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14
15 UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA
17 FRESNO DIVISION

18 UNITED FARM WORKERS, *ET AL.*,

19 PLAINTIFFS,

20 v.

21 U. S. DEPARTMENT OF LABOR, *ET AL.*,

22 DEFENDANTS.
23
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Case No.: 1:25-cv-01614-KES-EGC

**BRIEF OF THE AMICI STATES IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

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INTRODUCTION AND INTERESTS OF AMICI STATES

California, Minnesota, Colorado, Delaware, Maine, Michigan, New Jersey, New Mexico, Nevada, New York, Oregon, Washington, and Wisconsin (Amici States) submit this brief in support of Plaintiffs’ Motion for Summary Judgment. Amici States represent a significant portion of the nation’s agricultural output and have legal and financial obligations that will be impacted by rules affecting agricultural workers, as well as a responsibility to protect those workers who toil in our States. For example, California is the top agricultural state in the country, accounting for nearly two-thirds of the nation’s production of vegetables, fruits and nuts. Minnesota is one of the top producers in the country for soybeans, corn, and other crops. And New York is a top producer of milk, grains, dry beans, oil seeds, and dry peas.

The Adverse Effect Wage Rate (AEWR) was created to implement the Immigration and Nationality Act’s (INA) mandate prohibiting employers from adversely affecting the market wages and working conditions of U.S. farmworkers when hiring foreign labor in the fields. The Interim Final Rule (IFR), *Adverse Effect Wage Rate Methodology for the Temporary Employment of H-2A Nonimmigrants in Non-Range Occupations in the United States*, undermines that goal. 90 Fed. Reg. 47,914 (Oct. 2, 2025).

According to the U.S. Department of Labor (DOL), the IFR’s new AEWR methodology lowers the cost of hiring foreign farmworkers to motivate employers to immediately backfill a labor shortage resulting from the President’s immigration policies.¹ This rule conflicts with the DOL’s obligations under the INA. By incentivizing employers to hire more H-2A workers at lower wage rates, the IFR adversely affects U.S. farmworkers who will face depressed wages in the labor market. Consequently, U.S. farmworkers who rely on temporary or seasonal work are now dissuaded from returning to the same job for less pay or are forced to bring in less income to support their families, health, and well-being.

¹ See IFR, 90 Fed. Reg. at 47,924, 47,957 (“Decline in the illegal alien population will only exacerbate [the] already pressing mismatch in the agricultural labor market and deprive growers of a relatively cheaper labor supply on which they have become economically reliant. . . . Given the large wage differential between U.S. farm jobs and typical wages in workers’ home countries . . . lowering the AEWR does not reduce labor supply, but instead allows employers to hire more workers.”).

1 The IFR impacts workers who already face acute challenges. Due to a combination of
 2 factors including higher risks of exposure to infectious diseases, poor housing conditions, and
 3 lack of access to care, the average life expectancy for farmworkers in the U.S. is 49 years.²
 4 Additionally, a recent survey of farm workers from the western region of the U.S. found low
 5 wages to be among one of the top five sources of stress for farm workers.³ Receiving low wages
 6 results “in issues such as food insecurity, limited access to healthcare, and lower quality of health
 7 care.”⁴

8 As a result, and without the benefit of the opportunity to comment prior to the issuance of
 9 the IFR, many States will have to carry the burden of accommodating an influx of H-2A workers
 10 while also supporting through state programs U.S. farmworkers who are pushed close to the
 11 federal poverty line. Amici States have a strong interest in ensuring that U.S. workers are paid fair
 12 market wages, safeguarding all who labor in our States, and making sure that our States are not
 13 overburdened by demands resulting from an unlawful and arbitrary response to a shortage in farm
 14 labor.

15 The Amici States support the Plaintiffs’ Motion for Summary Judgment seeking to
 16 permanently enjoin the DOL from implementing the IFR as set forth below.

17 ARGUMENT

18 **I. The IFR is Antithetical to the Purpose of the INA and Relies on Actions that Have** 19 **Already Failed to Backfill and Protect Agricultural Labor**

20 The H-2A program and its predecessor programs originated as a response to labor
 21 shortages in agriculture. Adapting to a dearth in labor supply is nothing new to the business.
 22 World War I brought about a labor shortage that prompted the first large-scale demand for foreign
 23 labor to replace the U.S. farmworkers fighting abroad.⁵ The Bracero Program was then created in

24 ² Michelle Grocke-Dewey et al., *Agricultural Workers’ Perspectives on Stressors, Stress*
 25 *Management Topics and Support Options: A Case Study from the Western U.S.*, 22 Int’l J. of
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26 ³ *Id.*

⁴ *Id.*

27 ⁵ According to the U.S. Government Accountability Office (GAO), “[f]oreign workers
 28 have been used in labor intensive field crops for almost 100 years, but the first large-scale alien
 labor program began in 1917 as the result of wartime labor shortages. U.S. agriculture, especially
 (continued...)

1 1942 to backfill shortages when U.S. farmworkers fought during World War II.⁶ By the end of
 2 the program, approximately 4.6 million farm labor contracts had been established to bring in
 3 labor from Mexico to work in U.S. farms.⁷

4 The guestworker programs, however, were mired with ill-treatment of farmworkers. The
 5 agricultural industry long depended on foreign workers to meet the grueling demands of farm
 6 labor. S. Rep. No. 93-1295 (1974), *reprinted in* 1974 U.S.C.C.A.N. 6441, 6441 (“Migrant and
 7 seasonal farm workers have long been among the most exploited groups in the American labor
 8 force.”).

9 From 1942 to 1964, the Bracero Program showcased how this employment model failed,
 10 leading to “massive civil rights and labor violations and depressed wages in the Southwest.”⁸
 11 Among other things, Braceros working under the program faced precarious circumstances at
 12 points of entry into the U.S. including being “stripped naked and sprayed with the insecticide
 13 DDT, including inside their ears.”⁹ DDT was banned in the 1970s “for causing cancer and
 14 neurological problems.”¹⁰ Congress recognized that the Bracero program was “likened by some
 15 to indentured slavery where employer exploitation was rampant and inhumane.” H.R. Rep. No.
 16 99-682(I), at 83 (1986). These conditions and the stagnated market wage rate resulting from the
 17 hiring of low-wage guestworkers drove U.S. farmworkers away from the fields.¹¹

18 _____
 19 in the southwest, grew up in part because of the availability of foreign workers.” U.S. Gov’t
 20 Accountability Off., GAO/PEMD-89-3, *The H-2A Program: Protections for U.S. Farmworkers*
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22 ⁶ Bracero History Archive, <https://braceroarchive.org/about> (last visited Mar. 24, 2026)
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24 ⁷ *Id.*

25 ⁸ Stephen Yale-Loehr, *Foreign Farm Workers in the U.S.: The Impact of the Immigration*
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27 ⁹ Rachel Hatzipanagos, *This ‘sacred site’ for Mexican Americans named national*
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¹⁰ Leonard Nadel, *Bracero workers being fumigated at Hidalgo Processing center*
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¹¹ U.S. Gov’t Accountability Off., GAO/PEMD-89-3, *supra* note 5, at 11; *see also* Ernesto
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Migration of Mexican Farm Workers in California 199-228 (1964); *Harvest of Loneliness: The*
Bracero Program (Gilbert Gonzalez 2010).

1 In the 1960s, the United Farm Workers and many other labor unions lobbied the
 2 government to disband the Bracero program due to its exploitation of foreign workers and the
 3 program's spillover effect on American farmworkers.¹² After Congress ended the Bracero
 4 program, farmworkers continued to press for better working conditions, perhaps most notably in
 5 Delano, California, where organizers like Larry Itliong, Philip Vera Cruz, Pete Velasco, and
 6 Dolores Huerta empowered grape workers to stand up against growers who furnished poor pay
 7 and harsh working conditions.¹³ The Delano Grape Strike amassed support beyond the fields in
 8 California and galvanized consumers and politicians like Robert F. Kennedy to demand better
 9 working conditions for those who brought grapes to tables across the nation.¹⁴

10 In the 1980s, Congress held hearings and called for reports to understand the ills of the
 11 Bracero Program and other abuses toward farmworkers and to thoughtfully craft solutions that
 12 balanced industry needs with just worker protections.¹⁵ Hence, Congress amended the INA in
 13 1986 to mandate that the employment of agricultural guestworkers "will not adversely affect the
 14 wages and working conditions of workers in the United States similarly employed" and new
 15 regulations were promulgated to secure better worker protections.¹⁶ The amended regulations
 16 included a framework to ensure just pay for both domestic and H-2A workers, which included the
 17 AEW, *see* 20 C.F.R. §§ 655.120, 655.122(a) ("The employer's job offer must offer to U.S.
 18 workers no less than the same benefits, wages, and working conditions that the employer is

19 ¹² Robert Russo, *Collective Struggles: A Comparative Analysis of Unionizing Temporary*
 20 *Foreign Farm Workers in the United States and Canada*, 41 Hous. J. Int'l L. 5, 40-42 (2018).

21 ¹³ Marc-Tizoc González, *Critical Ethnic Legal Histories: Unearthing the Interracial*
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25 ¹⁵ *See, e.g.*, S. Comm. On the Judiciary, 96th Cong. Rep. on Temporary Worker Programs:
 26 Background and Issues (Comm. Print 1980); H.R. Rep. No. 99-682(I) (1986); U.S. Gov't
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27 ¹⁶ The Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, § 301, 100 Stat.
 3359, 3411 (1986); Labor Certification Process for the Temporary Employment of Aliens in
 28 Agriculture and Logging in the United States, 52 Fed. Reg. 20,496, 20,597 (Jun. 1, 1987)
 (amending 20 C.F.R. Part 655).

1 offering, intends to offer, or will provide to H-2A workers”), and the employer’s obligation to
 2 provide no-cost housing to H-2A and corresponding workers who did not live near the fields, *see*
 3 20 C.F.R. § 655.122(d).

4 The IFR at issue ignores this history and returns the industry to the days when employers
 5 were motivated to hire cheap foreign labor. As history has demonstrated, the IFR will depress the
 6 wages of local farmworkers, the majority of whom are U.S. citizens or lawful permanent
 7 residents.¹⁷ The IFR will also likely dissuade U.S. farmworkers from working in the industry and,
 8 put simply, devalue the taxing work exerted by both foreign and domestic laborers. Farm work is
 9 skilled and heavy work; it requires long hours of fast-rate body movements and exerted strength
 10 while also delicately handling fragile fruits and crops for market preparation.¹⁸

11 Moreover, the IFR will cultivate a workplace culture more susceptible to abuse. *See infra*,
 12 Section III (explaining challenges to enforcement of workplace safety regulations). Paying
 13 workers less will not improve industry conditions. The IFR may bolster the labor supply, but it
 14 will do so at the cost of harsher working conditions.

15 Amici States oppose the IFR. The agency’s new unfounded measures to incentivize cheap
 16 labor under the H-2A program, *i.e.* with the elimination of a long-standing AEWR methodology
 17 based on farm-specific data, the institution of a housing adjustment, and the creation of a tiered
 18 payment model, ignores why the regulations in 20 C.F.R. Part 655 were drafted in the first place:
 19 to abide by Congress’s authority to permit H-2A workers only where their employment will not
 20 adversely affect the wages and working conditions of domestic agricultural workers. *See* 8 U.S.C.
 21 § 1188(a)(1)(B). We oppose the DOL’s disregard of the INA’s amendments and their
 22 implementing regulations that balanced industry needs with worker protections.

23
 24
 25 ¹⁷ U.S. Department of Labor, *Findings from the National Agricultural Workers Survey*
 26 *(NAWS) 2021-2022: A Demographic and Employment Profile of United States Crop Workers* 11
 27 (2023) <https://www.dol.gov/sites/dolgov/files/ETA/naws/pdfs/NAWS%20Research%20Report%2017.pdf>
 28 f [<https://perma.cc/T3DF-X8L5>].

¹⁸ AJ+ [Al Jazeera], *What everyone gets WRONG about farm work*, YouTube, (March 10,
 2021), <https://www.youtube.com/watch?v=OTCqyfJwkx0> [<https://perma.cc/Q484-45TD>].

1 In sum, the IFR ignores the text, history, and purpose of the INA and, as described below,
 2 violates the Administrative Procedure Act. We urge the Court to grant Plaintiffs' Motion for
 3 Summary Judgment and permanently enjoin the rule's implementation.

4 **II. The IFR is Arbitrary and Capricious and Other Successful Responses to Labor**
 5 **Shortages Exist**

6 If the IFR's main concern is to respond to an immediate labor shortage, the DOL's means
 7 to meet this goal—a new AEWR methodology, a housing adjustment, and a two-tiered system—
 8 are arbitrary and capricious. In economic terms, the DOL addresses a supply-side problem with
 9 demand-side solutions—i.e. lowered costs for employers—that run afoul of the INA.¹⁹ But
 10 academic study and practical experience show that raising wages is the proper response to a labor
 11 shortage.

12 **A. Empirical Research Supports Increasing Wages to Respond to Farm Labor**
 13 **Shortages.**

14 The agricultural industry has already employed a successful mechanism to respond to
 15 farm labor shortages: paying workers more. An empirical study by experts in agriculture and
 16 resource economics determined that most agricultural employers have increased wages to respond
 17 to labor shortages.²⁰ The study, based on data from members of the California Farm Bureau
 18 Federation, critically analyzed 671 crop farmers in 37 of California's 58 counties, representing a
 19 range of crops that included wine grapes, tree nuts, citrus fruits, vegetables, avocados, nursery or
 20 floral products and others. A 2019 survey collected their experiences with shortages from the 5-
 21 year period between 2014 to 2018. On average, farmers responded to labor shortages in the
 22 following ways: 60% increased wages, 57% hired farm labor contractors, 40% changed
 23 cultivation practices, and 23% adopted labor-saving technology. In the last year of the survey,
 24 81% of the sample farmers increased their wages to adapt to labor shortages.

25 ¹⁹ The DOL admits that the problem is not that the previous adverse effect wage rate
 26 methodology would fail to attract enough domestic and H-2A workers to fill any shortages. *See*
 27 IFR, 90 Fed. Reg. at 47,957. Rather, it implies with minimal evidence that industry employers
 28 cannot afford to replace “cheaper” undocumented workers with domestic or H-2A workers paid at
 the prior rate. *See id.* at 47924.

²⁰ Myat Thida Win et al., *Labor Shortages and Farmer Adaptation Strategies*, 47 *Applied*
Economic Perspectives and Policy 896 (2025),
<https://onlinelibrary.wiley.com/doi/full/10.1002/aep.13527>.

1 An increase in wages, whether through the AEWB methodology prior to the IFR or by
 2 employer choice, has not hurt the industry. Business has remained steady under the long-standing
 3 AEWB methodology, which relied on farm-specific data and reflected the natural rise in wages as
 4 a response to the growing demands of the labor market. For example, net farm income, which
 5 marks the profitability of the industry, was \$12,351,363 in California and \$1,045,327 in
 6 Minnesota in 2019.²¹ By 2024, net farm income was \$20,247,849 in California and \$2,644,409 in
 7 Minnesota.²² Even accounting for inflation, this represents a 36% increase in profitability in
 8 California and a 110% increase in profitability in Minnesota during this five-year span. The DOL
 9 has not provided any substantive evidence proving that a rise in H-2A wages has economically
 10 debilitated the farming industry. And yet the DOL now seeks to transfer an estimated \$2.46
 11 billion annually from H-2A workers to industry employers.²³

12 **B. In Practice, Raising Wages Has Been the Primary Response to Labor**
 13 **Shortages Across Different Industries.**

14 Amici States have experienced labor shortages in various industries. We have seen, for
 15 instance, industries in health care and technology resolve actual or potential breaks in the labor
 16 supply chain with financial incentives to workers.

17 For instance, Amici States have struggled to sustain a local nursing workforce. The
 18 modern business model for traveling nursing programs emerged in the 1970s, although hospitals
 19 have housed a non-local nursing workforce since the early 1900s.²⁴ The model became more
 20 visible during the COVID-19 pandemic when hospitals had to fill urgent staffing shortages.²⁵
 21 And the model has sustained a significant presence in the health care industry ever since. The

23 ²¹ U.S. Department of Agriculture Economic Research Service, *Farm Income and Wealth*
 24 *Statistics - Farm sector financial indicators, State rankings* (updated Feb. 5, 2026),
<https://data.ers.usda.gov/reports.aspx?ID=4048> [<https://perma.cc/B7YS-AYJB>].

25 ²² *Id.*

26 ²³ IFR, 90 Fed. Reg. at 47,952. The DOL does not even attempt to estimate the cumulative
 loss of wages for corresponding domestic workers.

27 ²⁴ LaTonya J. Trotter et al., *The role of travel nursing in shifting nursing practice and*
careers, 8 SSM – Qualitative Research in Health (2025),
<https://www.sciencedirect.com/science/article/pii/S2667321525001039>; Catherine Ceniza Choy,
Empire of Care: Nursing and Migration in Filipino American History 41-57 (2003).

28 ²⁵ Trotter et al., *The role of travel nursing in shifting nursing practice and careers*, *supra*.

GAO reported that the average hourly cost of RNs increased from 2019 to 2022.²⁶ The hourly cost for traveling nurses increased between 53% to 266% at surveyed hospitals.²⁷ Now, close to 1.7 million nurses are traveling nurses, willing to serve hospitals across the nation to fill gaps in staffing.²⁸ In short, healthcare executives increased nursing salaries and successfully attracted more nurses to where they were needed.

Similarly, Silicon Valley has found the need for more workers in the technology industry. Employers have hired foreign H-1B engineers to meet the high need for STEM labor in areas where a dearth in STEM talent exists.²⁹ To do so, employers have used high financial incentives to recruit and sustain foreign labor in the technology industry. From 2018 to 2022, the median salary for H-1B workers in computer sciences increased by 26%.³⁰

The common successful measure to respond to labor gaps in various industries has been to increase worker pay. In fact, the DOL recently issued a notice of proposed rulemaking to raise the required prevailing wage for non-immigrant workers in other fields to avoid adverse effects on domestic workers. *Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States*. 91 Fed. Reg. 15,454, 15,460-61 (Mar. 27, 2026). In that notice, the DOL reasoned that a lower wage rate for H-1B and other categories of non-immigrant workers “undermines the integrity of the immigration system by incentivizing the use of lower-paid and lower-skilled alien workers over available domestic talent.” *Id.* at 15,461. Believing the prevailing wage rates for those categories to be too low, the DOL wrote that keeping them in place “undermines the Department’s statutory duties under . . . the INA to ensure that the employment of alien workers does not impose adverse effects onto the wages and

²⁶ U.S. Gov’t Accountability Off., GAO-24-106447, *Hospitals: Expanded Use of Supplemental Nurses during the COVID-19 Pandemic* (2024), at 12.

²⁷ *Id.*

²⁸ *Traveling nurse statistics*, AB Staffing Solutions, <https://www.abstaffing.com/travel-nursing-statistics/> (last visited May 27, 2026) [<https://perma.cc/R9Z4-6WVT>].

²⁹ Jonathan Rothwell and Neil G. Ruiz, *H-1B Visas and the STEM Shortage*, Brookings (May 10, 2023), <https://www.brookings.edu/articles/h-1b-visas-and-the-stem-shortage/> [<https://perma.cc/6EM3-WVKR>].

³⁰ Stuart Anderson, *Immigration Agency Report Shows High H-1B Visa Salaries*, Forbes (Jun. 5, 2023), <https://www.forbes.com/sites/stuartanderson/2023/06/05/immigration-agency-report-shows-high-h-1b-visa-salaries/> [<https://perma.cc/2FF8-FGCU>].

1 working conditions of American workers.” *Id.* The DOL therefore proposed higher wage rates “to
2 restore balance, fairness, and public confidence in the labor certification process.” *Id.* at 15,462.

3 Yet here, the DOL arbitrarily concludes that the opposite applies to the farming industry,
4 finding it necessary to lower the cost of recruiting foreign farmworkers to meet the demands for
5 more labor. This strategy undercuts the express purpose of the AEWL to uphold domestic wage
6 rates. In the experience of the Amici States, an AEWL that upholds wages that are attractive to
7 workers will foster a healthy and balanced workforce, particularly for the U.S. workers Congress
8 has expressly sought to protect.

9 **III. In Bypassing Notice and Comment, the IFR Failed to Consider Important Interests** 10 **of the States**

11 The DOL’s decision to issue an interim final rule, instead of following the required notice
12 and comment procedures, all but guaranteed the DOL would ignore the important interests of
13 numerous stakeholders, including the States. That decision was arbitrary and capricious because
14 DOL “entirely failed to consider an important aspect of the problem,” and indeed *could not* have
15 considered those problems because it chose to prevent stakeholder input. *S. Yuba River Citizens*
16 *League v. Nat. Marine Fisheries Serv.*, 723 F.Supp.2d 1247, 1256 (E.D. Cal. 2010). The IFR’s
17 ultimate effect of depressing wages for farmworkers will result in myriad adverse impacts on
18 States—ignored by DOL—by reducing tax revenues, increasing reliance on state social programs,
19 and increasing the state burden to uphold health and safety standards. Amici States accordingly
20 agree with Plaintiffs that DOL’s bypassing of notice and comment was unjustified and legally
21 flawed.

22 **A. State Agencies and Social Programs Will be Impacted by Domestic Workers** 23 **Who Will Now Fall Close to the Federal Poverty Line as a Result of the IFR.**

24 The most direct impact of the IFR for the States will be to State Workforce Agencies
25 (including California’s Employment Development Department³¹ and Minnesota’s Department of
26

27 ³¹ California Economic Development Department, *Hiring Foreign Workers*,
28 https://edd.ca.gov/en/Jobs_and_Training/Hiring_Foreign_Workers (last visited Feb. 25, 2026)
[<https://perma.cc/5HY2-KP4N>].

1 Employment and Economic Development³²) that administer the H-2A program. These State
 2 Workforce Agencies perform the initial screening on every employer application and categorize
 3 job postings by occupational classification. *See* 20 C.F.R. § 655.121(e). Since the IFR came into
 4 effect in October 2025, many of our State Workforce Agencies have already received job orders
 5 from employers who are seeking more H-2A workers for seasonal or temporary jobs than in the
 6 previous year for the same positions. This increased administrative burden comes without any
 7 commensurate increase in financial support from the federal government.

8 Myriad indirect impacts will also affect Amici States. As described above, *see supra*
 9 Section I, and in Plaintiffs' motion for summary judgment, *see* Dkt. No. 72 at pp. 13-20, the
 10 practical impact of the IFR will be to reduce wages for both immigrant and non-immigrant
 11 farmworkers. This loss of income will occur directly as hourly wages are reduced, as well as due
 12 to job loss as increased use of the H-2A program results in displacement of local workers who
 13 will be pushed out from agricultural jobs they relied on.³³ States provide numerous services, often
 14 through federal programs, that target and support lower income people. Reduced wages, however,
 15 will likely increase reliance on those programs, which will in turn stress the resources of the states
 16 implementing those programs.

17 Common programs that provide such assistance include the Supplemental Nutrition
 18 Assistance Program (SNAP), the Special Supplemental Nutrition Program for Women, Infants,
 19 and Children (WIC) and Medicaid. These programs are implemented by states and are generally
 20 tied to incomes relative to the federal poverty level, which in 2026 for a family of four is \$33,000
 21 and for an individual is only \$15,960.³⁴

22
 23 ³² Minnesota Department of Employment and Economic Development, *Hiring Foreign*
Workers, <https://mn.gov/deed/business/finding-workers/hiring-foreign/> (last visited Feb. 25,
 2026) [<https://perma.cc/QXL5-S9WD>].

24 ³³ *See, e.g.*, Press Release, Washington State Office of the Attorney General, *Dozens of*
 25 *Washington farmworkers to benefit from \$1 million settlement with Toppenish-based Cornerstone*
 (Dec. 23, 2025), [https://www.atg.wa.gov/news/news-releases/dozens-washington-farmworkers-](https://www.atg.wa.gov/news/news-releases/dozens-washington-farmworkers-benefit-1-million-settlement-toppenish-based)
 26 [benefit-1-million-settlement-toppenish-based](https://www.atg.wa.gov/news/news-releases/dozens-washington-farmworkers-benefit-1-million-settlement-toppenish-based) [<https://perma.cc/H6FK-NFJZ>] (describing one of
 multiple lawsuits brought by the Washington Office of the Attorney General for local
 farmworkers discriminated against in favor of H-2A workers).

27 ³⁴ U.S. Department of Health and Human Services, *2026 Poverty Guidelines*, available at
 28 [https://aspe.hhs.gov/sites/default/files/documents/b1bfa16b20ae9b89d525bc35de7c1643/detailed-](https://aspe.hhs.gov/sites/default/files/documents/b1bfa16b20ae9b89d525bc35de7c1643/detailed-guidelines-2026.pdf)
[guidelines-2026.pdf](https://aspe.hhs.gov/sites/default/files/documents/b1bfa16b20ae9b89d525bc35de7c1643/detailed-guidelines-2026.pdf) (last visited Feb. 20, 2026) [<https://perma.cc/JS8T-PAGS>].

1 The IFR's depression of wages is significant because farmworkers earn an annual average
 2 of \$35,980.³⁵ But the estimated impact of the IFR will be to reduce wages for farmworkers
 3 around \$4,000 to \$5,000 per year, bringing more workers within the scope of these programs.³⁶
 4 Indeed, the 2021-2022 National Agricultural Workers Survey found that 64% of farmworkers
 5 already reported a household member had used a needs-based program in the previous two
 6 years—and that number would only grow under the IFR.³⁷

7 The Medicaid program provides healthcare coverage for eligible people, and eligibility is
 8 generally demonstrated through household income, among other criteria.³⁸ States often name their
 9 own Medicaid programs, with California's being Medi-Cal and Minnesota's being Medical
 10 Assistance. States generally have flexibility on how their Medicaid programs are implemented,
 11 but one key attribute is that funding is shared between the state and federal government. For
 12 example, in Fiscal Year 2024, California paid for 38% of Medi-Cal expenditures, and Minnesota
 13 paid for 42% of Medical Assistance expenditures, while the federal government picked up the
 14 remainder for each program.³⁹ Even with federal assistance, these programs still result in
 15 substantial state spending, with California spending approximately \$66 billion on Medi-Cal in
 16 Fiscal Year 2023⁴⁰ and Minnesota spending approximately \$6.7 billion for Medical Assistance.⁴¹

18 ³⁵ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook*
 19 *Handbook*, Agricultural Workers (Sept. 25, 2025), <https://www.bls.gov/ooh/farming-fishing-and-forestry/agricultural-workers.htm> (last visited Nov. 13, 2025) [<https://perma.cc/5GJQ-WHRK>].

20 ³⁶ These programs will mostly be affected by depressed wages for domestic workers
 21 because H-2A workers are often ineligible for such programs. Because States have flexibility in
 22 implementing these programs, however, some H-2A workers may be eligible and an influx of
 23 such workers combined with depressed wages would further increase the burden on States in
 24 providing these social programs.

25 ³⁷ U.S. Department of Labor, *2021-2022 NAWS*, *supra* note 17.

26 ³⁸ Minnesota Department of Human Services, Medicaid Basics, <https://mn.gov/dhs/medicaid-matters/medicaid-minnesotacare-basics/medicaid-basics/> (last
 27 visited Feb. 20, 2026) [<https://perma.cc/F8J9-EHA2>].

28 ³⁹ KFF, *Federal and State Share of Medicaid Spending*, <https://www.kff.org/medicaid/state-indicator/federalstate-share-of-spending/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last visited Feb. 20, 2026) [<https://perma.cc/GB7L-42TW>].

⁴⁰ Insure the Uninsured Project, *Making Medi-Cal Work for California Farmworkers*, <https://www.itup.org/wp-content/uploads/2023/12/FINAL.ITUP-Making-Medi-Cal-Work-For-Farmworkers-Dec23.pdf> (last visited Feb. 20, 2026) [<https://perma.cc/QD6H-P33F>].

⁴¹ KFF, *Medicaid in Minnesota*, <https://files.kff.org/attachment/fact-sheet-medicare-state-MN> (last visited Feb. 20, 2026) [<https://perma.cc/GC5F-J99K>].

1 In reducing farmworker wages, the IFR will likely result in more domestic farmworkers
 2 being unable to afford private healthcare coverage and thus becoming eligible and being moved
 3 onto state Medicaid programs. And the 2021-2022 NAWS found that over one-third of crop
 4 workers already reported a household member relying on Medicaid in the previous two years.⁴²

5 Like they do with Medicaid, states have some flexibility in how they implement food
 6 assistance programs like SNAP and WIC, which similarly determine eligibility based on
 7 household income.⁴³ While the federal government currently covers the full costs of benefits,
 8 states still pay half the cost of administering SNAP.⁴⁴ And starting in 2028, because of a change
 9 in federal law, most states may be required to pay a portion of SNAP benefits based on error rates
 10 in benefit payments.⁴⁵ For WIC, the federal government provides discrete grants to states, and
 11 any overages in spending (including from increased usage in a particular year) must be covered
 12 by the states.⁴⁶ As with Medicaid, the IFR's decrease in wages will likely result in more
 13 farmworkers needing SNAP and WIC benefits, further straining state resources.

14 Unemployment insurance is another cooperative state-federal program that will be
 15 impacted by the IFR. Under this program, employees pay both federal and state taxes that fund
 16 the insurance. And while the federal government sets broad guidelines for eligibility, the specifics
 17 of implementing and administering the program are generally left to the states.⁴⁷ The IFR will
 18 impact unemployment insurance, and by extension, the states, in two ways. First, the IFR's
 19 depression of wages for both H-2A and domestic workers will reduce state and federal tax
 20 revenue that funds unemployment insurance. Second, the IFR incentivizes employers to hire more
 21 H-2A workers, which will likely result in more domestic workers unable to find competitive work

22 ⁴² U.S. Department of Labor, *2021-2022 NAWS*, *supra* note 17, at 47.

23 ⁴³ See, e.g., Minnesota Department of Children, Youth, and Families, *Supplemental*
Nutrition Assistance Program (SNAP), <https://dcyf.mn.gov/snap> (last visited Feb. 20, 2026)
 24 [<https://perma.cc/CAS7-7NBK>].

25 ⁴⁴ Newsweek, *Maps Shows States Paying Most—and Least—for SNAP under Trump Bill*,
<https://www.newsweek.com/snap-map-states-paying-most-least-trump-bill-2105635> (last visited
 Feb. 20, 2026) [<https://perma.cc/N7MB-2LSW>].

26 ⁴⁵ *Id.*

27 ⁴⁶ National WIC Association, *WIC Funding Basics*, <https://media.nwica.org/2018-wic-what-funding-basics.pdf> (last visited Feb. 20, 2026) [<https://perma.cc/UCD6-PZ9D>].

28 ⁴⁷ U.S. Department of Labor, *How Do I File for Unemployment Insurance?*,
<https://www.dol.gov/general/topic/unemployment-insurance> (last visited Feb. 25, 2026)
 [<https://perma.cc/M6QD-E4DN>].

1 and who are thus more likely to draw from unemployment insurance. These impacts are
 2 significant as many state unemployment insurance trust fund accounts have faced solvency issues,
 3 exacerbated by the COVID-19 pandemic.⁴⁸

4 Finally, states like California and Minnesota have enacted universal free meals for
 5 students attending public schools.⁴⁹ As with the above social programs, depressed wages in
 6 domestic farmworkers will push more children of those workers to rely on state-funded meal
 7 programs. The impact is plain: fewer resources and higher demand for those limited resources.

8 **B. More H-2A Workers Will Increase Burdens on State Enforcement of Health**
 9 **and Safety Laws.**

10 As noted above, the IFR projects that its wage cuts will greatly increase the use of the H-
 11 2A program in the coming decade, which will also increase the administrative burden imposed on
 12 State Workforce Agencies, all with no additional funding from the DOL. In addition to the strains
 13 on state-funded or state-administered social programs, the IFR will result in heavier enforcement
 14 burdens on states, who are tasked with ensuring safe housing, transportation, and working
 15 conditions for H-2A farmworkers, as well as evaluating job order changes.

16 Since 1986, federal law has required that employers provide housing that meets state
 17 health and safety standards to H-2A workers and domestic workers who live far from worksites.
 18 See 20 C.F.R. § 655.122(d)(1)(ii). These laws were designed to help rectify longstanding issues
 19 with substandard housing provided to foreign labor and to ensure safe conditions that would
 20 likewise attract domestic workers.⁵⁰ States, however, have long faced challenges in inspecting
 21 such employer-sponsored housing.

22 ⁴⁸ U.S. Department of Labor, *State Unemployment Insurance Trust Fund Solvency Report*
 23 *2025*, at 2-3 (Feb. 2025), <https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2025.pdf>
 (last visited Feb. 25, 2026) [<https://perma.cc/B8UX-4QNA>].

24 ⁴⁹ Food Research and Action Center, *School Meals Legislation and Funding by State*,
<https://frac.org/wp-content/uploads/School-Meals-State-Legislation-Chart.pdf> (July 2023)
 25 [<https://perma.cc/9ASU-WLWW>].

26 ⁵⁰ 8 U.S.C. § 1188(c)(4); see H.R. REP. 99-682(I), 83-84, 1986 U.S.C.C.A.N. 5649, 5687-
 27 88 (The House Judiciary Committee in 1986 was “ever mindful of the reports of abuses that
 28 occurred during the old Bracero program,” recognizing the best way to respond to “[employer]
 concerns regarding the availability of labor and at the same time to protect workers to the fullest
 extent of all applicable federal, state and local laws is to provide workers with the option of
 switching jobs and to provide them with a status that ensures that their employment is fully
 governed by all relevant law without exception.”).

For example, due to limited resources, Minnesota relies heavily on a complaint-based process for some employer-sponsored housing inspections, including where an agricultural employer provides fewer than five housing units.⁵¹ Because farmworkers can face multiple barriers, including language and even understanding that the complaint process exists, the complaint-based process can result in many housing units not being inspected on a regular basis, which can further result in unsafe housing conditions.⁵² California and other states have faced similar challenges with limited funding to inspect employer-sponsored housing to ensure compliance with state safety and health standards.⁵³

The IFR's push to increase H-2A workers will increase the need for H-2A housing, further stretching the limited resources of states to ensure that such housing is safe for the workers. This effect is particularly notable as the INA and its implementing regulation, 20 C.F.R. § 655.122(d), were instituted in response to the substandard housing historically provided to agricultural laborers and to ensure safe conditions that would attract domestic workers. Indeed, the IFR recognizes that providing safe and affordable housing, especially in rural farming areas, remains difficult under the H-2A program.⁵⁴ And the DOL has continued to find that employers continuously violate the requirement to provide safe housing to workers.⁵⁵ The IFR will therefore have the opposite effect of federal requirements to provide safe housing for H-2A workers.

Employers must also provide transportation to and from the fields, and states have already been burdened by the unsafe use of such employer transport. The IFR's influx of H-2A workers

⁵¹ Governor's Committee for the Safety, Health, and Wellbeing of Agricultural and Food Processing Workers, *Recommendations*, at 13-14, https://mn.gov/deed/assets/awwc-final-recommendations-12-01-2021_tcm1045-512306.pdf [<https://perma.cc/XL6B-LLMA>].

⁵² *Id.*

⁵³ CalMatters, *State inspectors are supposed to visit all farmworker housing to ensure its safety. Sometimes they used FaceTime instead*, Jul. 1, 2024, <https://calmatters.org/california-divide/2024/07/california-farmworker-housing/> (last visited Oct. 17, 2025) [<https://perma.cc/M37C-3M29>] (“Washington, for example, has one inspector for every 7,000 workers . . . North Carolina has about one inspector for every 4,000 workers. Michigan has about one for every 2,000, and inspectors regularly visit farmworker housing both before and after it’s occupied . . .”).

⁵⁴ 90 Fed. Reg. at 47,947.

⁵⁵ U.S. Gov’t Accountability Off., GAO-25-106389, H-2A Visa Program: Agencies Should Take Additional Steps to Improve Oversight and Enforcement, at 33 (2024), <https://www.gao.gov/assets/gao-25-106389.pdf> (last visited Feb. 25, 2026) [<https://perma.cc/V3U4-7JUS>].

1 will exacerbate the challenges employers face in providing safe transport, and the resulting harms
 2 to states. The DOL’s Wage and Hour Division uncovered that during FY2018–FY2023, 30
 3 percent of violations in the H-2A program were violations in providing safe employer-provided
 4 transportation.⁵⁶ The DOL has brought notable lawsuits against growers and farm labor
 5 contractors who provided unsafe transportation that caused or were close to causing worker
 6 fatalities.⁵⁷ Quite tragically, transportation incidents are the leading cause of death for
 7 farmworkers.⁵⁸ And when accidents happen, those using state roads are put at risk, workers are
 8 injured, local and state law enforcement are called to the scene, and medical professionals within
 9 our States are called to respond to the injuries.

10 Multiple state agencies are involved in the regulation of employer-provided farmworker
 11 transportation. State Occupational Safety and Health Administrations are often tasked with
 12 inspecting the safety of farm equipment and vehicles. California has also enacted a Farm Labor
 13 Vehicle Program overseen by the California Highway Patrol, which is charged with inspecting
 14 and certifying vehicles used by farmworkers.⁵⁹ The IFR’s increase in H-2A workers will similarly
 15 expand the use of employer-provided transportation that not only carries increased safety risks,
 16 but increases the burdens on state agencies who enforce the laws meant to reduce those risks.

18 ⁵⁶ *Id.* at 34; see CalMatters, *California cracked down after a crash killed 13 farmworkers. Why are workers still dying on the road?* (May 14, 2024),
 19 <https://calmatters.org/politics/capitol/2024/05/california-farmworkers-transportation-deaths/> (last
 20 visited Mar. 13, 2026) [<https://perma.cc/8KXV-25T2>].

21 ⁵⁷ See *Chavez-DeRemer v. Lion Farms LLC*, No. 1:25-cv-00312 (E.D. Cal. 2025); *Julie A. Su v. Rancho Nuevo Harvesting, Inc.*, No. 2:23-cv-07078 (C.D. Cal. 2023); *Perez v. Valley Garlic Inc. et al.*, No. 1:16-cv-01156 (E.D. Cal. 2016); see also U.S. Department of Labor, *Federal Court Orders Labor Contractor to Pay More Than \$1M in Back Wages, Penalties After Investigations Find Repeated Violations of Farmworkers’ Rights*, Sept. 19, 2023,
 22 <https://www.dol.gov/newsroom/releases/whd/whd20230919-0> (last visited Mar. 13, 2026)
 23 [<https://perma.cc/7RL7-6FVA>]; U.S. Department of Labor, *U.S. Department of Labor Secures Judgment to Enhance Farmworker Transportation Safety in California’s Central Valley*, Apr. 10, 2018,
 24 <https://www.dol.gov/newsroom/releases/whd/whd20180410> (last visited Mar. 13, 2026)
 25 [<https://perma.cc/6WG8-NDCM>].

26 ⁵⁸ National Institute for Occupational Safety and Health, *Agriculture Worker Safety and Health*, May 16, 2024, <https://www.cdc.gov/niosh/agriculture/about/index.html> (last visited Mar. 13, 2026) [<https://perma.cc/T29X-W2E5>].

27 ⁵⁹ California Highway Patrol, Farm Labor Vehicle Program,
 28 <https://www.chp.ca.gov/programs-services/programs/commercial-vehicle-section/farm-labor-vehicle-program> (last visited Mar. 13, 2026) [<https://perma.cc/JZ9U-H9LE>].

1 In addition to increased enforcement related to housing and transportation, the IFR
 2 incentivizes growing use of the H-2A program which will increase the need for state agencies to
 3 enforce state anti-discrimination laws and workplace protections. Though the H-2A program is
 4 intended to supplement the local workforce, employers' preference for an H-2A workforce has
 5 caused some to illegally displace U.S. workers. In some cases, this displacement is effectuated by
 6 discriminatory and deceitful practices that violate state law. State agencies thus must use critical
 7 resources enforcing state law against H-2A users. For example, Washington's Office of the
 8 Attorney General has had to repeatedly bring enforcement actions against employers because they
 9 misrepresent the availability and terms of work to U.S.-based workers, in violation of state
 10 consumer protection laws, and discharge or fail to hire local workers while employing H-2A
 11 workers, in violation of state anti-discrimination laws.⁶⁰

12 * * *

13 Plaintiffs have identified numerous important impacts of the IFR that undercut the DOL's
 14 bypassing of notice and comment, and the IFR's impacts on states make that unlawful shortcut
 15 more glaring. The IFR will harm many states through increased financial and administrative
 16 burdens to state-administered programs like Medicaid, SNAP, and Unemployment Insurance, as
 17 well as administering the H-2A program itself. The IFR's intent to increase the number of H-2A
 18 workers by effectively lowering wages will also increase the burden on states enforcing their
 19 health and safety laws for the employer-provided housing and transportation of H-2A workers.
 20 And critically, all these burdens come without any increased support from the federal government
 21 under the IFR. Quite the opposite. The IFR's stated goal of depressing the wages of both H-2A
 22 and domestic workers will likely *decrease* tax revenues for States. The DOL's bypassing of
 23 notice and comment was unlawful and its jettison of the AEWR methodology, adoption of a

24 _____
 25 ⁶⁰ See Press Release, Washington State Office of the Attorney General, *Sunnyside*
 26 *mushroom farm will pay \$3.4 million for violating the civil rights of its workers* (May 17, 2023),
 27 <https://www.atg.wa.gov/news/news-releases/sunnyside-mushroom-farm-will-pay-34-million-violating-civil-rights-its-workers> [https://perma.cc/W3ZS-JBXA]; Press Release, *supra* note 33;
 28 Press Release, Washington State Office of the Attorney General, *Farmworkers to receive compensation from Shinn & Son under consent decree regarding discriminatory and deceptive hiring practices* (Dec. 4, 2025), <https://www.atg.wa.gov/news/news-releases/farmworkers-receive-compensation-shinn-son-under-consent-decree-regarding> [https://perma.cc/5RD3-AJR6].

housing allowance, and tiered payment structure will all arbitrarily and capriciously transfer wealth from the pockets of farmworkers in a manner that undermines the purpose of the INA.

CONCLUSION

For these reasons, State Amici respectfully request that this Court grant Plaintiffs' Motion for Summary Judgment and enjoin implementation of the IFR.

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Respectfully submitted,

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