

116TH CONGRESS
2D SESSION

S. 4042

To protect agricultural workers from the impacts of the coronavirus pandemic,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2020

Mr. MERKLEY (for himself, Mr. BLUMENTHAL, Mr. SANDERS, Ms. HARRIS,
Ms. WARREN, and Mr. LEAHY) introduced the following bill; which was
read twice and referred to the Committee on Finance

A BILL

To protect agricultural workers from the impacts of the
coronavirus pandemic, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Frontline At-Risk
5 Manual Laborers Protection Act” or the “FARM Labor-
6 ers Protection Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) AGRICULTURAL WORK.—The term “agricul-
10 tural work” means food production work involving

1 the physical interaction with food products, includ-
 2 ing—

3 (A) all agricultural work, farming, fishing,
 4 forestry, ranching, processing, canning, slaugh-
 5 tering, packaging, baking, butchering, and
 6 other food production work, such as any service
 7 or activity included within the provisions of sec-
 8 tion 3(f) of the Fair Labor Standards Act of
 9 1938 (29 U.S.C. 203(f)), or section 3121(g) of
 10 the Internal Revenue Code of 1986; and

11 (B) the handling, planting, drying, pack-
 12 ing, packaging, processing, freezing, or grading
 13 prior to delivery for storage of any agricultural
 14 or horticultural commodity in its unmanufac-
 15 tured state.

16 (2) AGRICULTURAL WORKER.—The term “agri-
 17 cultural worker” means an individual—

18 (A) regardless of citizenship or immigra-
 19 tion status;

20 (B) who is—

21 (i) an employee of a covered agricul-
 22 tural producer; or

23 (ii) an individual performing any serv-
 24 ice or labor for remuneration for a covered
 25 agricultural producer, without regard as to

1 whether the individual is classified as an
2 independent contractor by the covered ag-
3 ricultural producer; and

4 (C) whose work and duties include agricul-
5 tural work.

6 (3) CORONAVIRUS.—The term “coronavirus”
7 means the novel coronavirus disease 2019 (COVID-
8 19).

9 (4) COVERED AGRICULTURAL PRODUCER.—The
10 term “covered agricultural producer” means an em-
11 ployer engaged in commerce, including any agricul-
12 tural employer as defined in section 3 of the Migrant
13 and Seasonal Agricultural Worker Protection Act
14 (29 U.S.C. 1802), that receives any Federal agri-
15 culture-specific coronavirus funding.

16 (5) COVERED CONTRACTOR.—The term “cov-
17 ered contractor” means a person who—

18 (A) has entered into an agreement with a
19 covered agricultural producer—

20 (i) to provide agricultural workers to
21 perform work for the covered agricultural
22 producer; or

23 (ii) to pay the agricultural workers of
24 a covered agricultural producer; and

1 (B) has accepted grant funds under section
2 202 from the covered agricultural producer.

3 (6) COVERED PERIOD.—The term “covered pe-
4 riod”, when used with respect to a covered agricul-
5 tural producer, means the period—

6 (A) beginning on the first date after the
7 date of enactment of this Act that the covered
8 agricultural producer is approved for Federal
9 agriculture-specific coronavirus funding; and

10 (B) ending on the date that is 90 days
11 after the date of the expiration of the public
12 health emergency declared by the Secretary of
13 Health and Human Services under section 319
14 of the Public Health Service Act (42 U.S.C.
15 247d) on January 31, 2020, with respect to the
16 coronavirus.

17 (7) EMPLOY.—The term “employ” has the
18 meaning given the term in section 3 of the Fair
19 Labor Standards Act of 1938 (29 U.S.C. 203) and
20 section 3 of the Migrant and Seasonal Agricultural
21 Worker Protection Act (29 U.S.C. 1802).

22 (8) EMPLOYEE.—The term “employee” in-
23 cludes—

1 (A) an employee, as defined in section 3 of
2 the Fair Labor Standards Act of 1938 (29
3 U.S.C. 203); and

4 (B) an employee, as such term is used for
5 purposes of the Migrant and Seasonal Agricul-
6 tural Worker Protection Act (29 U.S.C. 1801 et
7 seq.).

8 (9) EMPLOYER.—The term “employer” in-
9 cludes—

10 (A) an employer, as defined in section 3 of
11 the Fair Labor Standards Act of 1938 (29
12 U.S.C. 203); and

13 (B) an employer, as such term is used for
14 purposes of the Migrant and Seasonal Agricul-
15 tural Worker Protection Act (29 U.S.C. 1801 et
16 seq.).

17 (10) FEDERAL AGRICULTURE-SPECIFIC
18 CORONAVIRUS FUNDING.—The term “Federal agri-
19 culture-specific coronavirus funding” means Federal
20 funding that is provided—

21 (A) during the period beginning on the
22 date of enactment of this Act and ending on the
23 date described in paragraph (6)(B); and

24 (B) to the covered agricultural producer
25 for purposes—

1 (i) of addressing, responding to, or
2 mitigating the spread of the coronavirus in
3 agriculture; or

4 (ii) related to the effects of coronavi-
5 rus on agriculture production or sales.

6 (11) HIGHLY COMPENSATED.—The term “high-
7 ly compensated”, when used with respect to an agri-
8 cultural worker, means an agricultural worker who
9 is paid \$100,000 or more per year by a covered agri-
10 cultural producer.

11 (12) PERSON.—The term “person” includes—

12 (A) a person as defined in section 3 of the
13 Fair Labor Standards Act of 1938 (29 U.S.C.
14 203); and

15 (B) a person as defined in section 3 of the
16 Migrant and Seasonal Agricultural Worker Pro-
17 tection Act (29 U.S.C. 1802).

18 **SEC. 3. GENERAL PROVISIONS.**

19 (a) RULE OF CONSTRUCTION.—Nothing in this Act
20 shall be construed to in any way diminish the rights or
21 benefits that an employee is entitled to under any—

22 (1) other Federal, State, or local law;

23 (2) collective bargaining agreement; or

24 (3) existing employer policy to provide greater
25 rights or benefits, including more emergency paid

1 sick leave or other leave, to an employee than is oth-
2 erwise required under this title.

3 (b) CLARIFICATION.—Nothing in this Act is intended
4 to limit any other Federal, State, or local authority to pro-
5 mulgate, enforce, or maintain laws or rules regarding pro-
6 tections, rights, or benefits related to the coronavirus.

7 **TITLE I—DIRECT FUNDING** 8 **REQUIREMENTS**

9 **SEC. 101. SICK LEAVE.**

10 (a) IN GENERAL.—A covered agricultural producer
11 shall, during the covered period, provide all agricultural
12 workers of the covered agricultural producer with emer-
13 gency paid sick leave, in the same manner as emergency
14 paid sick leave is provided under division E of the Families
15 First Coronavirus Response Act (29 U.S.C. 2601 note),
16 without regard to the number of employees employed by
17 the covered agricultural producer.

18 (b) TAX CREDITS.—For purposes of section 7001(c)
19 of the Families First Coronavirus Response Act (26
20 U.S.C. 3111 note), paid sick leave required to be provided
21 under subsection (a) by covered agricultural producers
22 employing 500 or less employees shall be treated as re-
23 quired to be paid by reason of the Emergency Paid Sick
24 Leave Act.

1 **SEC. 102. PREMIUM PAY.**

2 (a) PANDEMIC PREMIUM PAY.—

3 (1) IN GENERAL.—A covered agricultural pro-
4 ducer or a covered contractor shall, in accordance
5 with this section, provide each agricultural worker of
6 the covered agricultural producer with premium pay
7 at a rate equal to \$13 for each hour of work per-
8 formed by the agricultural worker for the covered
9 agricultural producer during the period described in
10 subsection (f).

11 (2) MAXIMUM AMOUNTS.—The total amount of
12 all premium pay under this subsection that a cov-
13 ered agricultural producer or covered contractor is
14 required to provide to an agricultural worker shall
15 not exceed—

16 (A) for an agricultural worker who is not
17 highly compensated, \$10,000 reduced by em-
18 ployer payroll taxes with respect to such pre-
19 mium pay; or

20 (B) for an agricultural worker who is high-
21 ly compensated, \$5,000 reduced by employer
22 payroll taxes with respect to such premium pay.

23 (3) NO EMPLOYER DISCRETION.—A covered ag-
24 ricultural producer or covered contractor shall not
25 have any discretion to determine which portions of
26 work performed by an agricultural worker qualify for

1 premium pay under this subsection, but shall pay
2 such premium pay for any increment of time worked
3 by the agricultural worker up to the maximum
4 amount applicable to the agricultural worker under
5 paragraph (2).

6 (4) TIMING.—

7 (A) IN GENERAL.—A covered agricultural
8 producer or covered contractor shall commence
9 payment of the premium pay required under
10 this subsection as quickly as practicable, but
11 not later than the earlier of—

12 (i) the date that is 30 days after the
13 receipt of grant funds under section 202
14 by the covered agricultural producer or
15 covered contractor, respectively; or

16 (ii) the date that is 90 days after the
17 first day of the emergency period applica-
18 ble to the covered agricultural producer.

19 (B) PAST PAYMENTS.—A covered agricul-
20 tural producer or covered contractor shall in-
21 clude, in the first payment of premium pay
22 made under this subsection to an agricultural
23 worker, all premium pay due to the agricultural
24 worker for work occurring before the date of

1 payment and during the emergency period ap-
2 plicable to the covered agricultural producer.

3 (b) PROHIBITION ON REDUCING COMPENSATION AND
4 DISPLACEMENT.—

5 (1) IN GENERAL.—Any payments made to an
6 agricultural worker as premium pay under sub-
7 section (a) shall be in addition to all other com-
8 pensation, including all wages, remuneration, or
9 other pay and benefits, that the agricultural worker
10 otherwise receives from the covered agricultural pro-
11 ducer or covered contractor.

12 (2) REDUCTION OF COMPENSATION.—A covered
13 agricultural producer or covered contractor shall not,
14 during the period described in subsection (f), reduce
15 or in any other way diminish, any other compensa-
16 tion, including the wages, remuneration, or other
17 pay or benefits, that the covered agricultural pro-
18 ducer or covered contractor provided to the agricul-
19 tural worker on the day before the date of enact-
20 ment of this Act.

21 (3) DISPLACEMENT.—A covered agricultural
22 producer or covered contractor shall not take any ac-
23 tion to displace an agricultural worker (including
24 partial displacement such as a reduction in hours,
25 wages, or employment benefits) for purposes of hir-

1 ing an individual for an equivalent position at a rate
2 of compensation that is less than is required to be
3 provided to an agricultural worker under paragraph
4 (2).

5 (c) DEMARCATION FROM OTHER COMPENSATION.—

6 The amount of any premium pay paid under subsection
7 (a) shall be clearly demarcated as a separate line item in
8 each paystub or other document provided to an agricul-
9 tural worker that details the remuneration the agricultural
10 worker received from the covered agricultural producer or
11 covered contractor for a particular period of time. If any
12 agricultural worker does not otherwise regularly receive
13 any such paystub or other document, the covered agricul-
14 tural producer or the covered contractor shall provide such
15 paystub or other document to the agricultural worker for
16 the duration of the premium pay period.

17 (d) EXCLUSION FROM WAGE-BASED CALCULA-

18 TIONS.—Any premium pay under subsection (a) paid to
19 an agricultural worker under this section by a covered ag-
20 ricultural producer or covered contractor shall be excluded
21 from the amount of remuneration for work paid to the
22 agricultural worker for purposes of—

23 (1) calculating the agricultural worker's eligi-
24 bility for any wage-based benefits offered by the cov-
25 ered agricultural producer or covered contractor;

1 (2) computing the regular rate at which such
2 agricultural worker is employed under section 7 of
3 the Fair Labor Standards Act of 1938 (29 U.S.C.
4 207); and

5 (3) determining whether such agricultural work-
6 er is exempt from application of such section 7
7 under section 13(a)(1) of such Act (29 U.S.C.
8 213(a)(1)).

9 (e) AGRICULTURAL WORKER DEATH.—

10 (1) IN GENERAL.—In any case in which an ag-
11 ricultural worker of a covered agricultural producer
12 exhibits symptoms of the coronavirus and dies as a
13 result of the coronavirus during the period described
14 in subsection (f), the covered agricultural producer
15 or covered contractor shall pay as a lump sum to the
16 next of kin of the agricultural worker for premium
17 pay under subsection (a)—

18 (A) for an agricultural worker who is not
19 highly compensated, the amount determined
20 under subsection (a)(2)(A) minus the total
21 amount of any premium pay the worker re-
22 ceived under subsection (a) prior to the death;
23 or

24 (B) for an agricultural worker who is high-
25 ly compensated, the amount determined under

1 subsection (a)(2)(B) minus the amount of any
2 premium pay the worker received under sub-
3 section (a) prior to the death.

4 (2) TREATMENT OF LUMP SUM PAYMENTS.—

5 (A) TREATMENT AS PREMIUM PAY.—For
6 purposes of this title, any payment made under
7 this subsection shall be treated as premium pay
8 under subsection (a).

9 (B) TREATMENT FOR PURPOSES OF IN-
10 TERNAL REVENUE CODE OF 1986.—For pur-
11 poses of the Internal Revenue Code of 1986,
12 any payment made under this subsection shall
13 be treated as a payment for work performed by
14 the agricultural worker.

15 (f) EMERGENCY PERIOD.—The emergency period de-
16 scribed in this subsection shall be, for each covered agri-
17 cultural producer or covered contractor of a covered agri-
18 cultural producer, the period—

19 (1) beginning on the first date that the covered
20 agricultural producer is approved to receive Federal
21 agriculture-specific coronavirus funding; and

22 (2) ending on the earlier of—

23 (A) the date that is 60 days after the date
24 of the expiration of the public health emergency
25 declared by the Secretary of Health and

1 Human Services under section 319 of the Pub-
2 lic Health Service Act (42 U.S.C. 247d) on
3 January 31, 2020, with respect to the coronavi-
4 rus; or

5 (B) the date on which—

6 (i) all grant funds available to the
7 Secretary of Agriculture for grants under
8 section 202 have been obligated; and

9 (ii) in the case of a covered producer
10 who has received a grant under section
11 202 or a covered contractor, the covered
12 producer or covered contractor (as the case
13 may be) has expended all funds provided
14 under the grant for the purposes described
15 in section 202(a).

16 **SEC. 103. JOB SECURITY FOR AGRICULTURAL WORKERS.**

17 (a) **IN GENERAL.**—Each covered agricultural pro-
18 ducer shall limit the involuntary furloughing or termi-
19 nation of employment or contracts of agricultural workers
20 during the covered period, in accordance with the regula-
21 tions promulgated by the Secretary of Labor.

22 (b) **REGULATIONS.**—By not later than 30 days after
23 the date of enactment of this Act, the Secretary of Labor
24 shall promulgate regulations to carry out subsection (a)
25 to ensure that willing agricultural workers are able to con-

1 tinue working during the covered period, taking into ac-
2 count the protection of the health, safety, and economic
3 security of agricultural workers.

4 **SEC. 104. CORONAVIRUS GUIDELINES OF THE CENTERS**
5 **FOR DISEASE CONTROL AND PREVENTION.**

6 (a) IN GENERAL.—To safeguard the food security of
7 the United States and prevent the spread of the coronavi-
8 rus in agriculture, each covered agricultural producer shall
9 make a substantial and demonstrable effort to document
10 and implement the guidelines described in subsection (b)
11 during the covered period.

12 (b) GUIDELINES.—The guidelines described in this
13 subsection—

14 (1) are the most recent guidelines or rec-
15 ommendations developed by the Centers for Disease
16 Control and Prevention relating to agricultural
17 workers and employment and agricultural producers,
18 including guidelines related to sanitation in work
19 sites, housing, and transportation provided to agri-
20 cultural workers; and

21 (2) include, at the minimum, the following:

22 (A) The immediate shutdown, deep clean-
23 ing, and disinfecting of all areas where a symp-
24 tomatic employee was present.

1 (B) Immediate notice of possible exposure
2 to employees who worked in close proximity of
3 someone who has tested positive for the corona-
4 virus.

5 (C) Informing employees of their rights to
6 secure compensation during any resulting quar-
7 antine period, including—

8 (i) emergency paid sick leave under
9 section 101 of this title or under division
10 E of the Families First Coronavirus Re-
11 sponse Act (29 U.S.C. 2601 note), as ap-
12 plicable; and

13 (ii) for covered agricultural producers
14 who are employers covered by the Family
15 and Medical Leave Act of 1993 (29 U.S.C.
16 2601), emergency paid family leave de-
17 scribed in section 102(a)(1)(F) of such Act
18 (29 U.S.C. 2612(a)(1)(F)).

19 (D) Such steps as are necessary to ensure
20 that—

21 (i) ill employees stay home or remain
22 isolated in housing;

23 (ii) employees leave the worksite if
24 feeling or appearing ill with coronavirus-re-
25 lated symptoms; and

1 (iii) employees are provided with
2 transportation to leave the worksite, as
3 needed.

4 (E) The immediate informing of the rel-
5 evant State or local health department of any
6 employees testing positive for the coronavirus or
7 sent to quarantine for possible exposure to the
8 coronavirus, which report shall include the cov-
9 ered agricultural producer's name, the exact
10 field location, and the names, addresses, and
11 telephone numbers of impacted employees.

12 (F) At the beginning of each work day—

13 (i) a review of the symptom checklist
14 with the agricultural workers concerning
15 themselves and their households; and

16 (ii) a temperature check of all the em-
17 ployees of the covered agricultural pro-
18 ducers, with respect to which—

19 (I) all thermometers shall be
20 properly sanitized between each use
21 and each day; and

22 (II) any worker with a tempera-
23 ture of 100.4 degrees Fahrenheit or
24 higher shall be considered to have a
25 fever.

1 (G) Continual monitoring for and review of
 2 guidance issued by the Centers for Disease
 3 Control and Prevention regarding the coronavi-
 4 rus.

5 (H) Providing a copy of the guidelines re-
 6 quired under this section to all employees of the
 7 covered agricultural producer in the language or
 8 languages the employees understand.

9 **SEC. 105. ENFORCEMENT.**

10 (a) PROHIBITED ACTS, PENALTIES, AND ENFORCE-
 11 MENT.—

12 (1) PROHIBITED ACTS.—It shall be unlawful for
 13 a person to—

14 (A) violate any provision of this title appli-
 15 cable to such person; or

16 (B) discharge or in any other manner dis-
 17 criminate against any agricultural worker be-
 18 cause such agricultural worker has filed any
 19 complaint or instituted or caused to be insti-
 20 tuted any proceeding under or related to this
 21 title, or has testified or is about to testify in
 22 any such proceeding.

23 (2) ENFORCEMENT AND PENALTIES.—

24 (A) DUTIES OF SECRETARY OF LABOR.—

25 The Secretary of Labor shall have authority to

1 enforce the requirements of this title, as pro-
2 vided in this section.

3 (B) UNPAID SICK LEAVE.—A violation of
4 section 101 shall be deemed a failure to pay
5 minimum wages in violation of section 6 of the
6 Fair Labor Standards Act of 1938 (29 U.S.C.
7 206) and be subject to enforcement and the
8 penalties described in sections 16 and 17 of
9 such Act (29 U.S.C. 216, 217) with respect to
10 such violation, subject to subparagraph (F).

11 (C) PREMIUM PAY VIOLATIONS.—A viola-
12 tion of section 102 shall be deemed a violation
13 of section 7 of the Fair Labor Standards Act
14 of 1938 (29 U.S.C. 207) and unpaid amounts
15 required under this section shall be treated as
16 unpaid overtime compensation under such sec-
17 tion 7 and subject to enforcement and the pen-
18 alties described in sections 16 and 17 of such
19 Act (29 U.S.C. 216, 217) for such a violation,
20 subject to subparagraph (F).

21 (D) JOB SECURITY AND CORONAVIRUS
22 GUIDELINE VIOLATIONS.—A violation of section
23 103 or 104 shall be treated as a violation of
24 section 6 of the Fair Labor Standards Act of
25 1938 (29 U.S.C. 206) and subject to enforce-

1 ment and the penalties described in section 16
2 and 17 of such Act (29 U.S.C. 216, 217) for
3 such a violation—

4 (i) except that the remedies available
5 for an agricultural worker shall be the re-
6 lief available under subsection (c)(2)(B);
7 and

8 (ii) subject to subparagraph (F).

9 (E) DISCHARGE OR DISCRIMINATION.—A
10 violation of paragraph (1)(B) shall be deemed a
11 violation of section 15(a)(3) of the Fair Labor
12 Standards Act of 1938 (29 U.S.C. 215(a)(3)),
13 and subject to enforcement and the penalties
14 described in sections 16 and 17 of such Act (29
15 U.S.C. 216, 217) for such a violation, subject
16 to subparagraph (F).

17 (F) NO CRIMINAL PENALTIES.—A violation
18 of this Act shall not be subject to any criminal
19 penalty.

20 (b) INVESTIGATION AND ADMINISTRATIVE ACTION.—

21 (1) IN GENERAL.—To ensure compliance with
22 the provisions of this title, including any regulation
23 or order issued under this title, the Secretary of
24 Labor shall have the authority to receive, inves-
25 tigate, and attempt to resolve complaints in the

1 same manner as the Secretary receives, investigates,
2 and attempts to resolve complaints of violations
3 under section 7 of the Fair Labor Standards Act of
4 1938 (29 U.S.C. 209), including the investigative
5 authority provided under section 11(a), and the sub-
6 poena authority under section 9, of such Act (29
7 U.S.C. 211(a), 209).

8 (2) STATE AGENCIES.—The Secretary of Labor
9 may, for the purpose of carrying out the functions
10 and duties under this section, utilize the services of
11 State and local agencies in accordance with section
12 11(b) of the Fair Labor Standards Act of 1938 (29
13 U.S.C. 211(b)).

14 (c) AGRICULTURAL WORKER ENFORCEMENT.—

15 (1) RIGHT OF ACTION.—An action alleging a
16 violation of this title may be maintained against a
17 person in any Federal or State court of competent
18 jurisdiction by one or more agricultural workers or
19 their representative for and on behalf of the agricul-
20 tural workers, or the agricultural workers and others
21 similarly situated, in the same manner as an action
22 brought by an employee under section 16(b) of the
23 Fair Labor Standards Act of 1938 (29 U.S.C.
24 216(b)).

1 (2) LIABILITY.—Damages available under para-
2 graph (1) shall include—

3 (A) in the case of a violation of section 101
4 or 102, the damages and remedies available for
5 a violation of section 6 or 7 of the Fair Labor
6 Standards Act of 1938 (29 U.S.C. 206, 207);

7 (B) in the case of a violation of section
8 103 or 104, an amount not to exceed the actual
9 damages, statutory damages of not more than
10 \$500 per plaintiff per violation, or other equi-
11 table relief (including reinstatement), except—

12 (i) multiple infractions of a single pro-
13 vision of section 103 or 104, or regulations
14 promulgated under either such section,
15 shall constitute only one violation for pur-
16 poses of determining the amount of statu-
17 tory damages due a plaintiff; and

18 (ii) in any class action, the amount of
19 damages shall not exceed the lesser of—

20 (I) the amount equal to \$500 per
21 plaintiff per violation; and

22 (II) \$500,000; and

23 (C) in the case of a violation of subsection
24 (a)(1)(B), the damages and remedies available
25 for a violation of section 15(a)(3) of the Fair

1 Labor Standards Act of 1938 (29 U.S.C.
2 215(a)(3)).

3 (D) COURT COSTS AND ATTORNEY'S
4 FEES.—In any action commenced under this
5 subsection, if the plaintiff is a prevailing party,
6 the court shall, in addition to any judgment
7 awarded to a plaintiff, allow a reasonable attor-
8 ney's fee to be paid by the defendant, and costs
9 of the action.

10 (3) NO WAIVER.—In an action alleging a viola-
11 tion of subparagraph (A) or (B) of subsection (a)(1)
12 brought by one or more agricultural workers or their
13 representative for and on behalf of the persons as
14 described in paragraph (1), no court of competent
15 jurisdiction may grant the motion of the respondent
16 to compel arbitration, under chapter 1 of title 9,
17 United States Code, or any analogous State arbitra-
18 tion statute, of the claims involved. An agricultural
19 worker's right to bring an action under this sub-
20 section on behalf of similarly situated agricultural
21 workers to enforce such rights may not be subject to
22 any private agreement that purports to require the
23 agricultural workers to pursue claims on an indi-
24 vidual basis.

1 (d) RECORDKEEPING.—A covered agricultural pro-
2 ducer or a covered contractor shall make, keep, and pre-
3 serve records pertaining to compliance with any applicable
4 provisions of this title in accordance with section 11(c) of
5 the Fair Labor Standards Act of 1938 (29 U.S.C. 211(e))
6 and in accordance with regulations prescribed by the Sec-
7 retary of Labor.

8 **SEC. 106. EFFECTIVE DATE; TERMINATION.**

9 The requirements of this title shall—

10 (1) take effect beginning on the date of enact-
11 ment of this Act; and

12 (2) cease to have force and effect on the date
13 that is 90 days after the date of the expiration of
14 the public health emergency declared by the Sec-
15 retary of Health and Human Services under section
16 319 of the Public Health Service Act (42 U.S.C.
17 247d) on January 31, 2020, with respect to the
18 coronavirus.

19 **TITLE II—AGRICULTURAL**
20 **WORKER ASSISTANCE**

21 **SEC. 201. GRANTS FOR AGRICULTURAL PRODUCERS TO IM-**
22 **PLEMENT CDC RECOMMENDATIONS.**

23 (a) DEFINITIONS.—In this section:

1 (1) ELIGIBLE AGRICULTURAL PRODUCER.—The
2 term “eligible agricultural producer” means an agri-
3 cultural producer with not more than 50 employees.

4 (2) QUALIFYING EQUIPMENT.—The term “qual-
5 ifying equipment” means—

6 (A) a handwashing station;

7 (B) a portable restroom; and

8 (C) personal protective equipment.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of Agriculture.

11 (b) GRANTS.—The Secretary shall provide grants to
12 eligible agricultural producers for the purchase of quali-
13 fying equipment.

14 (c) AMOUNT.—The amount of a grant under sub-
15 section (b) shall be the product obtained by multiplying—

16 (1) \$500; and

17 (2) the number of employees of the eligible agri-
18 cultural producer.

19 (d) PROOF OF PURCHASE; RETURN OF FUNDS.—Not
20 later than 60 days after the date on which an eligible agri-
21 cultural producer receives a grant under this section, the
22 eligible agricultural producer shall—

23 (1) submit to the Secretary proof of purchase
24 of qualifying equipment; and

1 (2) return to the Secretary the amount of the
2 grant funds, if any, that was not used by the eligible
3 agricultural producer to purchase qualifying equip-
4 ment, as described in the proof of purchase sub-
5 mitted under paragraph (1).

6 (e) CONDITIONS.—An eligible agricultural producer
7 shall use a grant under this section—

8 (1) to purchase qualifying equipment as nec-
9 essary to meet guidelines for sanitation issued by the
10 Centers for Disease Control and Prevention; and

11 (2) to purchase—

12 (A) not more than 1 hand washing station
13 and 1 portable restroom per 10 employees of
14 the eligible agricultural producer, unless the
15 guidelines described in paragraph (1) require a
16 greater number of qualifying equipment; and

17 (B) such personal protective equipment as
18 the eligible agricultural producer determines to
19 be necessary to meet the guidelines described in
20 paragraph (1).

21 **SEC. 202. PREMIUM PAY GRANTS.**

22 (a) GRANTS.—

23 (1) FOR PANDEMIC PREMIUM PAY.—The Sec-
24 retary of Agriculture shall, from amounts made
25 available under subsection (g), award a grant to

1 each covered agricultural producer that applies for a
2 grant, in accordance with this section, for the pur-
3 pose of providing premium pay to agricultural work-
4 ers under section 102, including amounts paid under
5 section 102(e).

6 (2) ELIGIBILITY.—Any covered agricultural
7 producer, including a covered agricultural producer
8 subject to a civil penalty under section 105, shall be
9 eligible for a grant under paragraph (1).

10 (b) AMOUNT OF GRANTS.—

11 (1) IN GENERAL.—The maximum amount avail-
12 able for making a grant under subsection (a)(1) to
13 a covered agricultural producer shall be equal to the
14 sum of—

15 (A) the amount obtained by multiplying
16 \$10,000 by the number of agricultural workers
17 the producer certifies, in the application sub-
18 mitted under subsection (c)(1), as employing, or
19 providing remuneration to for services or labor,
20 who are paid wages or remuneration by the pro-
21 ducer at a rate that is less than \$100,000 per
22 year; and

23 (B) the amount obtained by multiplying
24 \$5,000 by the number of highly compensated
25 agricultural workers the producer certifies, in

1 the application submitted under subsection
2 (c)(1), as employing, or providing remuneration
3 to for services or labor, who are paid wages or
4 remuneration by the producer at a rate that is
5 equal to or greater than \$100,000 per year.

6 (2) NO PARTIAL GRANTS.—The Secretary of
7 Agriculture shall not award a grant under this sec-
8 tion in an amount less than the maximum described
9 in paragraph (1).

10 (c) GRANT APPLICATION AND DISBURSAL.—

11 (1) APPLICATION.—Any covered agricultural
12 producer seeking a grant under subsection (a)(1)
13 shall submit an application to the Secretary of Agri-
14 culture at such time, in such manner, and complete
15 with such information as the Secretary may require.

16 (2) NOTICE AND CERTIFICATION.—

17 (A) IN GENERAL.—The Secretary of Agri-
18 culture shall, within 15 days after receiving a
19 complete application from a covered agricultural
20 producer eligible for a grant under this sec-
21 tion—

22 (i) notify the producer of the Sec-
23 retary's findings with respect to the re-
24 quirements for the grant; and

1 (ii)(I) if the Secretary finds that the
2 covered agricultural producer meets the re-
3 quirements under this section for a grant
4 under subsection (a), provide a certifi-
5 cation to the producer—

6 (aa) that the producer has met
7 such requirements; and

8 (bb) of the amount of the grant
9 payment that the Secretary has deter-
10 mined the producer shall receive based
11 on the requirements under this sec-
12 tion; or

13 (II) if the Secretary finds that the
14 covered agricultural producer does not
15 meet the requirements under this section
16 for a grant under subsection (a), provide a
17 notice of denial stating the reasons for the
18 denial and provide an opportunity for ad-
19 ministrative review by not later than 10
20 days after the denial.

21 (B) TRANSFER.—Not later than 7 days
22 after making a certification under subpara-
23 graph (A)(ii) with respect to a covered agricul-
24 tural producer, the Secretary of Agriculture

1 shall make the appropriate transfer to the pro-
2 ducer of the amount of the grant.

3 (d) USE OF FUNDS.—

4 (1) IN GENERAL.—A covered agricultural pro-
5 ducer receiving a grant under this section shall use
6 the amount of the grant solely for the following pur-
7 poses:

8 (A) Providing premium pay under section
9 102(a) to agricultural workers in accordance
10 with the requirements for such payments under
11 such section, including providing payments de-
12 scribed in section 102(e) to the next of kin of
13 agricultural workers in accordance with the re-
14 quirements for such payments under such sec-
15 tion.

16 (B) Paying employer payroll taxes with re-
17 spect to premium pay amounts described in
18 subparagraph (A), including such payments de-
19 scribed in section 102(e).

20 Each dollar of a grant received by a covered agricul-
21 tural producer under this section shall be used as
22 provided in subparagraph (A) or (B) or returned to
23 the Secretary of Agriculture.

24 (2) NO OTHER USES AUTHORIZED.—A covered
25 agricultural producer who uses any amount of a

1 grant for a purpose not required under paragraph
2 (1) shall be considered to have misused funds in vio-
3 lation of section 102.

4 (3) USE OF COVERED CONTRACTORS.—

5 (A) IN GENERAL.—In any case where a
6 covered agricultural producer receiving a grant
7 under this section has, or enters into, an agree-
8 ment with another entity regarding providing or
9 paying agricultural workers for the covered ag-
10 ricultural producer—

11 (i) the covered agricultural producer
12 shall—

13 (I) not later than 3 days after re-
14 ceipt of the grant funds under this
15 section, notify, in writing, the con-
16 tracting entity about the requirement
17 under section 102 to provide premium
18 pay to agricultural workers;

19 (II) not later than 14 days after
20 receipt of the grant funds under this
21 section, transfer the amounts needed
22 to provide premium pay under section
23 102(a), including providing payments
24 described in section 102(e), to the

1 contracting entity for disbursement to
 2 the agricultural workers; and

3 (III) remain responsible for the
 4 use of the funds in accordance with
 5 paragraph (1) and section 102; and
 6 (ii) the contracting entity shall—

7 (I) as a condition of receipt of
 8 such amounts, agree, in writing, to
 9 comply with the requirements of sec-
 10 tion 102, with respect to the agricul-
 11 tural workers of the covered agricul-
 12 tural producer; and

13 (II) maintain, and report to the
 14 covered agricultural producer and the
 15 Secretary of Labor, payroll documents
 16 recording the payment of premium
 17 pay to the agricultural workers.

18 (B) EFFECT OF TRANSFER OF FUNDS.—

19 By accepting grant funds under subparagraph
 20 (A) from a covered agricultural producer—

21 (i) the covered contractor agrees to
 22 provide premium pay, in accordance with
 23 paragraph (1) and as required under sec-
 24 tion 102, to the agricultural workers of the
 25 covered agricultural producer and to com-

1 ply with the requirements of section
2 105(a)(1)(B) with respect to such agricul-
3 tural workers; and

4 (ii) the covered contractor shall be
5 subject to the enforcement provisions
6 under section 105 for violating section 102
7 or section 105(a)(1)(B) with respect to
8 such agricultural workers.

9 (4) REFUND.—

10 (A) IN GENERAL.—If a covered agricul-
11 tural producer receives a grant under this sec-
12 tion and, for any reason, does not provide every
13 dollar of such grant to agricultural workers in
14 accordance with the requirements of this Act,
15 then the producer shall refund any such dollars
16 to the Secretary of Agriculture not later than
17 June 30, 2021. Any amounts returned to the
18 Secretary shall remain available to the Sec-
19 retary for additional grants under this section.

20 (B) REQUIREMENT FOR NOT REDUCING
21 COMPENSATION.—A covered agricultural pro-
22 ducer who is required to refund any amount
23 under this paragraph shall not reduce or other-
24 wise diminish an eligible worker's compensation

1 or benefits in response to or otherwise due to
2 such refund.

3 (e) RECOUPMENT.—In addition to all other enforce-
4 ment and remedies available under this Act or any other
5 law, the Secretary of Agriculture shall establish a process
6 under which the Secretary shall recoup the amount of any
7 grant awarded under subsection (a)(1) if the Secretary de-
8 termines that the covered agricultural producer receiving
9 the grant—

10 (1) did not provide all of the dollars of such
11 grant to the agricultural workers of the producer or,
12 in the case of payments made under section 102(e),
13 the next of kin of such workers;

14 (2) did not, in fact, have the number of agricul-
15 tural workers certified by the producer in accordance
16 with subparagraphs (A) and (B) of subsection
17 (b)(1);

18 (3) did not pay the agricultural workers for the
19 number of hours the producer claimed to have paid;
20 or

21 (4) otherwise misused funds or violated this
22 section.

23 (f) TAX TREATMENT.—

24 (1) EXCLUSION FROM INCOME.—For purposes
25 of the Internal Revenue Code of 1986, any grant re-

1 received by a covered agricultural producer under this
2 section shall not be included in the gross income of
3 such covered agricultural producer.

4 (2) DENIAL OF DOUBLE BENEFIT.—

5 (A) IN GENERAL.—In the case of a covered
6 agricultural producer that receives a grant
7 under this section—

8 (i) amounts paid under subsection (a)
9 or (e) of section 102 shall not be taken
10 into account as wages for purposes of sec-
11 tions 41, 45A, 51, or 1396 of the Internal
12 Revenue Code of 1986 or section 2301 of
13 the CARES Act (Public Law 116–136);
14 and

15 (ii) any deduction otherwise allowable
16 under such Code for applicable payments
17 during any taxable year shall be reduced
18 (but not below zero) by the excess (if any)
19 of—

20 (I) the aggregate amounts of
21 grants received under this section;
22 over

23 (II) the sum of any amount re-
24 funded under subsection (d) plus the
25 aggregate amount of applicable pay-

1 ments made for all preceding taxable
2 years.

3 (B) APPLICABLE PAYMENTS.—For pur-
4 poses of this paragraph, the term “applicable
5 payments” means amounts paid as premium
6 pay under subsection (a) or (e) of section 102
7 and amounts paid for employer payroll taxes
8 with respect to such amounts.

9 (C) AGGREGATION RULE.—Rules similar
10 to the rules of subsections (a) and (b) of section
11 52 of the Internal Revenue Code of 1986 shall
12 apply for purposes of this section.

13 (3) INFORMATION REPORTING.—The Secretary
14 of Agriculture shall submit to the Commissioner of
15 Internal Revenue statements containing—

16 (A) the name and tax identification num-
17 ber of each covered agricultural producer receiv-
18 ing a grant under this section;

19 (B) the amount of such grant; and

20 (C) any amounts refunded under sub-
21 section (d)(4).

22 (g) AUTHORIZATION AND APPROPRIATIONS.—There
23 are authorized to be appropriated, and there are appro-
24 priated, out of any amounts in the Treasury not appro-
25 priated, such sums as are necessary for the Secretary of

1 Agriculture to award grants under this section to all eligi-
2 ble agricultural producers that submit a complete applica-
3 tion under subsection (c).

4 (h) EMERGENCY DESIGNATION.—

5 (1) IN GENERAL.—The amounts provided by
6 this section are designated as an emergency require-
7 ment pursuant to section 4(g) of the Statutory Pay-
8 As-You-Go Act of 2010 (2 U.S.C. 933(g)).

9 (2) DESIGNATION IN SENATE.—In the Senate,
10 this section is designated as an emergency require-
11 ment pursuant to section 4112(a) of H. Con. Res.
12 71 (115th Congress), the concurrent resolution on
13 the budget for fiscal year 2018.

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