B) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT; PURPOSE.—The Secretary shall establish an advisory committee whose purpose shall be to assist the Secretary in preserving section 315 properties and section 314 properties owned by nonprofit or public agencies that make multifamily housing vouchers, and revitalization program under section 545 and in implementing the plan required under subsection (a).

"(D) MEMBERS.—The advisory committee shall consist of 16 members, appointed by the Secretary, as follows:

"(A) A State Director of Rural Development for the Department of Agriculture.

"(B) The Administrator for Rural Housing Service of the Department of Agriculture.

"(C) Two representatives of nonprofit developers or owners of multifamily rural rental housing.

"(D) Two representatives of nonprofit developers or owners of multifamily rural rental housing.

"(E) Two representatives of State housing finance agencies.

"(F) Two representatives of tenants of multifamily rural rental housing.

"(G) One representative of a community developing financial institution whose purpose is to assist the Secretary in preserving the affordability of housing assisted under sections 514, 515, and 516 of the Housing Act of 1949.

"(H) One representative of a nonprofit organization that operates nationally and has actively participated in the preservation of housing assisted by the Rural Housing Service by conducting research, and providing financing and technical assistance for, preserving the affordability of such housing.

"(I) One representative of low-income housing tax credit investors.

"(J) One representative of regulated financial institutions that finance affordable multifamily rural rental housing developments.

"(K) Two representatives from nonprofit organizations representing farmworkers, including one organization representing farmworker women.

"(M) MEETINGS.—The advisory committee shall meet not less often than once each calendar year.

"(N) FUNCTIONS.—In providing assistance to the Secretary to carry out its purpose, the advisory committee shall carry out the following functions:

"(A) Assisting the Rural Housing Service of the Department of Agriculture to improve estimates of the size, scope, and condition of rural housing assisted by the Service, including the time frames for maturity of mortgages and costs for preserving the portfolio as affordable housing.
(B) Reviewing current policies and procedures of the Rural Housing Service regarding preservation of affordable rental housing financed under sections 514, 516, and 518 of the Housing Act of 1949, the Multi-family Preservation and Revitalization Demonstration program (MPR), and the rental assistance program and making recommendations regarding improvements and modifications to such policies and procedures.

(C) Providing ongoing review of Rural Housing Service program results.

(D) Submitting to the Congress and the public on meetings, recommendations, and other findings of the advisory committee.

SEC. 222. NEW FARMWORKER HOUSING.

Section 513 of the Housing Act of 1949 (42 U.S.C. 1483a) is amended by adding after the following new subsection:

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(7) Employees, agents, and subcontractors. The foreign labor recruiter shall consent to be liable for the conduct of any agents or subcontractors of any level in relation to the foreign labor recruiting activity of the agent or subcontractor to the same extent as if the foreign labor recruiter had engaged in such conduct.

(8) Enforcement. If the foreign labor recruiter is conducting foreign labor recruiting activity wholly outside the United States, such foreign labor recruiter shall establish a registry in the United States who is authorized to accept service of process on behalf of the foreign labor recruiter for the purpose of any administrative proceeding under this title or any Federal court civil action, if such service is made in accordance with the appropriate Federal rules for service of process.

(9) Registration. Unless suspended or revoked, a registration under this section shall be valid for 2 years.

(e) Application Fee. The Secretary shall require a fee for information regarding the identity of a foreign labor recruiter; and

(f) Notification. In addition to the requirements of subparagraph (A), the employer shall—

(i) provide to the Secretary the identity of any foreign labor recruiter whom the employer has reason to believe is engaging in foreign labor recruiting activity on behalf of the employer, whether the foreign labor recruiter is to receive any economic compensation for such services, and, if so, the identity of the person or entity who is paying for the services,

(B) Agreement to Cooperate. In addition to the requirements of subparagraph (A), the employer shall—

(i) provide to the Secretary the identity of any foreign labor recruiter whom the employer has reason to believe is engaging in foreign labor recruiting activity on behalf of the employer, whether the foreign labor recruiter is to receive any economic compensation for such services, and, if so, the identity of the person or entity who is paying for the services,

(ii) promptly respond to any request by the Secretary for information regarding the identity of a foreign labor recruiter with whom the employer has a contract or other agreement,

(Foreign labor recruiter notification. Registered foreign labor recruiter shall notify the Secretary, not less frequently than once every year, of the names and addresses of all foreign labor recruiters engaged to perform the foreign labor recruiting activity on behalf of the employer, whether the foreign labor recruiter is to receive any economic compensation for such services, and, if so, the identity of the person or entity who is paying for the services.

(A) Agreement to cooperate. In addition to the requirements of subparagraph (A), the employer shall—

(1) provide to the Secretary the identity of any foreign labor recruiter whom the employer has reason to believe is engaging in foreign labor recruiting activity on behalf of the employer, whether the foreign labor recruiter is to receive any economic compensation for such services, and, if so, the identity of the person or entity who is paying for the services,

(B) provide the foreign labor recruiter with not less than 30 days to respond,

(C) re-registration. A foreign labor recruiter whose registration was revoked under subsection (a) may re-register if the foreign labor recruiter demonstrates to the Secretary’s satisfaction that the foreign labor recruiter has not violated the terms of the registration for a period of up to 5 years preceding the date an application for registration is filed and has taken sufficient steps to prevent future violations of this subtitle.

(8) Provisional responsibilities of the Secretary of State.

(A) Lists. The Secretary of State, in consultation with the Secretary of Labor, shall maintain and make publicly available in written form and on the websites of the Department of State embassies in the official language of that country, and on websites maintained by the Secretary of Labor, regularly updated lists—

(1) the name and address of the foreign labor recruiter;

(ii) the countries in which such recruiters conduct recruitment;

(3) the employers for whom recruiting is conducted;

(iv) the occupations that are the subject of recruitment;

(v) the States where recruited workers are employed; and

(vi) the name and address of the registered agent in the United States who is authorized to accept service of process on behalf of the foreign labor recruiter;

(B) of foreign labor recruiters whose registration has been suspended or revoked;

(2) Personnel. The Secretary of State shall ensure that each United States diplomatic mission is staffed with a person who shall be responsible for receiving information from members of the public regarding potential violations of the requirements applicable to registered foreign labor recruiters and ensuring that such information is conveyed to the Secretary of Labor for evaluation and initiation of an enforcement action, if appropriate.

(9) Violation of registration procedures. The Secretary shall ensure that consular officers issuing visas to nonimmigrants under section 101(a)(15)(H)(i)(a) of the Immigration and Nationality Act and section 101(a)(15)(H)(ii)(a) of such Act provide to and review with the applicant, in the applicant’s language (or a language the applicant understands), a copy of the information materials described in section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1375b); and

(B) ensure that the applicant has a copy of the approved job offer or work contract;

(D) the foreign labor recruiter has a valid registration under this section; and

(E) the foreign labor recruiter is conducting foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(2) Denial or revocation of registration. The Secretary shall deny an application for registration, or revoke a registration, if the Secretary determines that the foreign labor recruiter, or any agent or subcontractor of such foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(ii) the date on which the aggrieved party had notice of the violation,

(iii) such other and further relief as necessary to assure compliance with the terms and conditions of this subtitle.

(6) Authority to ensure compliance. The Secretary of Labor is authorized to take any action, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(7) Employees, agents, and subcontractors of any level in relation to the foreign labor recruiting activity of the foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(ii) the date on which the aggrieved party had notice of the violation,

(iii) such other and further relief as necessary to assure compliance with the terms and conditions of this subtitle.

(6) Authority to ensure compliance. The Secretary of Labor is authorized to take any action, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(7) Employees, agents, and subcontractors of any level in relation to the foreign labor recruiting activity of the foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(ii) the date on which the aggrieved party had notice of the violation,

(iii) such other and further relief as necessary to assure compliance with the terms and conditions of this subtitle.

(6) Authority to ensure compliance. The Secretary of Labor is authorized to take any action, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(7) Employees, agents, and subcontractors of any level in relation to the foreign labor recruiting activity of the foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(ii) the date on which the aggrieved party had notice of the violation,

(iii) such other and further relief as necessary to assure compliance with the terms and conditions of this subtitle.

(6) Authority to ensure compliance. The Secretary of Labor is authorized to take any action, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(7) Employees, agents, and subcontractors of any level in relation to the foreign labor recruiting activity of the foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(ii) the date on which the aggrieved party had notice of the violation,

(iii) such other and further relief as necessary to assure compliance with the terms and conditions of this subtitle.

(6) Authority to ensure compliance. The Secretary of Labor is authorized to take any action, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(7) Employees, agents, and subcontractors of any level in relation to the foreign labor recruiting activity of the foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.

(ii) the date on which the aggrieved party had notice of the violation,

(iii) such other and further relief as necessary to assure compliance with the terms and conditions of this subtitle.

(6) Authority to ensure compliance. The Secretary of Labor is authorized to take any action, including issuing subpoenas and seeking appropriate injunctive relief, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(7) Employees, agents, and subcontractors of any level in relation to the foreign labor recruiting activity of the foreign labor recruiter—

(A) knowingly made a material misrepresentation in the registration application,

(B) materially failed to comply with one or more of the attestations provided under section 251(c); or

(C) is not the real party in interest.

(2) Notice. Prior to denying an application for registration or revoking a registration under this subsection, the Secretary shall provide written notice to the aggrieved party that the Secretary has reason to believe is engaging in foreign labor recruiting activity for, or on behalf of, the foreign labor recruiter.
Section 201. Electronic Employment Eligibility Verification System

(a) Employment Eligibility Verification System.

(1) In General.—The Secretary of Homeland Security shall establish and administer an electronic employment eligibility verification system to verify the identity and employment authorization of workers referred by a foreign labor recruiter—

(A) in any administrative action initiated by the Secretary concerning such violation; or

(B) in any civil action filed on behalf of such workers or other aggrieved party against any employer who hired workers referred by a foreign labor recruiter under this subtitle.

(2) Waiver of Rights.—Agreements by employees purporting to waive or to modify their rights under this subtitle shall be void as against public policy.

(b) Liability for Agents.—Any labor recruiter, subcontractor, or other entity that makes an inquiry can comply with the requirements of this section.

(c) Liability for Errors.—If, in any administrative action initiated by the Secretary, the Secretary establishes and administers an electronic employment eligibility verification system to verify the identity and employment authorization of workers referred by a foreign labor recruiter, any labor recruiter, subcontractor, or other entity that makes an inquiry can comply with the requirements of this section.

(d) Waiver of Rights.—If, in any civil action filed on behalf of such workers or other aggrieved party against any employer who hired workers referred by a foreign labor recruiter under this subtitle,

(1) any administrative action initiated by the Secretary concerning such violation; or

(2) any civil action filed on behalf of such workers or other aggrieved party against any employer who hired workers referred by a foreign labor recruiter under this subtitle,

(3) Recruitment Fees.—The term "recruitment fees" has the meaning given to such term under section 611(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1324a note) (as in effect on the date of enactment of this Act).

(4) Person.—The term "person" means any individual, firm, partnership, joint stock company or association or other organization or entity (whether organized under law or not), including municipal corporations.

(5) Personal Identification Information.—The term "personal identification information" means recruiting, soliciting, or related activities with respect to an individual who resides outside of the United States in furtherance of employment in the United States, including when such activity occurs wholly outside of the United States.

(6) Filing Against.—The term "filing against" has the meaning given to such term under section 22.1702(d) of the Code of Federal Regulations, as in effect on the date of enactment of this Act.

(7) Report.—The term "report" means a report to the Secretary describing or otherwise communicating information.

(8) Secretary.—The term "Secretary" means the Secretary of Homeland Security.

(9) Federal Register.—The term "Federal Register" means the Federal Register for the time period in which an inquiry is made.

(10) May Not.—The term "may not" means the term "shall not."
information of a minor under their care for purposes of the System. The Secretary may implement the program on a limited pilot basis before making it fully available to all individuals.

(5) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—The Commissioner, in consultation with the Secretary, shall establish a reliable, secure method, which, within the time periods specified in paragraph (2) and subsection (b)(1)(A)(i), confirms the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided by the person or entity with respect to an individual whose identity and employment authorization the person or entity is verifying, whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation) under the System except as provided under this section.

(6) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—

(A) IN GENERAL.—The Secretary of Homeland Security shall establish a reliable, secure method, which, within the time periods specified in paragraph (2) and subsection (b)(1)(A)(i), confirms the name and social security account number provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the individual is authorized to be employed in the United States. 

(B) TRAINING.—The Secretary shall provide and regularly update training materials on the use of the System for persons and entities making inquiries under this subsection.

(C) AUDIT.—The Secretary shall provide for periodic auditing of the System to detect and prevent misuse, discrimination, fraud, and identity theft. The audit shall be conducted in a manner that preserves the confidentiality, integrity, and integrity of the information in the System.

(D) NOTICE OF SYSTEM CHANGES.—The Secretary shall establish a reliable, secure method, which, within the time periods specified in paragraph (2) and subsection (b)(1)(A)(i), confirms the name and social security account number provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the individual is authorized to be employed in the United States. 

(7) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide the Secretary of Homeland Security with passport and visa information as needed to confirm that a passport or passport card presented under subsection (b)(3)(A)(i) confirms the employment authorization and identity of the individual presenting such document, and that a passport, passport card, or visa photograph matches the Secretary of State’s records, and shall provide such assistance as the Secretary of Homeland Security may request in order to resolve tentative nonconfirmations or final nonconfirmations relating to such information.

(8) UPDATING INFORMATION.—The Commissioner, the Secretary of Homeland Security, and the Secretary of State shall update their records in their respective systems in a manner that promotes maximum accuracy of the System and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention through the tentative nonconfirmation or review process under subsection (b)(4)(D).

(9) MANDATORY AND VOLUNTARY SYSTEM USES.—

(A) MANDATORY USERS.—Except as otherwise provided under Federal or State law, such as sections 302 and 303 of the Farm Workforce Modernization Act of 2019, a person or entity may use the System on a voluntary basis to seek verification of the identity and employment authorization of individuals who are present in the United States for purposes of the Farm Workforce Modernization Act of 2019, a person or entity may use the System on a voluntary basis to seek verification of the identity and employment authorization of individuals who are present in the United States. 

(B) VOLUNTARY USERS.—Beginning after the date that is 30 days after the date on which final rules are published under section 289(a) of the Farm Workforce Modernization Act of 2019, a person or entity may use the System on a voluntary basis to seek verification of the identity and employment authorization of individuals who are present in the United States for purposes of Employment Authorization 

(C) PROCESS FOR NON-USERS.—The employment verification process for any person or entity hiring, recruiting, or referring for a fee, an individual for employment in the United States shall be governed by section 274A(b) unless the person or entity—

(i) is required by Federal or State law to use the System; or

(ii) has opted to use the System voluntarily in accordance with subparagraph (B).

(D) NO FEE FOR USE.—The Secretary may not charge a fee to a person, individual, or entity related to the use of the System.

(E) NEW HIRES, RECRUITMENT, AND REFERRAL.—Notwithstanding section 289(a), the requirements referred to in paragraph (1)(D) and (3) of section 274A(a) are, in the case of a person or entity that uses the System for the hiring, recruitment, or referral of an individual for employment in the United States, the following:

(1) INDIVIDUAL ATTERTATION OF EMPLOYMENT AUTHORIZATION.—During the period beginning on the date on which the employment is accepted and ending on the date of hire, the individual shall attest, under penalty of perjury on a form designated by the Secretary, that the individual is an individual whose alien status has not yet expired and the providing the alien's nonimmigrant status as long as such status has been extended by the Secretary.

(2) USE OF THE SYSTEM TO SCREEN IDENTITY AND EMPLOYMENT AUTHORIZATION.—During the period beginning on the date on which the employment is accepted and ending on the date of hire, the individual shall attest, under penalty of perjury on a form designated by the Secretary, that the individual is an individual whose alien status has not yet expired and the alien's nonimmigrant status as long as such status has been extended by the Secretary.

(3) ACCEPTABLE DOCUMENTS.—If the Secretary finds that any document or class of documents described in subparagraph (A), (B), or (C) does not reliably establish identity or employment authorization or is being used fraudulently to an unacceptable degree, the Secretary may, by notice published in the Federal Register, prohibit or place conditions on the use of such documents for purposes of this section.

(4) USE OF THE SYSTEM TO SCREEN IDENTITY AND EMPLOYMENT AUTHORIZATION.—

(A) IN GENERAL.—If the person or entity that uses the System for the hiring, recruiting, or referring for a fee an individual for employment in the United States by providing on such form—

(i) a citizen or national of the United States;

(ii) an alien lawfully admitted for permanent residence;

(iii) an alien who is otherwise authorized by the Secretary to be hired, recruited, or referred for employment in the United States; and

(B) DOCUMENTS ESTABLISHING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States), or

(ii) a document establishing employment authorization that the Secretary determines, by rule published in the Federal Register, to be acceptable for purposes of this paragraph, provided that such documentation contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

(C) DOCUMENTS ESTABLISHING IDENTITY.—A document described in this subparagraph is—

(i) a driver's license or identification card issued by a State or one of the outlying possessions of the United States and contains a photograph and personal identifying information relating to the individual; or

(ii) a document established United States military identification card;

(iii) an individual’s unexpired Native American tribal identification document issued by a tribe or treaty recognized by the Bureau of Indian Affairs;

(iv) in the case of an individual under 18 years of age, a parent or legal guardian’s attestation under penalty of law as to the identity and age of the individual; or

(v) a document establishing identity that the Secretary determines, by notice published in the Federal Register, to be acceptable for purposes of this paragraph, if such documentation contains a photograph of the individual, biometric identification data, and other personal identifying information relating to the individual, and security features to make it resistant to tampering, counterfeiting, and fraudulent use.

(D) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary finds that any document or class of documents described in subparagraph (A), (B), or (C) does not reliably establish identity or employment authorization or is being used fraudulently to an unacceptable degree, the Secretary may, by notice published in the Federal Register, prohibit or place conditions on the use of such documents for purposes of this section.
individual's failure to contest a tentative nonconfirmation by the Secretary for purposes of this paragraph; and

(5) RECORD OF NO CONTEST.—The Secretary, in consultation with the Commissioner, shall issue notice of a final nonconfirmation of the individual's identity and employment authorization not later than 30 calendar days after the date the Secretary receives notice from the individual contesting the tentative nonconfirmation.

(6) FINAL NONCONFIRMATION.—

(i) NOTICE.—If a person or entity receives a final nonconfirmation of an individual's identity or employment authorization, the person or entity shall, not later than 3 business days after receipt, notify such individual of the final nonconfirmation in writing, on a form designated by the Secretary. The notification shall include information regarding the individual's right to appeal the final nonconfirmation as provided under subparagraph (C). The notification shall be under penalty of perjury, that the person or entity provided (or attempted to provide) the notice to the individual, and the individual shall acknowledge receipt of such notice in a manner designated by the Secretary.

(ii) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If a person or entity renews a provisional employment authorization, the person or entity shall notify the Secretary of such fact through the System. Failure to notify the Secretary in accordance with this clause shall be deemed a violation of section 274A(a)(1)(A).

(iii) PRESUMPTION OF VIOLATION FOR CONTINUED EMPLOYMENT.—If a person or entity continues to employ an individual after receipt of a final nonconfirmation, there shall be a rebuttable presumption that the person or entity has violated paragraphs (1)(A) and (a)(2) of section 274A(a).

(iv) APPEAL OF FINAL NONCONFIRMATION.—

(A) ADMINISTRATIVE APPEAL.—The Secretary, in consultation with the Commissioner, shall develop a process by which an individual may seek administrative review of a final nonconfirmation. Such process shall—

(1) permit the individual to submit additional evidence establishing identity or employment authorization;

(2) ensure prompt resolution of an appeal (but in no event shall there be a failure to respond to an appeal within 30 days); and

(3) permit the Secretary to impose a civil money penalty or fine, in an amount acceptable by the Secretary, and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, and the Department of Labor during the period beginning on the date the verification is completed and ending on the later of—

(i) the date that is 3 years after the date of hire; and

(ii) the date that is 1 year after the date on which the individual's employment is terminated.

(B) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, a person or entity may copy a document presented by an individual pursuant to this section and retain the copy, but only for the purpose of complying with the requirements of this section.

(2) REVERIFICATION OF PREVIOUSLY HIRED INDIVIDUALS.—

(A) MANDATORY REVERIFICATION.—In the case of an individual or entity applying for a social security account number, who is authorized to be employed in the United States, the person or entity shall submit an individual reconfirmation of the individual's identity and employment authorization not later than 30 days after the date the reverification process under subsection (b) was completed and ending on the later of—

(i) the date that is 3 years after the date of hire; and

(ii) the date that is 1 year after the date on which the individual's employment is terminated.

(3) SOURCE OF FUNDS.—There is established in the general fund of the Treasury a 'Verification Compensation Account'. Fees collected under subsections (1) and (g) shall be deposited in the Electronic Verification Compensation Account and shall remain available for purposes of providing compensation for lost wages under this subsection.

(4) JUDICIAL REVIEW.—Not later than 30 days after the dismissal of an appeal under this subparagraph, an individual may seek judicial review of such dismissal in the United States Court of Appeals for the District Court in the circuit in which the employer resides or conducts business.

(5) RETENTION OF VERIFICATION RECORDS.—

(A) VERIFICATION PERIOD.—

(i) TENURE.—The System shall become final if, upon receiving the notice described in clause (ii), the individual—

(1) does not contest the tentative nonconfirmation by using the tentative nonconfirmation review process under clause (i), not later than 10 business days after receiving the notice described in clause (ii), except as provided in clause (iii), the nonconfirmation shall remain tentative until a confirmation or final nonconfirmation is provided by the System.

(2) PROHIBITION ON TERMINATION.—In no case shall a person or entity terminate employment or take any adverse employment action on the basis of a tentative nonconfirmation of the individual's identity and employment authorization until the person or entity receives a notice of final nonconfirmation from the System. A subclause shall prohibit an employer from terminating the employment of the individual for any other lawful reason.

(ii) CONFIRMATION OR FINAL NONCONFIRMATION.—The Secretary, in consultation with the Commissioner, shall issue notice of a confirmation or final nonconfirmation of the individual's identity and employment authorization not later than 30 calendar days after the date the Secretary receives notice from the individual contesting the tentative nonconfirmation.

(iii) NO CONTEST.—

(A) TENTATIVE NONCONFIRMATION.—If a person or entity receives a tentative nonconfirmation of an individual's identity or employment authorization, the person or entity shall record such confirmation on the System described in subsection (a) to seek employment verification of the individual's identity and employment authorization of the individual.

(B) VERIFICATION PERIOD.—

(i) IN GENERAL.—Except as provided in clause (ii) to subsection (d), the verification period shall begin on the date of hire and end on the date that is 3 business days after the date of hire, or such other reasonable period as the Secretary may prescribe.

(ii) SPECIAL RULE.—In the case of an alien who is authorized to be employed in the United States in accordance with the evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period shall end 3 business days after the alien receives the social security account number.

(C) CONFIRMATION.—If a person or entity receives confirmation of an individual's identity and employment authorization, the person or entity shall record such confirmation on the form designated by the Secretary for purposes of paragraph (1).

(D) TENTATIVE NONCONFIRMATION.—

(i) IN GENERAL.—In cases of tentative nonconfirmation, the Secretary shall provide, in consultation with the Commissioner, a process for—

(1) an individual to contest the tentative nonconfirmation not later than 10 business days after the date of the receipt of the notice described in clause (ii); and

(ii) the Secretary to issue a confirmation or final nonconfirmation of an individual's identity and employment authorization not later than 30 days after the Secretary receives notice from the individual contesting a tentative nonconfirmation.

(E) TENTATIVE NONCONFIRMATION.—

(i) IF.—If a person or entity receives a tentative nonconfirmation of an individual's identity or employment authorization, the person or entity shall not later than 3 business days after receipt, notify such individual in writing in a language understood by the individual and on a form designated by the Secretary, that shall include a description of the individual's right to contest the tentative nonconfirmation. The person or entity shall attest, under penalty of perjury, that the person or entity provided (or attempted to provide) such notice to the individual and the individual shall acknowledge receipt of such notice in a manner specified by the Secretary.

(ii) NO CONTEST.—

(A) TENTATIVE NONCONFIRMATION shall become final if, upon receiving the notice described in clause (ii), the individual—

(aa) refuses to acknowledge receipt of such notice;

(bb) acknowledges in writing, in a manner specified by the Secretary, that the individual will not contest the tentative nonconfirmation;

(cc) fails to contest the tentative nonconfirmation within the 10-business-day period beginning on the date the individual received such notice;

(2) RECORD OF NO CONTEST.—The person or entity shall indicate in the System that the individual did not contest the tentative nonconfirmation and shall specify the reason the tentative nonconfirmation became final under subsection (f).

(F) EFFECT OF FAILURE TO CONTEST.—An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of any fact with respect to any violation of this Act that may give rise to a higher provision of law.

(G) CONTEST.—

(i) IN GENERAL.—An individual may contest a tentative nonconfirmation by using the tentative nonconfirmation review process under clause (i), not later than 10 business days after receiving the notice described in clause (ii), except as provided in clause (iii), the nonconfirmation shall remain tentative until a confirmation or final nonconfirmation is provided by the System.

(ii) PROHIBITION ON TERMINATION.—In no case shall a person or entity terminate employment or take any adverse employment action on the basis of a tentative nonconfirmation of the individual's identity and employment authorization until the person or entity receives a notice of final nonconfirmation from the System. A subclause shall prohibit an employer from terminating the employment of the individual for any other lawful reason.

(iii) CONFIRMATION OR FINAL NONCONFIRMATION.—The Secretary, in consultation with the Commissioner, shall issue notice of a confirmation or final nonconfirmation of the individual's identity and employment authorization not later than 30 calendar days after the date the Secretary receives notice from the individual contesting the tentative nonconfirmation.

(iv) NOTICE.—If a person or entity receives a final nonconfirmation of an individual's identity or employment authorization, the person or entity shall, not later than 3 business days after receipt, notify such individual of the final nonconfirmation in writing, on a form designated by the Secretary. The notification shall include information regarding the individual's right to appeal the final nonconfirmation as provided under subparagraph (C). The notification shall be under penalty of perjury, that the person or entity provided (or attempted to provide) the notice to the individual, and the individual shall acknowledge receipt of such notice in a manner designated by the Secretary.

(2) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If a person or entity renews a provisional employment authorization, the person or entity shall notify the Secretary of such fact through the System. Failure to notify the Secretary in accordance with this clause shall be deemed a violation of section 274A(a)(1)(A).

(iii) PRESUMPTION OF VIOLATION FOR CONTINUED EMPLOYMENT.—If a person or entity continues to employ an individual after receipt of a final nonconfirmation, there shall be a rebuttable presumption that the person or entity has violated paragraphs (1)(A) and (a)(2) of section 274A(a).

(v) APPEAL OF FINAL NONCONFIRMATION.—

(A) ADMINISTRATIVE APPEAL.—The Secretary, in consultation with the Commissioner, shall develop a process by which an individual may seek administrative review of a final nonconfirmation. Such process shall—

(1) permit the individual to submit additional evidence establishing identity or employment authorization;

(2) ensure prompt resolution of an appeal (but in no event shall there be a failure to respond to an appeal within 30 days); and

(3) permit the Secretary to impose a civil money penalty or fine, in an amount acceptable by the Secretary, upon finding that an appeal was frivolous or filed for purposes of delay.

(B) COMPENSATION FOR LOST WAGES RESULTING FROM GOVERNMENT ERROR OR OMISSION.—

(i) IN GENERAL.—If, upon consideration of an appeal of a final nonconfirmation, the Secretary determines that the final nonconfirmation was issued in error, the Secretary shall further determine whether the final nonconfirmation was the result of government error or omission. If the Secretary determines that the final nonconfirmation was solely the result of government error or omission and the individual was terminated from employment, the Secretary shall compensate the individual.

(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that were in effect prior to the individual's termination. The individual shall be compensated for lost wages beginning on the first scheduled work day after employment was terminated and ending 90 days after completion of the administrative review process described in this subparagraph or the day the individual is reinstated or obtains other employment, whichever occurs first.

(IV) LIMITATION ON COMPENSATION.—No compensation for lost wages shall be awarded for any period during which the individual was period authorized for employment in the United States.

(V) SOURCE OF FUNDS.—There is established in the general fund of the Treasury a 'Verification Compensation Account'. Fees collected under subsections (f) and (g) shall be deposited in the Electronic Verification Compensation Account and shall remain available for purposes of providing compensation for lost wages under this subsection.
(3) LIMITATION ON REVERIFICATION.—Except as provided in paragraph (1), a person or entity may not otherwise reverify the identity and employment authorization of a current employee, including an employee continuing in employment, for any purpose other than confirmation, reverification authorized by the System, or permitted under any other provision of law.

(4) DEFENSE.—In the case of a person or entity that uses the System for the hiring, recruiting, or referring to employment in the United States, the person or entity shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law, for any employment-related action taken with respect to an employee in good-faith reliance on information provided by the System, such person or entity shall be deemed to have established compliance with its obligations under this section, absent a showing by the Secretary, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

(e) LIMITATIONS.—

(1) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(2) NOTWITHSTANDING any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any immigration history database, or other records assembled under this section for any purpose other than the verification of identity and employment authorization of an individual or to ensure the secure, appropriate, and non-discriminatory use of the System.

(f) PENALTIES.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of subsections (e) through (p) of section 274A shall apply with respect to the provisions of this section and penalties for non-compliance for persons or entities that use the System.

(2) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTIES FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—Notwithstanding the civil money penalties set forth in section 274A(c), with respect to a violation of paragraph (1)(A) or (2) of section 274A, the Secretary or the Attorney General shall require a person or entity that has hired, recruited, or referred for a fee, an individual for employment in the United States, a cease and desist order.

(3) CRIMINAL PENALTY.—Notwithstanding section 274A(h), if the provisions of any other Federal law relating to civil penalties, any person or entity that is required to comply with the provisions of this section and engages in a pattern or practice of violations of paragraphs (1) or (2) of section 274A(a) for a violation of section 274A(g)(1)(B) for hiring or recruitment or referral by a person or entity, and in the case of imposition of a civil penalty under paragraph (6), the order under this paragraph shall require the person or entity to pay a civil penalty in an amount, subject to subsection (f), of—

(i) not less than $5,000 and not more than $10,000 for each such alien in the case of a person or entity previously subject to one order under this paragraph; or

(ii) not less than $50,000 and not more than $250,000 for each such alien in the case of a person or entity previously subject to more than one order under this paragraph; and

(B) may authorize the Secretary or the Attorney General to take such other remedial action as appropriate.

(7) ORDER FOR CIVIL MONEY PENALTY FOR VIOLATION OF SUBSECTION (c).—In the case of a person or entity that has engaged or is engaging in good-faith reliance on information provided by the System to the person that the person or entity knows or reasonably believes to be false, shall be treated as a violation of section 274A(a)(1)(A).

(8) DEBARMENT.—Any decision to debar a person or entity in accordance with this section shall require the person or entity to pay a civil penalty under paragraph (3), to make an agreement to be considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant, or cooperative agreement, the Secretary or the Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Government’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or the Attorney General may refer the matter to the appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

(9) PREEMPTION.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, interpreting or permitting the practice for a person or entity, in the course of utilizing the System, to screen an applicant prior to the date of hire.

(10) USE OF SYSTEM TO SCREEN APPLICANTS.—If the Secretary or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity does not hold a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall refer the person or entity to the appropriate lead agencies to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

(C) CONTRACT, GRANT, AGREEMENT.—If the Secretary or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall advise all agencies and departments holding a contract, grant, or cooperative agreement with the person or entity of the Government’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or the Attorney General may refer the matter to the appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.
engaged in an unfair immigration-related employment practice described in paragraph (1) are—

(A) not less than $1,000 and not more than $4,000 for each individual discriminated against; and

(B) in the case of a person or entity previously subject to a single order under this paragraph, not less than $5,000 and not more than $20,000 for each individual discriminated against.

(2) Recruiting or referring for a fee an individual for agricultural employment in the United States on the date that is 12 months after completion of the application period described in section 101(c); and

(3) Transition rule.—Except as required under subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), relating to Government procurement, a person or entity that—

(a) requests an individual to apply for agricultural employment in the United States under section 214(e)(2) or (3) of the Immigration and Nationality Act (8 U.S.C. 1184(e)(2) or (3)), or through the employment eligibility confirmation system established under section 274E of the Immigration and Nationality Act, as inserted by section 301 of this Act, or

(b) in the matter following paragraph (3) by inserting “section 274E(b) after “section 274E(a).”

(2) d Semiannual report.—The Secretary shall semiannually provide to Congress a report describing the administrative and enforcement actions taken under this section, including a list of all employers required to participate in the E-Verify Program and the E-Verify program described in section 303(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).
(b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.—Section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the matter preceding subclause (II) by inserting “the use of the verification system as described in section 274E(g)” after “referral for a fee.”.

SEC. 306. PROTECTION OF SOCIAL SECURITY ADJUSTMENTS FROM FRAUDULENT USE.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2019, the Commissioner and the Secretary shall ensure that an agreement is in place which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner with respect to employment eligibility verification, including under this title and the amendments made by this title, and including—

(A) the number, types and outcomes of audits, and investigations, and other compliance activities initiated by the Branch in the previous year;

(B) the capacity of the Branch to detect and prevent violations of section 274E(b)(2) of the Immigration and Nationality Act, as inserted by section 301 of this Act, including—

(1) an assessment of the accuracy rates of such tools;

(2) an assessment of the effectiveness of such tools at preventing identity fraud and other misuse of identifying information;

(3) an assessment of any challenges faced by persons, entities, or individuals utilizing such tools; and

(4) an assessment of operation and maintenance costs associated with such tools.

(2) ELECTRONIC FORMS.—All forms designated or established by the Secretary that are necessary to implement this title, and the information contained in or appended to such forms, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

The SPEAKER pro tempore. The bill, as amended, shall be debateable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary.

The gentleman from New York (Mr. NADLER) and the gentleman from Colorado (Mr. BUCK) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 5038.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 5038, the Farm Workforce Modernization Act, is vital legislation that will address an issue of critical national importance: the growing labor challenges damaging the American agricultural sector.

Solving this issue is crucial not only from an economic standpoint, but, also, it is a matter of national security. The less we grow our own food, the more dependent we become on food imports, and the more vulnerable we become to food contamination, epidemics, fluctuating market prices, and increased national debt.

Today, food imports account for approximately 32 percent of the fresh vegetables and 55 percent of the fresh fruit that we consume.

Systemic labor challenges are one of the main reasons for this increase in agricultural imports.

The United States has seen a continuing decline in the number of family farmworkers and fewer U.S. workers...
are turning to farm work as their chosen pursuit. As a result, most of today’s hired farm laborers are foreign-born.

Unfortunately, our immigration laws have not been updated to reflect the needs of our 21st century economy. Due in large part to the ongoing and undocumented labor needs of our Nation’s agricultural employers, the need for reliable and legal farm workers has continued to grow over the past decades. The farm labor needs of our 21st century economy are driven by new consumer demands, as well as the increasing need for food security across the globe. The bill also addresses the need for a stable labor supply to our Nation’s agricultural employers.

Mr. Speaker, I reserve the balance of the time on this measure.
have worked to make the bill better, but this bill is still the same fundamentally flawed bill that came before us in the Committee on the Judiciary a few weeks ago. What is worse is that House leadership put this bill on the floor under a closed rule without an amendment. This means that there was no opportunity to address a number of problems with the bill that a rigorous debate and thoughtful amendments could address, but that will not be happening today.

Mr. Speaker, I don’t have the slightest idea of how many individuals this bill will put on a pathway to citizenship. And while I would like to think that all of our agricultural workers are trustworthy, good people, we don’t have any way to verify that before granting certified agricultural work status.

The chairperson will assert that aliens seeking status under the bill will need to have a clean record in order to be put on a pathway to citizenship, but this alone is not enough. H.R. 5038 allows an illegal alien to receive certified agricultural worker status and get on a pathway to citizenship even if they have been convicted of two crimes involving moral turpitude, controlled substance violations, or if they were involved in prostitution or trafficking. The bill also permits an individual to receive status after being convicted of two misdemeanors with a third conviction pending.

We know the Democrats vote down an amendment from Representative CHABOT that would have made an alien ineligible for amnesty if they are charged with two DUI’s or one DUI with an injury. You can’t tell me that you are serious about ensuring only people with clean records take advantage of this system if you reject amendments that bar criminals from taking advantage of our system.

Additionally, H.R. 5038 allows individuals to apply for legal status and a work permit, which is not limited to agricultural industries, with little more than an affidavit claiming that the individual worked unlawfully in this country for 1,035 hours or 180 workdays over the past 2 years. This means applicants will have worked less than 6 hours per day for less than 4 months over a 2-year period.

I appreciate that my colleagues heard my concerns and changed the overall structure of the bill from a more flexible system to a higher standard preponderance of evidence; however, the underlying provisions haven’t changed. The bill still allows an individual petitioning for status to meet that preponderance burden by providing documents, including their own affidavit, work history and as long as those documents meet a just and reasonable inference standard.

Let me remind everyone here that existing case law finds that just and reasonable inference standard essentially requires adjudicators to accept a petition based on nothing more than an individual’s word. This is the same evidentiary standard unsuccessfully used in the 1986 special agricultural worker legalization bill, which led to widespread fraud, and even amnesty, for one of the World Trade Center bombers. He wasn’t an agricultural worker at all, but a taxi driver in New York City.

Unfortunately, while I appreciate the chairperson’s effort to work with me here, this change won’t solve these problems. My friends on the other side of the aisle also rejected Representative ARMSTRONG’s amendment that would specify that certified agricultural workers would only be eligible to work in agriculture. While the individual may receive status as an agricultural worker, there is no guarantee that they won’t immediately find a job in another industry as soon as possible.

Additionally, the bill does nothing to stop potential Social Security fraud. Individuals who have been fraudulently using a valid Social Security number, sometimes for many years, to obtain a work status and benefits, will get off without even so much as a slap on the wrist.

Furthermore, this bill fails our adjudicators at USCIS by preventing them from accessing the most comprehensive background check databases when determining whether an applicant for certified agricultural worker status poses a public safety risk. We need to ensure our investigators have all the information they need to ensure that we are not allowing felons and violent individuals to remain in the country.

The bill also provides a handout to the trial attorneys and presents an increased risk of litigation for agricultural employers by giving H-2A workers a Federal private right of action. This provision ignores the current H-2A program’s existing administrative procedures for handling claims and fails to provide employers the opportunity to cure violations before a suit may go forward. This is fundamentally unfair to the hardworking farmers, growers, and ranchers who care about their workers.

I ask my colleagues: Would you prefer having the problem fixed or you just want to give trial attorneys another opportunity to sue?

Finally, the bill fails to achieve the desired results on a number of provisions that have the potential to truly help our agricultural employers. The authors promised to streamline the application process, address wage problems, and ensure a lasting labor solution. The bill streamlines data entry for H-2A applications but does nothing to encourage concurrent agency review of H-2A applications. This essentially speeds up the data entry, but the adjudication process exactly the same.

I appreciate that my colleagues codified H-2A procedures and included a pool of 20,000 visas for year-round industries, including dairy farmers and sheep and goat herders, but this falls far short of industry’s needs and fails to fix the problematic version of existing law.

Once again, I am glad that my colleagues are trying to solve this problem. I truly want to support the farmers, growers, dairymen, and ranchers in my district and throughout the country. We need to find a solution that ensures our agricultural employers have a reliable labor pool. My colleagues and I want to strike an Ag labor agreement; unfortunately, this bill is fatally flawed, and I must oppose it in its current form.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in strong support of this bill today. I am proud of the bipartisan work that was done to get us to this point. Representatives NEWHOUSE, SIMPSON, LAMALFA, DIAZ-BALART, UPTON—so many others on the Republican side—here: PANETTA, PELOSI, McCARTHY, COHEN, CORREA, COSTA, ESCOBAR—I better stop because there are more people who toiled on this legislation for almost a year.

Now, it is not always easy to find common ground even when you have a common goal, but if you listen to each other, if you work hard, you can get it done. We have been several decades in failing to accomplish anything in this area. This is a chance to solve a problem for America that needs a solution. It is the product of bipartisan negotiation, and I will say, also amongst stakeholders. We have the United Farm Workers Union meeting and discussing points of concern of concern with farmers and growers all across the United States.

You know, I grew up in a union household, and I was taught to respect collective bargaining. And when it comes to wages, hours, and working conditions, that is something we need to do.

Mr. Speaker, I reserve the balance of my time.

Now, the ranking member of the subcommittee has raised a couple of
issues, and I want to deal with them just briefly. You know, we have robust protections against criminality in this bill. And I would like to note, that the bars that we have put into this bill are substantially more than was in the bill proposed by Representative Goodlatte that most Republicans failed in the last Congress. He didn't have anything additional. We do. We have security bars; we have criminal bars that are additional.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Ms. LOFGREN. Mr. Speaker. I yield myself an additional 15 seconds.

Mr. Speaker, any felony conviction, any aggravated felony conviction, more than two misdemeanors of any kind, we have the ability in the Department of Homeland Security to simply deny the visa if there is any concern about the conduct of the applicant.

Mr. Speaker, this is a good bill. We should support it and I reserve the balance of my time.

Mr. BUCK. Mr. Speaker. I yield 3 minutes to the gentleman from California (Mr. MCCLINTOCK), my friend.

Mr. MCCLINTOCK. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, history warns us that nations which either cannot or will not secure their borders simply aren't around very long. And if we will not enforce our immigration laws, our borders mean nothing. America ceases to become a unique nation and simply becomes a vast international territory between Canada and Mexico.

Now, I understand agriculture's need for labor, especially in so tight a labor market as our blossoming Trump economy has created. Years ago, the Bracero program provided a means for seasonal laborers to come to America, be protected under our laws, and provided with a powerful incentive to return in the form of a significant financial deposit. When the season ended, the program can only work when our immigration laws are being uniformly enforced. Instead, this bill ignores enforcement and rewards anyone who has illegally crossed our borders, both with amnesty and a special path to citizenship, as long as they claim to have worked part-time in the agriculture sector for the last 2 years.

Mr. Speaker, I rise in strong support of H.R. 5038, the Agricultural Worker Program Act.

This legislation will stabilize the agricultural sector and preserve our rural heritage by ensuring that farmers can meet their labor needs well into the future.

First, the bill establishes a program for agricultural workers in the United States (and their spouses and minor children) to earn legal status through continued agricultural employment.

Specifically, the bill creates a process for farm workers to seek Certified Agricultural Worker status—a temporary status for those who have worked at least 180 days in agricultural work over the 2-year period.

Certified Agricultural Worker status can be renewed indefinitely with continued farm work (at least 100 days per year).
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Page 3, strike lines 19 through 21 and insert the following:

(B) on the date of the introduction of this Act—

(i) is inadmissible or deportable from the United States; or

(ii) is under a grant of deferred enforced depar-

ture or has temporary protected status under section 244 of the Immigration and Na-

tionality Act.

I would like to thank Congresswoman Lofgren and her team for working with our of-

cice to insure that this would be a positive way of making the point that individuals who are

around farming areas can continue to do great work.

I would like to thank the organizations in-

volved in the assisting in crafting this amend-

ment, the United Farm Workers, UFW Foun-

dation and Farmworker Justice.

My amendment, and this bill, are about
doing the right thing. One important goal of this legislation is to recognize the contributions of

farmworkers to our nation’s agricultural suc-

cess.

Individuals with TPS, from Haitian workers in Florida to Honduran workers in California, and those with DED, including UFW members in Washington, are a key part of our nation’s farmworkers.

We must afford those individuals with TPS and DED the same opportunity to earn a more secure temporary status and lawful permanent residency as will be given to many of our na-

tion’s other farmworkers.

Many of these individuals have been living in the U.S. for years and have U.S. citizen children.

All they wanted to do was to get a pathway to citizenship in a myriad of directions but in particular, to do it legally.

Ensuring that farmworkers who have TPS and DED are eligible to participate in the Farm Workforce Modernization Act’s legalization program is important to provide needed sta-

bility to this workforce.

Moreover, it necessary to further the legisla-
tion’s intent to stabilize the current agricultural labor supply and to ensure that farmworkers are able to join more fully the society that they are helping to feed.

I would like to thank the Judiciary Com-

mittee, my colleagues, both Republican and Democratic, and in particular, Chairman Nadler and Ms. Lofgren, who emphasized a very im-

portant point that this has been a year of working together.

I am reminded of our tenure here on the Ju-

diciary Committee and I think we have at-
tempts to be fair and bipartisan on immigra-
tion reform for at least 2 decades.

I am also reminded of the legislation that came from the Senate, led by the late Senator John McCain that was a bipartisan bill that at-
tempts to respond to the issues of undocu-

mented persons.

UNITED FARM WORKERS SUPPORT FOR THE FARM WORKFORCE MODERNIZATION ACT (H.R. 5038—LOFGREN)

The United Farm Workers of America sup-

ports the bipartisan Farm Workforce Mod-

ernization Act (H.R. 5038). We were proud to join the bipartisan group of members of Con-

gress and the major grower associations to develop and support H.R. 5038. It is cruelly ironic that those who feed the United States live in a deep, all-encompassing fear that they themselves cannot provide food for their families. The human cost and stress for farm workers and their families as they live in fear of deportation and harassment due to our broken immigration system threatens our nation’s food supply and is a source of great shame for our nation. The compromise legislation authored by Representatives Lofgren, cosponsored by a bipartisan, di-

verse group of over 50 members of the House, and endorsed by the Congressional Hispanic Caucus will go a long way towards improving the lives of farm workers today and in the future, and our broken immigration system.

We support H.R. 5038 for a simple reason, it will make the lives of all farm workers better. H.R. 5038 meets the following basic principles:

1. Equality of Treatment—the new agricul-
tural visa program will allow farm workers and their families to have the same rights and protections as current U.S. farm work-

ers.

2. No Discrimination—the program does not create major incentives to discriminate against U.S. workers (including newly legal-

ized workers).

3. Fairness in pay—the pay rates protect U.S. workers and supports predictable pay increases.

4. Eligibility to earn permanent resi-
dence—no one that works to feed our coun-

try should be condemned to permanent sec-

ond class status. H.R. 5038 changes our cur-

rent immoral system.

You have the ability to pass H.R. 5038. If H.R. 5038 is law, agricultural workers will have stability with their families, and their families and the agricultural industry. Please vote YES on H.R. 5038.

Mr. BUCK. Mr. Speaker, I yield 3 minutes to the gentleman from Wash-

ington (Mr. Newhouse).

Mr. Newhouse. Mr. Speaker, I want to thank my good friend from Colorado for yielding me time.

Mr. Speaker, if you talk to any farm-

er in this country, one of the biggest issues that they bring up is some-

thing they are concerned with, is their labor force, a secure and legal labor force. And that is what brought to-

together a bipartisan group of Members of Congress, representatives from agri-
cultural groups around the country, as well as agricultural labor groups around the country, to come up with a bill to deal with the labor situation that we have in this country, to pro-

vide a certain legal labor force; some-

times that is simple in saying that, but very, very complex in order to get to the solution.

So this has three titles. Number one deals with the current workforce. We have come up with something that the President has asked for; a merit-based system to provide legality to our cur-

rent workforce that requires a history of ag labor; it requires fines because people broke the law to get here; and it requires people to stay engaged in the agricultural industry.

Title two simply is to reform the H-2A program, something that we des-

perately need. It makes it more respons-

ive, more efficient. It will cap the ever-skyrocketing wage growth in this country of the AEWR to 3.25 percent per year. Some States next year are facing a 9 1/2 percent increase.

On top of that, it will allow full-time employers, like dairies, to be able to take advantage and utilize the H-2A program.

And third, it will require a phase-in of the E-Verify system, something that Republicans have wanted for a long time, and something that I think will remove an incentive for people to ille-

gally cross the border and will do a lot to improve the security of our country.

This bill provides certainty for farm-

ers and farmworkers.

Mr. Speaker, I include in the RECORD some letters of support from the National Association of Counties, the Chamber of Commerce of the United States of America, the Americans for Prosperity, the National Association of State Departments of Agriculture, the Committee on Migration, and included in a letter to leadership, a list of over 300 agricultural organizations across this great country in support of this legislation.

DEAR SPEAKER PELOSI AND MINORITY LEAD-

ER MCCARTHY: The undersigned groups, re-

presenting a broad cross-section of agri-
culture and its allies, urge you to advance the Farm Workforce Modernization Act (H.R. 5038) through the House to address the labor crisis facing American agriculture. A stable, legal workforce is needed to ensure farmers and ranchers have the ability to con-

tinue producing an abundant, safe, and af-

ordable food supply.

The effects of agriculture’s critical short-

age of labor reach far beyond the farm gate, negatively impacting our economic competi-
tiveness, local economies, and jobs. Econo-
mists have found that every farm worker en-

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tinue producing an abundant, safe, and af-

ordable food supply.

The House must pass legislation that pre-

serves agriculture’s experienced workforce by allowing current farm workers to earn legal status. For future needs, legislation must include an agricultural worker visa program that provides access to a legal and reliable workforce moving forward. This visa program needs to be more accessible, pre-
dictable, and flexible to meet the needs of producers, including those with year-round labor needs, such as dairy and livestock which currently do not have meaningful ac-

cess to any program.

While the bill does include a few provisions that raise significant concerns, for agri-

cultural community, we are committed to working together throughout the legislative process to fully address these issues. It is vital to move the Farm Workforce Mod-

ernization Act (H.R. 5038) through the House as a significant step in working to meet the
labor needs of agriculture, both now and in the future.

Sincerely,

African-American Farmers of California; AgCredit; AgFirst; AgriBank; Agricultural Credit Cooperatives of America; Alabama Dairy; Alabama Nursery & Landscape Association; Almond Alliance of California; Almond Board of California; American AgCredit; American Beekepers Federation; American Mushroom Institute; American Pistachio Growers; American Seed Trade Association; American Soybean Association; Arizona Landscape Contractors Association; Arizona Nursery Association. 

Arkansas Rice Growers Association; Associated Milk Producers, Inc.; Association of Virginia Potato and Vegetable Growers; Aurora Organic Dairy; AZ Farm & Ranch Group; Battlefield Farms, Inc.; Bipartisan Policy Center Action; Benjamins Creameries; Butte County Farm Bureau; California Ag Irrigation Association; California Alfalfa & Clover Seed Commission; California Apple Commission; California Avocado Commission; California Beef Shippers Association; California Blueberry Commission; California Canning Peach Association; California Cherry Growers Association; California Citrus Mutual; California Dairies, Inc.; California Farm Bureau Federation; California Fresh Fruit Association; California Fresh Apple Commission; California Ginseng Commission; California Greenhouse Growers Association; California Hordeum Growers Association; California Women for Agriculture; Cayuga Milk Ingredients; Central Valley Ag; Cherry Marketing Institute; Chobani; Clif Bar & Company.

CoBank; Colorado Dairy Farmers; Colorado Nursery & Greenhouse Association; Colorado Potato Legislative Association; Compeer Financial; Cooperative Milk Producers Association; Cooperative Network; Dairy Farmers of California; Dairy Farmers of Arizona; Dairy Farmers of Florida; Dairy Farmers of Georgia; Dairy Farmers of Illinois; Dairy Farmers of Indiana; Dairy Farmers of Kentucky; Dairy Farmers of Michigan; Dairy Farmers of Missouri; Dairy Farmers of Minnesota; Dairy Farmers of New York; Dairy Farmers of Pennsylvania; Dairy Farmers of Texas; Dairy Farmers of Utah; Dairy Farmers of Wisconsin; Dairy Farmers United; Dairy Foods Association; Dairy Producers of Texas; Dairy Producers of Utah; Del Mar Food Products, Corp.; Driscoll’s; Edge Dairy Farmer Cooperative; Ellsworth Cooperative Creamery; Far West Agribusiness Association; Farm Credit East; Farm Credit Illinois; Farm Credit Services of America; Farm Credit West; FarmFirst Dairy Cooperative.

First District Association; Florida Agri-Women; Florida Blueberry Growers Association; Florida Citrus; Florida Farm Bureau; Florida Fresh Vegetables Association; Florida Nursery, Growers, and Landscape Association; Florida Strawberry Growers Association; Florida Tobacco Company; Food Dollars; Food Producers of Idaho; Foremost Farms USA; Fresno County Farm Bureau; Frontier Farm Credit; Fruit Growers Marketing Association; Fruit Growers Supply; Georgia Green Industry Association; Gialnica Nutritional; Grapefarm Farms; GreenStone Farm Credit Services; Grower-Shippers Association of Central Oregon; Growmark.


Idaho Nursery & Landscape Association; Idaho Pecan Commission; Idaho Potato Commission; Idaho State Grapes; Idaho Sugarbeet Growers Association; Idaho Water Users Association; Idaho Wool Growers; Idaho Women’s Ag Society; Illinois Agricultural and Vegetable Association; Illinois Green Industry Association; International Dairy Food Association; Iowa Institute for Cooperatives; Iowa Soybean Checkoff Program; Kansas Cooperative Council; Kansas Dairy Association; Kanza Cooperative Association; Kings County Farm Bureau; Land O’ Lakes, Inc.; Lone Star Milk Producers.

Madera County Farm Bureau; Maine Landscape and Nursery Association; Maine Potato Board; Maryland & Virginia Milk Producers Cooperative Association; Maryland Nursery, Landscape, & Greenhouse Association; Massachusetts Nursery and Landscape Association; Michigan Apple Marketing; Mendocino County Farm Bureau; Merced County Farm Bureau; Michigan Agri-Business Association; Apple Growers Association; Michigan Asparagus Advisory Board; Michigan Bean Shippers; Michigan Cider Association; Michigan Greenhouse Growers Association; Michigan Nursery & Landscape Association; Michigan State Horticultural Society; Midwest Dairy Coalition; Mid-West Dairymen’s Company; Milk Producers Council.

Milk Producers of Idaho; Minnesota Area II Potato Council; Minnesota Milk Producers Cooperative Association; Minnesota Nursery & Landscape Association; Missouri Rice Research and Merchandising Council; Montana Nursery & Landscape Association; Monterey County (CA) Farm Bureau; Mount Joy Farmers Cooperative Association; Napa County Farm Bureau; National All-Jersey; National Association of Produce Market Managers; National Council of Agricultural Employers; National Council of Farmer Cooperatives; National Farmers Union; National Grange; National Immigration Forum; National Milk Producers Council; National Potato Association; National Potato Council; National Watermelon Association; Nebraska State Dairy Association. 

New England Agriculture; New England Apple Council; New England Farmers Union; New York Apple Association; New York Farm Bureau Federation; New York State Berry Growers Association; New York State Flower Industries; New York State Vegetable Growers Association; Nexperze Prairie Grass Growers Association; Nissee Farmers League; North American Blueberry Council; North Carolina Nursery & Landscape Association; North Carolina Potato Association; Northeast Coast Cooperative; Northeast Dairy Foods Association, Inc.; Northeast Dairy Producers Association; Northern Plains Potato Growers Association; Oregon Nursery & Landscape Association; Northwest Ag Co-op Council; Northwest Dairy Association; Darigold; Northwest Farm Credit Services; Northwest Horticultural Council.

Ohio Apple Marketing Program; Ohio Dairy Producers Association; Ohio Nursery & Landscape Association; Olive Growers Council; Oregon Buckwheat Foundation; Oregon Milk Producers Cooperative Association; Orange County Farm Bureau; Oregon Association of Nurseries; Oregon Dairy Farmers Association; Pacific Coast Producers; Pacific Egg and Poultry Association; Pacific Seed Association; Pennsylvania.

Hon. Nancy Pelosi, Speaker, House of Representatives, Washington, DC.

Hon. Kevin McCarthy, Minority Leader, House of Representatives, Washington, DC.

Dear Speaker Pelosi and Minority Leader McCarthy: On behalf of the National Association of Counties and the 3,069 county governments we represent, we are writing in support of the Farm Workforce Modernization Act (H.R. 5038). This bill would preserve, expand and improve on the processes and resources aimed at helping counties bolster our rural economies.

County governments across the country face many challenges to providing quality

December 11, 2019

CONGRESSIONAL RECORD — HOUSE

H10071

Sylvia Co-operative Potato Growers; Pennsylvania Landscape & Nursery Association; Plant California Alliance; POM Wonderful; Porterville Citrus; Potato Growers of America; Potato Growers of Michigan; Prairie Farms Dairy, Inc.

Premier Milk Inc.; Produce Marketing Association; Professional Dairy Managers of Oregon; Retail Affiliated Companies; Richard Bagdasarian, Inc.; Riverside County Farm Bureau; Rocky Mountain Farmers Union; San Diego County Farm Bureau; San Mateo County Farm Bureau; Santa Clara County Farm Bureau; Santa Cruz County Farm Bureau; Sciento Co-operative Milk Producers’ Association; Select Milk Producers’ Cooperative Corporation; Sesla Citrus Association; Snake River Sugar Company; Solano County Farm Bureau; Sonoma County Farm Bureau; South Dakota Association of Cooperatives.

South Dakota Dairy Producers; Southeast Milk Inc.; Southern States Cooperative; St. Albans Cooperative Creamery, Inc.; Stanislaus County Farm Bureau; State Horticultural Association of Pennsylvania; Summer Prize Frozen Foods; Sunkist Growers; Sun-Maid Growers of California; SunSweet Growers, Inc.; Tennessee Nursery & Landscape Association; Texas Agricultural Cooperative Council; Texas Association of Dairymen; Texas Mutual National Producers; Texas Nursery & Landscape Association; The National Association of State Departments of Agriculture; The SF Market and San Francisco Produce Association; Tillamook County Creamery Association; Tree Top, Inc.

Tulare County Farm Bureau; U.S. Apple Association; U.S. Rice Commission; United Ag; United Dairymen of Arizona; United Egg Producers; United Fresh Produce Association; United Onions, USA; United Potato Growers of Idaho; United Potato Growers of Utah; United Potato Growers of Washington; United Potato Cooperative; United Dairy Farmers Union; Utah Horticulture Society; Valley Fig Growers; Ventura County Agricultural Association; Ventura Pacific; Vermont Dairy Producers Alliance; Virginia Apple Growers Association; Virginia Nursery & Landscape Association; Virginia State Dairymen’s Association; Vitanas Citrus Packing Group Inc., Inc. WA Wine Institute; Washington Growers League; Washington State Dairy Federation; Washington State Nursery & Landscape Association; Washington State Department of Agriculture; Washington State Tree Fruit Association; Wawona Frozen Foods; West Virginia Nursery & Landscape Association; Western Growers Association; Western Growers’ Cooperative; Western Milk Producers Association; Western United Dairies; Wine Institute; WineAmerica; Wisconsin Dairy Business Association; Wisconsin Potato & Vegetable Growers Association; Wonderful Citrus; Wonderful Orchards; Yuma Fresh Vegetable Association.

NATIONAL ASSOCIATION OF COUNTIES,

December 11, 2019.
and affordable housing options for rural families and farm laborers. Unfortunately, federal regulations often are inflexible and too restrictive to address the unique needs of our rural communities. Much of our nation’s existing farm labor housing has also aged past its useful life with severe physical problems, including inadequate heating, plumbing and space.

Additionally, we are encouraged by efforts in this bill to modernize and simplify the H-2A process and ensure that a reliable and capable workforce is available for the nation’s farmers and ranchers. This bill would provide more consistent and stability in our farm labor force and create a realistic path for migrants to contribute to the national economy.

We ask that you join us in support of the Farm Work Modernization Act and help strengthen our nation’s local agricultural economies. Thank you for your time and consideration on this important matter.

Sincerely,


The inadequacy caused by the insufficient quantity of agricultural workers in the U.S. has enabled foreign agricultural producers to take advantage of this situation and gain market share. American agricultural producers will only become less competitive in the global marketplace if these workforce problems persist.

The Farm Work Modernization Act seeks to provide workforce stability for agricultural employers by allowing unauthorized farm workers to earn legal status in the U.S. This legislation also would address future agricultural workforce needs by updating the temporary agricultural worker program, most notably providing eligibility to employers who have year-round labor needs, which is critical for dairy and livestock. Further, the bill would enhance domestic security by making the use of E-Verify mandatory for employers seeking to hire temporary agricultural workers.

This bill could benefit from further refinement. The proposed prevailing wage levels for temporary agricultural workers, as well as the new annual visa quotas for year-round agricultural employment, should be more responsive to market needs. In addition, the transition period for agricultural employers to utilize the E-Verify system should be extended in order for employers to better adjust to the new compliance burdens being foisted upon them. We are committed to working with members to help address these and other issues to improve the bill as it proceeds through the legislative process.

Sincerely,
NEIL L. BRADLEY, Executive Vice President and Chief Policy Officer.

AMERICANS FOR PROSPERITY, The LIBRE INITIATIVE, November 19, 2019.

DEAR REPRESENTATIVE: On behalf of our organization and the millions of activists we represent, we applaud the bipartisan efforts from lawmakers in the House of Representatives on the Farm Workforce Modernization Act of 2019. This bill represents a step in the right direction by modernizing components of our guest worker program and legal immigration system. It will also help our country better meet the needs of employers and guest workers in the agricultural sector.

We are encouraged by lawmakers’ efforts to streamline the H-2A program aimed at reducing some of the burdens imposed on employers and workers, in addition to considerable reforms that create new legal channels which currently are not available.

While the legislation is not perfect, the bill represents an important step forward to improve the way we issue temporary visas for guest workers and green cards for aspiring immigrants. We look forward to working with members to improve this bill by further reducing unnecessary regulations that impede upon the ability for employers and employees to freely contract in a mutually beneficial manner.

With only a few legislative days remaining, we urge lawmakers to continue working together to modernize and improve our guest worker program and stand ready to partner with lawmakers to accomplish this goal.

Sincerely,

BRENT GARDNER, Chief Government Affairs Officer, Americans for Prosperity.

DANIEL GARZA, President, The LIBRE Initiative.

NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE, Arlington, VA, November 12, 2019.

Hon. ZOE LOFGREN, Chairwoman, Subcommittee on Immigration and Citizenship, House Committee on the Judiciary, House of Representatives, Washington, DC.

Hon. DAN NEWHOUSE, House of Representatives, Washington, DC.

DEAR CHAIRWOMAN LOFGREN AND CONGRESSMAN NEWHOUSE: The Farm Workforce Modernization Act (PWMA) is a crucial step forward towards solving agriculture’s need for labor. NASAH thanks you for your hard work negotiating and finding compromises on a bipartisan bill that successfully increase access to farm labor across the country. Foreign-born workers are an essential part of the U.S. agriculture workforce and an estimated half of U.S. farm workers are currently foreign born. For years, the agriculture industry has struggled to access sufficient labor in sectors ranging from produce to animal care. As the Act was passed, it was compounded by the current low unemployment in the United States. These factors are why the National Association of State Departments of Agriculture urges Congress to pass the PWMA.

NASAH represents the Commissioners, Secretaries, and Directors of the state departments of agriculture in all fifty states and four U.S. territories. NASAH members represent all agriculture in their states and formulate practical solutions for agriculture. The agricultural labor shortage is a top priority for NASAH members.

Agriculture labor reform is crucial for ensuring that U.S. farmers and ranchers have a reliable and skilled workforce. This bill will, for the first time, make year-round visas available. This is crucial for the many industries and other industries that rely on temporary labor. Further, NASAH supports the bill maintaining the H-2A program while providing a new, non-agricultural worker status. This status and its renewable visas will increase certainty for farmers, ranchers and the farm workers who rely upon the safe harvesting and handling of crops and livestock.

NASAH acknowledges that a multi-faceted effort is needed to fix the challenges with agriculture labor, so any progress made on this front is a step in the right direction. We look forward to advancing solutions to agriculture’s labor shortage with Congress.

Sincerely,

DOUG GOERING, NASAH President, North Dakota Agriculture Commissioner.

COMMITTEE ON MIGRATION, COMMITTEE ON DOMESTIC JUSTICE AND HUMAN DEVELOPMENT, November 12, 2019, Washington, DC, HOUSE OF REPRESENTATIVES, Washington, DC.

DEAR REPRESENTATIVE: On behalf of the Committee on Migration and the Committee on Domestic Justice and Human Development for the U.S. Conference of Catholic Bishops, we write to urge you to support H.R. 5038, the Farm Workforce Modernization Act. This bipartisan legislation, introduced on October 30, 2019, by Representative Zoe Lofgren (D-CA) and several Republican and Democratic sponsors, would create an earned legal status program for agricultural workers and would improve the existing H-2A program.

Recognizing the dignity of work of farmworkers and their families is a central concern of the Catholic Church. In his 1981 encyclical, Laborem Exercens, Pope John Paul II spoke of the importance of agricultural workers and the need to protect those working in the fields. Farmworkers produce the food that we eat and contribute to the care of our community. Regarding immigrant farmworkers, the bishops in the U.S. have long advocated for reforms of the existing system, including a modernization program that would help stabilize the workforce, protect migrant workers, and their families from discrimination and exploitation and ensure that these workers ‘continue to make contributions to society.’

H.R. 5038 proposes a meaningful way for migrat agricultural workers to earn legal status through continued agricultural employment and contributions to the U.S. agricultural economy. It also improves labor protections while producing employment flexibility that is needed to aid our agricultural industries. H.R. 5038 creates more accessible and predictable worker programs while ensuring more protections, such as improving the availability of farmworker housing and providing better health protections.

As written, H.R. 5038 is a step in the right direction and reflects genuine bipartisanship. We encourage you to...
consider co-sponsoring this current version of the bill and to move it forward to help ensure a more stable workforce for our farming economy, as well as a tailored earned legalization program and greater worker protections.

Sincerely,

Most Reverend Joe Vasquez, Bishop of Austin, Chairman, USCBB Committee on Migration

Most Reverend Frank J. Dewane, Bishop of Venice, Chairman, USCBB Committee on Domestic Justice and Human Development

Mr. NEWHOUSE. Mr. Speaker, I urge my colleagues to take the step and do what we can to improve the labor situation for farmers and ranchers across this country.

Ms. LOFGREN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. COSTA), who has worked so very hard on this bill and represents an area where agriculture is king.

Mr. COSTA. Mr. Speaker, today is a monumental and historical day. This bipartisan Farm Workforce Modernization Act of 2019 will truly help people throughout the country.

I want to thank Chairperson Zoe LOFGREN and Dan NEWHOUSE for their hard work over the last 9 months in bringing all the parties to the table.

Earlier this year, in September, Chairperson LOFGREN, with Congressmen PANETTA, COX, and myself, held a workshop where all the organizations from farm country, as well as the UPFW, and others, presented what needed to be done. And, lo and behold, it has happened.

My colleagues ask, Why do we need to have the urgency of this bill?

Well, last I visited with United Farmworkers in Madera, California, and told them the promise of this legislation. I saw in their eyes, and their children who were there, I saw hope; a hope to become free of fear and the fear of deportation; hope for the American Dream, and all that that entails, that all immigrants past and present have shared, in this legislation.

Mr. Speaker, I urge my colleagues to pass this bill today. The Senate must pass it, and the President should sign it into law. This is the right thing to do.

Mr. BUCK. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. YOHO).

Mr. YOHO. Mr. Speaker, I would like to commend my colleagues, Mr. BUCK and Ms. LOFGREN, for attempting to do something to solve a problem that has gone on for a long time that has not been solved. Unfortunately, this bill will not solve that problem.

This bill will create the same situation we have had since 1986, because this bill focuses on amnesty, not on a guest worker program that our producers need.

I appreciate their efforts, but, again, I have worked around agriculture since I was 15, picking vegetables, loading vegetables, talking to farmers. And as a veterinarian, working for 30 years in that profession, I know the dairy situation.

I have talked to the migrant, and I have talked producer. This bill will not fulfill that need.

This bill will allow people to get amnesty. They will leave agriculture and they will go into another industry. Therefore, going to solve the labor shortage of this country.

That is why there are alternatives out there. We have got a bill that we worked on in a bipartisan manner, that we have got strong support in industry, and it solves this problem. It creates a dedicated workforce for agriculture.

As you go through this bill, you see amnesty after amnesty. And, again, it does not solve the problem.

Our bill allows people to enter the country legal and are automatically enrolled in the E-Verify system. This bill promises to put the E-Verify system in place once it is implemented. We have heard that rhetoric out of Washington before. Once it is implemented, we will fix it.

This is the wrong way to go because this bill, again, will not create a predictable, certain, and reliable workforce for our agricultural producers. And I hear over and over again, the biggest challenge to our producers is a labor shortage.

We are getting to a point in this country where the next generation will not farm because of the unpredictability that this body has created, and this bill will not solve that.

And we are getting to a point where either we are going to import our labor, or we are going to import our produce. A nation that imports its produce is not a secure nation. This bill will not fix it. This will make it worse.

Ms. LOFGREN. Mr. Speaker. Representative SYLVIA GARCIA, a member of the Judiciary Committee, and a former cotton picker, will submit a statement in support of this bill.

And I would just note, for the prior speaker, that the Florida Agri-Women, the Florida Blueberry Growers Association, the Florida Citrus Mutual, Florida Fruit & Vegetable Association, Florida Nursery, Florida Strawberry, and Florida Tomato Exchange think this bill will work.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CASTRO).

Mr. CASTRO of Texas. Mr. Speaker, I rise today in support of H.R. 5038, the Farm Workforce Modernization Act of 2019.

I am very proud to support Congresswoman LOFGREN, members of the Hispanic Caucus, and my colleagues on both sides of the aisle who helped make this bill possible today.

There are, in the United States, four or five major industries that would not exist the way they do but for immigrant labor, documented, and undocumented. One of those industries is the agriculture industry.

This bill would recognize the important work that undocumented workers do in our agriculture industry. It would recognize that the work deserves respect; that it is dignified; that it has a place in our country; and that they have a place in our country. It would do so by allowing for a path to legal status for these workers.

For 2 million folks, it would mean that they would not longer face the threat of deportation; that they and their families could rest assured that in the middle of the night they would not be taken away from their children.

This legislation is important to our country, and I hope that all of my colleagues, Republican and Democrat, will support it today.

Mr. BUCK. Mr. Speaker, I yield 2 ½ minutes to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, earlier this year, the President, speaking at the National Farm Bureau Convention, called for legislation regarding agriculture immigration. And he acknowledged that the ag community, in his words, “needs people to help with the farms.” That is what this bill does.

As much as most of us would like to wave a magic wand and fix a very broken system, you know, what? We have failed. But it is not for the lack of trying. We simply haven’t had the votes; whether it is more or less border security; whether it is too comprehensive or too less. We can’t even fix the Dreamer issue. Come on.

This ag bill is going to pass, thank goodness. And I want to thank JIMMY PANETTA, DAN NEWHOUSE and other members of the bipartisan Problem Solvers Caucus, particularly Chair LOFGREN, who helped deliver legislation here to the House floor this afternoon.

Would I like to do more? You bet. But you know, at the moment, this is the only step that we can do on a bipartisan basis this year. Let’s just face it.

If we can’t pass a narrow bill, when is it going to happen? This is the first step, so let’s get it done.

This bill is going to provide a long overdue and desperately needed overhaul to the H-2A program, and it builds on the July 2019 DOL’s proposal for H-2A reforms.

Key provisions include a freeze on the Adverse Effect Wage, which has led directly to dozens of farm closures in my district in Michigan; a streamlined and modernized application process to encourage more widespread adoption; creating a year-round H-2A visa program, allowing all of agriculture to utilize the program.

Now is the time, finally, to at least boldly act to pass a real ag labor reform that recognizes that their work deserves to remain the envy of the world. I would urge all of my colleagues to support this.
Ms. LOFGREN. Mr. Speaker, it is really a great honor to yield 1 minute to the gentlewoman from Washington (Ms. SCHRIER), a freshman Member, but a person who has worked very hard behind the scenes to help advance this bill.

Ms. SCHRIER. Mr. Speaker, I thank the gentlewoman for yielding.

I thank my colleagues, Representatives LOFGREN and Representative NEWHOUSE, for their very hard work on this bipartisan bill.

The critical needs of our farmers and farmworkers have gone too long without being addressed by Congress. As the sole Member in the entire Northwest on the House Agriculture Committee, I am proud to represent the apple capital of the world, Wenatchee, as well as farmers and growers on both sides of the Cascades, and I can say that they are hurting.

What I hear from the farmers and orchardists across my State is that a stable workforce is critical to their ability to put food on our tables. As the domestic workforce is dwindling, more and more growers have been forced to turn to the burdensome and bureaucratic H-2A program for the workers they need to grow and harvest their crops.

Farmworkers are critical. If the cherries ripen and there is no one to pick them, our farms and our farmers will fail. Crops don’t wait, and millions of dollars and futures are at stake.

This important bill will provide a stable workforce for our farmers and a path to legal status for farmworkers and their families. This is the kind of winning bipartisan legislation that is exactly what our country needs. I encourage my colleagues to vote “yes.”

Mr. BUCK. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Speaker, I thank the gentleman for yielding.

I rise today in favor of H.R. 5038, the Farm Workforce Modernization Act, and I thank Chairwoman LOFGREN, her staff, the committee staff, and the personal staff of all the Members who have been working on this bill for, I don’t know, 8 or 9 months.

We all want the same thing, and we are here today addressing agriculture’s number one issue, and that is their labor force.

We will hear a lot during this debate, and we already have, about how this is amnesty and indentured servitude. It is neither of those things. In fact, those are more ominous terms, so the argument at best is insincere.

Let me say what this bill does. It legalizes the current workforce so long as workers get right with the law, have a clean criminal record, and can demonstrate the same work experiences that our farmers and Rob Goodlatte said they must have to qualify. If they want to access further legal status, they work 4 to 8 more years in agriculture and then pay a fine and get in line while they continue to work in agriculture. That doesn’t sound like amnesty to me.

For my farmers back home who desperately need this, the bill streamlines the H-2A program to make it more affordable. It helps them to do everything they want, but it makes it better than what we have today, in fact, much better than what we have today.

It brings wages under control by freezing them for 1 year and then capping future growth. There will be a single online portal for farmers to access workers. It will also set up a year-round program for our dairymen, which they don’t currently have.

Some people have said this is a great bill for dairymen, but not the rest of agriculture. That is not true. This streamlines the H-2A program for all of agriculture, so it is a good bill for all of agriculture.

Finally, and again to my friends on my side of the aisle, almost all of us support E-Verify, and here it is. We have E-Verify in this bill.

Agriculture is the backbone of Idaho’s economy. Without this bill, how can we pretend to say that we care about rural America saying they need this? I urge a “yes” vote on this bill, and I look forward to working with all of my colleagues to keep moving this bill forward so that it can ultimately be signed into law and solve a critical problem in America.

Ms. LOFGREN. Madam Speaker, I yield 1 minute to the gentleman from Oregon (Mr. SCHRADER), someone who has done a great deal of work and helped us get here today.

Mr. SCHRADER. Madam Speaker, I thank the gentlewoman for yielding.

I rise today in strong support of H.R. 5038, the Farm Workforce Modernization Act. This compromise bill represents the kind of legislation this body can put together and pass with broad bipartisan support when Members put aside ideological differences and choose to work together to solve a very serious and difficult issue.

With this legislation, we will finally begin moving forward, despite the administration’s trade war, which has led to a 15 percent reduction in Colorado agricultural exports in 2019. It has also stifled the migrant seasonal farmworker program when farmers need it the most.

Throughout this year, I have met with farmers in my district, including Robert Sakata of Sakata Farms in Brighton, Colorado, which was started in 1948 by his father. To Robert and other Western growers, modernizing the guest worker program is crucial to their success as a family farm and their contribution to our local economy.

I am also very proud of the work that PCUN in Oregon has done to help make this legislation a reality.

We finally have a bipartisan bill that does what we have been talking about for so many years. That is why I am proud to support this bill.

Ms. LOFGREN. Madam Speaker, I yield 1 minute to the gentleman from Colorado (Mr. CROW), a freshman Member who has worked behind the scenes to help bring us here today.

Mr. CROW. Madam Speaker, I thank the gentlewoman for yielding.

I am proud to stand here with my colleagues to support the Farm Workforce Modernization Act on behalf of farmers and farmworkers in Colorado. Colorado farms are doing all they can to farm forward, despite the administration’s trade war, which has led to a 15 percent reduction in Colorado agricultural exports in 2019. It has also stifled the migrant seasonal farmworker program when farmers need it the most.

In my home State of Oregon, we are a specialty crop State. We rely on seasonal and migrant labor from nearly every crop we grow. The labor shortage is the number one issue my farmers face. In many of our ag industries, like nursery crops or the dairy industry we just heard referenced, the labor is needed year-round.

H.R. 5038 is a critical step forward in not only providing workforce stability for our farmers but also in providing a path to lawful permanent residency for hardworking farmworkers and their family members.

I am also very proud of the work that PCUN in Oregon has done to help make this legislation a reality.
This important piece of bipartisan legislation will do just that. The bill will establish a program for Colorado farmworkers to earn legal status, improve the H-2A program by ensuring critical protections for workers, and establish a mandatory nationwide E-Verify system for all farmworkers.

I thank my colleague Representative LOFGREN and all those who have worked across the aisle to get this very important bill done.

Mr. LAMALFA. Madam Speaker, I yield 3 minutes to the gentleman from California (Mr. LAMALFA).

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding.

Ms. PELOSI. I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the Speaker of the House.

Ms. PELOSI. I thank the gentlewoman for yielding.

I commend the leadership of the House for their hard work in bringing this important bill to the floor today. I thank our friends and colleagues on both sides of the aisle to support this bipartisan legislation.

I commend Chair ZOE LOFGREN for her tremendous leadership on this important legislation, the Farm Workforce Modernization Act.

I join with Mr. LAMALFA, my friend, my Italian America colleague from California, in his strong remarks for this bill.

It is bipartisan, and it is important for us to pass it.

I proudly join all of my colleagues on both sides of the aisle to support this bill, a bill for farmworkers and for growers, which ensures that America can continue to feed the world.

I salute, again, Chair ZOE LOFGREN for her months of tough, relentless leadership which this bill would not be possible.

I commend the leadership of the United Farm Workers. Arturo Rodríguez has been working on this bill for almost a generation, 17 years. Arturo Rodríguez and Teresa Romero have sent a statement of support for the legislation, which very clearly points out the need and the answer that this bill is about.

I submit for the RECORD the United Farm Workers statement of support for the Farm Workforce Modernization Act.

The United Farm Workers of America support the bipartisan Farm Workforce Modernization Act (H.R. 5038—LOFGREN). The United Farm Workers of America support the bipartisan Farm Workforce Modernization Act (H.R. 5038–LOFGREN).

The United Farm Workers of America supports the bipartisan Farm Workforce Modernization Act (H.R. 5038). We were proud to join the bipartisan group of members of Congress and the industry association to develop and support H.R. 5038. It is cruelly ironic that the people who feed the United States live in a deep, all-encompassing fear that they themselves cannot provide food for their families. The human cost and stress for farm workers and their families as they live in fear of deportation and a broken promise due to our broken immigration system threatens our nation’s food supply and is a source of great shame for our nation. The compromise legislation negotiated by Chairwoman LOFGREN, cosponsored by a bipartisan, diverse group of over 50 members of the House, and endorsed by the Congressional Hispanic Caucus will go a long way towards improving the lives of farm workers today and in the future, and our broken immigration system.

Support H.R. 5038 for a simple reason—it will make the lives of all farm workers better. H.R. 5038 meets the following basic principles:

1. Equality of Treatment—the new agricultural visa program will allow farm workers and their families to have the same rights and protections as current U.S. farm workers.

2. No Discrimination—the program does not create major incentives to discriminate against U.S. workers (including newly legalized workers).

3. Fairness in pay—the pay rates protect U.S. workers and supports predictable pay increases.

4. Eligibility to earn permanent residence—no one that works to feed our country should be condemned to permanent second-class status. H.R. 5038 changes our current immoral system.

You have the ability to pass H.R. 5038. If H.R. 5038 becomes law, agricultural workers will have stability for themselves, and their families and the agricultural industry. Please vote YES on H.R. 5038.

Ms. PELOSI. So many Members brought their vision, their voices, their values to this process. I thank all of you for strengthening the bill we have on the floor today. I thank our friends from the groups for doing the outside organizing that makes our inside maneuvering successful. We have all been inspired by the immortal words of our beloved Dolores Huerta: “Sí, se puede.”

This legislation honors workers’ dignity and supports the farm economy with strong, smart reforms. The bill provides a path for legalization, as Mr. LAMALFA referenced, for currently undocumented farmworkers. No one who works to feed our country should be condemned to permanent second-class status.

The bill secures the agricultural workforce of the future by updating, expanding, and strengthening the H-2A initiative to ensure that farms have stable, secure workforces.

Critically, it demands fair, humane treatment for farmworkers, following the lead of legislation in California by securing fairness in pay, improving access to quality housing, and ensuring robust safety and heat illness protections.

Many in this Chamber, particularly, I know firsthand, from California, have...
helped lead the fight for farmworkers for decades. This fight is not only about ensuring fair wages and fair treatment, but about honoring the spark of divinity within each person, which makes us all worthy of dignity and respect.

This bill honors the 2 million farmworkers who are the backbone of our economy and country, powering our farm economy, and producing the food on our tables, even as they persevere through harsh working conditions and low wages.

As the United States Conference of Catholic Bishops wrote last month in support of this bill: “The dignity of work of farmworkers and their families is a central concern. . . . Farmworkers produce the food that we eat and contribute to the care of our community.”

This legislation is a critical step toward for workers, for growers, and for the farm economy, but our work is not done. Led by Chair Zoe Lofgren and Members from every corner of the country, we will continue to work to stabilize the farm economy, protect workers and their families, and maintain America’s proud agricultural pre-eminence in the world.

As I also do, I remember the words of the late Cesar Chavez. He said this: “To make a great dream come true, the first requirement is a great capacity to dream; the second is persistence.”

Madam Speaker, I thank Chair Lofgren for her persistence, and I thank Mr. Rodriguez for his help.

I am pleased with the bipartisanship of this bill. I thank our Members for their persistence on this legislation, for which I urge a strong bipartisan vote.

Madam Speaker, I thank Mr. Buck for his leadership on this as well.

Mr. Buck. Madam Speaker, I yield 3 minutes to the gentleman from Arizona, my friend, who was the leader in Arizona in the legislature on these issues and others and is known throughout our caucus for his common sense and leadership, and I anxiously await his remarks.

Mr. Higgs. Madam Speaker, I thank the gentleman for yielding time to me. Many of us have heard from farmers and agricultural suppliers around the country about their need for labor to ensure their products can be harvested, processed, and sold. I have heard time and time again from business owners who prioritize hiring American workers but repeatedly find themselves without the labor necessary.

This problem is worthy of a broader conversation in Congress, including how we address the root of the problem and any relation to the welfare state that we have created here.

My main concerns today, however, go beyond addressing true labor shortages and, instead, focus on the rewards this legislation provides to employers who have chosen to use illegal labor and to aliens who have chosen to work illegally in the United States.

This bill creates a new pathway to legal status for illegal aliens who have been working in the agricultural industry in the United States. Any alien who merely applies for legal status under the program, whether truly eligible, immediately receives work authorization, presumptively and the ability to travel outside the United States. Those who meet the requirements will be rewarded with a pathway to lawful, permanent resident status and, ultimately, citizenship.

Foreign nationals around the world wait years and spend thousands of dollars to receive those same benefits. This legislation is an unacceptable slap in the face to all those who follow our immigration laws.

Worse still, this legislation does little to root out fraud, instead, blatantly incentivizing it.

The ability to receive work authorization and other benefits upon application will likely lead many individuals to exaggerate their claims even if they know they are not eligible, but they will have no fear of doing so because there are no penalties attached. Aliens can withdraw their fraudulent application without prejudice to any further application.

This legislation also condones and turns a blind eye to instances of immigration fraud by waiving inadmissibility for aliens who previously tried to fraudulently gain legal status or falsely claimed to be U.S. citizens.

There are several other concerning provisions with this legislation:

It creates a new grant program to assist eligible applicants—illegal aliens—in applying for this newly created immigration status.

It prohibits use of E-Verify to check a new hire’s employment eligibility until that person is actually hired and requires use of the program in a way that demonstrates a fundamental misunderstanding of the mechanics of the E-Verify system.

It allows aliens to prove work history with only a sworn affidavit from someone who ostensibly has direct knowledge of their work history.

It fails to impose any real penalty for months and years of illegal work, and it fails to impose any real penalty on employers who knowingly violated U.S. law for their own benefit.

At a time when our immigration system is rife with illegality, when we have little control over our southern border and there are crisis levels of individuals trying to illegally immigrate, we should not be promoting legislation that rewards years of illegal behavior.

Madam Speaker, for these reasons, I oppose this legislation and urge my colleagues to do the same.

Ms. Lofgren. Madam Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. Kapu), someone who has worked through a lot. She is a senior Member of the House and the most senior woman in the House, has served the most time.

Ms. Kaptur. Madam Speaker, I thank so very much Madam Chair for yielding to me and for her distinguished leadership on behalf of the American producers and farmworkers who are the subject of this important bill. I have a sense of how long she has worked on this issue.

For too long, I have borne painful witness to the plight of our continent’s migrant farmworkers, as well as the problems our growers are having. These hardworking migrant workers endure harsh working conditions at jobs that the American people simply are not interested in and won’t do. These workers endure very harsh conditions to make sure that food gets to our tables, from farm to table. We could not feed this country without these workers.

Many of these workers leave their families and journey to the United States in hopes of finding decent work at a respectable wage, yet far too often are segregated to exploitative serfdom. That is why I stand heartened that the Farm Workforce Modernization Act has been brought forth to this House floor.

This bill has strengths, as others have talked about. It regularizes the workforce; it addresses very serious issues.

The Speaker pro tempore (Ms. Degette). The time of the gentlewoman has expired.

Mr. Buck. Madam Speaker, I yield the gentlewoman from Ohio an additional 15 seconds.

Ms. Kaptur. Madam Speaker, this bill regularizes the workforce, addresses the very serious issues of heat illness prevention and decent lodging, and also has other necessary provisions that demand our support.

We must address the conditions of these workers. They cannot be preyed upon. I look forward to continuing to work with my colleagues to improve conditions not addressed in this bill.

Madam Speaker, I want to thank the chairwoman for her fantastic work, speaking up for some of America’s most forgotten workers.

Mr. Buck. Madam Speaker, I have no further witnesses and am prepared to close.

I reserve the balance of my time.

Ms. Lofgren. Madam Speaker, may I inquire how much time remains on each side.

The Speaker pro tempore. The gentlewoman from California has 15½ minutes remaining. The gentleman from Colorado has 4½ minutes remaining.

Ms. Lofgren. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would like to first make a comment in lieu of the testimony that was going to be given by Representative Clay from Missouri. Unfortunately—fortunately: I don’t know what they are voting on—the Financial Services Committee is meeting, and he has been detained there voting in that committee.

Ms. Kaptur. Madam Speaker, I thank you so very much. I want to thank you for yielding to me. I want to recognize the gentlewoman from California. She is facing a difficult time and I want you to know that she is working hard on this issue and I want to thank you for yielding to her.
Mr. CLAY was here to talk about an important thing that the Financial Services Committee helped us with in the drafting of this bill, and that is the improvement in the availability of farmlabor housing while lowering employer costs as it relates to housing, and that is a win. We need to make sure that H-2A workers who come to the United States have a decent place to live while they are here working.

Now, preserving the existing housing stock is important to improving H-2A project loan limitations and granting operating subsidies to 514, 516 rural housing loan and grant programs, and doubling funding for section 512 rental assistance programs, increasing the USDA per project loan limitation, and doubling funding for section 512 rental assistance programs, increasing the USDA per project loan limitation, and granting operating subsidies to 514, 516 property owners who house H-2A workers is going to be a real important boost to rural America. Not only will it increase the amount of housing and the quality of housing, but it will inject new economic activity in rural America. And we all know that, economically, rural America is suffering in terms of jobs more than other parts of the country.

So this is a win-win-win. It is a win for farmers by lowering their costs; it is a win for H-2A migrant workers so it is a win for people who live in rural America and that is a win. We need to make sure that we have a list of close to 300 agricultural entities, farmers all across the United States, who are asking us to please pass this bill. They know it will work. Madam Speaker, I include in the Record that list.

HON. NANCY PELOSI, Speaker, House of Representatives, Washington, DC.

DEAR SPEAKER PELOSI AND MINORITY LEADER McCAIN:

The undersigned groups, representing a broad cross-section of agriculture and its allies, urge you to advance the Farm Workforce Modernization Act (H.R. 5038) through the House to address the labor crisis facing American agriculture. A stable, legal workforce is needed to ensure farmers and ranchers have the ability to continue producing an abundant, safe, and affordable food supply.

The effects of agriculture's critical short-term labor shortage reach far beyond the farm gate. As foreign producers take advantage of our labor shortage and gain market share, America will export not only our food production but also thousands of these farm-dependent jobs. Securing a reliable and skilled workforce is essential, not only for the agricultural industry but for the U.S. economy as a whole.

The House must pass legislation that preserves agriculture's experienced workforce and provides a long-term solution to the labor supply problems in this country; however, the bill to address these problems and creates a whole host of new issues that we will have to revisit in a few years, and it polarizes Americans further.

My colleagues and I can agree that we need to fix this problem. Potentially allowing criminals a pathway to citizenship isn't the way. Allowing possible Social Security fraud isn't the way. Preventing our employers from curing problems and giving trial attorneys a handout isn't the way.

Madam Speaker, I truly want to help all of our farmers and ranchers, but this bill is wrong, and I cannot support it. I urge my colleagues to vote against the bill.

Madam Speaker, I yield back the balance of my time.

Ms. LOFGREN, Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I include in the RECORD Ranking Member COLLINS' statement.

Once again, I appreciate my colleagues' desire to fix this problem and provide our farmers and ranchers with a long-term solution to the labor supply problems in this country; however, the bill to address these problems and creates a whole host of new issues that we will have to revisit in a few years, and it polarizes Americans further.

My colleagues and I can agree that we need to fix this problem. Potentially allowing criminals a pathway to citizenship isn't the way. Allowing possible Social Security fraud isn't the way. Preventing our employers from curing problems and giving trial attorneys a handout isn't the way.

Madam Speaker, I yield back the balance of my time.

Ms. LOFGREN, Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is the time to act. For many years, under the leadership of different Speakers with different majorities, we have talked about dealing with this issue, and that is all we did: we talked.

You know, there is never a perfect piece of legislation, but as Mr. PAINETTA said, this is a darn good piece of legislation.

It was the one that was crafted together, and a lot of people across America might be surprised that Republicans and Democrats sat down in a room, along with stakeholders who often don't agree with each other, and we worked things out. We came up with a plan that will work.

We know it will work because we have a list of close to 300 agricultural entities, farmers all across the United States, who are asking us to please pass this bill. They know it will work. Madam Speaker, I include in the RECORD that list.
If enacted, the Farm Workforce Modernization Act of 2019, HR 5038. The bill would provide an opportunity for farmworkers and their families to earn the right to legal immigration status to support our food system and contribute to our economy. It would also provide a pathway for certain agricultural workers to become U.S. citizens. The bill would provide a pathway for certain agricultural workers to earn legal immigration status and eventually citizenship. If enacted, the bill would address the needs of farmworkers and our agricultural system, while respecting the rights of people who work in agriculture. It would also provide a pathway for certain agricultural workers to become U.S. citizens. If enacted, the bill would provide a pathway for certain agricultural workers to earn legal immigration status and eventually citizenship.
for legal status if they show employment in U.S. agriculture and meet other criteria. At least half of the nation's roughly 2.4 million farmworkers are undocumented immigrants and increasingly are using the program to address the constant fear of deportation many farmworkers and their children experience. The ability to obtain immigration status and legal residency is key to allowing farmworkers to bargain for better working and living conditions and to challenge severe labor abuses. This legislation would result in a more stable farm labor force and greater food safety and security to the benefit of employers, workers, and consumers.

The bill also would revise the existing H-2A visa program to address concerns of both farmworkers and agricultural employers. The compromise includes concessions made by all sides in this debate and includes both important new protections for farmworkers, such as new protections against trafficking, as well as provisions sought by employers. Importantly, for the first time, the bill would recognize the humanity of those working here under temporary visas by providing a path to status for those who satisfy the specified work requirements.

The Farm Workforce Modernization Act of 2019 is an important step forward and sends a clear message to our leaders in Congress ready to engage constructively on immigration and reach across the aisle to develop sensible policies. We encourage you to support this legislation and join this bipartisan effort to protect farmworkers and our nation's agricultural sector.

Sincerely,

Advocates for Basic Legal Equality, Inc.: AirGo; America's Voice; Association of Farmworker Opportunity Programs; Bread for the World; California Human Development; Community Legal Services Foundation, Inc.; CaliforniaHealth+ Advocates; Carolina Family Health Center; CASA.

Casa de Esperanza: National Latinx Network for Healthy Families and Communities; CASA of Arizona; Central Valley Opportunity Center; Centro De Los Derechos Del Migrante, Inc. (CDM); Chicago's Legal Aid Society; Child Labor Coalition; Chilinios Young Farmers Coalition; Coalition for Humane Immigrant Rights—CHIRLA; Coalition of Florida Farmworker Organizations; Coalition on Human Needs.

Coalition to Abolish Slavery & Trafficking (CAST) Community; Council of Idaho, Inc.; Community Urban Advocates; CREED; Equal Justice Foundation; Equal Justice Center; Farmworker and Landscaper Advocacy Project (FLAP); Farmworker Justice; Finger Lakes Community Health; Florida Legal Services, Inc.; Food Policy Action; Freedom Network USA; Greater New York Labor Religion Coalition; Hand in Hand Mono en Mono; Hispanic Farmworker Foundation; Hispanics in Philanthropy; Human Agenda; Immigration Hub; Inter University Program on Latin America Research.

Interfaith Centers on Corporate Responsibility; Jobs With Justice Education Fund; Justice at Work; Justice for Migrant Women; Justice in Motion; Kentucky Equal Justice Center; La Cooperativa Campesina de California; La Union del Pueblo Entero (LUPE); LatinoJustice PRLDEF; League of United Latin American Citizens (LULAC).

Logan Square Farmers Market; MAFO, Inc.; Maine Immigrants Rights Coalition; MALDEF (Mexican American Legal Defense and Educational Fund); Maryland Rural Immigration Association; Mexican American Council; Mississippi Delta Council for Farmworkers Opportunities, Inc.; National Consumers League/Caseworker; New York State Justice Workers Association (NDWA); National Hispanic Medical Association.

National Latinx Psychological Association; National Migrant and Seasonal Head Start Association; National Partnership for New Americans; NETWORK Lobby for Catholic Social Justice; New Forest Worker Center; Northwest Regional Primary Care Association; Northwest Workers' Justice Project; Operation Access; Oregon Rural Human Development Corporation; Oxfam America; PathStone Corporation, Pesticide Action Network, Pinoso y Campesinos Unidos del Norte, UFW, and Farmworkers United); Proteus Inc.; Public Justice Center; Roots and Culture Kombucha; Rural and Migrant Ministry; SER Jobs for Progress National Human Rights Employees International Union (SEIU).

Southeast Community Health Systems; Telamon Corporation; UFW Foundation; U.S. Committee for Refugees and Immigrants (USCR); UnidosUS; United Farm Workers (UFW); United Migrant Opportunity Services/UMOS Inc.; United States Hispanic Chamber of Commerce.

Fellowship in the United Methodist Church; Florida Legal Services, Inc.; Farmworker Justice; Finger Lakes Community Farm Alliance; CREDO; CRLA; The Farmworker Justice; FJ's website contains extensive information about farmworkers, immigration policy, labor conditions and the bill.

Farmworker Justice supports the Farm Workforce Modernization Act of 2019, H.R. 5038, which is under consideration by the Judiciary Committee of the House of Representatives. The FWMA should be approved by the Judiciary Committee and passed by the full House.

The bipartisan bill resulted from lengthy, complex negotiations led by Rep. Lofgren (D-CA), Chair of the Subcommittee on Immigration and Citizenship, and Rep. Newhouse (R-WA), a farmer and former Director of Washington State Department of Agriculture, and additional colleagues. To help reach agreement, Members of Congress involved farmworkers in including the United Farm Workers, UFW Foundation, and Farmworker Justice, and agricultural employer trade associations. Farmworker Justice appreciates the scheduling of the markup of the FWMA by the Chair of the Judiciary Committee, Rep. Nadler.

Of utmost importance, the supporters of this legislation recognize the important contributions of farmworkers to our nation's food and agriculture systems. An estimated 2.4 million people labor on our farms and ranches to provide us with fruits, vegetables, milk and other food. This legislation addresses the fundamentally unfair conditions experienced by many farmworkers due to our nation's broken immigration system. The large majority of the nation's farmworkers are immigrants, and a majority lack authorized immigration status. Undocumented farmworkers and their family members live in fear of arrest, deportation and the breakup of their families. In these circumstances, many farmworkers are reluctant to challenge illegal or unfair treatment in their workplaces and their communities. At times, they cannot go to work due to the presence of immigration enforcement agents. The workers are more dependent on immigrants, both documented and undocumented.

The Farm Workforce Modernization Act bill provides a path to legal status and a path to citizenship, farmworkers would be better able to improve their wages and working conditions and seek enforcement of their labor protections. These improvements would result in a more stable farm labor force and greater food safety and security to the benefit of employers, consumers. The current legalization program's requirements are more rigorous and expensive than we would have preferred, but are acceptable in the effort to reach a realistic compromise.

The bill also would revise the existing H-2A agricultural guestworker program to address farmworker and employer concerns with the program. Farmworker advocates have pressed for reforms to reduce widespread abuses under this flawed program, while agricultural employers have lobbied heavily to remove most of its modulus labor protections, claiming that the program is unduly expensive and bureaucratic. The bill's lengthy provisions include important protections for new and current workers as well as changes to address agricultural employers' concerns. Compromise was necessary to achieve legislation that could become law and address serious harms imposed on farmworker families by our broken immigration system.

Farmworker Justice supports the Farm Workforce Modernization Act of 2019 because the bill, if passed, would enable hundreds of thousands of farmworker families to improve significantly their living and working conditions and their participation in our economy and democracy.

Farmworker Justice, based in Washington, D.C., is a national advocacy organization for farmworkers with over thirty-five years of experience serving the farmworker community regarding immigration and labor policy. FJ's website contains extensive information about farmworkers, immigration policy, labor conditions and the H-2A agricultural guestworker program.

www.farmworkerjustice.org.

Ms. LOFGREN. Madam Speaker, there have been some who have suggested privately, or even in public—the ranking member of the full committee in the Rules Committee last night said, well, there should be covering chicken processing plants.

We did just one thing in this bill, and that was to deal with agriculture. We didn't expand the definition of agriculture. There may be issues in other parts of the American economy, but we decided to focus on just this one thing: agriculture—not processing, not trucking, not forestry, just agriculture. The Laborers International Union has sent a letter in support, which I include in the RECORD, as well as noting that this bill works in the agricultural sector and they hope that we will vote for it.

Ms. LOFGREN. Madam Speaker, there is a letter here from Farmworker Justice that I include in the RECORD explaining why this is an important thing to do.

FARMWORKER JUSTICE JUDICIARY COMMITTEE, HOUSE OF REPRESENTATIVES, FARMWORKER JUSTICE STATEMENT ON HOUSE AGRICULTURAL IMMIGRATION REFORM BILL.

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www.farmworkerjustice.org.
path to legal immigration status and citizenship. H.R. 5038 does just that, providing security for millions of farm workers and their families. This in turn will lead to better wages and working conditions for a group of workers who have historically been subject to horrific abuses.

H.R. 5038 also specifies that employers who try to misuse the H–2A program in industries covered by a different guest worker visa program (H–2B), including construction and landscape, cannot do so. Specifically, LIUNA is pleased that the bill includes language similar to the H–2A program requirements to investigate and prevent fraud in the H–2A program, as well as to ensure that employers cannot use the provision if the majority of the worker’s duties are related to Construction.

While LIUNA is supporting H.R. 5038, we want to be clear that while many of these reforms may make sense in the agricultural industry, it does not mean that all of the bill’s provisions are necessary or helpful for other guest worker visa programs or workers in other industries. Historically, agricultural workers have been treated under different rules and laws than those in other industries, both by the employers and the government. All of the reforms in H.R. 5038 for the H–2A program may not work for the H–2B program, for example. The H–2B guest worker program is currently used by employers for the landscape and construction industries to deny workers already in the U.S. access to jobs and complete vegetable crops in and out of the U.S. The H–2B program would be significantly reformed in ways that will address the specific abuses of our unions’ construction and landscape members and foreign workers alike. LIUNA looks forward to working with Congress on H–2B reform in the near future.

For decades LIUNA has fought for comprehensive immigration reform, which remains our goal. While we work toward that end, LIUNA supports efforts including H.R. 5038 to give vulnerable workers and their families who have suffered historic exploitation a path to security and citizenship. LIUNA asks that you vote for H.R. 5038, the Farm Workforce Modernization Act.

With kind regards, I am
Sincerely yours,
TERRY O’SULLIVAN,
General President
Ms. LOFGREN. There may be other issues when you come to other parts of the economy. We should address those issues as well, but we are going to have to do that by sitting down, just as we did in this case, with the unions, with the employers, with the stakeholders to see what the issues are and how can we craft a bipartisan solution that makes America strong, that makes our economy work.

I am confident we will have a chance to do that.

Now, I just want to say, some of the comments made, although I am sure made in good faith, about the bill are incorrect.

The elements, the suggestion that this will be riddled with fraud is just simply incorrect. These anti-fraud measures are the same that were included and, in fact, in some cases are tougher than were included in the Goodlatte bill that Members supported in the last Congress.

The criminal national security bars are stronger than were included in the Goodlatte bill in the last Congress.

And I have heard also that these farmworkers, who have worked in the fields, who have allowed us to eat vegetables and to have a salad, that they should get in line.

I will tell you a sad thing: There is no line for them. There is no line. So there is a reason why we are here. We are allowing them to get right with the law and live lawfully, pay taxes, and do the jobs that we need them to do, that their employers need them to do, with dignity and without fear.

I cannot imagine whether farmworkers who are so afraid because of enforcement. They are afraid to leave their homes to go to church on Sunday morning. That is not the kind of situation we want to have in America.

We write the laws. We can make sure that these individuals comply with the law. We have E-Verify in this bill. We have a system that will work for farmworkers, for farmworkers, and for America.

Mr. SCOTT of Virginia. Madam Speaker, farmworkers toil under difficult and dangerous conditions for long hours and low pay to ensure America has a safe and plentiful food supply.

Because of the scarcity of domestic farm labor, for decades, the agricultural sector has depended largely on the labor of migrant workers. The vast majority of crop workers in the United States were not born here and are undocumented or here on guest visas. Though these workers perform difficult work under hazardous conditions, they are often unable to seek recourse when their rights are violated. A pathway to citizenship, when accompanied by appropriate oversight measures, could help reduce these dedicated workers’ justifiable fear of reprisal for asserting their rights. Farmworkers are integral to our communities and our economy. Creating a pathway to citizenship for these individuals— who work to feed us and our country year after year—as well as their families is both an economic and humanitarian necessity.

I support legalization of vulnerable, undocumented workers and a path to citizenship. However, in exchange for legalization for some undocumented farmworkers, this bill would deprive labor standards for H–2A workers. The Farm Workforce Modernization Act for H–2A workers could adversely impact the domestic workforce, this bill could negatively impact the economic security of all farmworkers.

Wage cuts for many H–2A workers in turn would deprive wages for all farmworkers. The adverse effect wage rate (AEWR), which is the wage rate for H–2A workers, is designed to ensure that wages paid to H–2A workers do not depress wages for U.S. farmworkers. This means the AEWR must be high enough to reflect wages paid in the local labor market. This bill would change the way the AEWR is currently calculated over the first ten years to reflect average wages paid to farmworkers in the region according to their specific occupation, rather than the average wage paid to farmworkers across all occupations in the county for a limited amount of time to participate in litigation. This is especially fraught given that, in contrast to MSPA, the FLSA provides for recovery of unpaid wages and liquated, or double, damages and recovery of attorney’s fees, plus costs. This provision may also pull domestic farmworkers or other visa classifications of workers into required mediation where there are collective or class actions, thereby undermining incentives for other workers to join with H–2A workers to seek redress.

This September, I supported the passage of H.R. 1423, the FAIR Act, to ban forced arbitration in many areas, including employment, because it could delay or totally block workers’ access to courts. We should promote legislation that protects workers’ fundamental right to have their day in court, not delay it.

This bill denies newly legalized farmworkers and their families access to key social safety
net programs, such as Medicaid and subsidies under the Affordable Care Act. Denial of benefits that can promote economic stability, coupled with the bill’s wage suppressing provisions, threatens to create a long-term pool of economically vulnerable workers. While most of these individuals do not currently have access to the benefits due to their legal status, leaving immigrant workers who are granted legal status under this legislation without access to social safety nets establishes a dangerous precedent that access to health care and other basic necessities can be traded away for a path to citizenship. This legislation weakens the current recruitment and hiring standards for U.S. farmworkers. A reduction in employers’ obligations to hire U.S. workers under this bill will undermine one of the core principles of the H–2A program: that H–2A workers should fill in gaps in the farm workforce that U.S. employers are truly unable to fill, rather than merely replacing U.S. workers that employers could attract with reasonable efforts. I raised concerns with similar efforts to modify recruitment standards by the Trump Administration earlier this year.

Agricultural work is hazardous, and workers in this sector have few legal health and safety protections. Ensuring that H–2A workers and all farmworkers have safe, healthy working conditions is critical. I am pleased that this bill requires workers to maintain hot, heat illness prevention plans and requires H–2A employers in the dairy industry to maintain workplace safety plans. However, as presently written, some provisions are ambiguous and would be difficult to enforce; other provisions have weak minimum requirements that would limit their value. As this legislation moves forward, I would urge the inclusion of stronger health and safety standards.

Strong labor protections are vital to protect both H–2A workers, who are vulnerable given their temporary status, and domestic farmworkers, whose employers may be disincentivized to provide employment. This is especially true given that farmworkers have historically been carved out of labor and employment laws, leaving these workers with fewer wage protections and rights to bargain for better working conditions. While this bill does make some improvements in immigration law, I look forward to supporting a version of this bill that more accurately reflects strong labor standards.

Ms. JOHNSON of Texas. Madam Speaker, I rise today in support of H.R. 5038, the Farm Workforce Modernization Act of 2019. I would like to thank Congresswoman LOFGREN and Congressman NEWHOUSE for convening agriculture and labor stakeholders to develop this historic piece of legislation.

This bill represents true bipartisan efforts to help stabilize our nation’s agriculture crisis. Despite gains in farmworker protections for workers, including gender-based protections and heat safety standards, are established under this bill.

Farmworkers have fought long and hard for these reforms. By voting to strengthen health and heat safety standards and labor protections for agricultural workers, we do right by the hardworking men and women who put food on our table.

This bill also modernizes the agricultural guest worker program in order to address the needs of the nation’s farms. After months of negotiations, I believe we have developed a commonsense solution that will help both farmworkers and farmers.

I am proud to have worked with my colleagues to make this bill a reality.

Mr. COLLINS of Georgia. Madam Speaker, Georgia is home to a vast agriculture industry with hardworking farmers, ranchers, growers and processors who contribute to America’s economy every day. In the northeast corner where my district is located, more than 10,000 farm operators are growing everything from peaches to cattle, chickens to strawberries.

There is no doubt that not enough American workers want to work in agriculture to fulfill the needs of the industry. Most farmers are offering competitive wages to attract workers, while at the same time being conscious of the reality that, when production costs get too high and they can no longer sell their crops at a competitive rate, they could be out of business.

Growers are increasingly turning to the H–2A visa program to get the temporary labor they need for the long term. The facts tell a story. The agricultural industry wants and deserves a streamlined program that provides more certainty as to the temporary labor needed to sustain their businesses.

H–2A users have asked Congress for more reforms of the H–2A program. Unfortunately, despite the leaders’ bipartisan claims, H.R. 5038 doesn’t fix many of the issues with the program, and, in some cases, the bill makes the problems worse.

Growers have requested permanent, long-term wage rate relief instead of the unpredictable, short-term rate that H–2A users are currently required to pay. This change would help farm plan for the next growing season without facing increases of 6.2 percent like they did for fiscal year 2019. H.R. 5038 fails to provide long-term stability in wage determinations.

H–2A users have asked for litigation reform that protects against frivolous lawsuits but provides an efficient way to resolve workers’ legitimate issues. H.R. 5038 does exactly the opposite—it subjects H–2A users to a private right of action in federal court.

Those who use the H–2A program have requested that control of the program be placed with the cabinet agency that understand growers’ needs, and their processes. H.R. 5038 doesn’t do that.

The agricultural industry has asked that Congress provide access to the H–2A program for all sectors of agriculture. H.R. 5038, however, covers the dairy industry, but leaves out other important sectors like meat and poultry processing, forestry and aquaculture. Of course, as someone who represents a district where the poultry industry employs over 16,000 people and is a vital part of our economy, the fact that meat and poultry processors are left out represents an enormous problem.

H–2A users have asked for no cap on the program. Where H.R. 5038 does provide some visas for year-round work, it caps the number initially at the low rate of 20,000 per year and then remains at that level for fiscal year 2020, a measly 10,000 visas per year are provided for all other year-round agriculture needs. After that, the cap increases at 12.5 percent—yet still reserves half for dairy.

Where the 227 pages of H.R. 5038 make many more changes to the H–2A program—some good and some bad—one need look no further than the first few pages to figure out the real point of this bill: A path to citizenship for an unknown number of illegal immigrants who do some work in agriculture, along with their families.

Of course, we have no idea how many people will take advantage of this amnesty. Estimates from groups like Farmworker Justice put the number of farm workers in the U.S. at 2.4 million, while other estimates reach as high as 2.7 million. Even at the very conservative estimate that 50 percent of farm workers are here illegally, well over a million and a half people will get a path to citizenship, and, because that 50 percent number is from a self-reported survey, we can expect the number of illegal workers is even higher than that.

What are some other concerns with H.R. 5038? The bill promotes fraudulent applications through its extremely low document standards and the ability to withdraw a knowingly false application without prejudice. The bill allows aliens with multiple DUI convictions and charges, as well as many other misdemeanors convictions or charges, to get amnesty. It forgives Social Security fraud and rewards aliens who engage in such fraud with a path to U.S. citizenship.

The bill defines a “work day” as only 5.75 hours and only requires 100 of those each year in order to get a path to citizenship. Better yet, an alien can be exempt from one year of work if they are a caretaker or are pregnant. The bill doesn’t require the alien to pay back taxes. H.R. 5038 rewards those who never attended removal proceedings and those who were removed and illegally reentered America. The bill even authorizes U.S. taxpayer money to help illegal
immigrants apply for amnesty and permits DHS to loot up to $10 million from the fees paid by those seeking legal immigration benefits—such as naturalization. There are many more provisions of this bill that concern me. During the markup, my Judiciary colleagues and I offered amendments aimed at fixing some of these problems. Our amendments were defeated on party line votes.

At the outset of this Congress, I expressed to the subcommittee chair my desire to work together on an agricultural labor reform bill that has a chance to be enacted. Unfortunately, that didn’t happen. My offer was ignored, and the bill before us is not something I can support.

I urge my colleagues to oppose this bill. Ms. GARCIA of Texas. Madam Speaker, I stand as an original cosponsor of the Farm Workforce Modernization Act.

Agricultural workers are crucial to our economy and this bill would establish a legal and reliable workforce. I support this bill because it recognizes the humanity of farmworkers and their families. This is personal to me.

I grew up poor picking cotton in the fields of South Texas.

I testify firsthand about the incredibly hard, back breaking work farm workers do, especially in the heart of South Texas. Not much has changed since I worked in the fields.

This bill is long overdue and would provide farm workers with important worker protections and legal rights that they desperately need. Texas is home to nearly 250,000 farms and the need for a strong agricultural workforce is vital.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 758, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, further consideration of H.R. 5038 is postponed.

CONFERENCE REPORT ON S. 1790, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020

Mr. SMITH of Washington. Madam Speaker, pursuant to House Resolution 758, I call up the conference report on the bill (S. 1790) to authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 758, the conference report is considered read.

(For conference report and statement, see proceedings of the House of December 9, 2019, Book II, page H9389.)

The SPEAKER pro tempore. The gentleman from Washington (Mr. SMITH) and the gentleman from Texas (Mr. THORNBERY) each will control 30 minutes.

The Chair recognizes the gentleman from Washington.

GENERAL LEAVE

Mr. SMITH of Washington. Madam Speaker, I stand as an original cosponsor of the Workforce Modernization Act.

Agricultural workers are crucial to our economy and this bill would establish a legal and reliable workforce. I support this bill because it recognizes the humanity of farmworkers and their families. This is personal to me.

I grew up poor picking cotton in the fields of South Texas.

I testify firsthand about the incredibly hard, back breaking work farm workers do, especially in the heart of South Texas. Not much has changed since I worked in the fields.

This bill is long overdue and would provide farm workers with important worker protections and legal rights that they desperately need. Texas is home to nearly 250,000 farms and the need for a strong agricultural workforce is vital.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 758, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XIX, further consideration of H.R. 5038 is postponed.

We also have the problem that we have a divided government. We have a Republican President, a Republican Senate, and a Democratic House, who do not agree on a lot of issues. And those are the issues that tend to get focused on.

But what this conference report reflects, for the most part, is that we do agree on a lot; about 90 to 95 percent of what we were negotiating there was substantial agreement on: doing oversight of the Pentagon to make sure our taxpayer dollars are well spent and to make sure that the men and women serving in our Armed Forces, who we are asking to put their lives on the line to defend our country, will have the training, the equipment, and the support that they need to carry out that mission. And there are a lot more provisions than I can count in this bill that help them do just that.

We all, in a bipartisan way, should be very proud of that accomplishment.

I think, ultimately, the biggest difference between where the Democrats in the House were at and where the Republicans in the Senate were at: We believe in more aggressive legislative oversight, particularly when it comes to matters of engaging in military action.

We remain deeply concerned about the war in Yemen. Now, it is not our war. Saudi Arabia and, to a lesser degree, the UAE are engaged in that, but we do support them. We want to make sure that we are not supporting them in a way that is contrary to our values and contrary to peace in the region.

Regrettably, we were not able to get the President, primarily, to agree on that, but I think it is something we need to continue to put pressure on.

We also believe that we shouldn’t go to war without congressional authority. We will continue to fight about that. We have the 2001 AUMF and the 2002 AUMF still on the books, 17, 18 years later. We need to update that. We need to make sure that we don’t go to war with Iran without authorization.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Washington. Madam Speaker, I yield myself an additional 30 seconds.

All of that said, ultimately, we pulled together what is an excellent piece of legislation. The two big things I want to highlight in the moments I have left:

We finally repealed the widow’s tax. After 25 years of claiming we were going to do it, this bill does it. And we also give paid parental leave for all Federal employees.

I believe both of these things are integral to national defense. The people of Texas are home to nearly 250,000 farms and the need for a strong agricultural workforce is vital.

And a lot of credit—much of the credit—for navigating a very difficult political process goes to Chairman SMITH for getting us to this point. I am also grateful to Chairman INHOFE and Senator REED during these final negotiations over the last 5 months as we have worked our way through a host of issues.

And it is also of the conference report—of the conference report, and I reserve the balance of my time.

Mr. SMITH of Washington. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I rise in support of this conference report. The most important thing I can say about it is that it is good for the troops and it is good for national security. And when it comes to a Defense authorization bill, that is all that really matters. This is a good bill, and it deserves the support of everyone in the House.

And a lot of credit—much of the credit—for navigating a very difficult political process goes to Chairman SMITH for getting us to this point. I am also grateful to Chairman INHOFE and Senator REED during these final negotiations over the last 5 months as we have worked our way through a host of issues.

And it is also of the conference report—of the conference report, and I reserve the balance of my time.

Madam Speaker, this bill does a lot, as Chairman SMITH just said, for the men and women who serve and their families.

There is a lot of focus on people here: For example, 3.1 percent pay raise; a number of provisions related to childcare for the military; increase in professional license fees for spouses; military housing reform, including a requirement for a tenant Bill of Rights; removal of the mobility goods; additional steps to combat sexual assault and harassment; a number of provisions related to military healthcare, to improve the quality of care that they get; compensation for medical malpractice at military treatment facilities; repeal of the widow’s tax, which is something that Congresswoman JOE WILSON, among others, has been pushing for a number of years.