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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

# H. R.

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To amend the Immigration and Nationality Act to provide for terms and conditions for nonimmigrant workers performing agricultural labor or services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN (for herself and Mr. NEWHOUSE) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend the Immigration and Nationality Act to provide for terms and conditions for nonimmigrant workers performing agricultural labor or services, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Farm Workforce Modernization Act of 2021”.

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

Sec. 1. Short title; table of contents.

## TITLE 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. Rulemaking; 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; conforming amendments.
- 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.

## TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

### Subtitle A—Reforming the H-2A Temporary Worker 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 for preserving 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.

TITLE 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 Act.

1 **TITLE I—SECURING THE DOMES-**  
2 **TIC AGRICULTURAL WORK-**  
3 **FORCE**

4 **Subtitle A—Temporary Status for**  
5 **Certified Agricultural Workers**

6 **SEC. 101. CERTIFIED AGRICULTURAL WORKER STATUS.**

7 (a) REQUIREMENTS FOR CERTIFIED AGRICULTURAL  
8 WORKER STATUS.—

9 (1) PRINCIPAL ALIENS.—The Secretary may  
10 grant certified agricultural worker status to an alien  
11 who submits a completed application, including the

1 required processing fees, before the end of the period  
2 set forth in subsection (c) and who—

3 (A) performed agricultural labor or serv-  
4 ices in the United States for at least 1,035  
5 hours (or 180 work days) during the 2-year pe-  
6 riod preceding the date of the introduction of  
7 this Act;

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

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

12 (ii) is under a grant of deferred en-  
13 forced departure or has temporary pro-  
14 tected status under section 244 of the Im-  
15 migration and Nationality Act;

16 (C) subject to section 104, has been con-  
17 tinuously present in the United States since the  
18 date of the introduction of this Act and until  
19 the date on which the alien is granted certified  
20 agricultural worker status; and

21 (D) is not otherwise ineligible for certified  
22 agricultural worker status as provided in sub-  
23 section (b).

24 (2) DEPENDENT SPOUSE AND CHILDREN.—The  
25 Secretary may grant certified agricultural dependent

1 status to the spouse or child of an alien granted cer-  
2 tified agricultural worker status under paragraph  
3 (1) if the spouse or child is not ineligible for cer-  
4 tified agricultural dependent status as provided in  
5 subsection (b).

6 (b) GROUNDS FOR INELIGIBILITY.—

7 (1) GROUNDS OF INADMISSIBILITY.—Except as  
8 provided in paragraph (3), an alien is ineligible for  
9 certified agricultural worker or certified agricultural  
10 dependent status if the Secretary determines that  
11 the alien is inadmissible under section 212(a) of the  
12 Immigration and Nationality Act (8 U.S.C.  
13 1182(a)), except that in determining inadmis-  
14 sibility—

15 (A) paragraphs (4), (5), (7), and (9)(B) of  
16 such section shall not apply;

17 (B) subparagraphs (A), (C), (D), (F), and  
18 (G) of such section 212(a)(6) and paragraphs  
19 (9)(C) and (10)(B) of such section 212(a) shall  
20 not apply unless based on the act of unlawfully  
21 entering the United States after the date of in-  
22 troduction of this Act; and

23 (C) paragraphs (6)(B) and (9)(A) of such  
24 section 212(a) shall not apply unless the rel-  
25 evant conduct began on or after the date of fil-

1           ing of the application for certified agricultural  
2           worker status.

3           (2) ADDITIONAL CRIMINAL BARS.—Except as  
4           provided in paragraph (3), an alien is ineligible for  
5           certified agricultural worker or certified agricultural  
6           dependent status if the Secretary determines that,  
7           excluding any offense under State law for which an  
8           essential element is the alien’s immigration status  
9           and any minor traffic offense, the alien has been  
10          convicted of—

11                   (A) any felony offense;

12                   (B) an aggravated felony (as defined in  
13                   section 101(a)(43) of the Immigration and Na-  
14                   tionality Act (8 U.S.C. 1101(a)(43)) at the  
15                   time of the conviction);

16                   (C) two misdemeanor offenses involving  
17                   moral turpitude, as described in section  
18                   212(a)(2)(A)(i)(I) of the Immigration and Na-  
19                   tionality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)),  
20                   unless an offense is waived by the Secretary  
21                   under paragraph (3)(B); or

22                   (D) three or more misdemeanor offenses  
23                   not occurring on the same date, and not arising  
24                   out of the same act, omission, or scheme of  
25                   misconduct.

1           (3) WAIVERS FOR CERTAIN GROUNDS OF INAD-  
2           MISSIBILITY.—For humanitarian purposes, family  
3           unity, or if otherwise in the public interest, the Sec-  
4           retary may waive the grounds of inadmissibility  
5           under—

6                   (A) paragraph (1), (6)(E), or (10)(D) of  
7                   section 212(a) of the Immigration and Nation-  
8                   ality Act (8 U.S.C. 1182(a)); or

9                   (B) subparagraphs (A) and (D) of section  
10                  212(a)(2) of the Immigration and Nationality  
11                  Act (8 U.S.C. 1182(a)(2)), unless inadmis-  
12                  sibility is based on a conviction that would oth-  
13                  erwise render the alien ineligible under subpara-  
14                  graph (A), (B), or (D) of paragraph (2).

15          (c) APPLICATION.—

16                  (1) APPLICATION PERIOD.—Except as provided  
17                  in paragraph (2), the Secretary shall accept initial  
18                  applications for certified agricultural worker status  
19                  during the 18-month period beginning on the date  
20                  on which the interim final rule is published in the  
21                  Federal Register pursuant to section 122(a).

22                  (2) EXTENSION.—If the Secretary determines,  
23                  during the initial period described in paragraph (1),  
24                  that additional time is required to process initial ap-  
25                  plications for certified agricultural worker status or

1 for other good cause, the Secretary may extend the  
2 period for accepting applications for up to an addi-  
3 tional 12 months.

4 (3) SUBMISSION OF APPLICATIONS.—

5 (A) IN GENERAL.—An alien may file an  
6 application with the Secretary under this sec-  
7 tion with the assistance of an attorney or a  
8 nonprofit religious, charitable, social service, or  
9 similar organization recognized by the Board of  
10 Immigration Appeals under section 292.2 of  
11 title 8, Code of Federal Regulations. The Sec-  
12 retary shall also create a procedure for accept-  
13 ing applications filed by qualified designated en-  
14 tities with the consent of the applicant.

15 (B) FARM SERVICE AGENCY OFFICES.—

16 The Secretary, in consultation with the Sec-  
17 retary of Agriculture, shall establish a process  
18 for the filing of applications under this section  
19 at Farm Service Agency offices throughout the  
20 United States.

21 (4) EVIDENCE OF APPLICATION FILING.—As

22 soon as practicable after receiving an application for  
23 certified agricultural worker status, the Secretary  
24 shall provide the applicant with a document acknowl-  
25 edging the receipt of such application. Such docu-



1       ment shall serve as interim proof of the alien's au-  
2       thorization to accept employment in the United  
3       States and shall be accepted by an employer as evi-  
4       dence of employment authorization under section  
5       274A(b)(1)(C) of the Immigration and Nationality  
6       Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is  
7       employing the holder of such document to perform  
8       agricultural labor or services, pending a final admin-  
9       istrative decision on the application.

10           (5) EFFECT OF PENDING APPLICATION.—Dur-  
11       ing the period beginning on the date on which an  
12       alien applies for certified agricultural worker status  
13       under this subtitle, and ending on the date on which  
14       the Secretary makes a final administrative decision  
15       regarding such application, the alien and any de-  
16       pendents included in the application—

17           (A) may apply for advance parole, which  
18       shall be granted upon demonstrating a legiti-  
19       mate need to travel outside the United States  
20       for a temporary purpose;

21           (B) may not be detained by the Secretary  
22       or removed from the United States unless the  
23       Secretary makes a prima facie determination  
24       that such alien is, or has become, ineligible for  
25       certified agricultural worker status;

1 (C) may not be considered unlawfully  
2 present under section 212(a)(9)(B) of the Im-  
3 migration and Nationality Act (8 U.S.C.  
4 1182(a)(9)(B)); and

5 (D) may not be considered an unauthor-  
6 ized alien (as defined in section 274A(h)(3) of  
7 the Immigration and Nationality Act (8 U.S.C.  
8 1324a(h)(3))).

9 (6) WITHDRAWAL OF APPLICATION.—The Sec-  
10 retary shall, upon receipt of a request from the ap-  
11 plicant to withdraw an application for certified agri-  
12 cultural worker status under this subtitle, cease  
13 processing of the application, and close the case.  
14 Withdrawal of the application shall not prejudice  
15 any future application filed by the applicant for any  
16 immigration benefit under this Act or under the Im-  
17 migration and Nationality Act (8 U.S.C. 1101 et  
18 seq.).

19 (d) ADJUDICATION AND DECISION.—

20 (1) IN GENERAL.—Subject to section 123, the  
21 Secretary shall render a decision on an application  
22 for certified agricultural worker status not later than  
23 180 days after the date the application is filed.

1           (2) NOTICE.—Prior to denying an application  
2 for certified agricultural worker status, the Sec-  
3 retary shall provide the alien with—

4           (A) written notice that describes the basis  
5 for ineligibility or the deficiencies in the evi-  
6 dence submitted; and

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

9           (3) AMENDED APPLICATION.—An alien whose  
10 application for certified agricultural worker status is  
11 denied under this section may submit an amended  
12 application for such status to the Secretary if the  
13 amended application is submitted within the applica-  
14 tion period described in subsection (c) and contains  
15 all the required information and fees that were miss-  
16 ing from the initial application.

17           (e) ALTERNATIVE H-2A STATUS.—An alien who has  
18 not met the required period of agricultural labor or serv-  
19 ices under subsection (a)(1)(A), but is otherwise eligible  
20 for certified agricultural worker status under such sub-  
21 section, shall be eligible for classification as a non-  
22 immigrant described in section 101(a)(15)(H)(ii)(a) of the  
23 Immigration and Nationality Act (8 U.S.C.  
24 1101(a)(15)(H)(ii)(a)) upon approval of a petition sub-  
25 mitted by a sponsoring employer, if the alien has per-

1 formed at least 575 hours (or 100 work days) of agricul-  
2 tural labor or services during the 3-year period preceding  
3 the date of the introduction of this Act. The Secretary  
4 shall create a procedure to provide for such classification  
5 without requiring the alien to depart the United States  
6 and obtain a visa abroad.

7 **SEC. 102. TERMS AND CONDITIONS OF CERTIFIED STATUS.**

8 (a) IN GENERAL.—

9 (1) APPROVAL.—Upon approval of an applica-  
10 tion for certified agricultural worker status, or an  
11 extension of such status pursuant to section 103, the  
12 Secretary shall issue—

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

15 (B) documentary evidence of certified agri-  
16 cultural dependent status to any qualified de-  
17 pendent included on such application.

18 (2) DOCUMENTARY EVIDENCE.—In addition to  
19 any other features and information as the Secretary  
20 may prescribe, the documentary evidence described  
21 in paragraph (1)—

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

24 (B) shall contain a digitized photograph;

1 (C) shall serve as a valid travel and entry  
2 document for purposes of applying for admis-  
3 sion to the United States; and

4 (D) shall be accepted during the period of  
5 its validity by an employer as evidence of em-  
6 ployment authorization and identity under sec-  
7 tion 274A(b)(1)(B) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1324a(b)(1)(B)).

9 (3) VALIDITY PERIOD.—Certified agricultural  
10 worker and certified agricultural dependent status  
11 shall be valid for 5 1/2 years beginning on the date  
12 of approval.

13 (4) TRAVEL AUTHORIZATION.—An alien with  
14 certified agricultural worker or certified agricultural  
15 dependent status may—

16 (A) travel within and outside of the United  
17 States, including commuting to the United  
18 States from a residence in a foreign country;  
19 and

20 (B) be admitted to the United States upon  
21 return from travel abroad without first obtain-  
22 ing a visa if the alien is in possession of—

23 (i) valid, unexpired documentary evi-  
24 dence of certified agricultural worker or

1 certified agricultural worker dependent sta-  
2 tus as described in subsection (a); or

3 (ii) a travel document that has been  
4 approved by the Secretary and was issued  
5 to the alien after the alien's original docu-  
6 mentary evidence was lost, stolen, or de-  
7 stroyed.

8 (b) ABILITY TO CHANGE STATUS.—

9 (1) CHANGE TO CERTIFIED AGRICULTURAL  
10 WORKER STATUS.—Notwithstanding section 101(a),  
11 an alien with valid certified agricultural dependent  
12 status may apply to change to certified agricultural  
13 worker status, at any time, if the alien—

14 (A) submits a completed application, in-  
15 cluding the required processing fees; and

16 (B) is not ineligible for certified agricul-  
17 tural worker status under section 101(b).

18 (2) CLARIFICATION.—Nothing in this title pro-  
19 hibits an alien granted certified agricultural worker  
20 or certified agricultural dependent status from  
21 changing status to any other nonimmigrant classi-  
22 fication for which the alien may be eligible.

23 (c) PROHIBITION ON PUBLIC BENEFITS, TAX BENE-  
24 FITS, AND HEALTH CARE SUBSIDIES.—Aliens granted  
25 certified agricultural worker or certified agricultural de-

1 pendent status shall be considered lawfully present in the  
2 United States for all purposes for the duration of their  
3 status, except that such aliens—

4 (1) shall be ineligible for Federal means-tested  
5 public benefits to the same extent as other individ-  
6 uals who are not qualified aliens under section 431  
7 of the Personal Responsibility and Work Oppor-  
8 tunity Reconciliation Act of 1996 (8 U.S.C. 1641);

9 (2) are not entitled to the premium assistance  
10 tax credit authorized under section 36B of the Inter-  
11 nal Revenue Code of 1986 (26 U.S.C. 36B), and  
12 shall be subject to the rules applicable to individuals  
13 who are not lawfully present set forth in subsection  
14 (e) of such section;

15 (3) shall be subject to the rules applicable to in-  
16 dividuals who are not lawfully present set forth in  
17 section 1402(e) of the Patient Protection and Af-  
18 fordable Care Act (42 U.S.C. 18071(e)); and

19 (4) shall be subject to the rules applicable to in-  
20 dividuals not lawfully present set forth in section  
21 5000A(d)(3) of the Internal Revenue Code of 1986  
22 (26 U.S.C. 5000A(d)(3)).

23 (d) REVOCATION OF STATUS.—

24 (1) IN GENERAL.—The Secretary may revoke  
25 certified agricultural worker or certified agricultural

1 dependent status if, after providing notice to the  
2 alien and the opportunity to provide evidence to con-  
3 test the proposed revocation, the Secretary deter-  
4 mines that the alien no longer meets the eligibility  
5 requirements for such status under section 101(b).

6 (2) INVALIDATION OF DOCUMENTATION.—Upon  
7 the Secretary’s final determination to revoke an  
8 alien’s certified agricultural worker or certified agri-  
9 cultural dependent status, any documentation issued  
10 by the Secretary to such alien under subsection (a)  
11 shall automatically be rendered invalid for any pur-  
12 pose except for departure from the United States.

13 **SEC. 103. EXTENSIONS OF CERTIFIED STATUS.**

14 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

15 (1) PRINCIPAL ALIENS.—The Secretary may  
16 extend certified agricultural worker status for addi-  
17 tional periods of 5 1/2 years to an alien who submits  
18 a completed application, including the required proc-  
19 essing fees, within the 120-day period beginning 60  
20 days before the expiration of the fifth year of the  
21 immediately preceding grant of certified agricultural  
22 worker status, if the alien—

23 (A) except as provided in section 126(c),  
24 has performed agricultural labor or services in  
25 the United States for at least 575 hours (or



1           100 work days) for each of the prior 5 years in  
2           which the alien held certified agricultural work-  
3           er status; and

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

6           (2) DEPENDENT SPOUSE AND CHILDREN.—The  
7           Secretary may grant or extend certified agricultural  
8           dependent status to the spouse or child of an alien  
9           granted an extension of certified agricultural worker  
10          status under paragraph (1) if the spouse or child is  
11          not ineligible for certified agricultural dependent sta-  
12          tus under section 101(b).

13          (3) WAIVER FOR LATE FILINGS.—The Sec-  
14          retary may waive an alien’s failure to timely file be-  
15          fore the expiration of the 120-day period described  
16          in paragraph (1) if the alien demonstrates that the  
17          delay was due to extraordinary circumstances be-  
18          yond the alien’s control or for other good cause.

19          (b) STATUS FOR WORKERS WITH PENDING APPLICA-  
20          TIONS.—

21                  (1) IN GENERAL.—Certified agricultural worker  
22          status of an alien who timely files an application to  
23          extend such status under subsection (a) (and the  
24          status of the alien’s dependents) shall be automati-  
25          cally extended through the date on which the Sec-

1       retary makes a final administrative decision regard-  
2       ing such application.

3           (2) DOCUMENTATION OF EMPLOYMENT AU-  
4       THORIZATION.—As soon as practicable after receipt  
5       of an application to extend certified agricultural  
6       worker status under subsection (a), the Secretary  
7       shall issue a document to the alien acknowledging  
8       the receipt of such application. An employer of the  
9       worker may not refuse to accept such document as  
10      evidence of employment authorization under section  
11      274A(b)(1)(C) of the Immigration and Nationality  
12      Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-  
13      ministrative decision on the application.

14      (c) NOTICE.—Prior to denying an application to ex-  
15      tend certified agricultural worker status, the Secretary  
16      shall provide the alien with—

17           (1) written notice that describes the basis for  
18      ineligibility or the deficiencies of the evidence sub-  
19      mitted; and

20           (2) at least 90 days to contest ineligibility or  
21      submit additional evidence.

22   **SEC. 104. DETERMINATION OF CONTINUOUS PRESENCE.**

23      (a) EFFECT OF NOTICE TO APPEAR.—The contin-  
24      uous presence in the United States of an applicant for cer-  
25      tified agricultural worker status under section 101 shall

1 not terminate when the alien is served a notice to appear  
2 under section 239(a) of the Immigration and Nationality  
3 Act (8 U.S.C. 1229(a)).

4 (b) TREATMENT OF CERTAIN BREAKS IN PRES-  
5 ENCE.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graphs (2) and (3), an alien shall be considered to  
8 have failed to maintain continuous presence in the  
9 United States under this subtitle if the alien de-  
10 parted the United States for any period exceeding  
11 90 days, or for any periods, in the aggregate, ex-  
12 ceeding 180 days.

13 (2) EXTENSIONS FOR EXTENUATING CIR-  
14 CUMSTANCES.—The Secretary may extend the time  
15 periods described in paragraph (1) for an alien who  
16 demonstrates that the failure to timely return to the  
17 United States was due to extenuating circumstances  
18 beyond the alien's control, including the serious ill-  
19 ness of the alien, or death or serious illness of a  
20 spouse, parent, son or daughter, grandparent, or sib-  
21 ling of the alien.

22 (3) TRAVEL AUTHORIZED BY THE SEC-  
23 RETARY.—Any period of travel outside of the United  
24 States by an alien that was authorized by the Sec-  
25 retary shall not be counted toward any period of de-

1       parture from the United States under paragraph  
2       (1).

3       **SEC. 105. EMPLOYER OBLIGATIONS.**

4       (a) RECORD OF EMPLOYMENT.—An employer of an  
5       alien in certified agricultural worker status shall provide  
6       such alien with a written record of employment each year  
7       during which the alien provides agricultural labor or serv-  
8       ices to such employer as a certified agricultural worker.

9       (b) CIVIL PENALTIES.—

10           (1) IN GENERAL.—If the Secretary determines,  
11       after notice and an opportunity for a hearing, that  
12       an employer of an alien with certified agricultural  
13       worker status has knowingly failed to provide the  
14       record of employment required under subsection (a),  
15       or has provided a false statement of material fact in  
16       such a record, the employer shall be subject to a civil  
17       penalty in an amount not to exceed \$500 per viola-  
18       tion.

19           (2) LIMITATION.—The penalty under paragraph  
20       (1) for failure to provide employment records shall  
21       not apply unless the alien has provided the employer  
22       with evidence of employment authorization described  
23       in section 102 or 103.

24           (3) DEPOSIT OF CIVIL PENALTIES.—Civil pen-  
25       alties collected under this paragraph shall be depos-

1       ited into the Immigration Examinations Fee Ac-  
2       count under section 286(m) of the Immigration and  
3       Nationality Act (8 U.S.C. 1356(m)).

4   **SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.**

5       (a) ADMINISTRATIVE REVIEW.—The Secretary shall  
6       establish a process by which an applicant may seek admin-  
7       istrative review of a denial of an application for certified  
8       agricultural worker status under this subtitle, an applica-  
9       tion to extend such status, or a revocation of such status.

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

17      (c) JUDICIAL REVIEW.—Notwithstanding any other  
18      provision of law, judicial review of the Secretary’s decision  
19      to deny an application for certified agricultural worker  
20      status, an application to extend such status, or the deci-  
21      sion to revoke such status, shall be limited to the review  
22      of an order of removal under section 242 of the Immigra-  
23      tion and Nationality Act (8 U.S.C. 1252).

1           **Subtitle B—Optional Earned**  
2           **Residence for Long-term Workers**

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

5           (a) REQUIREMENTS FOR ADJUSTMENT OF STA-  
6   TUS.—

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

13                           (A) except as provided in section 126(e),  
14           the alien performed agricultural labor or serv-  
15           ices for not less than 575 hours (or 100 work  
16           days) each year—

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

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

1 (B) the alien has not become ineligible for  
2 certified agricultural worker status under sec-  
3 tion 101(b).

4 (2) DEPENDENT ALIENS.—

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

10 (i) the qualifying relationship to the  
11 principal alien existed on the date on which  
12 such alien was granted adjustment of sta-  
13 tus under this subtitle; and

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

17 (B) PROTECTIONS FOR SPOUSES AND  
18 CHILDREN.—The Secretary of Homeland Secu-  
19 rity shall establish procedures to allow the  
20 spouse or child of a certified agricultural work-  
21 er to self-petition for lawful permanent resi-  
22 dence under this subtitle in cases involving—

23 (i) the death of the certified agricul-  
24 tural worker, so long as the spouse or child

1 submits a petition not later than 2 years  
2 after the date of the worker's death; or

3 (ii) the spouse or a child being bat-  
4 tered or subjected to extreme cruelty by  
5 the certified agricultural worker.

6 (3) DOCUMENTATION OF WORK HISTORY.—An  
7 applicant for adjustment of status under this section  
8 shall not be required to resubmit evidence of work  
9 history that has been previously submitted to the  
10 Secretary in connection with an approved extension  
11 of certified agricultural worker status.

12 (b) PENALTY FEE.—In addition to any processing  
13 fee that the Secretary may assess in accordance with sec-  
14 tion 122(b), a principal alien seeking adjustment of status  
15 under this subtitle shall pay a \$1,000 penalty fee, which  
16 shall be deposited into the Immigration Examinations Fee  
17 Account pursuant to section 286(m) of the Immigration  
18 and Nationality Act (8 U.S.C.1356(m)).

19 (c) EFFECT OF PENDING APPLICATION.—During the  
20 period beginning on the date on which an alien applies  
21 for adjustment of status under this subtitle, and ending  
22 on the date on which the Secretary makes a final adminis-  
23 trative decision regarding such application, the alien and  
24 any dependents included on the application—



1           (1) may apply for advance parole, which shall  
2           be granted upon demonstrating a legitimate need to  
3           travel outside the United States for a temporary  
4           purpose;

5           (2) may not be detained by the Secretary or re-  
6           moved from the United States unless the Secretary  
7           makes a prima facie determination that such alien  
8           is, or has become, ineligible for adjustment of status  
9           under subsection (a);

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

13          (4) may not be considered an unauthorized  
14          alien (as defined in section 274A(h)(3) of the Immi-  
15          gration and Nationality Act (8 U.S.C.  
16          1324a(h)(3))).

17          (d) EVIDENCE OF APPLICATION FILING.—As soon as  
18          practicable after receiving an application for adjustment  
19          of status under this subtitle, the Secretary shall provide  
20          the applicant with a document acknowledging the receipt  
21          of such application. Such document shall serve as interim  
22          proof of the alien's authorization to accept employment  
23          in the United States and shall be accepted by an employer  
24          as evidence of employment authorization under section  
25          274A(b)(1)(C) of the Immigration and Nationality Act (8

1 U.S.C. 1324a(b)(1)(C)), pending a final administrative  
2 decision on the application.

3 (e) WITHDRAWAL OF APPLICATION.—The Secretary  
4 shall, upon receipt of a request to withdraw an application  
5 for adjustment of status under this subtitle, cease pro-  
6 cessing of the application, and close the case. Withdrawal  
7 of the application shall not prejudice any future applica-  
8 tion filed by the applicant for any immigration benefit  
9 under this Act or under the Immigration and Nationality  
10 Act (8 U.S.C. 1101 et seq.).

11 **SEC. 112. PAYMENT OF TAXES.**

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

15 (b) COMPLIANCE.—An alien may demonstrate com-  
16 pliance with subsection (a) by submitting such documenta-  
17 tion as the Secretary, in consultation with the Secretary  
18 of the Treasury, may require by regulation.

19 **SEC. 113. ADJUDICATION AND DECISION; REVIEW.**

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

1 (b) NOTICE.—Prior to denying an application for ad-  
2 justment of status under this subtitle, the Secretary shall  
3 provide the alien with—

4 (1) written notice that describes the basis for  
5 ineligibility or the deficiencies of the evidence sub-  
6 mitted; and

7 (2) at least 90 days to contest ineligibility or  
8 submit additional evidence.

9 (c) ADMINISTRATIVE REVIEW.—The Secretary shall  
10 establish a process by which an applicant may seek admin-  
11 istrative review of a denial of an application for adjust-  
12 ment of status under this subtitle.

13 (d) JUDICIAL REVIEW.—Notwithstanding any other  
14 provision of law, an alien may seek judicial review of a  
15 denial of an application for adjustment of status under  
16 this title in an appropriate United States district court.

## 17 **Subtitle C—General Provisions**

### 18 **SEC. 121. DEFINITIONS.**

19 In this title:

20 (1) IN GENERAL.—Except as otherwise pro-  
21 vided, any term used in this title that is used in the  
22 immigration laws shall have the meaning given such  
23 term in the immigration laws (as such term is de-  
24 fined in section 101 of the Immigration and Nation-  
25 ality Act (8 U.S.C. 1101)).

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

3           (A) agricultural labor or services as such  
4 term is used in section 101(a)(15)(H)(ii) of the  
5 Immigration and Nationality Act (8 U.S.C.  
6 1101(a)(15)(H)(ii)), without regard to whether  
7 the labor or services are of a seasonal or tem-  
8 porary nature; and

9           (B) agricultural employment as such term  
10 is defined in section 3 of the Migrant and Sea-  
11 sonal Agricultural Worker Protection Act (29  
12 U.S.C. 1802), without regard to whether the  
13 specific service or activity is temporary or sea-  
14 sonal.

15           (3) APPLICABLE FEDERAL TAX LIABILITY.—  
16 The term “applicable Federal tax liability” means all  
17 Federal income taxes assessed in accordance with  
18 section 6203 of the Internal Revenue Code of 1986  
19 beginning on the date on which the applicant was  
20 authorized to work in the United States as a cer-  
21 tified agricultural worker.

22           (4) APPROPRIATE UNITED STATES DISTRICT  
23 COURT.—The term “appropriate United States dis-  
24 trict court” means the United States District Court  
25 for the District of Columbia or the United States

1 district court with jurisdiction over the alien’s prin-  
2 cipal place of residence.

3 (5) CHILD.—The term “child” has the meaning  
4 given such term in section 101(b)(1) of the Immi-  
5 gration and Nationality Act (8 U.S.C. 1101(b)(1)).

6 (6) CONVICTED OR CONVICTION.—The term  
7 “convicted” or “conviction” does not include a judg-  
8 ment that has been expunged or set aside, that re-  
9 sulted in a rehabilitative disposition, or the equiva-  
10 lent.

11 (7) EMPLOYER.—The term “employer” means  
12 any person or entity, including any labor contractor  
13 or any agricultural association, that employs workers  
14 in agricultural labor or services.

15 (8) QUALIFIED DESIGNATED ENTITY.—The  
16 term “qualified designated entity” means—

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

20 (B) any other entity that the Secretary  
21 designates as having substantial experience,  
22 demonstrated competence, and a history of  
23 long-term involvement in the preparation and  
24 submission of application for adjustment of sta-

1           tus under title II of the Immigration and Na-  
2           tionality Act (8 U.S.C. 1151 et seq.).

3           (9) SECRETARY.—The term “Secretary” means  
4           the Secretary of Homeland Security.

5           (10) WORK DAY.—The term “work day” means  
6           any day in which the individual is employed 5.75 or  
7           more hours in agricultural labor or services.

8   **SEC. 122. RULEMAKING; FEES.**

9           (a) RULEMAKING.—Not later than 180 days after the  
10          date of the enactment of this Act, the Secretary shall pub-  
11          lish in the Federal Register, an interim final rule imple-  
12          menting this title. Notwithstanding section 553 of title 5,  
13          United States Code, the rule shall be effective, on an in-  
14          terim basis, immediately upon publication, but may be  
15          subject to change and revision after public notice and op-  
16          portunity for comment. The Secretary shall finalize such  
17          rule not later than 1 year after the date of the enactment  
18          of this Act.

19          (b) FEES.—

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

24               (2) FEE WAIVER; INSTALLMENTS.—

1 (A) IN GENERAL.—The Secretary shall es-  
2 tablish procedures to allow an alien to—

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

8 (ii) pay any fee or penalty that the  
9 Secretary may assess under this title in in-  
10 stallments.

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

16 **SEC. 123. BACKGROUND CHECKS.**

17 (a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC  
18 DATA.—The Secretary may not grant or extend certified  
19 agricultural worker or certified agricultural dependent sta-  
20 tus under subtitle A, or grant adjustment of status to that  
21 of a lawful permanent resident under subtitle B, unless  
22 the alien submits biometric and biographic data, in accord-  
23 ance with procedures established by the Secretary. The  
24 Secretary shall provide an alternative procedure for aliens

1 who cannot provide all required biometric or biographic  
2 data because of a physical impairment.

3 (b) **BACKGROUND CHECKS.**—The Secretary shall use  
4 biometric, biographic, and other data that the Secretary  
5 determines appropriate to conduct security and law en-  
6 forcement background checks and to determine whether  
7 there is any criminal, national security, or other factor  
8 that would render the alien ineligible for status under this  
9 title. An alien may not be granted any such status under  
10 this title unless security and law enforcement background  
11 checks are completed to the satisfaction of the Secretary.

12 **SEC. 124. PROTECTION FOR CHILDREN.**

13 (a) **IN GENERAL.**—Except as provided in subsection  
14 (b), for purposes of eligibility for certified agricultural de-  
15 pendent status or lawful permanent resident status under  
16 this title, a determination of whether an alien is a child  
17 shall be made using the age of the alien on the date on  
18 which the initial application for certified agricultural  
19 worker status is filed with the Secretary of Homeland Se-  
20 curity.

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



1 **SEC. 125. LIMITATION ON REMOVAL.**

2 (a) IN GENERAL.—An alien who appears to be prima  
3 facie eligible for status under this title shall be given a  
4 reasonable opportunity to apply for such status. Such an  
5 alien may not be placed in removal proceedings or removed  
6 from the United States until a final administrative deci-  
7 sion establishing ineligibility for such status is rendered.

8 (b) ALIENS IN REMOVAL PROCEEDINGS.—Notwith-  
9 standing any other provision of the law, the Attorney Gen-  
10 eral shall (upon motion by the Secretary with the consent  
11 of the alien, or motion by the alien) terminate removal  
12 proceedings, without prejudice, against an alien who ap-  
13 pears to be prima facie eligible for status under this title,  
14 and provide such alien a reasonable opportunity to apply  
15 for such status.

16 (c) EFFECT OF FINAL ORDER.—An alien present in  
17 the United States who has been ordered removed or has  
18 been permitted to depart voluntarily from the United  
19 States may, notwithstanding such order or permission to  
20 depart, apply for status under this title. Such alien shall  
21 not be required to file a separate motion to reopen, recon-  
22 sider, or vacate the order of removal. If the Secretary ap-  
23 proves the application, the Secretary shall notify the At-  
24 torney General of such approval, and the Attorney General  
25 shall cancel the order of removal. If the Secretary renders  
26 a final administrative decision to deny the application, the

1 order of removal or permission to depart shall be effective  
2 and enforceable to the same extent as if the application  
3 had not been made, only after all available administrative  
4 and judicial remedies have been exhausted.

5 (d) EFFECT OF DEPARTURE.—Section 101(g) of the  
6 Immigration and Nationality Act (8 U.S.C. 1101(g)) shall  
7 not apply to an alien who departs the United States—

8 (1) with advance permission to return to the  
9 United States granted by the Secretary under this  
10 title; or

11 (2) after having been granted certified agricul-  
12 tural worker status or lawful permanent resident  
13 status under this title.

14 **SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HIS-**  
15 **TORY.**

16 (a) BURDEN OF PROOF.—An alien applying for cer-  
17 tified agricultural worker status under subtitle A or ad-  
18 justment of status under subtitle B has the burden of  
19 proving by a preponderance of the evidence that the alien  
20 has worked the requisite number of hours or days required  
21 under section 101, 103, or 111, as applicable. The Sec-  
22 retary shall establish special procedures to properly credit  
23 work in cases in which an alien was employed under an  
24 assumed name.

1 (b) EVIDENCE.—An alien may meet the burden of  
2 proof under subsection (a) by producing sufficient evi-  
3 dence to show the extent of such employment as a matter  
4 of just and reasonable inference. Such evidence may in-  
5 clude—

6 (1) an annual record of certified agricultural  
7 worker employment as described in section 105(a),  
8 or other employment records from employers;

9 (2) employment records maintained by collective  
10 bargaining associations;

11 (3) tax records or other government records;

12 (4) sworn affidavits from individuals who have  
13 direct knowledge of the alien’s work history; or

14 (5) any other documentation designated by the  
15 Secretary for such purpose.

16 (c) EXCEPTIONS FOR EXTRAORDINARY CIR-  
17 CUMSTANCES.—

18 (1) IMPACT OF COVID–19.—

19 (A) IN GENERAL.—The Secretary may  
20 grant certified agricultural worker status to an  
21 alien who is otherwise eligible for such status if  
22 such alien is able to only partially satisfy the  
23 requirement under section 101(a)(1)(A) as a re-  
24 sult of reduced hours of employment or other  
25 restrictions associated with the public health

1 emergency declared by the Secretary of Health  
2 and Human Services under section 319 of the  
3 Public Health Service Act (42 U.S.C. 247d)  
4 with respect to COVID–19.

5 (B) LIMITATION.—The exception described  
6 in subparagraph (A) shall apply only to agricul-  
7 tural labor or services required to be performed  
8 during the period that—

9 (i) begins on the first day of the pub-  
10 lic health emergency described in subpara-  
11 graph (A); and

12 (ii) ends 90 days after the date on  
13 which such public health emergency termi-  
14 nates.

15 (2) EXTRAORDINARY CIRCUMSTANCES.—In de-  
16 termining whether an alien has met the requirement  
17 under section 103(a)(1)(A) or 111(a)(1)(A), the Sec-  
18 retary may credit the alien with not more than 575  
19 hours (or 100 work days) of agricultural labor or  
20 services in the United States if the alien was unable  
21 to perform the required agricultural labor or services  
22 due to—

23 (A) pregnancy, parental leave, illness, dis-  
24 ease, disabling injury, or physical limitation of  
25 the alien;

1 (B) injury, illness, disease, or other special  
2 needs of the alien's child or spouse;

3 (C) severe weather conditions that pre-  
4 vented the alien from engaging in agricultural  
5 labor or services;

6 (D) reduced hours of employment or other  
7 restrictions associated with the public health  
8 emergency declared by the Secretary of Health  
9 and Human Services under section 319 of the  
10 Public Health Service Act (42 U.S.C. 247d)  
11 with respect to COVID-19; or

12 (E) termination from agricultural employ-  
13 ment, if the Secretary determines that—

14 (i) the termination was without just  
15 cause; and

16 (ii) the alien was unable to find alter-  
17 native agricultural employment after a rea-  
18 sonable job search.

19 (3) EFFECT OF DETERMINATION.—A deter-  
20 mination under paragraph (1)(D) shall not be con-  
21 clusive, binding, or admissible in a separate or sub-  
22 sequent judicial or administrative action or pro-  
23 ceeding between the alien and a current or prior em-  
24 ployer of the alien or any other party.

1 **SEC. 127. EMPLOYER PROTECTIONS.**

2 (a) CONTINUING EMPLOYMENT.—An employer that  
3 continues to employ an alien knowing that the alien in-  
4 tends to apply for certified agricultural worker status  
5 under subtitle A shall not violate section 274A(a)(2) of  
6 the Immigration and Nationality Act (8 U.S.C.  
7 1324a(a)(2)) by continuing to employ the alien for the du-  
8 ration of the application period under section 101(c), and  
9 with respect to an alien who applies for certified agricul-  
10 tural status, for the duration of the period during which  
11 the alien’s application is pending final determination.

12 (b) USE OF EMPLOYMENT RECORDS.—Copies of em-  
13 ployment records or other evidence of employment pro-  
14 vided by an alien or by an alien’s employer in support of  
15 an alien’s application for certified agricultural worker or  
16 adjustment of status under this title may not be used in  
17 a civil or criminal prosecution or investigation of that em-  
18 ployer under section 274A of the Immigration and Nation-  
19 ality Act (8 U.S.C. 1324a) or the Internal Revenue Code  
20 of 1986 for the prior unlawful employment of that alien  
21 regardless of the outcome of such application.

22 (c) ADDITIONAL PROTECTIONS.—Employers that  
23 provide unauthorized aliens with copies of employment  
24 records or other evidence of employment in support of an  
25 application for certified agricultural worker status or ad-  
26 justment of status under this title shall not be subject to

1 civil and criminal liability pursuant to such section 274A  
2 for employing such unauthorized aliens. Records or other  
3 evidence of employment provided by employers in response  
4 to a request for such records for the purpose of estab-  
5 lishing eligibility for status under this title may not be  
6 used for any purpose other than establishing such eligi-  
7 bility.

8 (d) **LIMITATION ON PROTECTION.**—The protections  
9 for employers under this section shall not apply if the em-  
10 ployer provides employment records to the alien that are  
11 determined to be fraudulent.

12 **SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS;**  
13 **CONFORMING AMENDMENTS.**

14 (a) **IN GENERAL.**—Section 208(e)(1) of the Social  
15 Security Act (42 U.S.C. 408(e)(1)) is amended—

16 (1) in subparagraph (B)(ii), by striking “or” at  
17 the end;

18 (2) in subparagraph (C), by inserting “or” at  
19 the end;

20 (3) by inserting after subparagraph (C) the fol-  
21 lowing:

22 “(D) who is granted certified agricultural work-  
23 er status, certified agricultural dependent status, or  
24 lawful permanent resident status under title I of the  
25 Farm Work Modernization Act of 2021,”; and

1           (4) in the undesignated matter following sub-  
2           paragraph (D), as added by paragraph (3), by strik-  
3           ing “1990.” and inserting “1990, or in the case of  
4           an alien described in subparagraph (D), if such con-  
5           duct is alleged to have occurred before the date on  
6           which the alien was granted status under title I of  
7           the Farm Work Modernization Act of 2021.”.

8           (b) EFFECTIVE DATE.—The amendments made by  
9           subsection (a) shall take effect on the first day of the sev-  
10          enth month that begins after the date of the enactment  
11          of this Act.

12          (c) CONFORMING AMENDMENTS.—

13           (1) SOCIAL SECURITY ACT.—Section 210(a)(1)  
14          of the Social Security Act (42 U.S.C. 410(a)(1)) is  
15          amended by inserting before the semicolon the fol-  
16          lowing: “(other than aliens granted certified agricul-  
17          tural worker status or certified agricultural depend-  
18          ent status under title I of the Farm Work Mod-  
19          ernization Act of 2021”.

20           (2) INTERNAL REVENUE CODE OF 1986.—Sec-  
21          tion 3121(b)(1) of the Internal Revenue Code of  
22          1986 is amended by inserting before the semicolon  
23          the following: “(other than aliens granted certified  
24          agricultural worker status or certified agricultural



1 dependent status under title I of the Farm Work  
2 Modernization Act of 2021”.

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

7 (d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECU-  
8 RITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the  
9 Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended  
10 by adding at the end the following:

11 “(iv) The Commissioner of Social Se-  
12 curity shall, to the extent practicable, co-  
13 ordinate with the Secretary of the Depart-  
14 ment of Homeland Security to implement  
15 an automated system for the Commissioner  
16 to assign social security account numbers  
17 to aliens granted certified agricultural  
18 worker status or certified agricultural de-  
19 pendent status under title I of the Farm  
20 Work Modernization Act of 2021. An alien  
21 who is granted such status, and who was  
22 not previously assigned a social security  
23 account number, shall request assignment  
24 of a social security account number and a  
25 social security card from the Commissioner

1 through such system. The Secretary shall  
2 collect and provide to the Commissioner  
3 such information as the Commissioner  
4 deems necessary for the Commissioner to  
5 assign a social security account number,  
6 which information may be used by the  
7 Commissioner for any purpose for which  
8 the Commissioner is otherwise authorized  
9 under Federal law. The Commissioner may  
10 maintain, use, and disclose such informa-  
11 tion only as permitted by the Privacy Act  
12 and other Federal law.”.

13 **SEC. 129. DISCLOSURES AND PRIVACY.**

14 (a) IN GENERAL.—The Secretary may not disclose  
15 or use information provided in an application for certified  
16 agricultural worker status or adjustment of status under  
17 this title (including information provided during adminis-  
18 trative or judicial review) for the purpose of immigration  
19 enforcement.

20 (b) REFERRALS PROHIBITED.—The Secretary, based  
21 solely on information provided in an application for cer-  
22 tified agricultural worker status or adjustment of status  
23 under this title (including information provided during ad-  
24 ministrative or judicial review), may not refer an applicant  
25 to U.S. Immigration and Customs Enforcement, U.S. Cus-

1 toms and Border Protection, or any designee of either  
2 such entity.

3 (c) EXCEPTIONS.—Notwithstanding subsections (a)  
4 and (b), information provided in an application for cer-  
5 tified agricultural worker status or adjustment of status  
6 under this title may be shared with Federal security and  
7 law enforcement agencies—

8 (1) for assistance in the consideration of an ap-  
9 plication under this title;

10 (2) to identify or prevent fraudulent claims or  
11 schemes;

12 (3) for national security purposes; or

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

15 (d) PENALTY.—Any person who knowingly uses, pub-  
16 lishes, or permits information to be examined in violation  
17 of this section shall be fined not more than \$10,000.

18 (e) PRIVACY.—The Secretary shall ensure that ap-  
19 propriate administrative and physical safeguards are in  
20 place to protect the security, confidentiality, and integrity  
21 of personally identifiable information collected, main-  
22 tained, and disseminated pursuant to this title.

23 **SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICA-**  
24 **TIONS.**

25 (a) CRIMINAL PENALTY.—Any person who—

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

9           (2) creates or supplies a false writing or docu-  
10 ment for use in making such an application,

11 shall be fined in accordance with title 18, United States  
12 Code, imprisoned not more than 5 years, or both.

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

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

21 **SEC. 131. DISSEMINATION OF INFORMATION.**

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

24           (1) the Secretary of Homeland Security, in co-  
25 operation with qualified designated entities, shall

1 broadly disseminate information described in sub-  
2 section (b); and

3 (2) the Secretary of Agriculture, in consultation  
4 with the Secretary of Homeland Security, shall dis-  
5 seminate to agricultural employers a document con-  
6 taining the information described in subsection (b)  
7 for posting at employer worksites.

8 (b) INFORMATION DESCRIBED.—The information de-  
9 scribed in this subsection shall include—

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

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

14 **SEC. 132. EXEMPTION FROM NUMERICAL LIMITATIONS.**

15 The numerical limitations under title II of the Immi-  
16 gration and Nationality Act (8 U.S.C. 1151 et seq.) shall  
17 not apply to the adjustment of aliens to lawful permanent  
18 resident status under this title, and such aliens shall not  
19 be counted toward any such numerical limitation.

20 **SEC. 133. REPORTS TO CONGRESS.**

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

1           (1) the number of principal aliens who applied  
2           for certified agricultural worker status under subtitle  
3           A, and the number of dependent spouses and chil-  
4           dren included in such applications;

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

10          (3) the number of principal aliens who applied  
11          for an extension of their certified agricultural worker  
12          status under subtitle A, and the number of depend-  
13          ent spouses and children included in such applica-  
14          tions;

15          (4) the number of principal aliens who were  
16          granted an extension of certified agricultural worker  
17          status under subtitle A, and the number of depend-  
18          ent spouses and children who were granted certified  
19          agricultural dependent status under such an exten-  
20          sion;

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

1           (6) the number of principal aliens who were  
2           granted lawful permanent resident status under sub-  
3           title B, and the number of spouses and children who  
4           were granted such status as dependents;

5           (7) the number of principal aliens included in  
6           petitions described in section 101(e), and the num-  
7           ber of dependent spouses and children included in  
8           such applications; and

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

13 **SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**  
14 **CANTS.**

15          (a) **ESTABLISHMENT.**—The Secretary shall establish  
16 a program to award grants, on a competitive basis, to eli-  
17 gible nonprofit organizations to assist eligible applicants  
18 under this title by providing them with the services de-  
19 scribed in subsection (c).

20          (b) **ELIGIBLE NONPROFIT ORGANIZATION.**—For  
21 purposes of this section, the term “eligible nonprofit orga-  
22 nization” means an organization described in section  
23 501(c)(3) of the Internal Revenue Code of 1986 (exclud-  
24 ing a recipient of funds under title X of the Economic  
25 Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that

1 has demonstrated qualifications, experience, and expertise  
2 in providing quality services to farm workers or aliens.

3 (c) USE OF FUNDS.—Grant funds awarded under  
4 this section may be used for the design and implementa-  
5 tion of programs that provide—

6 (1) information to the public regarding the eli-  
7 gibility and benefits of certified agricultural worker  
8 status authorized under this title; and

9 (2) assistance, within the scope of authorized  
10 practice of immigration law, to individuals submit-  
11 ting applications for certified agricultural worker  
12 status or adjustment of status under this title, in-  
13 cluding—

14 (A) screening prospective applicants to as-  
15 sess their eligibility for such status;

16 (B) completing applications, including pro-  
17 viding assistance in obtaining necessary docu-  
18 ments and supporting evidence; and

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

23 (d) SOURCE OF FUNDS.—In addition to any funds  
24 appropriated to carry out this section, the Secretary may  
25 use up to \$10,000,000 from the Immigration Examina-



1 tions Fee Account under section 286(m) of the Immigra-  
2 tion and Nationality Act (8 U.S.C. 1356(m)) to carry out  
3 this section.

4 (e) ELIGIBILITY FOR SERVICES.—Section 504(a)(11)  
5 of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall  
6 not be construed to prevent a recipient of funds under title  
7 X of the Economic Opportunity Act of 1964 (42 U.S.C.  
8 2996 et seq.) from providing legal assistance directly re-  
9 lated to an application for status under this title or to  
10 an alien granted such status.

11 **SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated to the Sec-  
13 retary, such sums as may be necessary to implement this  
14 title, including any amounts needed for costs associated  
15 with the initiation of such implementation, for each of fis-  
16 cal years 2022 through 2024.

17 **TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR**  
18 **CULTURAL WORKFORCE FOR**  
19 **THE FUTURE**

20 **Subtitle A—Reforming the H-2A**  
21 **Temporary Worker Program**

22 **SEC. 201. COMPREHENSIVE AND STREAMLINED ELEC-**  
23 **TRONIC H-2A PLATFORM.**

24 (a) STREAMLINED H-2A PLATFORM.—

1           (1) IN GENERAL.—Not later than 12 months  
2 after the date of the enactment of this Act, the Sec-  
3 retary of Homeland Security, in consultation with  
4 the Secretary of Labor, the Secretary of Agriculture,  
5 the Secretary of State, and United States Digital  
6 Service, shall ensure the establishment of an elec-  
7 tronic platform through which a petition for an H-  
8 2A worker may be filed. Such platform shall—

9           (A) serve as a single point of access for an  
10 employer to input all information and sup-  
11 porting documentation required for obtaining  
12 labor certification from the Secretary of Labor  
13 and the adjudication of the H-2A petition by  
14 the Secretary of Homeland Security;

15           (B) serve as a single point of access for the  
16 Secretary of Homeland Security, the Secretary  
17 of Labor, and State workforce agencies to con-  
18 currently perform their respective review and  
19 adjudicatory responsibilities in the H-2A proc-  
20 ess;

21           (C) facilitate communication between em-  
22 ployers and agency adjudicators, including by  
23 allowing employers to—

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

1 (ii) submit requests for inspections  
2 and licensing;

3 (iii) receive notices of approval and  
4 denial; and

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

7 (D) provide information to the Secretary of  
8 State and U.S. Customs and Border Protection  
9 necessary for the efficient and secure processing  
10 of H-2A visas and applications for admission.

11 (2) OBJECTIVES.—In developing the platform  
12 described in paragraph (1), the Secretary of Home-  
13 land Security, in consultation with the Secretary of  
14 Labor, the Secretary of Agriculture, the Secretary of  
15 State, and United States Digital Service, shall  
16 streamline and improve the H-2A process, including  
17 by—

18 (A) eliminating the need for employers to  
19 submit duplicate information and documenta-  
20 tion to multiple agencies;

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

1 (C) reducing the occurrence of common pe-  
2 tition errors, and otherwise improving and expe-  
3 diting the processing of H-2A petitions; and

4 (D) ensuring compliance with H-2A pro-  
5 gram requirements and the protection of the  
6 wages and working conditions of workers.

7 (b) **ONLINE JOB REGISTRY.**—The Secretary of Labor  
8 shall maintain a national, publicly-accessible online job  
9 registry and database of all job orders submitted by H-  
10 2A employers. The registry and database shall—

11 (1) be searchable using relevant criteria, includ-  
12 ing the types of jobs needed to be filled, the date(s)  
13 and location(s) of need, and the employer(s) named  
14 in the job order;

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

18 (3) provide for public access of job orders ap-  
19 proved under section 218(h)(2) of the Immigration  
20 and Nationality Act.

21 **SEC. 202. H-2A PROGRAM REQUIREMENTS.**

22 Section 218 of the Immigration and Nationality Act  
23 (8 U.S.C. 1188) is amended to read as follows:

1 **“SEC. 218. ADMISSION OF TEMPORARY H-2A WORKERS.**

2 “(a) LABOR CERTIFICATION CONDITIONS.—The Sec-  
3 retary of Homeland Security may not approve a petition  
4 to admit an H-2A worker unless the Secretary of Labor  
5 has certified that—

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

11 “(2) the employment of the H-2A worker in  
12 such labor or services will not adversely affect the  
13 wages and working conditions of workers in the  
14 United States who are similarly employed.

15 “(b) H-2A PETITION REQUIREMENTS.—An em-  
16 ployer filing a petition for an H-2A worker to perform  
17 agricultural labor or services shall attest to and dem-  
18 onstrate compliance, as and when appropriate, with all ap-  
19 plicable requirements under this section, including the fol-  
20 lowing:

21 “(1) NEED FOR LABOR OR SERVICES.—The em-  
22 ployer has described the need for agricultural labor  
23 or services in a job order that includes a description  
24 of the nature and location of the work to be per-  
25 formed, the material terms and conditions of em-  
26 ployment, the anticipated period or periods (expected

1 start and end dates) for which the workers will be  
2 needed, and the number of job opportunities in  
3 which the employer seeks to employ the workers.

4 “(2) NONDISPLACEMENT OF UNITED STATES  
5 WORKERS.—The employer has not and will not dis-  
6 place United States workers employed by the em-  
7 ployer during the period of employment of the H-  
8 2A worker and during the 60-day period imme-  
9 diately preceding such period of employment in the  
10 job for which the employer seeks approval to employ  
11 the H-2A worker.

12 “(3) STRIKE OR LOCKOUT.—Each place of em-  
13 ployment described in the petition is not, at the time  
14 of filing the petition and until the petition is ap-  
15 proved, subject to a strike or lockout in the course  
16 of a labor dispute.

17 “(4) RECRUITMENT OF UNITED STATES WORK-  
18 ERS.—The employer shall engage in the recruitment  
19 of United States workers as described in subsection  
20 (c) and shall hire such workers who are able, willing  
21 and qualified, and who will be available at the time  
22 and place needed, to perform the agricultural labor  
23 or services described in the petition. The employer  
24 may reject a United States worker only for lawful,  
25 job-related reasons.

1           “(5) WAGES, BENEFITS, AND WORKING CONDI-  
2           TIONS.—The employer shall offer and provide, at a  
3           minimum, the wages, benefits, and working condi-  
4           tions required by this section to the H–2A worker  
5           and all workers who are similarly employed. The em-  
6           ployer—

7                   “(A) shall offer such similarly employed  
8                   workers not less than the same benefits, wages,  
9                   and working conditions that the employer is of-  
10                  fering or will provide to the H–2A worker; and

11                   “(B) may not impose on such similarly em-  
12                  ployed workers any restrictions or obligations  
13                  that will not be imposed on the H–2A worker.

14           “(6) WORKERS’ COMPENSATION.—If the job op-  
15           portunity is not covered by or is exempt from the  
16           State workers’ compensation law, the employer shall  
17           provide, at no cost to the worker, insurance covering  
18           injury and disease arising out of, and in the course  
19           of, the worker’s employment which will provide bene-  
20           fits at least equal to those provided under the State  
21           workers’ compensation law.

22           “(7) COMPLIANCE WITH LABOR AND EMPLOY-  
23           MENT LAWS.—The employer shall comply with all  
24           applicable Federal, State and local employment-re-  
25           lated laws and regulations.

1           “(8) COMPLIANCE WITH WORKER PROTEC-  
2           TIONS.—The employer shall comply with section 204  
3           of the Farm Workforce Modernization Act of 2021.

4           “(9) COMPLIANCE WITH FOREIGN LABOR RE-  
5           CRUITMENT LAWS.—The employer shall comply with  
6           subtitle C of title II of the Farm Workforce Mod-  
7           ernization Act of 2021.

8           “(c) RECRUITING REQUIREMENTS.—

9           “(1) IN GENERAL.—The employer may satisfy  
10          the recruitment requirement described in subsection  
11          (b)(4) by satisfying all of the following:

12                 “(A) JOB ORDER.—As provided in sub-  
13                 section (h)(1), the employer shall complete a  
14                 job order for posting on the electronic job reg-  
15                 istry maintained by the Secretary of Labor and  
16                 for distribution by the appropriate State work-  
17                 force agency. Such posting shall remain on the  
18                 job registry as an active job order through the  
19                 period described in paragraph (2)(B).

20                 “(B) FORMER WORKERS.—At least 45  
21                 days before each start date identified in the pe-  
22                 tition, the employer shall—

23                         “(i) make reasonable efforts to con-  
24                         tact any United States worker the em-  
25                         ployer employed in the previous year in the



1 same occupation and area of intended em-  
2 ployment for which an H-2A worker is  
3 sought (excluding workers who were termi-  
4 nated for cause or abandoned the work-  
5 site); and

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

9 “(C) POSITIVE RECRUITMENT.—During  
10 the period of recruitment, the employer shall  
11 complete any other positive recruitment steps  
12 within a multi-State region of traditional or ex-  
13 pected labor supply where the Secretary of  
14 Labor finds that there are a significant number  
15 of qualified United States workers who, if re-  
16 cruited, would be willing to make themselves  
17 available for work at the time and place needed.

18 “(2) PERIOD OF RECRUITMENT.—

19 “(A) IN GENERAL.—For purposes of this  
20 subsection, the period of recruitment begins on  
21 the date on which the job order is posted on the  
22 online job registry and ends on the date that  
23 H-2A workers depart for the employer’s place  
24 of employment. For a petition involving more  
25 than one start date under subsection (h)(1)(C),

1 the end of the period of recruitment shall be de-  
2 termined by the date of departure of the H-2A  
3 workers for the final start date identified in the  
4 petition.

5 “(B) REQUIREMENT TO HIRE US WORK-  
6 ERS.—

7 “(i) IN GENERAL.—Notwithstanding  
8 the limitations of subparagraph (A), the  
9 employer will provide employment to any  
10 qualified United States worker who applies  
11 to the employer for any job opportunity in-  
12 cluded in the petition until the later of—

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

16 “(II) the date on which—

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

20 “(bb) if the employer is a  
21 labor contractor, 50 percent of  
22 the work contract for the job op-  
23 portunity has elapsed.

24 “(ii) STAGGERED ENTRY.—For a peti-  
25 tion involving more than one start date

1 under subsection (h)(1)(C), each start date  
2 designated in the petition shall establish a  
3 separate job opportunity. An employer may  
4 not reject a United States worker because  
5 the worker is unable or unwilling to fill  
6 more than one job opportunity included in  
7 the petition.

8 “(iii) EXCEPTION.—Notwithstanding  
9 clause (i), the employer may offer a job op-  
10 portunity to an H-2A worker instead of an  
11 alien granted certified agricultural worker  
12 status under title I of the Farm Workforce  
13 Modernization Act of 2021 if the H-2A  
14 worker was employed by the employer in  
15 each of 3 years during the most recent 4-  
16 year period.

17 “(3) RECRUITMENT REPORT.—

18 “(A) IN GENERAL.—The employer shall  
19 maintain a recruitment report through the ap-  
20 plicable period described in paragraph (2)(B)  
21 and submit regular updates through the elec-  
22 tronic platform on the results of recruitment.  
23 The employer shall retain the recruitment re-  
24 port, and all associated recruitment documenta-

1           tion, for a period of 3 years from the date of  
2           certification.

3           “(B) BURDEN OF PROOF.—If the employer  
4           asserts that any eligible individual who has ap-  
5           plied or been referred is not able, willing or  
6           qualified, the employer bears the burden of  
7           proof to establish that the individual is not able,  
8           willing or qualified because of a lawful, employ-  
9           ment-related reason.

10          “(d) WAGE REQUIREMENTS.—

11           “(1) IN GENERAL.—Each employer under this  
12          section will offer the worker, during the period of  
13          authorized employment, wages that are at least the  
14          greatest of—

15           “(A) the agreed-upon collective bargaining  
16          wage;

17           “(B) the adverse effect wage rate (or any  
18          successor wage established under paragraph  
19          (7));

20           “(C) the prevailing wage (hourly wage or  
21          piece rate); or

22           “(D) the Federal or State minimum wage.

23          “(2) ADVERSE EFFECT WAGE RATE DETER-  
24          MINATIONS.—

1           “(A) IN GENERAL.—Except as provided  
2           under subparagraph (B), the applicable adverse  
3           effect wage rate for each State and occupational  
4           classification for a calendar year shall be as fol-  
5           lows:

6                   “(i) The annual average hourly wage  
7                   for the occupational classification in the  
8                   State or region as reported by the Sec-  
9                   retary of Agriculture based on a wage sur-  
10                  vey conducted by such Secretary.

11                   “(ii) If a wage described in clause (i)  
12                   is not reported, the national annual aver-  
13                   age hourly wage for the occupational clas-  
14                   sification as reported by the Secretary of  
15                   Agriculture based on a wage survey con-  
16                   ducted by such Secretary.

17                   “(iii) If a wage described in clause (i)  
18                   or (ii) is not reported, the Statewide an-  
19                   nual average hourly wage for the standard  
20                   occupational classification as reported by  
21                   the Secretary of Labor based on a wage  
22                   survey conducted by such Secretary.

23                   “(iv) If a wage described in clause (i),  
24                   (ii), or (iii) is not reported, the national av-  
25                   erage hourly wage for the occupational

1 classification as reported by the Secretary  
2 of Labor based on a wage survey con-  
3 ducted by such Secretary.

4 “(B) LIMITATIONS ON WAGE FLUCTUA-  
5 TIONS.—

6 “(i) WAGE FREEZE FOR CALENDAR  
7 YEAR 2022.—For calendar year 2022, the  
8 adverse effect wage rate for each State and  
9 occupational classification under this sub-  
10 section shall be the adverse effect wage  
11 rate that was in effect for H-2A workers  
12 in the applicable State on the date of the  
13 introduction of the Farm Workforce Mod-  
14 ernization Act of 2021.

15 “(ii) CALENDAR YEARS 2023 THROUGH  
16 2031.—For each of calendar years 2023  
17 through 2031, the adverse effect wage rate  
18 for each State and occupational classifica-  
19 tion under this subsection shall be the  
20 wage calculated under subparagraph (A),  
21 except that such wage may not—

22 “(I) be more than 1.5 percent  
23 lower than the wage in effect for H-  
24 2A workers in the applicable State

1 and occupational classification in the  
2 immediately preceding calendar year;

3 “(II) except as provided in clause  
4 (III), be more than 3.25 percent high-  
5 er than the wage in effect for H-2A  
6 workers in the applicable State and  
7 occupational classification in the im-  
8 mediately preceding calendar year;  
9 and

10 “(III) if the application of clause  
11 (II) results in a wage that is lower  
12 than 110 percent of the applicable  
13 Federal or State minimum wage, be  
14 more than 4.25 percent higher than  
15 the wage in effect for H-2A workers  
16 in the applicable State and occupa-  
17 tional classification in the immediately  
18 preceding calendar year.

19 “(iii) CALENDAR YEARS AFTER  
20 2031.—For any calendar year after 2031,  
21 the applicable wage rate described in para-  
22 graph (1)(B) shall be the wage rate estab-  
23 lished pursuant to paragraph (7)(D). Until  
24 such wage rate is effective, the adverse ef-  
25 fect wage rate for each State and occupa-

1            tional classification under this subsection  
2            shall be the wage calculated under sub-  
3            paragraph (A), except that such wage may  
4            not be more than 1.5 percent lower or 3.25  
5            percent higher than the wage in effect for  
6            H-2A workers in the applicable State and  
7            occupational classification in the imme-  
8            diately preceding calendar year.

9            “(3) MULTIPLE OCCUPATIONS.—If the primary  
10          job duties for the job opportunity described in the  
11          petition do not fall within a single occupational clas-  
12          sification, the applicable wage rates under subpara-  
13          graphs (B) and (C) of paragraph (1) for the job op-  
14          portunity shall be based on the highest such wage  
15          rates for all applicable occupational classifications.

16          “(4) PUBLICATION; WAGES IN EFFECT.—

17                “(A) PUBLICATION.—Prior to the start of  
18          each calendar year, the Secretary of Labor shall  
19          publish the applicable adverse effect wage rate  
20          (or successor wage rate, if any), and prevailing  
21          wage if available, for each State and occupa-  
22          tional classification through notice in the Fed-  
23          eral Register.

24                “(B) JOB ORDERS IN EFFECT.—Except as  
25          provided in subparagraph (C), publication by



1 the Secretary of Labor of an updated adverse  
2 effect wage rate or prevailing wage for a State  
3 and occupational classification shall not affect  
4 the wage rate guaranteed in any approved job  
5 order for which recruitment efforts have com-  
6 menced at the time of publication.

7 “(C) EXCEPTION FOR YEAR-ROUND  
8 JOBS.—If the Secretary of Labor publishes an  
9 updated adverse effect wage rate or prevailing  
10 wage for a State and occupational classification  
11 concerning a petition described in subsection  
12 (i), and the updated wage is higher than the  
13 wage rate guaranteed in the work contract, the  
14 employer shall pay the updated wage not later  
15 than 14 days after publication of the updated  
16 wage in the Federal Register.

17 “(5) WORKERS PAID ON A PIECE RATE OR  
18 OTHER INCENTIVE BASIS.—If an employer pays by  
19 the piece rate or other incentive method and requires  
20 one or more minimum productivity standards as a  
21 condition of job retention, such standards shall be  
22 specified in the job order and shall be no more than  
23 those normally required (at the time of the first peti-  
24 tion for H–2A workers) by other employers for the  
25 activity in the area of intended employment, unless

1 the Secretary of Labor approves a higher minimum  
2 standard resulting from material changes in produc-  
3 tion methods.

4 “(6) GUARANTEE OF EMPLOYMENT.—

5 “(A) OFFER TO WORKER.—The employer  
6 shall guarantee the worker employment for the  
7 hourly equivalent of at least three-fourths of the  
8 work days of the total period of employment,  
9 beginning with the first work day after the ar-  
10 rival of the worker at the place of employment  
11 and ending on the date specified in the job  
12 offer. For purposes of this subparagraph, the  
13 hourly equivalent means the number of hours in  
14 the work days as stated in the job offer and  
15 shall exclude the worker’s Sabbath and Federal  
16 holidays. If the employer affords the worker less  
17 employment than that required under this para-  
18 graph, the employer shall pay the worker the  
19 amount which the worker would have earned  
20 had the worker, in fact, worked for the guaran-  
21 teed number of hours.

22 “(B) FAILURE TO WORK.—Any hours  
23 which the worker fails to work, up to a max-  
24 imum of the number of hours specified in the  
25 job offer for a work day, when the worker has

1           been offered an opportunity to do so, and all  
2           hours of work actually performed (including vol-  
3           untary work in excess of the number of hours  
4           specified in the job offer in a work day, on the  
5           worker's Sabbath, or on Federal holidays) may  
6           be counted by the employer in calculating  
7           whether the period of guaranteed employment  
8           has been met.

9           “(C) ABANDONMENT OF EMPLOYMENT;  
10          TERMINATION FOR CAUSE.—If the worker vol-  
11          untarily abandons employment without good  
12          cause before the end of the contract period, or  
13          is terminated for cause, the worker is not enti-  
14          tled to the guarantee of employment described  
15          in subparagraph (A).

16          “(D) CONTRACT IMPOSSIBILITY.—If, be-  
17          fore the expiration of the period of employment  
18          specified in the job offer, the services of the  
19          worker are no longer required for reasons be-  
20          yond the control of the employer due to any  
21          form of natural disaster before the guarantee in  
22          subparagraph (A) is fulfilled, the employer may  
23          terminate the worker's employment. In the  
24          event of such termination, the employer shall  
25          fulfill the employment guarantee in subpara-

1 graph (A) for the work days that have elapsed  
2 from the first work day after the arrival of the  
3 worker to the termination of employment. The  
4 employer shall make efforts to transfer a work-  
5 er to other comparable employment acceptable  
6 to the worker. If such transfer is not affected,  
7 the employer shall provide the return transpor-  
8 tation required in subsection (f)(2).

9 “(7) WAGE STANDARDS AFTER 2031.—

10 “(A) STUDY OF ADVERSE EFFECT WAGE  
11 RATE.—Beginning in fiscal year 2028, the Sec-  
12 retary of Agriculture and Secretary of Labor  
13 shall jointly conduct a study that addresses—

14 “(i) whether the employment of H–2A  
15 workers has depressed the wages of United  
16 States farm workers;

17 “(ii) whether an adverse effect wage  
18 rate is necessary to protect the wages of  
19 United States farm workers in occupations  
20 in which H–2A workers are employed;

21 “(iii) whether alternative wage stand-  
22 ards would be sufficient to prevent wages  
23 in occupations in which H–2A workers are  
24 employed from falling below the wage level

1           that would have prevailed in the absence of  
2           H–2A employment;

3           “(iv) whether any changes are war-  
4           ranted in the current methodologies for  
5           calculating the adverse effect wage rate  
6           and the prevailing wage rate; and

7           “(v) recommendations for future wage  
8           protection under this section.

9           “(B) FINAL REPORT.—Not later than Oc-  
10          tober 1, 2029, the Secretary of Agriculture and  
11          Secretary of Labor shall jointly prepare and  
12          submit a report to the Congress setting forth  
13          the findings of the study conducted under sub-  
14          paragraph (A) and recommendations for future  
15          wage protections under this section.

16          “(C) CONSULTATION.—In conducting the  
17          study under subparagraph (A) and preparing  
18          the report under subparagraph (B), the Sec-  
19          retary of Agriculture and Secretary of Labor  
20          shall consult with representatives of agricultural  
21          employers and an equal number of representa-  
22          tives of agricultural workers, at the national,  
23          State and local level.

24          “(D) WAGE DETERMINATION AFTER  
25          2031.—Upon publication of the report described

1           in subparagraph (B), the Secretary of Labor, in  
2           consultation with and the approval of the Sec-  
3           retary of Agriculture, shall make a rule to es-  
4           tablish a process for annually determining the  
5           wage rate for purposes of paragraph (1)(B) for  
6           fiscal years after 2031. Such process shall be  
7           designed to ensure that the employment of H-  
8           2A workers does not undermine the wages and  
9           working conditions of similarly employed United  
10          States workers.

11          “(e) HOUSING REQUIREMENTS.—Employers shall  
12          furnish housing in accordance with regulations established  
13          by the Secretary of Labor. Such regulations shall be con-  
14          sistent with the following:

15                 “(1) IN GENERAL.—The employer shall be per-  
16                 mitted at the employer’s option to provide housing  
17                 meeting applicable Federal standards for temporary  
18                 labor camps or to secure housing which meets the  
19                 local standards for rental and/or public accommoda-  
20                 tions or other substantially similar class of habi-  
21                 tation: Provided, That in the absence of applicable  
22                 local standards, State standards for rental and/or  
23                 public accommodations or other substantially similar  
24                 class of habitation shall be met: Provided further,  
25                 That in the absence of applicable local or State

1 standards, Federal temporary labor camp standards  
2 shall apply.

3 “(2) FAMILY HOUSING.—Except as otherwise  
4 provided in subsection (i)(5), the employer shall pro-  
5 vide family housing to workers with families who re-  
6 quest it when it is the prevailing practice in the area  
7 and occupation of intended employment to provide  
8 family housing.

9 “(3) UNITED STATES WORKERS.—Notwith-  
10 standing paragraphs (1) and (2), an employer is not  
11 required to provide housing to United States work-  
12 ers who are reasonably able to return to their resi-  
13 dence within the same day.

14 “(4) TIMING OF INSPECTION.—

15 “(A) IN GENERAL.—The Secretary of  
16 Labor or designee shall make a determination  
17 as to whether the housing furnished by an em-  
18 ployer for a worker meets the requirements im-  
19 posed by this subsection prior to the date on  
20 which the Secretary of Labor is required to  
21 make a certification with respect to a petition  
22 for the admission of such worker.

23 “(B) TIMELY INSPECTION.—The Secretary  
24 of Labor shall provide a process for—

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

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

9                   “(f) TRANSPORTATION REQUIREMENTS.—

10                   “(1) TRAVEL TO PLACE OF EMPLOYMENT.—A  
11                   worker who completes 50 percent of the period of  
12                   employment specified in the job order shall be reim-  
13                   bursed by the employer for the cost of the worker’s  
14                   transportation and subsistence from the place from  
15                   which the worker came to work for the employer (or  
16                   place of last employment, if the worker traveled  
17                   from such place) to the place of employment.

18                   “(2) TRAVEL FROM PLACE OF EMPLOYMENT.—

19                   For a worker who completes the period of employ-  
20                   ment specified in the job order or who is terminated  
21                   without cause, the employer shall provide or pay for  
22                   the worker’s transportation and subsistence from the  
23                   place of employment to the place from which the  
24                   worker, disregarding intervening employment, came  
25                   to work for the employer, or to the place of next em-



1       employment, if the worker has contracted with a subse-  
2       quent employer who has not agreed to provide or  
3       pay for the worker's transportation and subsistence  
4       to such subsequent employer's place of employment.

5           “(3) LIMITATION.—

6           “(A) AMOUNT OF REIMBURSEMENT.—Ex-  
7       cept as provided in subparagraph (B), the  
8       amount of reimbursement provided under para-  
9       graph (1) or (2) to a worker need not exceed  
10      the lesser of—

11           “(i) the actual cost to the worker of  
12           the transportation and subsistence in-  
13           volved; or

14           “(ii) the most economical and reason-  
15           able common carrier transportation  
16           charges and subsistence costs for the dis-  
17           tance involved.

18           “(B) DISTANCE TRAVELED.—For travel to  
19       or from the worker's home country, if the travel  
20       distance between the worker's home and the rel-  
21       evant consulate is 50 miles or less, reimburse-  
22       ment for transportation and subsistence may be  
23       based on transportation to or from the con-  
24       sulate.

25           “(g) HEAT ILLNESS PREVENTION PLAN.—

1           “(1) IN GENERAL.—The employer shall main-  
2           tain a reasonable plan that describes the employer’s  
3           procedures for the prevention of heat illness, includ-  
4           ing appropriate training, access to water and shade,  
5           the provision of breaks, and the protocols for emer-  
6           gency response. Such plan shall—

7                   “(A) be in writing in English and, to the  
8                   extent necessary, any language common to a  
9                   significant portion of the workers if they are  
10                  not fluent in English; and

11                  “(B) be posted at a conspicuous location at  
12                  the worksite and provided to employees prior to  
13                  the commencement of labor or services.

14           “(2) CLARIFICATION.—Nothing in this sub-  
15           section is intended to limit any other Federal or  
16           State authority to promulgate, enforce, or maintain  
17           health and safety standards related to heat-related  
18           illness.

19           “(h) H-2A PETITION PROCEDURES.—

20                   “(1) SUBMISSION OF PETITION AND JOB  
21                   ORDER.—

22                           “(A) IN GENERAL.—The employer shall  
23                           submit information required for the adjudica-  
24                           tion of the H-2A petition, including a job  
25                           order, through the electronic platform no more

1           than 75 calendar days and no fewer than 60  
2           calendar days before the employer’s first date of  
3           need specified in the petition.

4           “(B) FILING BY AGRICULTURAL ASSOCIA-  
5           TIONS.—An association of agricultural pro-  
6           ducers that use agricultural services may file an  
7           H–2A petition under subparagraph (A). If an  
8           association is a joint or sole employer of work-  
9           ers who perform agricultural labor or services,  
10          H–2A workers may be used for the approved  
11          job opportunities of any of the association’s  
12          producer members and such workers may be  
13          transferred among its producer members to per-  
14          form the agricultural labor or services for which  
15          the petition was approved.

16          “(C) PETITIONS INVOLVING STAGGERED  
17          ENTRY.—

18                 “(i) IN GENERAL.—Except as pro-  
19                 vided in clause (ii), an employer may file  
20                 a petition involving employment in the  
21                 same occupational classification and same  
22                 area of intended employment with multiple  
23                 start dates if—

1           “(I) the petition involves tem-  
2           porary or seasonal employment and no  
3           more than 10 start dates;

4           “(II) the multiple start dates  
5           share a common end date;

6           “(III) no more than 120 days  
7           separate the first start date and the  
8           final start date listed in the petition;  
9           and

10          “(IV) the need for multiple start  
11          dates arises from variations in labor  
12          needs associated with the job oppor-  
13          tunity identified in the petition.

14          “(ii) LABOR CONTRACTORS.—A labor  
15          contractor may not file a petition described  
16          in clause (i) unless the labor contractor—

17               “(I) is filing as a joint employer  
18               with its contractees, or is operating in  
19               a State in which joint employment  
20               and liability between the labor con-  
21               tractor and its contractees is other-  
22               wise established; or

23               “(II) has posted and is maintain-  
24               ing a premium surety bond as de-  
25               scribed in subsection (l)(1).

1           “(2) LABOR CERTIFICATION.—

2                   “(A) REVIEW OF JOB ORDER.—

3                           “(i) IN GENERAL.—The Secretary of  
4                           Labor, in consultation with the relevant  
5                           State workforce agency, shall review the  
6                           job order for compliance with this section  
7                           and notify the employer through the elec-  
8                           tronic platform of any deficiencies not later  
9                           than 7 business days from the date the  
10                           employer submits the necessary informa-  
11                           tion required under paragraph (1)(A). The  
12                           employer shall be provided 5 business days  
13                           to respond to any such notice of deficiency.

14                           “(ii) STANDARD.—The job order must  
15                           include all material terms and conditions  
16                           of employment, including the requirements  
17                           of this section, and must be otherwise con-  
18                           sistent with the minimum standards pro-  
19                           vided under Federal, State or local law. In  
20                           considering the question of whether a spe-  
21                           cific qualification is appropriate in a job  
22                           order, the Secretary of Labor shall apply  
23                           the normal and accepted qualification re-  
24                           quired by non-H-2A employers in the  
25                           same or comparable occupations and crops.

1 “(iii) EMERGENCY PROCEDURES.—

2 The Secretary of Labor shall establish  
3 emergency procedures for the curing of de-  
4 ficiencies that cannot be resolved during  
5 the period described in clause (i).

6 “(B) APPROVAL OF JOB ORDER.—

7 “(i) IN GENERAL.—Upon approval of  
8 the job order, the Secretary of Labor shall  
9 immediately place for public examination a  
10 copy of the job order on the online job reg-  
11 istry, and the State workforce agency serv-  
12 ing the area of intended employment shall  
13 commence the recruitment of United  
14 States workers.

15 “(ii) REFERRAL OF UNITED STATES  
16 WORKERS.—The Secretary of Labor and  
17 State workforce agency shall keep the job  
18 order active until the end of the period de-  
19 scribed in subsection (c)(2) and shall refer  
20 to the employer each United States worker  
21 who applies for the job opportunity.

22 “(C) REVIEW OF INFORMATION FOR DEFICI-  
23 CIENCIES.—Within 7 business days of the ap-  
24 proval of the job order, the Secretary of Labor  
25 shall review the information necessary to make

1 a labor certification and notify the employer  
2 through the electronic platform if such informa-  
3 tion does not meet the standards for approval.  
4 Such notification shall include a description of  
5 any deficiency, and the employer shall be pro-  
6 vided 5 business days to cure such deficiency.

7 “(D) CERTIFICATION AND AUTHORIZATION  
8 OF WORKERS.—Not later than 30 days before  
9 the date that labor or services are first required  
10 to be performed, the Secretary of Labor shall  
11 issue the requested labor certification if the  
12 Secretary determines that the requirements set  
13 forth in this section have been met.

14 “(E) EXPEDITED ADMINISTRATIVE AP-  
15 PEALS OF CERTAIN DETERMINATIONS.—The  
16 Secretary of Labor shall by regulation establish  
17 a procedure for an employer to request the ex-  
18 pedited review of a denial of a labor certifi-  
19 cation under this section, or the revocation of  
20 such a certification. Such procedure shall re-  
21 quire the Secretary to expeditiously, but no  
22 later than 72 hours after expedited review is re-  
23 quested, issue a de novo determination on a  
24 labor certification that was denied in whole or  
25 in part because of the availability of able, will-

1           ing and qualified workers if the employer dem-  
2           onstrates, consistent with subsection (e)(3)(B),  
3           that such workers are not actually available at  
4           the time or place such labor or services are re-  
5           quired.

6           “(3) PETITION DECISION.—

7                   “(A) IN GENERAL.—Not later than 7 busi-  
8                   ness days after the Secretary of Labor issues  
9                   the certification, the Secretary of Homeland Se-  
10                  curity shall issue a decision on the petition and  
11                  shall transmit a notice of action to the peti-  
12                  tioner via the electronic platform.

13                  “(B) APPROVAL.—Upon approval of a pe-  
14                  tition under this section, the Secretary of  
15                  Homeland Security shall ensure that such ap-  
16                  proval is noted in the electronic platform and is  
17                  available to the Secretary of State and U.S.  
18                  Customs and Border Protection, as necessary,  
19                  to facilitate visa issuance and admission.

20                  “(C) PARTIAL APPROVAL.—A petition for  
21                  multiple named beneficiaries may be partially  
22                  approved with respect to eligible beneficiaries  
23                  notwithstanding the ineligibility, or potential in-  
24                  eligibility, of one or more other beneficiaries.



1           “(D)     POST-CERTIFICATION     AMEND-  
2           MENTS.—The Secretary of Labor shall provide  
3           a process for amending a request for labor cer-  
4           tification in conjunction with an H-2A petition,  
5           subsequent to certification by the Secretary of  
6           Labor, in cases in which the requested amend-  
7           ment does not materially change the petition  
8           (including the job order).

9           “(4)     ROLES     OF     AGRICULTURAL     ASSOCIA-  
10          TIONS.—

11           “(A)     MEMBER’S     VIOLATION     DOES     NOT  
12           NECESSARILY     DISQUALIFY     ASSOCIATION     OR  
13           OTHER     MEMBERS.—If an individual producer  
14           member of a joint employer association is deter-  
15           mined to have committed an act that results in  
16           the denial of a petition with respect to the  
17           member, the denial shall apply only to that  
18           member of the association unless the Secretary  
19           of Labor determines that the association or  
20           other member participated in, had knowledge  
21           of, or reason to know of, the violation.

22           “(B)     ASSOCIATION’S     VIOLATION     DOES     NOT  
23           NECESSARILY     DISQUALIFY     MEMBERS.—

24           “(i)     If an association representing ag-  
25           ricultural producers as a joint employer is

1           determined to have committed an act that  
2           results in the denial of a petition with re-  
3           spect to the association, the denial shall  
4           apply only to the association and does not  
5           apply to any individual producer member  
6           of the association unless the Secretary of  
7           Labor determines that the member partici-  
8           pated in, had knowledge of, or reason to  
9           know of, the violation.

10           “(ii) If an association of agricultural  
11           producers certified as a sole employer is  
12           determined to have committed an act that  
13           results in the denial of a petition with re-  
14           spect to the association, no individual pro-  
15           ducer member of such association may be  
16           the beneficiary of the services of H-2A  
17           workers in the commodity and occupation  
18           in which such aliens were employed by the  
19           association which was denied during the  
20           period such denial is in force, unless such  
21           producer member employs such aliens in  
22           the commodity and occupation in question  
23           directly or through an association which is  
24           a joint employer of such workers with the  
25           producer member.

1           “(5) SPECIAL PROCEDURES.—The Secretary of  
2 Labor, in consultation with the Secretary of Agri-  
3 culture and Secretary of Homeland Security, may by  
4 regulation establish alternate procedures that rea-  
5 sonably modify program requirements under this  
6 section, when the Secretary determines that such  
7 modifications are required due to the unique nature  
8 of the work involved.

9           “(6) CONSTRUCTION OCCUPATIONS.—An em-  
10 ployer may not file a petition under this section on  
11 behalf of a worker if the majority of the worker’s  
12 duties will fall within a construction or extraction oc-  
13 cupational classification.

14           “(i) NON-TEMPORARY OR -SEASONAL NEEDS.—

15           “(1) IN GENERAL.—Notwithstanding the re-  
16 quirement in section 101(a)(15)(H)(ii)(a) that the  
17 agricultural labor or services performed by an H–2A  
18 worker be of a temporary or seasonal nature, the  
19 Secretary of Homeland Security may, consistent  
20 with the provisions of this subsection, approve a pe-  
21 tition for an H–2A worker to perform agricultural  
22 services or labor that is not of a temporary or sea-  
23 sonal nature.

24           “(2) NUMERICAL LIMITATIONS.—

1           “(A) FIRST 3 FISCAL YEARS.—The total  
2           number of aliens who may be issued visas or  
3           otherwise provided H–2A nonimmigrant status  
4           under paragraph (1) for the first fiscal year  
5           during which the first visa is issued under such  
6           paragraph and for each of the following two fis-  
7           cal years may not exceed 20,000.

8           “(B) FISCAL YEARS 4 THROUGH 10.—

9           “(i) IN GENERAL.—The total number  
10          of aliens who may be issued visas or other-  
11          wise provided H–2A nonimmigrant status  
12          under paragraph (1) for the first fiscal  
13          year following the fiscal years referred to  
14          in subparagraph (A) and for each of the  
15          following 6 fiscal years may not exceed a  
16          numerical limitation jointly imposed by the  
17          Secretary of Agriculture and Secretary of  
18          Labor in accordance with clause (ii).

19          “(ii) ANNUAL ADJUSTMENTS.—For  
20          each fiscal year referred to in clause (i),  
21          the Secretary of Agriculture and Secretary  
22          of Labor, in consultation with the Sec-  
23          retary of Homeland Security, shall estab-  
24          lish a numerical limitation for purposes of  
25          clause (i). Such numerical limitation may

1 not be lower 20,000 and may not vary by  
2 more than 12.5 percent compared to the  
3 numerical limitation applicable to the im-  
4 mediately preceding fiscal year. In estab-  
5 lishing such numerical limitation, the Sec-  
6 retaries shall consider appropriate factors,  
7 including—

8 “(I) a demonstrated shortage of  
9 agricultural workers;

10 “(II) the level of unemployment  
11 and underemployment of agricultural  
12 workers during the preceding fiscal  
13 year;

14 “(III) the number of H-2A work-  
15 ers sought by employers during the  
16 preceding fiscal year to engage in ag-  
17 ricultural labor or services not of a  
18 temporary or seasonal nature;

19 “(IV) the number of such H-2A  
20 workers issued a visa in the most re-  
21 cent fiscal year who remain in the  
22 United States in compliance with the  
23 terms of such visa;

24 “(V) the estimated number of  
25 United States workers, including

1 workers who obtained certified agri-  
2 cultural worker status under title I of  
3 the Farm Workforce Modernization  
4 Act of 2021, who worked during the  
5 preceding fiscal year in agricultural  
6 labor or services not of a temporary  
7 or seasonal nature;

8 “(VI) the number of such United  
9 States workers who accepted jobs of-  
10 fered by employers using the online  
11 job registry during the preceding fis-  
12 cal year;

13 “(VII) any growth or contraction  
14 of the United States agricultural in-  
15 dustry that has increased or decreased  
16 the demand for agricultural workers;  
17 and

18 “(VIII) any changes in the real  
19 wages paid to agricultural workers in  
20 the United States as an indication of  
21 a shortage or surplus of agricultural  
22 labor.

23 “(C) SUBSEQUENT FISCAL YEARS.—For  
24 each fiscal year following the fiscal years re-  
25 ferred to in subparagraph (B), the Secretary of

1 Agriculture and Secretary of Labor shall jointly  
2 determine, in consultation with the Secretary of  
3 Homeland Security, and after considering ap-  
4 propriate factors, including those factors listed  
5 in subclauses (I) through (VIII) of subpara-  
6 graph (B)(ii), whether to establish a numerical  
7 limitation for that fiscal year. If a numerical  
8 limitation is so established—

9 “(i) such numerical limitation may  
10 not be lower than highest number of aliens  
11 admitted under this subsection in any of  
12 the three fiscal years immediately pre-  
13 ceding the fiscal year for which the numer-  
14 ical limitation is to be established; and

15 “(ii) the total number of aliens who  
16 may be issued visas or otherwise provided  
17 H-2A nonimmigrant status under para-  
18 graph (1) for that fiscal year may not ex-  
19 ceed such numerical limitation.

20 “(D) EMERGENCY PROCEDURES.—The  
21 Secretary of Agriculture and Secretary of  
22 Labor, in consultation with the Secretary of  
23 Homeland Security, shall jointly establish by  
24 regulation procedures for immediately adjusting  
25 a numerical limitation imposed under subpara-

1 graph (B) or (C) to account for significant  
2 labor shortages.

3 “(3) ALLOCATION OF VISAS.—

4 “(A) BI-ANNUAL ALLOCATION.—The an-  
5 nual allocation of visas described in paragraph  
6 (2) shall be evenly allocated between two halves  
7 of the fiscal year unless the Secretary of Home-  
8 land Security, in consultation with the Sec-  
9 retary of Agriculture and Secretary of Labor,  
10 determines that an alternative allocation would  
11 better accommodate demand for visas. Any un-  
12 used visas in the first half of the fiscal year  
13 shall be added to the allocation for the subse-  
14 quent half of the same fiscal year.

15 “(B) RESERVE FOR DAIRY LABOR OR  
16 SERVICES.—

17 “(i) IN GENERAL.—Of the visa num-  
18 bers made available in each half of the fis-  
19 cal year pursuant to subparagraph (A), 50  
20 percent of such visas shall be reserved for  
21 employers filing petitions seeking H-2A  
22 workers to engage in agricultural labor or  
23 services in the dairy industry.

24 “(ii) EXCEPTION.—If, after 4 months  
25 have elapsed in one half of the fiscal year,



1 the Secretary of Homeland Security deter-  
2 mines that application of clause (i) will re-  
3 sult in visas going unused during that half  
4 of the fiscal year, clause (i) shall not apply  
5 to visas under this paragraph during the  
6 remainder of such calendar half.

7 “(C) LIMITED ALLOCATION FOR CERTAIN  
8 SPECIAL PROCEDURES INDUSTRIES.—

9 “(i) IN GENERAL.—Notwithstanding  
10 the numerical limitations under paragraph  
11 (2), up to 500 aliens may be issued visas  
12 or otherwise provided H-2A nonimmigrant  
13 status under paragraph (1) in a fiscal year  
14 for range sheep or goat herding.

15 “(ii) LIMITATION.—The total number  
16 of aliens in the United States in valid H-  
17 2A status under clause (i) at any one time  
18 may not exceed 500.

19 “(iii) CLARIFICATION.—Any visas  
20 issued under this subparagraph may not be  
21 considered for purposes of the annual ad-  
22 justments under subparagraphs (B) and  
23 (C) of paragraph (2).

24 “(4) ANNUAL ROUND TRIP HOME.—

1           “(A) IN GENERAL.—In addition to the  
2           other requirements of this section, an employer  
3           shall provide H–2A workers employed under  
4           this subsection, at no cost to such workers, with  
5           annual round trip travel, including transpor-  
6           tation and subsistence during travel, to their  
7           homes in their communities of origin. The em-  
8           ployer must provide such travel within 14  
9           months of the initiation of the worker’s employ-  
10          ment, and no more than 14 months can elapse  
11          between each required period of travel.

12          “(B) LIMITATION.—The cost of travel  
13          under subparagraph (A) need not exceed the  
14          lesser of—

15                 “(i) the actual cost to the worker of  
16                 the transportation and subsistence in-  
17                 volved; or

18                 “(ii) the most economical and reason-  
19                 able common carrier transportation  
20                 charges and subsistence costs for the dis-  
21                 tance involved.

22          “(5) FAMILY HOUSING.—An employer seeking  
23          to employ an H–2A worker pursuant to this sub-  
24          section shall offer family housing to workers with  
25          families if such workers are engaged in agricultural

1 employment that is not of a seasonal or temporary  
2 nature. The worker may reject such an offer. The  
3 employer may not charge the worker for the work-  
4 er’s housing, except that if the worker accepts family  
5 housing, a prorated rent based on the fair market  
6 value for such housing may be charged for the work-  
7 er’s family members.

8 “(6) WORKPLACE SAFETY PLAN FOR DAIRY EM-  
9 PLOYEES.—

10 “(A) IN GENERAL.—If an employer is  
11 seeking to employ a worker in agricultural labor  
12 or services in the dairy industry pursuant to  
13 this subsection, the employer must report inci-  
14 dents consistent with the requirements under  
15 section 1904.39 of title 29, Code of Federal  
16 Regulations, and maintain an effective worksite  
17 safety and compliance plan to prevent work-  
18 place accidents and otherwise ensure safety.  
19 Such plan shall—

20 “(i) be in writing in English and, to  
21 the extent necessary, any language com-  
22 mon to a significant portion of the workers  
23 if they are not fluent in English; and

24 “(ii) be posted at a conspicuous loca-  
25 tion at the worksite and provided to em-

1            ployees prior to the commencement of  
2            labor or services.

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

9            “(i) require workers (other than the  
10            employer’s family members) whose posi-  
11            tions require contact with animals to com-  
12            plete animal care training, including ani-  
13            mal handling and job-specific animal care;

14            “(ii) protect against sexual harass-  
15            ment and violence, resolve complaints in-  
16            volving harassment or violence, and protect  
17            against retaliation against workers report-  
18            ing harassment or violence; and

19            “(iii) contain other provisions nec-  
20            essary for ensuring workplace safety, as  
21            determined by the Secretary of Labor, in  
22            consultation with the Secretary of Agri-  
23            culture.

24            “(C) CLARIFICATION.—Nothing in this  
25            paragraph is intended to apply to persons or

1 entities that are not seeking to employ workers  
2 under this section. Nothing in this paragraph is  
3 intended to limit any other Federal or State au-  
4 thority to promulgate, enforce, or maintain  
5 health and safety standards related to the dairy  
6 industry.

7 “(j) ELIGIBILITY FOR H-2A STATUS AND ADMISSION  
8 TO THE UNITED STATES.—

9 “(1) DISQUALIFICATION.—An alien shall be in-  
10 eligible for admission to the United States as an H-  
11 2A worker pursuant to a petition filed under this  
12 section if the alien was admitted to the United  
13 States as an H-2A worker within the past 5 years  
14 of the date the petition was filed and—

15 “(A) violated a material provision of this  
16 section, including the requirement to promptly  
17 depart the United States when the alien’s au-  
18 thorized period of admission has expired, unless  
19 the alien has good cause for such failure to de-  
20 part; or

21 “(B) otherwise violated a term or condition  
22 of admission into the United States as an H-  
23 2A worker.

24 “(2) VISA VALIDITY.—A visa issued to an H-  
25 2A worker shall be valid for 3 years and shall allow

1 for multiple entries during the approved period of  
2 admission.

3 “(3) PERIOD OF AUTHORIZED STAY; ADMIS-  
4 SION.—

5 “(A) IN GENERAL.—An alien admissible as  
6 an H-2A worker shall be authorized to stay in  
7 the United States for the period of employment  
8 specified in the petition approved by the Sec-  
9 retary of Homeland Security under this section.  
10 The maximum continuous period of authorized  
11 stay for an H-2A worker is 36 months.

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

20 “(C) EXCEPTIONS.—The Secretary of  
21 Homeland Security shall deduct absences from  
22 the United States that take place during an H-  
23 2A worker’s period of authorized stay from the  
24 period that the alien is required to remain out-  
25 side the United States under subparagraph (B),

1 if the alien or the alien's employer requests  
2 such a deduction, and provides clear and con-  
3 vincing proof that the alien qualifies for such a  
4 deduction. Such proof shall consist of evidence  
5 including, but not limited to, arrival and depart-  
6 ture records, copies of tax returns, and records  
7 of employment abroad.

8 “(D) ADMISSION.—In addition to the max-  
9 imum continuous period of authorized stay, an  
10 H-2A worker's authorized period of admission  
11 shall include an additional period of 10 days  
12 prior to the beginning of the period of employ-  
13 ment for the purpose of traveling to the place  
14 of employment and 45 days at the end of the  
15 period of employment for the purpose of trav-  
16 eling home or seeking an extension of status  
17 based on a subsequent offer of employment if  
18 the worker has not reached the maximum con-  
19 tinuous period of authorized stay under sub-  
20 paragraph (A) (subject to the exceptions in sub-  
21 paragraph (C)).

22 “(4) CONTINUING H-2A WORKERS.—

23 “(A) SUCCESSIVE EMPLOYMENT.—An H-  
24 2A worker is authorized to start new or concur-  
25 rent employment upon the filing of a nonfrivo-

1           lous H–2A petition, or as of the requested start  
2           date, whichever is later if—

3                   “(i) the petition to start new or con-  
4                   current employment was filed prior to the  
5                   expiration of the H–2A worker’s period of  
6                   admission as defined in paragraph (3)(D);  
7                   and

8                   “(ii) the H–2A worker has not been  
9                   employed without authorization in the  
10                  United States from the time of last admis-  
11                  sion to the United States in H–2A status  
12                  through the filing of the petition for new  
13                  employment.

14                  “(B) PROTECTION DUE TO IMMIGRANT  
15                  VISA BACKLOGS.—Notwithstanding the limita-  
16                  tions on the period of authorized stay described  
17                  in paragraph (3), any H–2A worker who—

18                   “(i) is the beneficiary of an approved  
19                   petition, filed under section 204(a)(1)(E)  
20                   or (F) for preference status under section  
21                   203(b)(3)(A)(iii); and

22                   “(ii) is eligible to be granted such sta-  
23                   tus but for the annual limitations on visas  
24                   under section 203(b)(3)(A),



1           may apply for, and the Secretary of Homeland  
2           Security may grant, an extension of such non-  
3           immigrant status until the Secretary of Home-  
4           land Security issues a final administrative deci-  
5           sion on the alien’s application for adjustment of  
6           status or the Secretary of State issues a final  
7           decision on the alien’s application for an immi-  
8           grant visa.

9           “(5) ABANDONMENT OF EMPLOYMENT.—

10           “(A) IN GENERAL.—Except as provided in  
11           subparagraph (B), an H–2A worker who aban-  
12           dons the employment which was the basis for  
13           the worker’s authorized stay, without good  
14           cause, shall be considered to have failed to  
15           maintain H–2A status and shall depart the  
16           United States or be subject to removal under  
17           section 237(a)(1)(C)(i).

18           “(B) GRACE PERIOD TO SECURE NEW EM-  
19           PLOYMENT.—An H–2A worker shall not be con-  
20           sidered to have failed to maintain H–2A status  
21           solely on the basis of a cessation of the employ-  
22           ment on which the alien’s classification was  
23           based for a period of 45 consecutive days, or  
24           until the end of the authorized validity period,

1           whichever is shorter, once during each author-  
2           ized validity period.

3           “(k) REQUIRED DISCLOSURES.—

4           “(1) DISCLOSURE OF WORK CONTRACT.—Not  
5           later than the time the H–2A worker applies for a  
6           visa, the employer shall provide the worker with a  
7           copy of the work contract that includes the disclo-  
8           sures and rights under this section (or in the ab-  
9           sence of such a contract, a copy of the job order and  
10          proof of the certification described in subparagraphs  
11          (B) and (D) of subsection (h)(2)). An H–2A worker  
12          moving from one H–2A employer to a subsequent  
13          H–2A employer shall be provided with a copy of the  
14          new employment contract no later than the time an  
15          offer of employment is made by the subsequent em-  
16          ployer.

17          “(2) HOURS AND EARNINGS STATEMENTS.—

18          The employer shall furnish to H–2A workers, on or  
19          before each payday, in one or more written state-  
20          ments—

21                  “(A) the worker’s total earnings for the  
22                  pay period;

23                  “(B) the worker’s hourly rate of pay, piece  
24                  rate of pay, or both;

1           “(C) the hours of employment offered to  
2           the worker and the hours of employment actu-  
3           ally worked;

4           “(D) if piece rates of pay are used, the  
5           units produced daily;

6           “(E) an itemization of the deductions  
7           made from the worker’s wages; and

8           “(F) any other information required by  
9           Federal, State or local law.

10          “(3) NOTICE OF WORKER RIGHTS.—The em-  
11          ployer must post and maintain in a conspicuous lo-  
12          cation at the place of employment, a poster provided  
13          by the Secretary of Labor in English, and, to the ex-  
14          tent necessary, any language common to a signifi-  
15          cant portion of the workers if they are not fluent in  
16          English, which sets out the rights and protections  
17          for workers employed pursuant to this section.

18          “(l) LABOR CONTRACTORS; FOREIGN LABOR RE-  
19          CRUITERS; PROHIBITION ON FEES.—

20          “(1) LABOR CONTRACTORS.—

21          “(A) SURETY BOND.—An employer that is  
22          a labor contractor who seeks to employ H-2A  
23          workers shall maintain a surety bond in an  
24          amount required under subparagraph (B). Such  
25          bond shall be payable to the Secretary of Labor

1 or pursuant to the resolution of a civil or crimi-  
2 nal proceeding, for the payment of wages and  
3 benefits, including any assessment of interest,  
4 owed to an H-2A worker or a similarly em-  
5 ployed United States worker, or a United  
6 States worker who has been rejected or dis-  
7 placed in violation of this section.

8 “(B) AMOUNT OF BOND.—The Secretary  
9 of Labor shall annually publish in the Federal  
10 Register a schedule of required bond amounts  
11 that are determined by such Secretary to be  
12 sufficient for labor contractors to discharge fi-  
13 nancial obligations under this section based on  
14 the number of workers the labor contractor  
15 seeks to employ and the wages such workers are  
16 required to be paid.

17 “(C) PREMIUM BOND.—A labor contractor  
18 seeking to file a petition involving more than  
19 one start date under subsection (h)(1)(C) shall  
20 maintain a surety bond that is at least 15 per-  
21 cent higher than the applicable bond amount  
22 determined by the Secretary under subpara-  
23 graph (B).

24 “(D) USE OF FUNDS.—Any sums paid to  
25 the Secretary under subparagraph (A) that are

1 not paid to a worker because of the inability to  
2 do so within a period of 5 years following the  
3 date of a violation giving rise to the obligation  
4 to pay shall remain available to the Secretary  
5 without further appropriation until expended to  
6 support the enforcement of this section.

7 “(2) PROHIBITION AGAINST EMPLOYEES PAY-  
8 ING FEES.—Neither the employer nor its agents  
9 shall seek or receive payment of any kind from any  
10 worker for any activity related to the H-2A process,  
11 including payment of the employer’s attorneys’ fees,  
12 application fees, or recruitment costs. An employer  
13 and its agents may receive reimbursement for costs  
14 that are the responsibility and primarily for the ben-  
15 efit of the worker, such as government-required  
16 passport fees.

17 “(3) THIRD PARTY CONTRACTS.—The contract  
18 between an employer and any labor contractor or  
19 any foreign labor recruiter (or any agent of such  
20 labor contractor or foreign labor recruiter) whom the  
21 employer engages shall include a term providing for  
22 the termination of such contract for cause if the con-  
23 tractor or recruiter, either directly or indirectly, in  
24 the placement or recruitment of H-2A workers seeks  
25 or receives payments or other compensation from

1 prospective employees. Upon learning that a labor  
2 contractor or foreign labor recruiter has sought or  
3 collected such payments, the employer shall so termi-  
4 nate any contracts with such contractor or recruiter.

5 “(m) ENFORCEMENT AUTHORITY.—

6 “(1) IN GENERAL.—The Secretary of Labor is  
7 authorized to take such actions against employers,  
8 including imposing appropriate penalties and seeking  
9 monetary and injunctive relief and specific perform-  
10 ance of contractual obligations, as may be necessary  
11 to ensure compliance with the requirements of this  
12 section and with the applicable terms and conditions  
13 of employment.

14 “(2) COMPLAINT PROCESS.—

15 “(A) PROCESS.—The Secretary of Labor  
16 shall establish a process for the receipt, inves-  
17 tigation, and disposition of complaints alleging  
18 failure of an employer to comply with the re-  
19 quirements under this section and with the ap-  
20 plicable terms and conditions of employment.

21 “(B) FILING.—A complaint referred to in  
22 subparagraph (A) may be filed not later than 2  
23 years after the date of the conduct that is the  
24 subject of the complaint.

1           “(C) COMPLAINT NOT EXCLUSIVE.—A  
2 complaint filed under this paragraph is not an  
3 exclusive remedy and the filing of such a com-  
4 plaint does not waive any rights or remedies of  
5 the aggrieved party under this law or other  
6 laws.

7           “(D) DECISION AND REMEDIES.—If the  
8 Secretary of Labor finds, after notice and op-  
9 portunity for a hearing, that the employer failed  
10 to comply with the requirements of this section  
11 or the terms and conditions of employment, the  
12 Secretary of Labor may require payment of un-  
13 paid wages, unpaid benefits, fees assessed in  
14 violation of this section, damages, and civil  
15 money penalties. The Secretary is also author-  
16 ized to impose other administrative remedies,  
17 including disqualification of the employer from  
18 utilizing the H-2A program for a period of up  
19 to 5 years in the event of willful or multiple  
20 material violations. The Secretary is authorized  
21 to permanently disqualify an employer from uti-  
22 lizing the H-2A program upon a subsequent  
23 finding involving willful or multiple material  
24 violations.

1           “(E) DISPOSITION OF PENALTIES.—Civil  
2           penalties collected under this paragraph shall be  
3           deposited into the H-2A Labor Certification  
4           Fee Account established under section 203 of  
5           the Farm Workforce Modernization Act of  
6           2021.

7           “(3) STATUTORY CONSTRUCTION.—Nothing in  
8           this subsection may be construed as limiting the au-  
9           thority of the Secretary of Labor to conduct an in-  
10          vestigation—

11           “(A) under any other law, including any  
12           law affecting migrant and seasonal agricultural  
13           workers; or

14           “(B) in the absence of a complaint.

15           “(4) RETALIATION PROHIBITED.—It is a viola-  
16          tion of this subsection for any person to intimidate,  
17          threaten, restrain, coerce, blacklist, discharge, or in  
18          any other manner discriminate against, or to cause  
19          any person to intimidate, threaten, restrain, coerce,  
20          blacklist, or in any manner discriminate against, an  
21          employee, including a former employee or an appli-  
22          cant for employment, because the employee—

23           “(A) has disclosed information to the em-  
24           ployer, or to any other person, that the em-  
25           ployee reasonably believes evidences a violation



1 under this section, or any rule or regulation re-  
2 lating to this section;

3 “(B) has filed a complaint concerning the  
4 employer’s compliance with the requirements  
5 under this section or any rule or regulation per-  
6 taining to this section;

7 “(C) cooperates or seeks to cooperate in an  
8 investigation or other proceeding concerning the  
9 employer’s compliance with the requirements  
10 under this section or any rule or regulation per-  
11 taining to this section; or

12 “(D) has taken steps to exercise or assert  
13 any right or protection under the provisions of  
14 this section, or any rule or regulation pertaining  
15 to this section, or any other relevant Federal,  
16 State, or local law.

17 “(5) INTERAGENCY COMMUNICATION.—The  
18 Secretary of Labor, in consultation with the Sec-  
19 retary of Homeland Security, Secretary of State and  
20 the Equal Employment Opportunity Commission,  
21 shall establish mechanisms by which the agencies  
22 and their components share information, including  
23 by public electronic means, regarding complaints,  
24 studies, investigations, findings and remedies regard-  
25 ing compliance by employers with the requirements

1 of the H-2A program and other employment-related  
2 laws and regulations.

3 “(n) DEFINITIONS.—In this section:

4 “(1) DISPLACE.—The term ‘displace’ means to  
5 lay off a similarly employed United States worker,  
6 other than for lawful job-related reasons, in the oc-  
7 cupation and area of intended employment for the  
8 job for which H-2A workers are sought.

9 “(2) H-2A WORKER.—The term ‘H-2A worker’  
10 means a nonimmigrant described in section  
11 101(a)(15)(H)(ii)(a).

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

17 “(4) ONLINE JOB REGISTRY.—The term ‘online  
18 job registry’ means the online job registry of the  
19 Secretary of Labor required under section 201(b) of  
20 the Farm Workforce Modernization Act of 2021 (or  
21 similar successor registry).

22 “(5) SIMILARLY EMPLOYED.—The term ‘simi-  
23 larly employed’, in the case of a worker, means a  
24 worker in the same occupational classification as the

1 classification or classifications for which the H-2A  
2 worker is sought.

3 “(6) UNITED STATES WORKER.—The term  
4 ‘United States worker’ means any worker who is—

5 “(A) a citizen or national of the United  
6 States;

7 “(B) an alien who is lawfully admitted for  
8 permanent residence, is admitted as a refugee  
9 under section 207, is granted asylum under sec-  
10 tion 208, or is an immigrant otherwise author-  
11 ized to be employed in the United States;

12 “(C) an alien granted certified agricultural  
13 worker status under title I of the Farm Work-  
14 force Modernization Act of 2021; or

15 “(D) an individual who is not an unauthor-  
16 ized alien (as defined in section 274A(h)(3))  
17 with respect to the employment in which the  
18 worker is engaging.

19 “(o) FEES; AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) FEES.—

21 “(A) IN GENERAL.—The Secretary of  
22 Homeland Security shall impose a fee to proc-  
23 ess petitions under this section. Such fee shall  
24 be set at a level that is sufficient to recover the  
25 reasonable costs of processing the petition, in-

1 including the reasonable costs of providing labor  
2 certification by the Secretary of Labor.

3 “(B) DISTRIBUTION.—Fees collected  
4 under subparagraph (A) shall be deposited as  
5 offsetting receipts into the immigration exami-  
6 nations fee account in section 286(m), except  
7 that the portion of fees assessed for the Sec-  
8 retary of Labor shall be deposited into the H-  
9 2A Labor Certification Fee Account established  
10 pursuant to section 203(c) of the Farm Work-  
11 force Modernization Act of 2021.

12 “(2) APPROPRIATIONS.—There are authorized  
13 to be appropriated for each fiscal year such sums as  
14 necessary for the purposes of—

15 “(A) recruiting United States workers for  
16 labor or services which might otherwise be per-  
17 formed by H-2A workers, including by ensuring  
18 that State workforce agencies are sufficiently  
19 funded to fulfill their functions under this sec-  
20 tion;

21 “(B) enabling the Secretary of Labor to  
22 make determinations and certifications under  
23 this section and under section 212(a)(5)(A)(i);

24 “(C) monitoring the terms and conditions  
25 under which H-2A workers (and United States

1 workers employed by the same employers) are  
2 employed in the United States; and

3 “(D) enabling the Secretary of Agriculture  
4 to carry out the Secretary of Agriculture’s du-  
5 ties and responsibilities under this section.”.

6 **SEC. 203. AGENCY ROLES AND RESPONSIBILITIES.**

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

10 (1) consulting with State workforce agencies  
11 to—

12 (A) review and process job orders;

13 (B) facilitate the recruitment and referral  
14 of able, willing and qualified United States  
15 workers who will be available at the time and  
16 place needed;

17 (C) determine prevailing wages and prac-  
18 tices; and

19 (D) conduct timely inspections to ensure  
20 compliance with applicable Federal, State, or  
21 local housing standards and Federal regulations  
22 for H-2A housing;

23 (2) determining whether the employer has met  
24 the conditions for approval of the H-2A petition de-

1 scribed in section 218 of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1188);

3 (3) determining, in consultation with the Sec-  
4 retary of Agriculture, whether a job opportunity is  
5 of a seasonal or temporary nature;

6 (4) determining whether the employer has com-  
7 plied or will comply with the H-2A program require-  
8 ments set forth in section 218 of the Immigration  
9 and Nationality Act (8 U.S.C. 1188);

10 (5) processing and investigating complaints con-  
11 sistent with section 218(m) of the Immigration and  
12 Nationality Act (8 U.S.C. 1188(m));

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

16 (7) ensuring that guidance to State workforce  
17 agencies to conduct wage surveys is regularly up-  
18 dated; and

19 (8) issuing such rules and regulations as are  
20 necessary to carry out the Secretary of Labor's re-  
21 sponsibilities under this Act and the amendments  
22 made by this Act.

23 (b) RESPONSIBILITIES OF THE SECRETARY OF  
24 HOMELAND SECURITY.—With respect to the administra-

1 tion of the H-2A program, the Secretary of Homeland Se-  
2 curity shall be responsible for—

3 (1) adjudicating petitions for the admission of  
4 H-2A workers, which shall include an assessment as  
5 to whether each beneficiary will be employed in ac-  
6 cordance with the terms and conditions of the cer-  
7 tification and whether any named beneficiaries qual-  
8 ify for such employment;

9 (2) transmitting a copy of the final decision on  
10 the petition to the employer, and in the case of ap-  
11 proved petitions, ensuring that the petition approval  
12 is reflected in the electronic platform to facilitate the  
13 prompt issuance of a visa by the Department of  
14 State (if required) and the admission of the H-2A  
15 workers to the United States;

16 (3) establishing a reliable and secure method  
17 through which H-2A workers can access information  
18 about their H-2A visa status, including information  
19 on pending, approved, or denied petitions to extend  
20 such status;

21 (4) investigating and preventing fraud in the  
22 program, including the utilization of H-2A workers  
23 for other than allowable agricultural labor or serv-  
24 ices; and

1           (5) issuing such rules and regulations as are  
2           necessary to carry out the Secretary of Homeland  
3           Security's responsibilities under this Act and the  
4           amendments made by this Act.

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

7           (1) ESTABLISHMENT OF ACCOUNT.—There is  
8           established in the general fund of the Treasury a  
9           separate account, which shall be known as the “H–  
10          2A Labor Certification Fee Account”. Notwith-  
11          standing any other provisions of law, there shall be  
12          deposited as offsetting receipts into the account all  
13          amounts—

14                   (A) collected as a civil penalty under sec-  
15                   tion 218(m)(2)(E) of the Immigration and Na-  
16                   tionality Act; and

17                   (B) collected as a fee under section  
18                   218(o)(1)(B) of the Immigration and Nation-  
19                   ality Act.

20          (2) USE OF FEES.—Amounts deposited into the  
21          H–2A Labor Certification Fee Account shall be  
22          available (except as otherwise provided in this para-  
23          graph) without fiscal year limitation and without the  
24          requirement for specification in appropriations Acts  
25          to the Secretary of Labor for use, directly or



1 through grants, contracts, or other arrangements, in  
2 such amounts as the Secretary of Labor determines  
3 are necessary for the costs of Federal and State ad-  
4 ministration in carrying out activities in connection  
5 with labor certification under section 218 of the Im-  
6 migration and Nationality Act. Such costs may in-  
7 clude personnel salaries and benefits, equipment and  
8 infrastructure for adjudication and customer service  
9 processes, the operation and maintenance of an on-  
10 line job registry, and program integrity activities.  
11 The Secretary, in determining what amounts to  
12 transfer to States for State administration in car-  
13 rying out activities in connection with labor certifi-  
14 cation under section 218 of the Immigration and  
15 Nationality Act shall consider the number of H-2A  
16 workers employed in that State and shall adjust the  
17 amount transferred to that State accordingly. In ad-  
18 dition, 10 percent of the amounts deposited into the  
19 H-2A Labor Certification Fee Account shall be  
20 available to the Office of Inspector General of the  
21 Department of Labor to conduct audits and criminal  
22 investigations relating to such foreign labor certifi-  
23 cation programs.

24 (3) ADDITIONAL FUNDS.—Amounts available  
25 under paragraph (1) shall be available in addition to

1 any other funds appropriated or made available to  
2 the Department of Labor under other laws, includ-  
3 ing section 218(o)(2) of the Immigration and Na-  
4 tionality Act.

5 **SEC. 204. WORKER PROTECTION AND COMPLIANCE.**

6 (a) EQUALITY OF TREATMENT.—H-2A workers shall  
7 not be denied any right or remedy under any Federal,  
8 State, or local labor or employment law applicable to  
9 United States workers engaged in agricultural employ-  
10 ment.

11 (b) APPLICABILITY OF OTHER LAWS.—

12 (1) MIGRANT AND SEASONAL AGRICULTURAL  
13 WORKER PROTECTION ACT.—H-2A workers shall be  
14 considered migrant agricultural workers for purposes  
15 of the Migrant and Seasonal Agricultural Worker  
16 Protection Act (29 U.S.C. 1801 et seq.).

17 (2) WAIVER OF RIGHTS PROHIBITED.—Agree-  
18 ments by H-2A workers to waive or modify any  
19 rights or protections under this Act or section 218  
20 of the Immigration and Nationality Act (8 U.S.C.  
21 1188) shall be considered void or contrary to public  
22 policy except as provided in a collective bargaining  
23 agreement with a bona fide labor organization.

24 (3) MEDIATION.—

1           (A) FREE MEDIATION SERVICES.—The  
2           Federal Mediation and Conciliation Service  
3           shall be available to assist in resolving disputes  
4           arising under this section between H-2A work-  
5           ers and agricultural employers without charge  
6           to the parties.

7           (B) COMPLAINT.—If an H-2A worker files  
8           a civil lawsuit alleging one or more violations of  
9           section 218 of the Immigration and Nationality  
10          Act (8 U.S.C. 1188), the Fair Labor Standards  
11          Act of 1938 (29 U.S.C. 201 et seq.), or the Mi-  
12          grant and Seasonal Agricultural Worker Protec-  
13          tion Act (29 U.S.C. 1801 et seq.), not later  
14          than 60 days after the filing of proof of service  
15          of the complaint, a party to the lawsuit may file  
16          a request with the Federal Mediation and Con-  
17          ciliation Service to assist the parties in reaching  
18          a satisfactory resolution of all issues involving  
19          all parties to the dispute.

20          (C) NOTICE.—Upon filing a request under  
21          subparagraph (B) and giving of notice to the  
22          parties, the parties shall attempt mediation  
23          within the period specified in subparagraph  
24          (D), except that nothing in this paragraph shall  
25          limit the ability of a court to order preliminary

1 injunctive relief to protect health and safety or  
2 to otherwise prevent irreparable harm.

3 (D) 90-DAY LIMIT.—The Federal Medi-  
4 ation and Conciliation Service may conduct me-  
5 diation or other nonbinding dispute resolution  
6 activities for a period not to exceed 90 days be-  
7 ginning on the date on which the Federal Medi-  
8 ation and Conciliation Service receives a request  
9 for assistance under subparagraph (B) unless  
10 the parties agree to an extension of such period.

11 (E) AUTHORIZATION OF APPROPRIA-  
12 TIONS.—

13 (i) IN GENERAL.—Subject to clause  
14 (ii), there is authorized to be appropriated  
15 to the Federal Mediation and Conciliation  
16 Service, such sums as may be necessary for  
17 each fiscal year to carry out this subpara-  
18 graph.

19 (ii) MEDIATION.—Notwithstanding  
20 any other provision of law, the Director of  
21 the Federal Mediation and Conciliation  
22 Service is authorized—

23 (I) to conduct the mediation or  
24 other dispute resolution activities from

1 any other account containing amounts  
2 available to the Director; and

3 (II) to reimburse such account  
4 with amounts appropriated pursuant  
5 to clause (i).

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

10 (c) FARM LABOR CONTRACTOR REQUIREMENTS.—

11 (1) SURETY BONDS.—

12 (A) REQUIREMENT.—Section 101 of the  
13 Migrant and Seasonal Agricultural Worker Pro-  
14 tection Act (29 U.S.C. 1811), is amended by  
15 adding at the end the following:

16 “(e) A farm labor contractor shall maintain a surety  
17 bond in an amount determined by the Secretary to be suf-  
18 ficient for ensuring the ability of the farm labor contractor  
19 to discharge its financial obligations, including payment  
20 of wages and benefits to employees. Such a bond shall be  
21 available to satisfy any amounts ordered to be paid by the  
22 Secretary or by court order for failure to comply with the  
23 obligations of this Act. The Secretary of Labor shall annu-  
24 ally publish in the Federal Register a schedule of required  
25 bond amounts that are determined by such Secretary to

1 be sufficient for farm labor contractors to discharge finan-  
2 cial obligations based on the number of workers to be cov-  
3 ered.”.

4 (B) REGISTRATION DETERMINATIONS.—  
5 Section 103(a) of the Migrant and Seasonal Ag-  
6 ricultural Worker Protection Act (29 U.S.C.  
7 1813(a)), is amended—

8 (i) in paragraph (4), by striking “or”  
9 at the end;

10 (ii) in paragraph (5)(B), by striking  
11 “or” at the end;

12 (iii) in paragraph (6), by striking the  
13 period at the end and inserting “;” ; and

14 (iv) by adding at the end the fol-  
15 lowing:

16 “(7) has failed to maintain a surety bond in  
17 compliance with section 101(e); or

18 “(8) has been disqualified by the Secretary of  
19 Labor from importing nonimmigrants described in  
20 section 101(a)(15)(H)(ii) of the Immigration and  
21 Nationality Act.”.

22 (2) SUCCESSORS IN INTEREST.—

23 (A) DECLARATION.—Section 102 of the  
24 Migrant and Seasonal Agricultural Worker Pro-  
25 tection Act (29 U.S.C. 1812), is amended—

1 (i) in paragraph (4), by striking  
2 “and” at the end;

3 (ii) in paragraph (5), by striking the  
4 period at the end and inserting “; and”;  
5 and

6 (iii) by adding at the end the fol-  
7 lowing:

8 “(6) a declaration, subscribed and sworn to by  
9 the applicant, stating whether the applicant has a  
10 familial, contractual, or employment relationship  
11 with, or shares vehicles, facilities, property, or em-  
12 ployees with, a person who has been refused  
13 issuance or renewal of a certificate, or has had a  
14 certificate suspended or revoked, pursuant to section  
15 103.”.

16 (B) REBUTTABLE PRESUMPTION.—Section  
17 103 of the Migrant and Seasonal Agricultural  
18 Worker Protection Act (29 U.S.C. 1813), as  
19 amended by this Act, is further amended by in-  
20 serting after subsection (a) the following new  
21 subsection (and by redesignating the subse-  
22 quent subsections accordingly):

23 “(b)(1) There shall be a rebuttable presumption that  
24 an applicant for issuance or renewal of a certificate is not

1 the real party in interest in the application if the appli-  
2 cant—

3           “(A) is the immediate family member of any  
4 person who has been refused issuance or renewal of  
5 a certificate, or has had a certificate suspended or  
6 revoked; and

7           “(B) identifies a vehicle, facility, or real prop-  
8 erty under paragraph (2) or (3) of section 102 that  
9 has been previously listed by a person who has been  
10 refused issuance or renewal of a certificate, or has  
11 had a certificate suspended or revoked.

12           “(2) An applicant described in paragraph (1) bears  
13 the burden of demonstrating to the Secretary’s satisfac-  
14 tion that the applicant is the real party in interest in the  
15 application.”.

16 **SEC. 205. REPORT ON WAGE PROTECTIONS.**

17           (a) Not later than 3 years after the date of the enact-  
18 ment of this Act, and every 3 years thereafter, the Sec-  
19 retary of Labor and Secretary of Agriculture shall prepare  
20 and transmit to the Committees on the Judiciary of the  
21 House of Representatives and Senate, a report that ad-  
22 dresses—

23           (1) whether, and the manner in which, the em-  
24 ployment of H-2A workers in the United States has



1 impacted the wages, working conditions, or job op-  
2 portunities of United States farm workers;

3 (2) whether, and the manner in which, the ad-  
4 verse effect wage rate increases or decreases wages  
5 on United States farms, broken down by geographic  
6 region and farm size;

7 (3) whether any potential impact of the adverse  
8 effect wage rate varies based on the percentage of  
9 workers in a geographic region that are H-2A work-  
10 ers;

11 (4) the degree to which the adverse effect wage  
12 rate is affected by the inclusion in wage surveys of  
13 piece rate compensation, bonus payments, and other  
14 pay incentives, and whether such forms of incentive  
15 compensation should be surveyed and reported sepa-  
16 rately from hourly base rates;

17 (5) whether, and the manner in which, other  
18 factors may artificially affect the adverse effect wage  
19 rate, including factors that may be specific to a re-  
20 gion, State, or region within a State;

21 (6) whether, and the manner in which, the H-  
22 2A program affects the ability of United States  
23 farms to compete with agricultural commodities im-  
24 ported from outside the United States;

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

4           (8) whether alternative wage standards would  
5           be sufficient to prevent wages in occupations in  
6           which H-2A workers are employed from falling  
7           below the wage level that would have prevailed in the  
8           absence of the H-2A program;

9           (9) whether any changes are warranted in the  
10          current methodologies for calculating the adverse ef-  
11          fect wage rate and the prevailing wage; and

12          (10) recommendations for future wage protec-  
13          tion under this section.

14          (b) In preparing the report described in subsection  
15          (a), the Secretary of Labor and Secretary of Agriculture  
16          shall engage with equal numbers of representatives of ag-  
17          ricultural employers and agricultural workers, both locally  
18          and nationally.

19          **SEC. 206. PORTABLE H-2A VISA PILOT PROGRAM.**

20          (a) ESTABLISHMENT OF PILOT PROGRAM.—

21                  (1) IN GENERAL.—Not later than 18 months  
22                  after the date of the enactment of this Act, the Sec-  
23                  retary of Homeland Security, in consultation with  
24                  the Secretary of Labor and Secretary of Agriculture,  
25                  shall establish through regulation a 6-year pilot pro-

1       gram to facilitate the free movement and employ-  
2       ment of temporary or seasonal H-2A workers to  
3       perform agricultural labor or services for agricul-  
4       tural employers registered with the Secretary of Ag-  
5       riculture. Notwithstanding the requirements of sec-  
6       tion 218 of the Immigration and Nationality Act,  
7       such regulation shall establish the requirements for  
8       the pilot program, consistent with subsection (b).  
9       For purposes of this section, such a worker shall be  
10      referred to as a portable H-2A worker, and status  
11      as such a worker shall be referred to as portable H-  
12      2A status.

13           (2) ONLINE PLATFORM.—The Secretary of  
14      Homeland Security, in consultation with the Sec-  
15      retary of Labor and the Secretary of Agriculture,  
16      shall maintain an online electronic platform to con-  
17      nect portable H-2A workers with registered agricul-  
18      tural employers seeking workers to perform tem-  
19      porary or seasonal agricultural labor or services.  
20      Employers shall post on the platform available job  
21      opportunities, including a description of the nature  
22      and location of the work to be performed, the antici-  
23      pated period or periods of need, and the terms and  
24      conditions of employment. Such platform shall allow  
25      portable H-2A workers to search for available job

1 opportunities using relevant criteria, including the  
2 types of jobs needed to be filled and the dates and  
3 locations of need.

4 (3) LIMITATION.—Notwithstanding the  
5 issuance of the regulation described in paragraph  
6 (1), the Secretary of State may not issue a portable  
7 H–2A visa and the Secretary of Homeland Security  
8 may not confer portable H–2A status on any alien  
9 until the Secretary of Homeland Security, in con-  
10 sultation with the Secretary of Labor and Secretary  
11 of Agriculture, has determined that a sufficient  
12 number of employers have been designated as reg-  
13 istered agricultural employers under subsection  
14 (b)(1) and that such employers have sufficient job  
15 opportunities to employ a reasonable number of  
16 portable H–2A workers to initiate the pilot program.

17 (b) PILOT PROGRAM ELEMENTS.—The pilot program  
18 in subsection (a) shall contain the following elements:

19 (1) REGISTERED AGRICULTURAL EMPLOY-  
20 ERS.—

21 (A) DESIGNATION.—Agricultural employ-  
22 ers shall be provided the ability to seek designa-  
23 tion as registered agricultural employers. Rea-  
24 sonable fees may be assessed commensurate  
25 with the cost of processing applications for des-

1           ignation. A designation shall be valid for a pe-  
2           riod of up to 3 years unless revoked for failure  
3           to comply with program requirements. Reg-  
4           istered employers that comply with program re-  
5           quirements may apply to renew such designa-  
6           tion for additional periods of up to 3 years for  
7           the duration of the pilot program.

8                   (B) LIMITATIONS.—Registered agricultural  
9           employers may employ aliens with portable H-  
10          2A status without filing a petition. Such em-  
11          ployers shall pay such aliens at least the wage  
12          required under section 218(d) of the Immigra-  
13          tion and Nationality Act (8 U.S.C. 1188(d)).

14                   (C) WORKERS' COMPENSATION.—If a job  
15          opportunity is not covered by or is exempt from  
16          the State workers' compensation law, a reg-  
17          istered agricultural employer shall provide, at  
18          no cost to the worker, insurance covering injury  
19          and disease arising out of, and in the course of,  
20          the worker's employment, which will provide  
21          benefits at least equal to those provided under  
22          the State workers' compensation law.

23                   (2) DESIGNATED WORKERS.—

24                           (A) IN GENERAL.—Individuals who have  
25          been previously admitted to the United States

1 in H-2A status, and maintained such status  
2 during the period of admission, shall be pro-  
3 vided the opportunity to apply for portable H-  
4 2A status. Portable H-2A workers shall be sub-  
5 ject to the provisions on visa validity and peri-  
6 ods of authorized stay and admission for H-2A  
7 workers described in paragraphs (2) and (3) of  
8 section 218(j) of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1188(j)(2) and (3)).

10 (B) LIMITATIONS ON AVAILABILITY OF  
11 PORTABLE H-2A STATUS.—

12 (i) INITIAL OFFER OF EMPLOYMENT  
13 REQUIRED.—No alien may be granted  
14 portable H-2A status without an initial  
15 valid offer of employment to perform tem-  
16 porary or agricultural labor or services  
17 from a registered agricultural employer.

18 (ii) NUMERICAL LIMITATIONS.—The  
19 total number of aliens who may hold valid  
20 portable H-2A status at any one time may  
21 not exceed 10,000. Notwithstanding such  
22 limitation, the Secretary of Homeland Se-  
23 curity may further limit the number of  
24 aliens with valid portable H-2A status if  
25 the Secretary determines that there are an

1           insufficient number of registered agricul-  
2           tural employers or job opportunities to  
3           support the employment of all such port-  
4           able H-2A workers.

5           (C) SCOPE OF EMPLOYMENT.—During the  
6           period of admission, a portable H-2A worker  
7           may perform temporary or seasonal agricultural  
8           labor or services for any employer in the United  
9           States that is designated as a registered agri-  
10          cultural employer pursuant to paragraph (1).  
11          An employment arrangement under this section  
12          may be terminated by either the portable H-2A  
13          worker or the registered agricultural employer  
14          at any time.

15          (D) TRANSFER TO NEW EMPLOYMENT.—  
16          At the cessation of employment with a reg-  
17          istered agricultural employer, a portable H-2A  
18          worker shall have 60 days to secure new em-  
19          ployment with a registered agricultural em-  
20          ployer.

21          (E) MAINTENANCE OF STATUS.—A port-  
22          able H-2A worker who does not secure new em-  
23          ployment with a registered agricultural em-  
24          ployer within 60 days shall be considered to  
25          have failed to maintain such status and shall

1 depart the United States or be subject to re-  
2 moval under section 237(a)(1)(C)(i) of the Im-  
3 migration and Nationality Act (8 U.S.C.  
4 1188(a)(1)(C)(i)).

5 (3) ENFORCEMENT.—The Secretary of Labor  
6 shall be responsible for conducting investigations  
7 and random audits of employers to ensure compli-  
8 ance with the employment-related requirements of  
9 this section, consistent with section 218(m) of the  
10 Immigration and Nationality Act (8 U.S.C.  
11 1188(m)). The Secretary of Labor shall have the au-  
12 thority to collect reasonable civil penalties for viola-  
13 tions, which shall be utilized by the Secretary for the  
14 administration and enforcement of the provisions of  
15 this section.

16 (4) ELIGIBILITY FOR SERVICES.—Section 305  
17 of Public Law 99–603 (100 Stat. 3434) is amended  
18 by striking “other employment rights as provided in  
19 the worker’s specific contract under which the non-  
20 immigrant was admitted” and inserting “employ-  
21 ment-related rights”.

22 (c) REPORT.—Not later than 6 months before the  
23 end of the third fiscal year of the pilot program, the Sec-  
24 retary of Homeland Security, in consultation with the Sec-  
25 retary of Labor and the Secretary of Agriculture, shall



1 prepare and submit to the Committees on the Judiciary  
2 of the House of Representatives and the Senate, a report  
3 that provides—

4           (1) the number of employers designated as reg-  
5 istered agricultural employers, broken down by geo-  
6 graphic region, farm size, and the number of job op-  
7 portunities offered by such employers;

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

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

15           (4) an assessment of the impact of the pilot  
16 program on the wages and working conditions of  
17 United States farm workers;

18           (5) the results of a survey of individuals grant-  
19 ed portable H-2A status, detailing their experiences  
20 with and feedback on the pilot program;

21           (6) the results of a survey of registered agricul-  
22 tural employers, detailing their experiences with and  
23 feedback on the pilot program;

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

4           (8) findings and recommendations regarding ef-  
5           fective recruitment mechanisms, including use of  
6           new technology to match workers with employers  
7           and ensure compliance with applicable labor and em-  
8           ployment laws and regulations.

9   **SEC. 207. IMPROVING ACCESS TO PERMANENT RESIDENCE.**

10          (a) **WORLDWIDE LEVEL.**—Section 201(d)(1)(A) of  
11          the Immigration and Nationality Act (8 U.S.C.  
12          1151(d)(1)(A)) is amended by striking “140,000” and in-  
13          serting “180,000”.

14          (b) **VISAS FOR FARMWORKERS.**—Section 203(b) of  
15          the Immigration and Nationality Act (8 U.S.C. 1153(b))  
16          is amended—

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

19                  (2) in paragraph (2)(A) by striking “28.6 per-  
20                  cent of such worldwide level” and inserting  
21                  “40,040”;

22                  (3) in paragraph (3)—

23                          (A) in subparagraph (A)—

1 (i) in the matter before clause (i), by  
2 striking “28.6 percent of such worldwide  
3 level” and inserting “80,040”; and

4 (ii) by amending clause (iii) to read as  
5 follows:

6 “(iii) OTHER WORKERS.—Other quali-  
7 fied immigrants who, at the time of peti-  
8 tioning for classification under this para-  
9 graph—

10 “(I) are capable of performing  
11 unskilled labor, not of a temporary or  
12 seasonal nature, for which qualified  
13 workers are not available in the  
14 United States; or

15 “(II) can demonstrate employ-  
16 ment in the United States as an H-  
17 2A nonimmigrant worker for at least  
18 100 days in each of at least 10  
19 years.”;

20 (B) by amending subparagraph (B) to read  
21 as follows:

22 “(B) VISAS ALLOCATED FOR OTHER  
23 WORKERS.—

24 “(i) IN GENERAL.—Except as pro-  
25 vided in clauses (ii) and (iii), 50,000 of the

1 visas made available under this paragraph  
2 shall be reserved for qualified immigrants  
3 described in subparagraph (A)(iii).

4 “(ii) PREFERENCE FOR AGRICUL-  
5 TURAL WORKERS.—Subject to clause (iii),  
6 not less than four-fifths of the visas de-  
7 scribed in clause (i) shall be reserved for—

8 “(I) qualified immigrants de-  
9 scribed in subparagraph (A)(iii)(I)  
10 who will be performing agricultural  
11 labor or services in the United States;  
12 and

13 “(II) qualified immigrants de-  
14 scribed in subparagraph (A)(iii)(II).

15 “(iii) EXCEPTION.—If because of the  
16 application of clause (ii), the total number  
17 of visas available under this paragraph for  
18 a calendar quarter exceeds the number of  
19 qualified immigrants who otherwise may be  
20 issued such a visa, clause (ii) shall not  
21 apply to visas under this paragraph during  
22 the remainder of such calendar quarter.

23 “(iv) NO PER COUNTRY LIMITS.—  
24 Visas described under clause (ii) shall be

1 issued without regard to the numerical lim-  
2 itation under section 202(a)(2).”; and

3 (C) by amending subparagraph (C) by  
4 striking “An immigrant visa” and inserting  
5 “Except for qualified immigrants petitioning for  
6 classification under subparagraph (A)(iii)(II),  
7 an immigrant visa”;

8 (4) in paragraph (4), by striking “7.1 percent  
9 of such worldwide level” and inserting “9,940”; and

10 (5) in paragraph (5)(A), in the matter before  
11 clause (i), by striking “7.1 percent of such world-  
12 wide level” and inserting “9,940”.

13 (c) PETITIONING PROCEDURE.—Section  
14 204(a)(1)(E) of the Immigration and Nationality Act (8  
15 U.S.C. 1154(a)(1)(E)) is amended by inserting “or  
16 203(b)(3)(A)(iii)(II)” after “203(b)(1)(A)”.

17 (d) DUAL INTENT.—Section 214(b) of the Immigra-  
18 tion and Nationality Act (8 U.S.C. 1184(b)) is amended  
19 by striking “section 101(a)(15)(H)(i) except subclause  
20 (b1) of such section” and inserting “clause (i), except sub-  
21 clause (b1), or (ii)(a) of section 101(a)(15)(H)”.

1 **Subtitle B—Preservation and Con-**  
2 **struction of Farmworker Hous-**  
3 **ing**

4 **SEC. 220. SHORT TITLE.**

5 This subtitle may be cited as the “Strategy and In-  
6 vestment in Rural Housing Preservation Act of 2021”.

7 **SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRES-**  
8 **ERVATION AND REVITALIZATION PROGRAM.**

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

12 **“SEC. 545. HOUSING PRESERVATION AND REVITALIZATION**  
13 **PROGRAM.**

14 “(a) ESTABLISHMENT.—The Secretary shall carry  
15 out a program under this section for the preservation and  
16 revitalization of multifamily rental housing projects fi-  
17 nanced under section 515 or both sections 514 and 516.

18 “(b) NOTICE OF MATURING LOANS.—

19 “(1) TO OWNERS.—On an annual basis, the  
20 Secretary shall provide written notice to each owner  
21 of a property financed under section 515 or both  
22 sections 514 and 516 that will mature within the 4-  
23 year period beginning upon the provision of such no-  
24 tice, setting forth the options and financial incen-  
25 tives that are available to facilitate the extension of

1 the loan term or the option to decouple a rental as-  
2 sistance contract pursuant to subsection (f).

3 “(2) TO TENANTS.—

4 “(A) IN GENERAL.—For each property fi-  
5 nanced under section 515 or both sections 514  
6 and 516, not later than the date that is 2 years  
7 before the date that such loan will mature, the  
8 Secretary shall provide written notice to each  
9 household residing in such property that in-  
10 forms them of the date of the loan maturity,  
11 the possible actions that may happen with re-  
12 spect to the property upon such maturity, and  
13 how to protect their right to reside in Federally  
14 assisted housing after such maturity.

15 “(B) LANGUAGE.—Notice under this para-  
16 graph shall be provided in plain English and  
17 shall be translated to other languages in the  
18 case of any property located in an area in which  
19 a significant number of residents speak such  
20 other languages.

21 “(c) LOAN RESTRUCTURING.—Under the program  
22 under this section, the Secretary may restructure such ex-  
23 isting housing loans, as the Secretary considers appro-  
24 priate, for the purpose of ensuring that such projects have  
25 sufficient resources to preserve the projects to provide safe

1 and affordable housing for low-income residents and farm  
2 laborers, by—

3 “(1) reducing or eliminating interest;

4 “(2) deferring loan payments;

5 “(3) subordinating, reducing, or reamortizing  
6 loan debt; and

7 “(4) providing other financial assistance, in-  
8 cluding advances, payments, and incentives (includ-  
9 ing the ability of owners to obtain reasonable re-  
10 turns on investment) required by the Secretary.

11 “(d) RENEWAL OF RENTAL ASSISTANCE.—When the  
12 Secretary offers to restructure a loan pursuant to sub-  
13 section (c), the Secretary shall offer to renew the rental  
14 assistance contract under section 521(a)(2) for a 20-year  
15 term that is subject to annual appropriations, provided  
16 that the owner agrees to bring the property up to such  
17 standards that will ensure its maintenance as decent, safe,  
18 and sanitary housing for the full term of the rental assist-  
19 ance contract.

20 “(e) RESTRICTIVE USE AGREEMENTS.—

21 “(1) REQUIREMENT.—As part of the preserva-  
22 tion and revitalization agreement for a project, the  
23 Secretary shall obtain a restrictive use agreement  
24 that obligates the owner to operate the project in ac-  
25 cordance with this title.



1           “(2) TERM.—

2                   “(A) NO EXTENSION OF RENTAL ASSIST-  
3 ANCE CONTRACT.—Except when the Secretary  
4 enters into a 20-year extension of the rental as-  
5 sistance contract for the project, the term of  
6 the restrictive use agreement for the project  
7 shall be consistent with the term of the restruc-  
8 tured loan for the project.

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

14                   “(C) TERMINATION.—The Secretary may  
15 terminate the 20-year use restrictive use agree-  
16 ment for a project prior to the end of its term  
17 if the 20-year rental assistance contract for the  
18 project with the owner is terminated at any  
19 time for reasons outside the owner’s control.

20           “(f) DECOUPLING OF RENTAL ASSISTANCE.—

21                   “(1) RENEWAL OF RENTAL ASSISTANCE CON-  
22 TRACT.—If the Secretary determines that a matur-  
23 ing loan for a project cannot reasonably be restruc-  
24 tured in accordance with subsection (c) and the  
25 project was operating with rental assistance under

1 section 521, the Secretary may renew the rental as-  
2 sistance contract, notwithstanding any provision of  
3 section 521, for a term, subject to annual appropria-  
4 tions, of at least 10 years but not more than 20  
5 years.

6 “(2) RENTS.—Any agreement to extend the  
7 term of the rental assistance contract under section  
8 521 for a project shall obligate the owner to con-  
9 tinue to maintain the project as decent, safe and  
10 sanitary housing and to operate the development in  
11 accordance with this title, except that rents shall be  
12 based on the lesser of—

13 “(A) the budget-based needs of the project;

14 or

15 “(B) the operating cost adjustment factor  
16 as a payment standard as provided under sec-  
17 tion 524 of the Multifamily Assisted Housing  
18 Reform and Affordability Act of 1997 (42  
19 U.S.C. 1437 note).

20 “(g) MULTIFAMILY HOUSING TRANSFER TECHNICAL  
21 ASSISTANCE.—Under the program under this section, the  
22 Secretary may provide grants to qualified non-profit orga-  
23 nizations and public housing agencies to provide technical  
24 assistance, including financial and legal services, to bor-  
25 rowers under loans under this title for multifamily housing

1 to facilitate the acquisition of such multifamily housing  
2 properties in areas where the Secretary determines there  
3 is a risk of loss of affordable housing.

4 “(h) TRANSFER OF RENTAL ASSISTANCE.—After the  
5 loan or loans for a rental project originally financed under  
6 section 515 or both sections 514 and 516 have matured  
7 or have been prepaid and the owner has chosen not to  
8 restructure the loan pursuant to subsection (c), a tenant  
9 residing in such project shall have 18 months prior to loan  
10 maturation or prepayment to transfer the rental assist-  
11 ance assigned to the tenant’s unit to another rental project  
12 originally financed under section 515 or both sections 514  
13 and 516, and the owner of the initial project may rent  
14 the tenant’s previous unit to a new tenant without income  
15 restrictions.

16 “(i) ADMINISTRATIVE EXPENSES.—Of any amounts  
17 made available for the program under this section for any  
18 fiscal year, the Secretary may use not more than  
19 \$1,000,000 for administrative expenses for carrying out  
20 such program.

21 “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
22 is authorized to be appropriated for the program under  
23 this section \$200,000,000 for each of fiscal years 2022  
24 through 2026.”.

1 **SEC. 222. ELIGIBILITY FOR RURAL HOUSING VOUCHERS.**

2 Section 542 of the Housing Act of 1949 (42 U.S.C.  
3 1490r) is amended by adding at the end the following new  
4 subsection:

5 “(c) **ELIGIBILITY OF HOUSEHOLDS IN SECTIONS**  
6 **514, 515, AND 516 PROJECTS.**—The Secretary may pro-  
7 vide rural housing vouchers under this section for any low-  
8 income household (including those not receiving rental as-  
9 sistance) residing, for a term longer than the remaining  
10 term of their lease in effect just prior to prepayment, in  
11 a property financed with a loan made or insured under  
12 section 514 or 515 (42 U.S.C. 1484, 1485) which has  
13 been prepaid without restrictions imposed by the Secretary  
14 pursuant to section 502(c)(5)(G)(ii)(I) (42 U.S.C.  
15 1472(c)(5)(G)(ii)(I)), has been foreclosed, or has matured  
16 after September 30, 2005, or residing in a property as-  
17 sisted under section 514 or 516 that is owned by a non-  
18 profit organization or public agency.”.

19 **SEC. 223. AMOUNT OF VOUCHER ASSISTANCE.**

20 Notwithstanding any other provision of law, in the  
21 case of any rural housing voucher provided pursuant to  
22 section 542 of the Housing Act of 1949 (42 U.S.C.  
23 1490r), the amount of the monthly assistance payment for  
24 the household on whose behalf such assistance is provided  
25 shall be determined as provided in subsection (a) of such  
26 section 542.

1 **SEC. 224. RENTAL ASSISTANCE CONTRACT AUTHORITY.**

2 Subsection (d) of section 521 of the Housing Act of  
3 1949 (42 U.S.C. 1490a(d)) is amended—

4 (1) in paragraph (1), by inserting after sub-  
5 paragraph (A) the following new subparagraph (and  
6 by redesignating the subsequent subparagraphs ac-  
7 cordingly):

8 “(B) upon request of an owner of a project fi-  
9 nanced under section 514 or 515, the Secretary is  
10 authorized to enter into renewal of such agreements  
11 for a period of 20 years or the term of the loan,  
12 whichever is shorter, subject to amounts made avail-  
13 able in appropriations Acts;” and

14 (2) by adding at the end the following new  
15 paragraph:

16 “(3) In the case of any rental assistance contract au-  
17 thority that becomes available because of the termination  
18 of assistance on behalf of an assisted family—

19 “(A) at the option of the owner of the rental  
20 project, the Secretary shall provide the owner a pe-  
21 riod of 6 months before such assistance is made  
22 available pursuant to subparagraph (B) during  
23 which the owner may use such assistance authority  
24 to provide assistance of behalf of an eligible unas-  
25 sisted family that—

1           “(i) is residing in the same rental project  
2           that the assisted family resided in prior to such  
3           termination; or

4           “(ii) newly occupies a dwelling unit in such  
5           rental project during such period; and

6           “(B) except for assistance used as provided in  
7           subparagraph (A), the Secretary shall use such re-  
8           maining authority to provide such assistance on be-  
9           half of eligible families residing in other rental  
10          projects originally financed under section 515 or  
11          both sections 514 and 516 of this Act.”.

12 **SEC. 225. FUNDING FOR MULTIFAMILY TECHNICAL IM-**  
13 **PROVEMENTS.**

14          There is authorized to be appropriated to the Sec-  
15          retary of Agriculture \$50,000,000 for fiscal year 2022 for  
16          improving the technology of the Department of Agri-  
17          culture used to process loans for multifamily housing and  
18          otherwise managing such housing. Such improvements  
19          shall be made within the 5-year period beginning upon the  
20          appropriation of such amounts and such amount shall re-  
21          main available until the expiration of such 5-year period.

22 **SEC. 226. PLAN FOR PRESERVING AFFORDABILITY OF**  
23 **RENTAL PROJECTS.**

24          (a) PLAN.—The Secretary of Agriculture (in this sec-  
25          tion referred to as the “Secretary”) shall submit a written

1 plan to the Congress, not later than the expiration of the  
2 6-month period beginning on the date of the enactment  
3 of this Act, for preserving the affordability for low-income  
4 families of rental projects for which loans were made  
5 under section 515 or made to nonprofit or public agencies  
6 under section 514 and avoiding the displacement of tenant  
7 households, which shall—

8 (1) set forth specific performance goals and  
9 measures;

10 (2) set forth the specific actions and mecha-  
11 nisms by which such goals will be achieved;

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

15 (4) provide for detailed reporting on outcomes;  
16 and

17 (5) include any legislative recommendations to  
18 assist in achievement of the goals under the plan.

19 (b) ADVISORY COMMITTEE.—

20 (1) ESTABLISHMENT; PURPOSE.—The Sec-  
21 retary shall establish an advisory committee whose  
22 purpose shall be to assist the Secretary in preserving  
23 section 515 properties and section 514 properties  
24 owned by nonprofit or public agencies through the  
25 multifamily housing preservation and revitalization

1 program under section 545 and in implementing the  
2 plan required under subsection (a).

3 (2) MEMBER.—The advisory committee shall  
4 consist of 16 members, appointed by the Secretary,  
5 as follows:

6 (A) A State Director of Rural Develop-  
7 ment for the Department of Agriculture.

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

10 (C) Two representatives of for-profit devel-  
11 opers or owners of multifamily rural rental  
12 housing.

13 (D) Two representatives of non-profit de-  
14 velopers or owners of multifamily rural rental  
15 housing.

16 (E) Two representatives of State housing  
17 finance agencies.

18 (F) Two representatives of tenants of mul-  
19 tifamily rural rental housing.

20 (G) One representative of a community de-  
21 velopment financial institution that is involved  
22 in preserving the affordability of housing as-  
23 sisted under sections 514, 515, and 516 of the  
24 Housing Act of 1949.



1 (H) One representative of a nonprofit or-  
2 ganization that operates nationally and has ac-  
3 tively participated in the preservation of hous-  
4 ing assisted by the Rural Housing Service by  
5 conducting research regarding, and providing fi-  
6 nancing and technical assistance for, preserving  
7 the affordability of such housing.

8 (I) One representative of low-income hous-  
9 ing tax credit investors.

10 (J) One representative of regulated finan-  
11 cial institutions that finance affordable multi-  
12 family rural rental housing developments.

13 (K) Two representatives from non-profit  
14 organizations representing farmworkers, includ-  
15 ing one organization representing farmworker  
16 women.

17 (3) MEETINGS.—The advisory committee shall  
18 meet not less often than once each calendar quarter.

19 (4) FUNCTIONS.—In providing assistance to the  
20 Secretary to carry out its purpose, the advisory com-  
21 mittee shall carry out the following functions:

22 (A) Assisting the Rural Housing Service of  
23 the Department of Agriculture to improve esti-  
24 mates of the size, scope, and condition of rental  
25 housing portfolio of the Service, including the

1 time frames for maturity of mortgages and  
2 costs for preserving the portfolio as affordable  
3 housing.

4 (B) Reviewing current policies and proce-  
5 dures of the Rural Housing Service regarding  
6 preservation of affordable rental housing fi-  
7 nanced under sections 514, 515, 516, and 538  
8 of the Housing Act of 1949, the Multifamily  
9 Preservation and Revitalization Demonstration  
10 program (MPR), and the rental assistance pro-  
11 gram and making recommendations regarding  
12 improvements and modifications to such policies  
13 and procedures.

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

16 (D) Providing reports to the Congress and  
17 the public on meetings, recommendations, and  
18 other findings of the advisory committee.

19 (5) TRAVEL COSTS.—Any amounts made avail-  
20 able for administrative costs of the Department of  
21 Agriculture may be used for costs of travel by mem-  
22 bers of the advisory committee to meetings of the  
23 committee.

1 **SEC. 227. COVERED HOUSING PROGRAMS.**

2 Paragraph (3) of section 41411(a) of the Violence  
3 Against Women Act of 1994 (34 U.S.C. 12491(a)(3)) is  
4 amended—

5 (1) in subparagraph (I), by striking “and” at  
6 the end;

7 (2) by redesignating subparagraph (J) as sub-  
8 paragraph (K); and

9 (3) by inserting after subparagraph (I) the fol-  
10 lowing new subparagraph:

11 “(J) rural development housing voucher  
12 assistance provided by the Secretary of Agri-  
13 culture pursuant to section 542 of the Housing  
14 Act of 1949 (42 U.S.C. 1490r), without regard  
15 to subsection (b) of such section, and applicable  
16 appropriation Acts; and”.

17 **SEC. 228. NEW FARMWORKER HOUSING.**

18 Section 513 of the Housing Act of 1949 (42 U.S.C.  
19 1483) is amended by adding at the end the following new  
20 subsection:

21 “(f) FUNDING FOR FARMWORKER HOUSING.—

22 “(1) SECTION 514 FARMWORKER HOUSING  
23 LOANS.—

24 “(A) INSURANCE AUTHORITY.—The Sec-  
25 retary of Agriculture may, to the extent ap-  
26 proved in appropriation Acts, insure loans

1 under section 514 (42 U.S.C. 1484) during  
2 each of fiscal years 2022 through 2031 in an  
3 aggregate amount not to exceed \$200,000,000.

4 “(B) AUTHORIZATION OF APPROPRIATIONS  
5 FOR COSTS.—There is authorized to be appro-  
6 priated \$75,000,000 for each of fiscal years  
7 2022 through 2031 for costs (as such term is  
8 defined in section 502 of the Congressional  
9 Budget Act of 1974 (2 U.S.C. 661a)) of loans  
10 insured pursuant the authority under subpara-  
11 graph (A).

12 “(2) SECTION 516 GRANTS FOR FARMWORKER  
13 HOUSING.—There is authorized to be appropriated  
14 \$30,000,000 for each of fiscal years 2022 through  
15 2031 for financial assistance under section 516 (42  
16 U.S.C. 1486).

17 “(3) SECTION 521 HOUSING ASSISTANCE.—  
18 There is authorized to be appropriated  
19 \$2,700,000,000 for each of fiscal years 2022  
20 through 2031 for rental assistance agreements en-  
21 tered into or renewed pursuant to section 521(a)(2)  
22 (42 U.S.C. 1490a(a)(2)) or agreements entered into  
23 in lieu of debt forgiveness or payments for eligible  
24 households as authorized by section 502(c)(5)(D).”.

1 **SEC. 229. LOAN AND GRANT LIMITATIONS.**

2 Section 514 of the Housing Act of 1949 (42 U.S.C.  
3 1484) is amended by adding at the end the following:

4 “(j) PER PROJECT LIMITATIONS ON ASSISTANCE.—  
5 If the Secretary, in making available assistance in any  
6 area under this section or section 516 (42 U.S.C. 1486),  
7 establishes a limitation on the amount of assistance avail-  
8 able per project, the limitation on a grant or loan award  
9 per project shall not be less than \$5 million.”.

10 **SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

11 Subsection (a)(5) of section 521 of the Housing Act  
12 of 1949 (42 U.S.C. 1490a(a)(5)) is amended—

13 (1) in subparagraph (A) by inserting “or do-  
14 mestic farm labor legally admitted to the United  
15 States and authorized to work in agriculture” after  
16 “migrant farmworkers”;

17 (2) in subparagraph (B)—

18 (A) by striking “AMOUNT.—In any fiscal  
19 year” and inserting “AMOUNT.—

20 “(i) HOUSING FOR MIGRANT FARM-  
21 WORKERS.—In any fiscal year”;

22 (B) by inserting “providing housing for mi-  
23 grant farmworkers” after “any project”; and

24 (C) by inserting at the end the following:

25 “(ii) HOUSING FOR OTHER FARM  
26 LABOR.—In any fiscal year, the assistance

1 provided under this paragraph for any  
2 project providing housing for domestic  
3 farm labor legally admitted to the United  
4 States and authorized to work in agri-  
5 culture shall not exceed an amount equal  
6 to 50 percent of the operating costs for the  
7 project for the year, as determined by the  
8 Secretary. The owner of such project shall  
9 not qualify for operating assistance unless  
10 the Secretary certifies that the project was  
11 unoccupied or underutilized before making  
12 units available to such farm labor, and  
13 that a grant under this section will not dis-  
14 place any farm worker who is a United  
15 States worker.”; and

16 (3) in subparagraph (D), by adding at the end  
17 the following:

18 “(iii) The term ‘domestic farm labor’ has  
19 the same meaning given such term in section  
20 514(f)(3) (42 U.S.C. 1484(f)(3)), except that  
21 subparagraph (A) of such section shall not  
22 apply for purposes this section.”.

1 **SEC. 231. ELIGIBILITY OF CERTIFIED WORKERS.**

2 Subsection (a) of section 214 of the Housing and  
3 Community Development Act of 1980 (42 U.S.C. 1436a)  
4 is amended—

5 (1) in paragraph (6), by striking “or” at the  
6 end;

7 (2) by redesignating paragraph (7) as para-  
8 graph (8); and

9 (3) by inserting after paragraph (6) the fol-  
10 lowing:

11 “(7) an alien granted certified agricultural  
12 worker or certified agricultural dependent status  
13 under title I of the Farm Workforce Modernization  
14 Act of 2021, but solely for financial assistance made  
15 available pursuant to section 521 or 542 of the  
16 Housing Act of 1949 (42 U.S.C. 1490a, 1490r);  
17 or”.

18 **Subtitle C—Foreign Labor**  
19 **Recruiter Accountability**

20 **SEC. 251. REGISTRATION OF FOREIGN LABOR RECRUITERS.**

21 (a) IN GENERAL.—Not later than 1 year after the  
22 date of the enactment of this Act, the Secretary of Labor,  
23 in consultation with the Secretary of State and the Sec-  
24 retary of Homeland Security, shall establish procedures  
25 for the electronic registration of foreign labor recruiters  
26 engaged in the recruitment of nonimmigrant workers de-

1 scribed in section 101(a)(15)(H)(ii)(a) of the Immigration  
2 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) to  
3 perform agricultural labor or services in the United States.

4 (b) PROCEDURAL REQUIREMENTS.—The procedures  
5 described in subsection (a) shall—

6 (1) require the applicant to submit a sworn dec-  
7 laration—

8 (A) stating the applicant's permanent  
9 place of residence or principal place of business,  
10 as applicable;

11 (B) describing the foreign labor recruiting  
12 activities in which the applicant is engaged; and

13 (C) including such other relevant informa-  
14 tion as the Secretary of Labor and the Sec-  
15 retary of State may require;

16 (2) include an expeditious means to update and  
17 renew registrations;

18 (3) include a process, which shall include the  
19 placement of personnel at each United States diplo-  
20 matic mission in accordance with subsection (g)(2),  
21 to receive information from the public regarding for-  
22 eign labor recruiters who have allegedly engaged in  
23 a foreign labor recruiting activity that is prohibited  
24 under this subtitle;



1           (4) include procedures for the receipt and proc-  
2           essing of complaints against foreign labor recruiters  
3           and for remedies, including the revocation of a reg-  
4           istration or the assessment of fines upon a deter-  
5           mination by the Secretary of Labor that the foreign  
6           labor recruiter has violated the requirements of this  
7           subtitle;

8           (5) require the applicant to post a bond in an  
9           amount sufficient to ensure the ability of the appli-  
10          cant to discharge its responsibilities and ensure pro-  
11          tection of workers, including payment of wages; and

12          (6) allow the Secretary of Labor and the Sec-  
13          retary of State to consult with other appropriate  
14          Federal agencies to determine whether any reason  
15          exists to deny registration to a foreign labor re-  
16          cruiter or revoke such registration.

17          (c) ATTESTATIONS.—Foreign labor recruiters reg-  
18          istering under this subtitle shall attest and agree to abide  
19          by the following requirements:

20                (1) PROHIBITED FEES.—The foreign labor re-  
21                cruiter, including any agent or employee of such for-  
22                eign labor recruiter, shall not assess any recruitment  
23                fees on a worker for any foreign labor recruiting ac-  
24                tivity.

1           (2) PROHIBITION ON FALSE AND MISLEADING  
2 INFORMATION.—The foreign labor recruiter shall not  
3 knowingly provide materially false or misleading in-  
4 formation to any worker concerning any matter re-  
5 quired to be disclosed under this subtitle.

6           (3) REQUIRED DISCLOSURES.—The foreign  
7 labor recruiter shall ascertain and disclose to the  
8 worker in writing in English and in the primary lan-  
9 guage of the worker at the time of the worker’s re-  
10 cruitment, the following information:

11           (A) The identity and address of the em-  
12 ployer and the identity and address of the per-  
13 son conducting the recruiting on behalf of the  
14 employer, including each subcontractor or agent  
15 involved in such recruiting.

16           (B) A copy of the approved job order or  
17 work contract under section 218 of the Immi-  
18 gration and Nationality Act, including all assur-  
19 ances and terms and conditions of employment.

20           (C) A statement, in a form specified by the  
21 Secretary—

22           (i) describing the general terms and  
23 conditions associated with obtaining an H-  
24 2A visa and maintaining H-2A status;

1           (ii) affirming the prohibition on the  
2           assessment of fees described in paragraph  
3           (1), and explaining that such fees, if paid  
4           by the employer, may not be passed on to  
5           the worker;

6           (iii) describing the protections af-  
7           forded the worker under this subtitle, in-  
8           cluding procedures for reporting violations  
9           to the Secretary of State, filing a com-  
10          plaint with the Secretary of Labor, or fil-  
11          ing a civil action; and

12          (iv) describing the protections af-  
13          forded the worker by section 202 of the  
14          William Wilberforce Trafficking Victims  
15          Protection Reauthorization Act of 2008 (8  
16          U.S.C. 1375b), including the telephone  
17          number for the national human trafficking  
18          resource center hotline number.

19          (4) BOND.—The foreign labor recruiter shall  
20          agree to maintain a bond sufficient to ensure the  
21          ability of the foreign labor recruiter to discharge its  
22          responsibilities and ensure protection of workers,  
23          and to forfeit such bond in an amount determined  
24          by the Secretary under subsections (b)(1)(C)(ii) or

1 (c)(2)(C) of section 252 for failure to comply with  
2 the provisions of this subtitle.

3 (5) COOPERATION IN INVESTIGATION.—The  
4 foreign labor recruiter shall agree to cooperate in  
5 any investigation under section 252 of this subtitle  
6 by the Secretary or other appropriate authorities.

7 (6) NO RETALIATION.—The foreign labor re-  
8 cruiter shall agree to refrain from intimidating,  
9 threatening, restraining, coercing, discharging,  
10 blacklisting or in any other manner discriminating  
11 or retaliating against any worker or their family  
12 members (including a former worker or an applicant  
13 for employment) because such worker disclosed in-  
14 formation to any person based on a reason to believe  
15 that the foreign labor recruiter, or any agent or sub-  
16 contractee of such foreign labor recruiter, is engag-  
17 ing or has engaged in a foreign labor recruiting ac-  
18 tivity that does not comply with this subtitle.

19 (7) EMPLOYEES, AGENTS, AND  
20 SUBCONTRACTEES.—The foreign labor recruiter  
21 shall consent to be liable for the conduct of any  
22 agents or subcontractees of any level in relation to  
23 the foreign labor recruiting activity of the agent or  
24 subcontractee to the same extent as if the foreign  
25 labor recruiter had engaged in such conduct.

1           (8) ENFORCEMENT.—If the foreign labor re-  
2           cruiter is conducting foreign labor recruiting activity  
3           wholly outside the United States, such foreign labor  
4           recruiter shall establish a registered agent in the  
5           United States who is authorized to accept service of  
6           process on behalf of the foreign labor recruiter for  
7           the purpose of any administrative proceeding under  
8           this title or any Federal court civil action, if such  
9           service is made in accordance with the appropriate  
10          Federal rules for service of process.

11          (d) TERM OF REGISTRATION.—Unless suspended or  
12          revoked, a registration under this section shall be valid  
13          for 2 years.

14          (e) APPLICATION FEE.—The Secretary shall require  
15          a foreign labor recruiter that submits an application for  
16          registration under this section to pay a reasonable fee, suf-  
17          ficient to cover the full costs of carrying out the registra-  
18          tion activities under this subtitle.

19          (f) NOTIFICATION.—

20                  (1) EMPLOYER NOTIFICATION.—

21                          (A) IN GENERAL.—Not less frequently  
22                          than once every year, an employer of H-2A  
23                          workers shall provide the Secretary with the  
24                          names and addresses of all foreign labor re-  
25                          cruiters engaged to perform foreign labor re-

1           recruiting activity on behalf of the employer,  
2           whether the foreign labor recruiter is to receive  
3           any economic compensation for such services,  
4           and, if so, the identity of the person or entity  
5           who is paying for the services.

6           (B) AGREEMENT TO COOPERATE.—In ad-  
7           dition to the requirements of subparagraph (A),  
8           the employer shall—

9                   (i) provide to the Secretary the iden-  
10                  tity of any foreign labor recruiter whom  
11                  the employer has reason to believe is en-  
12                  gaging in foreign labor recruiting activities  
13                  that do not comply with this subtitle; and

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

19           (2) FOREIGN LABOR RECRUITER NOTIFICA-  
20           TION.—A registered foreign labor recruiter shall no-  
21           tify the Secretary, not less frequently than once  
22           every year, of the identity of any subcontractee,  
23           agent, or foreign labor recruiter employee involved in  
24           any foreign labor recruiting activity for, or on behalf  
25           of, the foreign labor recruiter.

1 (g) ADDITIONAL RESPONSIBILITIES OF THE SEC-  
2 RETARY OF STATE.—

3 (1) LISTS.—The Secretary of State, in con-  
4 sultation with the Secretary of Labor shall maintain  
5 and make publicly available in written form and on  
6 the websites of United States embassies in the offi-  
7 cial language of that country, and on websites main-  
8 tained by the Secretary of Labor, regularly updated  
9 lists—

10 (A) of foreign labor recruiters who hold  
11 valid registrations under this section, includ-  
12 ing—

13 (i) the name and address of the for-  
14 eign labor recruiter;

15 (ii) the countries in which such re-  
16 cruiters conduct recruitment;

17 (iii) the employers for whom recruit-  
18 ing is conducted;

19 (iv) the occupations that are the sub-  
20 ject of recruitment;

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

23 (vi) the name and address of the reg-  
24 istered agent in the United States who is

1 authorized to accept service of process on  
2 behalf of the foreign labor recruiter; and

3 (B) of foreign labor recruiters whose reg-  
4 istration the Secretary has revoked.

5 (2) PERSONNEL.—The Secretary of State shall  
6 ensure that each United States diplomatic mission is  
7 staffed with a person who shall be responsible for re-  
8 ceiving information from members of the public re-  
9 garding potential violations of the requirements ap-  
10 plicable to registered foreign labor recruiters and en-  
11 suring that such information is conveyed to the Sec-  
12 retary of Labor for evaluation and initiation of an  
13 enforcement action, if appropriate.

14 (3) VISA APPLICATION PROCEDURES.—The Sec-  
15 retary shall ensure that consular officers issuing  
16 visas to nonimmigrants under section  
17 101(a)(1)(H)(ii)(a) of the Immigration and Nation-  
18 ality Act (8 U.S.C. 11001(a)(1)(H)(ii)(a))—

19 (A) provide to and review with the appli-  
20 cant, in the applicant's language (or a language  
21 the applicant understands), a copy of the infor-  
22 mation and resources pamphlet required by sec-  
23 tion 202 of the William Wilberforce Trafficking  
24 Victims Protection Reauthorization Act of 2008  
25 (8 U.S.C. 1375b);



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

3 (C) note in the visa application file wheth-  
4 er the foreign labor recruiter has a valid reg-  
5 istration under this section; and

6 (D) if the foreign labor recruiter holds a  
7 valid registration, review and include in the visa  
8 application file, the foreign labor recruiter's dis-  
9 closures required by subsection (c)(3).

10 (4) DATA.—The Secretary of State shall make  
11 publicly available online, on an annual basis, data  
12 disclosing the gender, country of origin (and State,  
13 county, or province, if available), age, wage, level of  
14 training, and occupational classification,  
15 disaggregated by State, of nonimmigrant workers  
16 described in section 101(a)(15)(H)(ii)(a) of the Im-  
17 migration and Nationality Act.

18 **SEC. 252. ENFORCEMENT.**

19 (a) DENIAL OR REVOCATION OF REGISTRATION.—

20 (1) GROUNDS FOR DENIAL OR REVOCATION.—

21 The Secretary shall deny an application for registra-  
22 tion, or revoke a registration, if the Secretary deter-  
23 mines that the foreign labor recruiter, or any agent  
24 or subcontractee of such foreign labor recruiter—

1 (A) knowingly made a material misrepre-  
2 sentation in the registration application;

3 (B) materially failed to comply with one or  
4 more of the attestations provided under section  
5 251(c); or

6 (C) is not the real party in interest.

7 (2) NOTICE.—Prior to denying an application  
8 for registration or revoking a registration under this  
9 subsection, the Secretary shall provide written notice  
10 of the intent to deny or revoke the registration to  
11 the foreign labor recruiter. Such notice shall—

12 (A) articulate with specificity all grounds  
13 for denial or revocation; and

14 (B) provide the foreign labor recruiter with  
15 not less than 60 days to respond.

16 (3) RE-REGISTRATION.—A foreign labor re-  
17 cruiter whose registration was revoked under sub-  
18 section (a) may re-register if the foreign labor re-  
19 cruiter demonstrates to the Secretary's satisfaction  
20 that the foreign labor recruiter has not violated this  
21 subtitle in the 5 years preceding the date an applica-  
22 tion for registration is filed and has taken sufficient  
23 steps to prevent future violations of this subtitle.

24 (b) ADMINISTRATIVE ENFORCEMENT.—

25 (1) COMPLAINT PROCESS.—

1 (A) FILING.—A complaint may be filed  
2 with the Secretary of Labor, in accordance with  
3 the procedures established under section  
4 251(b)(4) not later than 2 years after the ear-  
5 lier of—

6 (i) the date of the last action which  
7 constituted the conduct that is the subject  
8 of the complaint took place; or

9 (ii) the date on which the aggrieved  
10 party had actual knowledge of such con-  
11 duct.

12 (B) DECISION AND PENALTIES.—If the  
13 Secretary of Labor finds, after notice and an  
14 opportunity for a hearing, that a foreign labor  
15 recruiter failed to comply with any of the re-  
16 quirements of this subtitle, the Secretary of  
17 Labor may—

18 (i) levy a fine against the foreign  
19 labor recruiter in an amount not more  
20 than—

21 (I) \$10,000 per violation; and

22 (II) \$25,000 per violation, upon  
23 the third violation;

24 (ii) order the forfeiture (or partial for-  
25 feiture) of the bond and release of as much

1 of the bond as the Secretary determines is  
2 necessary for the worker to recover prohib-  
3 ited recruitment fees;

4 (iii) refuse to issue or renew a reg-  
5 istration, or revoke a registration; or

6 (iv) disqualify the foreign labor re-  
7 cruiter from registration for a period of up  
8 to 5 years, or in the case of a subsequent  
9 finding involving willful or multiple mate-  
10 rial violations, permanently disqualify the  
11 foreign labor recruiter from registration.

12 (2) AUTHORITY TO ENSURE COMPLIANCE.—The  
13 Secretary of Labor is authorized to take other such  
14 actions, including issuing subpoenas and seeking ap-  
15 propriate injunctive relief, as may be necessary to  
16 assure compliance with the terms and conditions of  
17 this subtitle.

18 (3) STATUTORY CONSTRUCTION.—Nothing in  
19 this subsection may be construed as limiting the au-  
20 thority of the Secretary of Labor to conduct an in-  
21 vestigation—

22 (A) under any other law, including any law  
23 affecting migrant and seasonal agricultural  
24 workers; or

25 (B) in the absence of a complaint.

1 (c) CIVIL ACTION.—

2 (1) IN GENERAL.—The Secretary of Labor or  
3 any person aggrieved by a violation of this subtitle  
4 may bring a civil action against any foreign labor re-  
5 cruiter, or any employer that does not meet the re-  
6 quirements under subsection (d)(1), in any court of  
7 competent jurisdiction—

8 (A) to seek remedial action, including in-  
9 junctive relief; and

10 (B) for damages in accordance with the  
11 provisions of this subsection.

12 (2) AWARD FOR CIVIL ACTION FILED BY AN IN-  
13 DIVIDUAL.—

14 (A) IN GENERAL.—If the court finds in a  
15 civil action filed by an individual under this sec-  
16 tion that the defendant has violated any provi-  
17 sion of this subtitle, the court may award—

18 (i) damages, up to and including an  
19 amount equal to the amount of actual  
20 damages, and statutory damages of up to  
21 \$1,000 per plaintiff per violation, or other  
22 equitable relief, except that with respect to  
23 statutory damages—

24 (I) multiple infractions of a sin-  
25 gle provision of this subtitle (or of a

1 regulation under this subtitle) shall  
2 constitute only one violation for pur-  
3 poses of this subsection to determine  
4 the amount of statutory damages due  
5 a plaintiff; and

6 (II) if such complaint is certified  
7 as a class action the court may  
8 award—

9 (aa) damages up to an  
10 amount equal to the amount of  
11 actual damages; and

12 (bb) statutory damages of  
13 not more than the lesser of up to  
14 \$1,000 per class member per vio-  
15 lation, or up to \$500,000; and  
16 other equitable relief;

17 (ii) reasonable attorneys' fees and  
18 costs; and

19 (iii) such other and further relief as  
20 necessary to effectuate the purposes of this  
21 subtitle.

22 (B) CRITERIA.—In determining the  
23 amount of statutory damages to be awarded  
24 under subparagraph (A), the court is author-  
25 ized to consider whether an attempt was made

1 to resolve the issues in dispute before the resort  
2 to litigation.

3 (C) BOND.—To satisfy the damages, fees,  
4 and costs found owing under this paragraph,  
5 the Secretary shall release as much of the bond  
6 held pursuant to section 251(c)(4) as necessary.

7 (3) SUMS RECOVERED IN ACTIONS BY THE SEC-  
8 RETARY OF LABOR.—

9 (A) ESTABLISHMENT OF ACCOUNT.—

10 There is established in the general fund of the  
11 Treasury a separate account, which shall be  
12 known as the “H-2A Foreign Labor Recruiter  
13 Compensation Account”. Notwithstanding any  
14 other provisions of law, there shall be deposited  
15 as offsetting receipts into the account, all sums  
16 recovered in an action by the Secretary of  
17 Labor under this subsection.

18 (B) USE OF FUNDS.—Amounts deposited  
19 into the H-2A Foreign Labor Recruiter Com-  
20 pensation Account and shall be paid directly to  
21 each worker affected. Any such sums not paid  
22 to a worker because of inability to do so within  
23 a period of 5 years following the date such  
24 funds are deposited into the account shall re-  
25 main available to the Secretary until expended.

1           The Secretary may transfer all or a portion of  
2           such remaining sums to appropriate agencies to  
3           support the enforcement of the laws prohibiting  
4           the trafficking and exploitation of persons or  
5           programs that aid trafficking victims.

6           (d) EMPLOYER SAFE HARBOR.—

7           (1) IN GENERAL.—An employer that hires  
8           workers referred by a foreign labor recruiter with a  
9           valid registration at the time of hiring shall not be  
10          held jointly liable for a violation committed solely by  
11          a foreign labor recruiter under this subtitle—

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

14                   (B) in any Federal or State civil court ac-  
15                   tion filed against the foreign labor recruiter by  
16                   or on behalf of such workers or other aggrieved  
17                   party under this subtitle.

18          (2) CLARIFICATION.—Nothing in this subtitle  
19          shall be construed to prohibit an aggrieved party or  
20          parties from bringing a civil action for violations of  
21          this subtitle or any other Federal or State law  
22          against any employer who hired workers referred by  
23          a foreign labor recruiter—

24                   (A) without a valid registration at the time  
25                   of hire; or



1 (B) with a valid registration if the em-  
2 ployer knew or learned of the violation and  
3 failed to report such violation to the Secretary.

4 (e) PAROLE TO PURSUE RELIEF.—If other immigra-  
5 tion relief is not available, the Secretary of Homeland Se-  
6 curity may grant parole to permit an individual to remain  
7 legally in the United States for time sufficient to fully and  
8 effectively participate in all legal proceedings related to  
9 any action taken pursuant to subsection (b) or (c).

10 (f) WAIVER OF RIGHTS.—Agreements by employees  
11 purporting to waive or to modify their rights under this  
12 subtitle shall be void as contrary to public policy.

13 (g) LIABILITY FOR AGENTS.—Foreign labor recruit-  
14 ers shall be subject to the provisions of this section for  
15 violations committed by the foreign labor recruiter's  
16 agents or subcontractees of any level in relation to their  
17 foreign labor recruiting activity to the same extent as if  
18 the foreign labor recruiter had committed the violation.

19 **SEC. 253. APPROPRIATIONS.**

20 There is authorized to be appropriated such sums as  
21 may be necessary for the Secretary of Labor and Secretary  
22 of State to carry out the provisions of this subtitle.

23 **SEC. 254. DEFINITIONS.**

24 For purposes of this subtitle:

1           (1) FOREIGN LABOR RECRUITER.—The term  
2           “foreign labor recruiter” means any person who per-  
3           forms foreign labor recruiting activity in exchange  
4           for money or other valuable consideration paid or  
5           promised to be paid, to recruit individuals to work  
6           as nonimmigrant workers described in section  
7           101(a)(15)(H)(ii)(a) of the Immigration and Nation-  
8           ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), including  
9           any person who performs foreign labor recruiting ac-  
10          tivity wholly outside of the United States. Such term  
11          does not include any entity of the United States  
12          Government or an employer, or employee of an em-  
13          ployer, who engages in foreign labor recruiting activ-  
14          ity solely to find employees for that employer’s own  
15          use, and without the participation of any other for-  
16          eign labor recruiter.

17          (2) FOREIGN LABOR RECRUITING ACTIVITY.—  
18          The term “foreign labor recruiting activity” means  
19          recruiting, soliciting, or related activities with re-  
20          spect to an individual who resides outside of the  
21          United States in furtherance of employment in the  
22          United States, including when such activity occurs  
23          wholly outside of the United States.

24          (3) RECRUITMENT FEES.—The term “recruit-  
25          ment fees” has the meaning given to such term

1 under section 22.1702 of title 22 of the Code of  
2 Federal Regulations, as in effect on the date of en-  
3 actment of this Act.

4 (4) PERSON.—The term “person” means any  
5 natural person or any corporation, company, firm,  
6 partnership, joint stock company or association or  
7 other organization or entity (whether organized  
8 under law or not), including municipal corporations.

9 **TITLE III—ELECTRONIC**  
10 **VERIFICATION OF EMPLOY-**  
11 **MENT ELIGIBILITY**

12 **SEC. 301. ELECTRONIC EMPLOYMENT ELIGIBILITY**  
13 **VERIFICATION SYSTEM.**

14 (a) IN GENERAL.—Chapter 8 of title II of the Immi-  
15 gration and Nationality Act (8 U.S.C. 1321 et seq.) is  
16 amended by inserting after section 274D the following:

17 **“SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC**  
18 **VERIFICATION OF EMPLOYMENT ELIGI-**  
19 **BILITY.**

20 **“(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**  
21 **TEM.—**

22 **“(1) IN GENERAL.—**The Secretary of Homeland  
23 Security (referred to in this section as the ‘Sec-  
24 retary’) shall establish and administer an electronic  
25 verification system (referred to in this section as the

1       ‘System’), patterned on the E–Verify Program de-  
2       scribed in section 403(a) of the Illegal Immigration  
3       Reform and Immigrant Responsibility Act of 1996  
4       (8 U.S.C. 1324a note) (as in effect on the day be-  
5       fore the effective date described in section 303(a)(4)  
6       of the Farm Workforce Modernization Act of 2021),  
7       and using the employment eligibility confirmation  
8       system established under section 404 of such Act (8  
9       U.S.C. 1324a note) (as so in effect) as a foundation,  
10      through which the Secretary shall—

11               “(A) respond to inquiries made by persons  
12              or entities seeking to verify the identity and em-  
13              ployment authorization of individuals that such  
14              persons or entities seek to hire, or to recruit or  
15              refer for a fee, for employment in the United  
16              States; and

17               “(B) maintain records of the inquiries that  
18              were made, and of verifications provided (or not  
19              provided) to such persons or entities as evidence  
20              of compliance with the requirements of this sec-  
21              tion.

22               “(2) INITIAL RESPONSE DEADLINE.—The Sys-  
23              tem shall provide confirmation or a tentative non-  
24              confirmation of an individual’s identity and employ-

1       ment authorization as soon as practicable, but not  
2       later than 3 calendar days after the initial inquiry.

3           “(3) GENERAL DESIGN AND OPERATION OF  
4       SYSTEM.—The Secretary shall design and operate  
5       the System—

6           “(A) using responsive web design and  
7       other technologies to maximize its ease of use  
8       and accessibility for users on a variety of elec-  
9       tronic devices and screen sizes, and in remote  
10      locations;

11          “(B) to maximize the accuracy of re-  
12      sponses to inquiries submitted by persons or en-  
13      tities;

14          “(C) to maximize the reliability of the Sys-  
15      tem and to register each instance when the Sys-  
16      tem is unable to receive inquiries;

17          “(D) to protect the privacy and security of  
18      the personally identifiable information main-  
19      tained by or submitted to the System;

20          “(E) to provide direct notification of an in-  
21      quiry to an individual with respect to whom the  
22      inquiry is made, including the results of such  
23      inquiry, and information related to the process  
24      for challenging the results, in cases in which the  
25      individual has established a user account as de-

1           scribed in paragraph (4)(B) or an electronic  
2           mail address for the individual is submitted by  
3           the person or entity at the time the inquiry is  
4           made; and

5           “(F) to maintain appropriate administra-  
6           tive, technical, and physical safeguards to pre-  
7           vent misuse of the System and unfair immigra-  
8           tion-related employment practices.

9           “(4) MEASURES TO PREVENT IDENTITY THEFT  
10          AND OTHER FORMS OF FRAUD.—To prevent identity  
11          theft and other forms of fraud, the Secretary shall  
12          design and operate the System with the following at-  
13          tributes:

14                 “(A) PHOTO MATCHING TOOL.—The Sys-  
15                 tem shall display the digital photograph of the  
16                 individual, if any, that corresponds to the docu-  
17                 ment presented by an individual to establish  
18                 identity and employment authorization so that  
19                 the person or entity that makes an inquiry can  
20                 compare the photograph displayed by the Sys-  
21                 tem to the photograph on the document pre-  
22                 sented by the individual.

23                 “(B) INDIVIDUAL MONITORING AND SUS-  
24                 PENSION OF IDENTIFYING INFORMATION.—The  
25                 System shall enable individuals to establish user

1 accounts, after authentication of an individual's  
2 identity, that would allow an individual to—

3 “(i) confirm the individual's own em-  
4 ployment authorization;

5 “(ii) receive electronic notification  
6 when the individual's social security ac-  
7 count number or other personally identi-  
8 fying information has been submitted to  
9 the System;

10 “(iii) monitor the use history of the  
11 individual's personally identifying informa-  
12 tion in the System, including the identities  
13 of all persons or entities that have sub-  
14 mitted such identifying information to the  
15 System, the date of each query run, and  
16 the System response for each query run;

17 “(iv) suspend or limit the use of the  
18 individual's social security account number  
19 or other personally identifying information  
20 for purposes of the System; and

21 “(v) provide notice to the Department  
22 of Homeland Security of any suspected  
23 identity fraud or other improper use of  
24 personally identifying information.

1                   “(C) BLOCKING MISUSED SOCIAL SECUR-  
2                   RITY ACCOUNT NUMBERS.—

3                   “(i) IN GENERAL.—The Secretary, in  
4                   consultation with the Commissioner of So-  
5                   cial Security (referred to in this section as  
6                   the ‘Commissioner’), shall develop, after  
7                   publication in the Federal Register and an  
8                   opportunity for public comment, a process  
9                   in which social security account numbers  
10                  that have been identified to be subject to  
11                  unusual multiple use in the System or that  
12                  are otherwise suspected or determined to  
13                  have been compromised by identity fraud  
14                  or other misuse, shall be blocked from use  
15                  in the System unless the individual using  
16                  such number is able to establish, through  
17                  secure and fair procedures, that the indi-  
18                  vidual is the legitimate holder of the num-  
19                  ber.

20                  “(ii) NOTICE.—If the Secretary blocks  
21                  or suspends a social security account num-  
22                  ber under this subparagraph, the Secretary  
23                  shall provide notice to the persons or enti-  
24                  ties that have made inquiries to the Sys-  
25                  tem using such account number that the



1 identity and employment authorization of  
2 the individual who provided such account  
3 number must be re-verified.

4 “(D) ADDITIONAL IDENTITY AUTHENTICA-  
5 TION TOOL.—The Secretary shall develop, after  
6 publication in the Federal Register and an op-  
7 portunity for public comment, additional secu-  
8 rity measures to adequately verify the identity  
9 of an individual whose identity may not be  
10 verified using the photo tool described in sub-  
11 paragraph (A). Such additional security meas-  
12 ures—

13 “(i) shall be kept up-to-date with  
14 technological advances; and

15 “(ii) shall be designed to provide a  
16 high level of certainty with respect to iden-  
17 tity authentication.

18 “(E) CHILD-LOCK PILOT PROGRAM.—The  
19 Secretary, in consultation with the Commis-  
20 sioner, shall establish a reliable, secure program  
21 through which parents or legal guardians may  
22 suspend or limit the use of the social security  
23 account number or other personally identifying  
24 information of a minor under their care for  
25 purposes of the System. The Secretary may im-

1           plement the program on a limited pilot basis be-  
2           fore making it fully available to all individuals.

3           “(5) RESPONSIBILITIES OF THE COMMISSIONER  
4           OF SOCIAL SECURITY.—The Commissioner, in con-  
5           sultation with the Secretary, shall establish a reli-  
6           able, secure method, which, within the time periods  
7           specified in paragraph (2) and subsection  
8           (b)(4)(D)(i)(II), compares the name and social secu-  
9           rity account number provided in an inquiry against  
10          such information maintained by the Commissioner in  
11          order to validate (or not validate) the information  
12          provided by the person or entity with respect to an  
13          individual whose identity and employment authoriza-  
14          tion the person or entity seeks to confirm, the cor-  
15          respondence of the name and number, and whether  
16          the individual has presented a social security ac-  
17          count number that is not valid for employment. The  
18          Commissioner shall not disclose or release social se-  
19          curity information (other than such confirmation or  
20          nonconfirmation) under the System except as pro-  
21          vided under this section.

22          “(6) RESPONSIBILITIES OF THE SECRETARY OF  
23          HOMELAND SECURITY.—

24                 “(A) IN GENERAL.—The Secretary of  
25                 Homeland Security shall establish a reliable, se-

1 cure method, which, within the time periods  
2 specified in paragraph (2) and subsection  
3 (b)(4)(D)(i)(II), compares the name and identi-  
4 fication or other authorization number (or any  
5 other information determined relevant by the  
6 Secretary) which are provided in an inquiry  
7 against such information maintained or  
8 accessed by the Secretary in order to validate  
9 (or not validate) the information provided, the  
10 correspondence of the name and number, and  
11 whether the individual is authorized to be em-  
12 ployed in the United States.

13 “(B) TRAINING.—The Secretary shall pro-  
14 vide and regularly update training materials on  
15 the use of the System for persons and entities  
16 making inquiries.

17 “(C) AUDIT.—The Secretary shall provide  
18 for periodic auditing of the System to detect  
19 and prevent misuse, discrimination, fraud, and  
20 identity theft, to protect privacy and assess  
21 System accuracy, and to preserve the integrity  
22 and security of the information in the System.

23 “(D) NOTICE OF SYSTEM CHANGES.—The  
24 Secretary shall provide appropriate notification  
25 to persons and entities registered in the System

1           of any change made by the Secretary or the  
2           Commissioner related to permitted and prohib-  
3           ited documents, and use of the System.

4           “(7) RESPONSIBILITIES OF THE SECRETARY OF  
5           STATE.—As part of the System, the Secretary of  
6           State shall provide to the Secretary of Homeland Se-  
7           curity access to passport and visa information as  
8           needed to confirm that a passport or passport card  
9           presented under subsection (b)(3)(A)(i) confirms the  
10          employment authorization and identity of the indi-  
11          vidual presenting such document, and that a pass-  
12          port, passport card, or visa photograph matches the  
13          Secretary of State’s records, and shall provide such  
14          assistance as the Secretary of Homeland Security  
15          may request in order to resolve tentative noncon-  
16          firmations or final nonconfirmations relating to such  
17          information.

18          “(8) UPDATING INFORMATION.—The Commis-  
19          sioner, the Secretary of Homeland Security, and the  
20          Secretary of State shall update records in their cus-  
21          tody in a manner that promotes maximum accuracy  
22          of the System and shall provide a process for the  
23          prompt correction of erroneous information, includ-  
24          ing instances in which it is brought to their atten-

1           tion through the tentative nonconfirmation review  
2           process under subsection (b)(4)(D).

3           “(9) MANDATORY AND VOLUNTARY SYSTEM  
4           USES.—

5                   “(A) MANDATORY USERS.—Except as oth-  
6                   erwise provided under Federal or State law,  
7                   such as sections 302 and 303 of the Farm  
8                   Workforce Modernization Act of 2021, nothing  
9                   in this section shall be construed as requiring  
10                  the use of the System by any person or entity  
11                  hiring, recruiting, or referring for a fee, an in-  
12                  dividual for employment in the United States.

13                  “(B) VOLUNTARY USERS.—Beginning  
14                  after the date that is 30 days after the date on  
15                  which final rules are published under section  
16                  309(a) of the Farm Workforce Modernization  
17                  Act of 2021, a person or entity may use the  
18                  System on a voluntary basis to seek verification  
19                  of the identity and employment authorization of  
20                  individuals the person or entity is hiring, re-  
21                  cruiting, or referring for a fee for employment  
22                  in the United States.

23                  “(C) PROCESS FOR NON-USERS.—The em-  
24                  ployment verification process for any person or  
25                  entity hiring, recruiting, or referring for a fee,

1 an individual for employment in the United  
2 States shall be governed by section 274A(b) un-  
3 less the person or entity—

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

6 “(ii) has opted to use the System vol-  
7 untarily in accordance with subparagraph  
8 (B).

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

12 “(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—  
13 Notwithstanding section 274A(b), the requirements re-  
14 ferred to in paragraphs (1)(B) and (3) of section 274A(a)  
15 are, in the case of a person or entity that uses the System  
16 for the hiring, recruiting, or referring for a fee, an indi-  
17 vidual for employment in the United States, the following:

18 “(1) INDIVIDUAL ATTESTATION OF EMPLOY-  
19 MENT AUTHORIZATION.—During the period begin-  
20 ning on the date on which an offer of employment  
21 is accepted and ending on the date of hire, the indi-  
22 vidual shall attest, under penalty of perjury on a  
23 form designated by the Secretary, that the individual  
24 is authorized to be employed in the United States by  
25 providing on such form—

1           “(A) the individual’s name and date of  
2           birth;

3           “(B) the individual’s social security ac-  
4           count number (unless the individual has applied  
5           for and not yet been issued such a number);

6           “(C) whether the individual is—

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

9                   “(ii) an alien lawfully admitted for  
10                  permanent residence; or

11                  “(iii) an alien who is otherwise au-  
12                  thorized by the Secretary to be hired, re-  
13                  cruited, or referred for employment in the  
14                  United States; and

15           “(D) if the individual does not attest to  
16           United States citizenship or nationality, such  
17           identification or other authorization number es-  
18           tablished by the Department of Homeland Se-  
19           curity for the alien as the Secretary may speci-  
20           fy.

21           “(2) EMPLOYER ATTESTATION AFTER EXAM-  
22           INATION OF DOCUMENTS.—Not later than 3 busi-  
23           ness days after the date of hire, the person or entity  
24           shall attest, under penalty of perjury on the form  
25           designated by the Secretary for purposes of para-

1 graph (1), that it has verified that the individual is  
2 not an unauthorized alien by—

3 “(A) obtaining from the individual the in-  
4 formation described in paragraph (1) and re-  
5 cording such information on the form;

6 “(B) examining—

7 “(i) a document described in para-  
8 graph (3)(A); or

9 “(ii) a document described in para-  
10 graph (3)(B) and a document described in  
11 paragraph (3)(C); and

12 “(C) attesting that the information re-  
13 corded on the form is consistent with the docu-  
14 ments examined.

15 “(3) ACCEPTABLE DOCUMENTS.—

16 “(A) DOCUMENTS ESTABLISHING EMPLOY-  
17 MENT AUTHORIZATION AND IDENTITY.—A doc-  
18 ument described in this subparagraph is an in-  
19 dividual’s—

20 “(i) United States passport or pass-  
21 port card;

22 “(ii) permanent resident card that  
23 contains a photograph;

24 “(iii) foreign passport containing tem-  
25 porary evidence of lawful permanent resi-



1           dence in the form of an official I-551 (or  
2           successor) stamp from the Department of  
3           Homeland Security or a printed notation  
4           on a machine-readable immigrant visa;

5           “(iv) unexpired employment author-  
6           ization card that contains a photograph;

7           “(v) in the case of a nonimmigrant  
8           alien authorized to engage in employment  
9           for a specific employer incident to status,  
10          a foreign passport with Form I-94, Form  
11          I-94A, or other documentation as des-  
12          ignated by the Secretary specifying the  
13          alien’s nonimmigrant status as long as  
14          such status has not yet expired and the  
15          proposed employment is not in conflict  
16          with any restrictions or limitations identi-  
17          fied in the documentation;

18          “(vi) passport from the Federated  
19          States of Micronesia or the Republic of the  
20          Marshall Islands with Form I-94, Form I-  
21          94A, or other documentation as designated  
22          by the Secretary, indicating nonimmigrant  
23          admission under the Compact of Free As-  
24          sociation Between the United States and

1 the Federated States of Micronesia or the  
2 Republic of the Marshall Islands; or

3 “(vii) other document designated by  
4 the Secretary, by notice published in the  
5 Federal Register, if the document—

6 “(I) contains a photograph of the  
7 individual, biometric identification  
8 data, and other personal identifying  
9 information relating to the individual;

10 “(II) is evidence of authorization  
11 for employment in the United States;  
12 and

13 “(III) contains security features  
14 to make it resistant to tampering,  
15 counterfeiting, and fraudulent use.

16 “(B) DOCUMENTS ESTABLISHING EMPLOY-  
17 MENT AUTHORIZATION.—A document described  
18 in this subparagraph is—

19 “(i) an individual’s social security ac-  
20 count number card (other than such a card  
21 which specifies on the face that the  
22 issuance of the card does not authorize em-  
23 ployment in the United States); or

24 “(ii) a document establishing employ-  
25 ment authorization that the Secretary de-

1 termines, by notice published in the Fed-  
2 eral Register, to be acceptable for purposes  
3 of this subparagraph, provided that such  
4 documentation contains security features  
5 to make it resistant to tampering, counter-  
6 feiting, and fraudulent use.

7 “(C) DOCUMENTS ESTABLISHING IDEN-  
8 TITY.—A document described in this subpara-  
9 graph is—

10 “(i) an individual’s driver’s license or  
11 identification card if it was issued by a  
12 State or one of the outlying possessions of  
13 the United States and contains a photo-  
14 graph and personal identifying information  
15 relating to the individual;

16 “(ii) an individual’s unexpired United  
17 States military identification card;

18 “(iii) an individual’s unexpired Native  
19 American tribal identification document  
20 issued by a tribal entity recognized by the  
21 Bureau of Indian Affairs;

22 “(iv) in the case of an individual  
23 under 18 years of age, a parent or legal  
24 guardian’s attestation under penalty of law

1 as to the identity and age of the individual;  
2 or

3 “(v) a document establishing identity  
4 that the Secretary determines, by notice  
5 published in the Federal Register, to be ac-  
6 ceptable for purposes of this subparagraph,  
7 if such documentation contains a photo-  
8 graph of the individual, biometric identi-  
9 fication data, and other personal identi-  
10 fying information relating to the indi-  
11 vidual, and security features to make it re-  
12 sistant to tampering, counterfeiting, and  
13 fraudulent use.

14 “(D) AUTHORITY TO PROHIBIT USE OF  
15 CERTAIN DOCUMENTS.—If the Secretary finds  
16 that any document or class of documents de-  
17 scribed in subparagraph (A), (B), or (C) does  
18 not reliably establish identity or employment  
19 authorization or is being used fraudulently to  
20 an unacceptable degree, the Secretary may, by  
21 notice published in the Federal Register, pro-  
22 hibit or place conditions on the use of such doc-  
23 ument or class of documents for purposes of  
24 this section.

1           “(4) USE OF THE SYSTEM TO SCREEN IDEN-  
2           TITY AND EMPLOYMENT AUTHORIZATION.—

3           “(A) IN GENERAL.—In the case of a per-  
4           son or entity that uses the System for the hir-  
5           ing, recruiting, or referring for a fee an indi-  
6           vidual for employment in the United States,  
7           during the period described in subparagraph  
8           (B), the person or entity shall submit an in-  
9           quiry through the System described in sub-  
10          section (a) to seek verification of the identity  
11          and employment authorization of the individual.

12          “(B) VERIFICATION PERIOD.—

13                 “(i) IN GENERAL.—Except as pro-  
14                 vided in clause (ii), and subject to sub-  
15                 section (d), the verification period shall  
16                 begin on the date of hire and end on the  
17                 date that is 3 business days after the date  
18                 of hire, or such other reasonable period as  
19                 the Secretary may prescribe.

20                 “(ii) SPECIAL RULE.—In the case of  
21                 an alien who is authorized to be employed  
22                 in the United States and who provides evi-  
23                 dence from the Social Security Administra-  
24                 tion that the alien has applied for a social  
25                 security account number, the verification

1 period shall end 3 business days after the  
2 alien receives the social security account  
3 number.

4 “(C) CONFIRMATION.—If a person or enti-  
5 ty receives confirmation of an individual’s iden-  
6 tity and employment authorization, the person  
7 or entity shall record such confirmation on the  
8 form designated by the Secretary for purposes  
9 of paragraph (1).

10 “(D) TENTATIVE NONCONFIRMATION.—

11 “(i) IN GENERAL.—In cases of ten-  
12 tative nonconfirmation, the Secretary shall  
13 provide, in consultation with the Commis-  
14 sioner, a process for—

15 “(I) an individual to contest the  
16 tentative nonconfirmation not later  
17 than 10 business days after the date  
18 of the receipt of the notice described  
19 in clause (ii); and

20 “(II) the Secretary to issue a  
21 confirmation or final nonconfirmation  
22 of an individual’s identity and employ-  
23 ment authorization not later than 30  
24 calendar days after the Secretary re-

1 ceives notice from the individual con-  
2 testing a tentative nonconfirmation.

3 “(ii) NOTICE.—If a person or entity  
4 receives a tentative nonconfirmation of an  
5 individual’s identity or employment author-  
6 ization, the person or entity shall, not later  
7 than 3 business days after receipt, notify  
8 such individual in writing in a language  
9 understood by the individual and on a form  
10 designated by the Secretary, that shall in-  
11 clude a description of the individual’s right  
12 to contest the tentative nonconfirmation.  
13 The person or entity shall attest, under  
14 penalty of perjury, that the person or enti-  
15 ty provided (or attempted to provide) such  
16 notice to the individual, and the individual  
17 shall acknowledge receipt of such notice in  
18 a manner specified by the Secretary.

19 “(iii) NO CONTEST.—

20 “(I) IN GENERAL.—A tentative  
21 nonconfirmation shall become final if,  
22 upon receiving the notice described in  
23 clause (ii), the individual—

24 “(aa) refuses to acknowledge  
25 receipt of such notice;

1                   “(bb) acknowledges in writ-  
2                   ing, in a manner specified by the  
3                   Secretary, that the individual will  
4                   not contest the tentative noncon-  
5                   firmation; or

6                   “(cc) fails to contest the  
7                   tentative nonconfirmation within  
8                   the 10-business-day period begin-  
9                   ning on the date the individual  
10                  received such notice.

11                  “(II) RECORD OF NO CON-  
12                  TEST.—The person or entity shall in-  
13                  dicate in the System that the indi-  
14                  vidual did not contest the tentative  
15                  nonconfirmation and shall specify the  
16                  reason the tentative nonconfirmation  
17                  became final under subclause (I).

18                  “(III) EFFECT OF FAILURE TO  
19                  CONTEST.—An individual’s failure to  
20                  contest a tentative nonconfirmation  
21                  shall not be considered an admission  
22                  of any fact with respect to any viola-  
23                  tion of this Act or any other provision  
24                  of law.

25                  “(iv) CONTEST.—



1                   “(I) IN GENERAL.—An individual  
2                   may contest a tentative nonconfirma-  
3                   tion by using the tentative noncon-  
4                   firmation review process under clause  
5                   (i), not later than 10 business days  
6                   after receiving the notice described in  
7                   clause (ii). Except as provided in  
8                   clause (iii), the nonconfirmation shall  
9                   remain tentative until a confirmation  
10                  or final nonconfirmation is provided  
11                  by the System.

12                  “(II) PROHIBITION ON TERMI-  
13                  NATION.—In no case shall a person or  
14                  entity terminate employment or take  
15                  any adverse employment action  
16                  against an individual for failure to ob-  
17                  tain confirmation of the individual’s  
18                  identity and employment authoriza-  
19                  tion until the person or entity receives  
20                  a notice of final nonconfirmation from  
21                  the System. Nothing in this subclause  
22                  shall prohibit an employer from termi-  
23                  nating the employment of the indi-  
24                  vidual for any other lawful reason.

1                   “(III) CONFIRMATION OR FINAL  
2                   NONCONFIRMATION.—The Secretary,  
3                   in consultation with the Commis-  
4                   sioner, shall issue notice of a con-  
5                   firmation or final nonconfirmation of  
6                   the individual’s identity and employ-  
7                   ment authorization not later than 30  
8                   calendar days after the date the Sec-  
9                   retary receives notice from the indi-  
10                  vidual contesting the tentative non-  
11                  confirmation.

12                  “(E) FINAL NONCONFIRMATION.—

13                  “(i) NOTICE.—If a person or entity  
14                  receives a final nonconfirmation of an indi-  
15                  vidual’s identity or employment authoriza-  
16                  tion, the person or entity shall, not later  
17                  than 3 business days after receipt, notify  
18                  such individual of the final nonconfirma-  
19                  tion in writing, on a form designated by  
20                  the Secretary, which shall include informa-  
21                  tion regarding the individual’s right to ap-  
22                  peal the final nonconfirmation as provided  
23                  under subparagraph (F). The person or  
24                  entity shall attest, under penalty of per-  
25                  jury, that the person or entity provided (or

1           attempted to provide) the notice to the in-  
2           dividual, and the individual shall acknowl-  
3           edge receipt of such notice in a manner  
4           designated by the Secretary.

5           “(ii) TERMINATION OR NOTIFICATION  
6           OF CONTINUED EMPLOYMENT.—If a per-  
7           son or entity receives a final nonconfirma-  
8           tion regarding an individual, the person or  
9           entity may terminate employment of the  
10          individual. If the person or entity does not  
11          terminate such employment pending appeal  
12          of the final nonconfirmation, the person or  
13          entity shall notify the Secretary of such  
14          fact through the System. Failure to notify  
15          the Secretary in accordance with this  
16          clause shall be deemed a violation of sec-  
17          tion 274A(a)(1)(A).

18          “(iii) PRESUMPTION OF VIOLATION  
19          FOR CONTINUED EMPLOYMENT.—If a per-  
20          son or entity continues to employ an indi-  
21          vidual after receipt of a final nonconfirma-  
22          tion, there shall be a rebuttable presump-  
23          tion that the person or entity has violated  
24          paragraphs (1)(A) and (a)(2) of section  
25          274A(a).

1                   “(F) APPEAL OF FINAL NONCONFIRMA-  
2                   TION.—

3                   “(i) ADMINISTRATIVE APPEAL.—The  
4                   Secretary, in consultation with the Com-  
5                   missioner, shall develop a process by which  
6                   an individual may seek administrative re-  
7                   view of a final nonconfirmation. Such proc-  
8                   ess shall—

9                   “(I) permit the individual to sub-  
10                  mit additional evidence establishing  
11                  identity or employment authorization;

12                  “(II) ensure prompt resolution of  
13                  an appeal (but in no event shall there  
14                  be a failure to respond to an appeal  
15                  within 30 days); and

16                  “(III) permit the Secretary to  
17                  impose a civil money penalty (not to  
18                  exceed \$500) on an individual upon  
19                  finding that an appeal was frivolous  
20                  or filed for purposes of delay.

21                  “(ii) COMPENSATION FOR LOST  
22                  WAGES RESULTING FROM GOVERNMENT  
23                  ERROR OR OMISSION.—

24                  “(I) IN GENERAL.—If, upon con-  
25                  sideration of an appeal of a final non-

1 confirmation, the Secretary deter-  
2 mines that the final nonconfirmation  
3 was issued in error, the Secretary  
4 shall further determine whether the  
5 final nonconfirmation was the result  
6 of government error or omission. If  
7 the Secretary determines that the  
8 final nonconfirmation was solely the  
9 result of government error or omission  
10 and the individual was terminated  
11 from employment, the Secretary shall  
12 compensate the individual for lost  
13 wages.

14 “(II) CALCULATION OF LOST  
15 WAGES.—Lost wages shall be cal-  
16 culated based on the wage rate and  
17 work schedule that were in effect  
18 prior to the individual’s termination.  
19 The individual shall be compensated  
20 for lost wages beginning on the first  
21 scheduled work day after employment  
22 was terminated and ending 90 days  
23 after completion of the administrative  
24 review process described in this sub-  
25 paragraph or the day the individual is

1 reinstated or obtains other employ-  
2 ment, whichever occurs first.

3 “(III) LIMITATION ON COM-  
4 PENSATION.—No compensation for  
5 lost wages shall be awarded for any  
6 period during which the individual  
7 was not authorized for employment in  
8 the United States.

9 “(IV) SOURCE OF FUNDS.—  
10 There is established in the general  
11 fund of the Treasury, a separate ac-  
12 count which shall be known as the  
13 ‘Electronic Verification Compensation  
14 Account’. Fees collected under sub-  
15 sections (f) and (g) shall be deposited  
16 in the Electronic Verification Com-  
17 pensation Account and shall remain  
18 available for purposes of providing  
19 compensation for lost wages under  
20 this subclause.

21 “(iii) JUDICIAL REVIEW.—Not later  
22 than 30 days after the dismissal of an ap-  
23 peal under this subparagraph, an indi-  
24 vidual may seek judicial review of such dis-  
25 missal in the United States District Court

1           in the jurisdiction in which the employer  
2           resides or conducts business.

3           “(5) RETENTION OF VERIFICATION RECORDS.—

4           “(A) IN GENERAL.—After completing the  
5           form designated by the Secretary in accordance  
6           with paragraphs (1) and (2), the person or enti-  
7           ty shall retain the form in paper, microfiche,  
8           microfilm, electronic, or other format deemed  
9           acceptable by the Secretary, and make it avail-  
10          able for inspection by officers of the Depart-  
11          ment of Homeland Security, the Department of  
12          Justice, or the Department of Labor during the  
13          period beginning on the date the verification is  
14          completed and ending on the later of—

15                 “(i) the date that is 3 years after the  
16                 date of hire; or

17                 “(ii) the date that is 1 year after the  
18                 date on which the individual’s employment  
19                 is terminated.

20           “(B) COPYING OF DOCUMENTATION PER-  
21          MITTED.—Notwithstanding any other provision  
22          of law, a person or entity may copy a document  
23          presented by an individual pursuant to this sec-  
24          tion and may retain the copy, but only for the

1           purpose of complying with the requirements of  
2           this section.

3           “(c) REVERIFICATION OF PREVIOUSLY HIRED INDI-  
4           VIDUALS.—

5           “(1) MANDATORY REVERIFICATION.—In the  
6           case of a person or entity that uses the System for  
7           the hiring, recruiting, or referring for a fee an indi-  
8           vidual for employment in the United States, the per-  
9           son or entity shall submit an inquiry using the Sys-  
10          tem to verify the identity and employment authoriza-  
11          tion of—

12                   “(A) an individual with a limited period of  
13                   employment authorization, within 3 business  
14                   days before the date on which such employment  
15                   authorization expires; and

16                   “(B) an individual, not later than 10 days  
17                   after receiving a notification from the Secretary  
18                   requiring the verification of such individual pur-  
19                   suant to subsection (a)(4)(C).

20           “(2) REVERIFICATION PROCEDURES.—The  
21           verification procedures under subsection (b) shall  
22           apply to reverifications under this subsection, except  
23           that employers shall—

24                   “(A) use a form designated by the Sec-  
25                   retary for purposes of this paragraph; and



1           “(B) retain the form in paper, microfiche,  
2           microfilm, electronic, or other format deemed  
3           acceptable by the Secretary, and make it avail-  
4           able for inspection by officers of the Depart-  
5           ment of Homeland Security, the Department of  
6           Justice, or the Department of Labor during the  
7           period beginning on the date the reverification  
8           commences and ending on the later of—

9                   “(i) the date that is 3 years after the  
10                   date of reverification; or

11                   “(ii) the date that is 1 year after the  
12                   date on which the individual’s employment  
13                   is terminated.

14           “(3) LIMITATION ON REVERIFICATION.—Except  
15           as provided in paragraph (1), a person or entity may  
16           not otherwise reverify the identity and employment  
17           authorization of a current employee, including an  
18           employee continuing in employment.

19           “(d) GOOD FAITH COMPLIANCE.—

20                   “(1) IN GENERAL.—Except as otherwise pro-  
21                   vided in this subsection, a person or entity that uses  
22                   the System is considered to have complied with the  
23                   requirements of this section notwithstanding a tech-  
24                   nical failure of the System, or other technical or pro-  
25                   cedural failure to meet such requirement if there

1 was a good faith attempt to comply with the require-  
2 ment.

3 “(2) EXCEPTION FOR FAILURE TO CORRECT  
4 AFTER NOTICE.—Paragraph (1) shall not apply if—

5 “(A) the failure is not de minimis;

6 “(B) the Secretary has provided notice to  
7 the person or entity of the failure, including an  
8 explanation as to why it is not de minimis;

9 “(C) the person or entity has been pro-  
10 vided a period of not less than 30 days (begin-  
11 ning after the date of the notice) to correct the  
12 failure; and

13 “(D) the person or entity has not corrected  
14 the failure voluntarily within such period.

15 “(3) EXCEPTION FOR PATTERN OR PRACTICE  
16 VIOLATORS.—Paragraph (1) shall not apply to a  
17 person or entity that has engaged or is engaging in  
18 a pattern or practice of violations of paragraph  
19 (1)(A) or (2) of section 274A(a).

20 “(4) DEFENSE.—In the case of a person or en-  
21 tity that uses the System for the hiring, recruiting,  
22 or referring for a fee an individual for employment  
23 in the United States, the person or entity shall not  
24 be liable to a job applicant, an employee, the Federal  
25 Government, or a State or local government, under

1 Federal, State, or local criminal or civil law, for any  
2 employment-related action taken with respect to an  
3 employee in good-faith reliance on information pro-  
4 vided by the System. Such person or entity shall be  
5 deemed to have established compliance with its obli-  
6 gations under this section, absent a showing by the  
7 Secretary, by clear and convincing evidence, that the  
8 employer had knowledge that an employee is an un-  
9 authorized alien.

10 “(e) LIMITATIONS.—

11 “(1) NO NATIONAL IDENTIFICATION CARD.—  
12 Nothing in this section shall be construed to author-  
13 ize, directly or indirectly, the issuance or use of na-  
14 tional identification cards or the establishment of a  
15 national identification card.

16 “(2) USE OF RECORDS.—Notwithstanding any  
17 other provision of law, nothing in this section shall  
18 be construed to permit or allow any department, bu-  
19 reau, or other agency of the United States Govern-  
20 ment to utilize any information, database, or other  
21 records assembled under this section for any purpose  
22 other than the verification of identity and employ-  
23 ment authorization of an individual or to ensure the  
24 secure, appropriate, and non-discriminatory use of  
25 the System.

1 “(f) PENALTIES.—

2 “(1) IN GENERAL.—Except as provided in this  
3 subsection, the provisions of subsections (e) through  
4 (g) of section 274A shall apply with respect to com-  
5 pliance with the provisions of this section and pen-  
6 alties for non-compliance for persons or entities that  
7 use the System.

8 “(2) CEASE AND DESIST ORDER WITH CIVIL  
9 MONEY PENALTIES FOR HIRING, RECRUITING, AND  
10 REFERRAL VIOLATIONS.—Notwithstanding the civil  
11 money penalties set forth in section 274A(e)(4), with  
12 respect to a violation of paragraph (1)(A) or (2) of  
13 section 274A(a) by a person or entity that has hired,  
14 recruited, or referred for a fee, an individual for em-  
15 ployment in the United States, a cease and desist  
16 order—

17 “(A) shall require the person or entity to  
18 pay a civil penalty in an amount, subject to  
19 subsection (d), of—

20 “(i) not less than \$2,500 and not  
21 more than \$5,000 for each unauthorized  
22 alien with respect to whom a violation of  
23 either such subsection occurred;

24 “(ii) not less than \$5,000 and not  
25 more than \$10,000 for each such alien in

1           the case of a person or entity previously  
2           subject to one order under this paragraph;  
3           or

4           “(iii) not less than \$10,000 and not  
5           more than \$25,000 for each such alien in  
6           the case of a person or entity previously  
7           subject to more than one order under this  
8           paragraph; and

9           “(B) may require the person or entity to  
10          take such other remedial action as appropriate.

11          “(3) ORDER FOR CIVIL MONEY PENALTY FOR  
12          VIOLATIONS.—With respect to a violation of section  
13          274A(a)(1)(B), the order under this paragraph shall  
14          require the person or entity to pay a civil penalty in  
15          an amount, subject to paragraphs (4), (5), and (6),  
16          of not less than \$1,000 and not more than \$25,000  
17          for each individual with respect to whom such viola-  
18          tion occurred. Failure by a person or entity to utilize  
19          the System as required by law or providing informa-  
20          tion to the System that the person or entity knows  
21          or reasonably believes to be false, shall be treated as  
22          a violation of section 274A(a)(1)(A).

23          “(4) EXEMPTION FROM PENALTY FOR GOOD  
24          FAITH VIOLATION.—

1           “(A) IN GENERAL.—A person or entity  
2           that uses the System is presumed to have acted  
3           with knowledge for purposes of paragraphs  
4           (1)(A) and (2) of section 274A(a) if the person  
5           or entity fails to make an inquiry to verify the  
6           identity and employment authorization of the  
7           individual through the System.

8           “(B) GOOD FAITH EXEMPTION.—In the  
9           case of imposition of a civil penalty under para-  
10          graph (2)(A) with respect to a violation of para-  
11          graph (1)(A) or (2) of section 274A(a) for hir-  
12          ing or continuation of employment or recruit-  
13          ment or referral by a person or entity, and in  
14          the case of imposition of a civil penalty under  
15          paragraph (3) for a violation of section  
16          274A(a)(1)(B) for hiring or recruitment or re-  
17          ferral by a person or entity, the penalty other-  
18          wise imposed may be waived or reduced if the  
19          person or entity establishes that the person or  
20          entity acted in good faith.

21          “(5) MITIGATION ELEMENTS.—For purposes of  
22          paragraphs (2)(A) and (3), when assessing the level  
23          of civil money penalties, in addition to the good faith  
24          of the person or entity being charged, due consider-  
25          ation shall be given to the size of the business, the

1       seriousness of the violation, whether or not the indi-  
2       vidual was an unauthorized alien, and the history of  
3       previous violations.

4           “(6) CRIMINAL PENALTY.—Notwithstanding  
5       section 274A(f)(1) and the provisions of any other  
6       Federal law relating to fine levels, any person or en-  
7       tity that is required to comply with the provisions of  
8       this section and that engages in a pattern or prac-  
9       tice of violations of paragraph (1) or (2) of section  
10      274A(a), shall be fined not more than \$5,000 for  
11      each unauthorized alien with respect to whom such  
12      a violation occurs, imprisoned for not more than 18  
13      months, or both.

14          “(7) ELECTRONIC VERIFICATION COMPENSA-  
15      TION ACCOUNT.—Civil money penalties collected  
16      under this subsection shall be deposited in the Elec-  
17      tronic Verification Compensation Account for the  
18      purpose of compensating individuals for lost wages  
19      as a result of a final nonconfirmation issued by the  
20      System that was based on government error or omis-  
21      sion, as set forth in subsection (b)(4)(F)(ii)(IV).

22          “(8) DEBARMENT.—

23           “(A) IN GENERAL.—If a person or entity  
24      is determined by the Secretary to be a repeat  
25      violation of paragraph (1)(A) or (2) of section

1           274A(a) or is convicted of a crime under sec-  
2           tion 274A, such person or entity may be consid-  
3           ered for debarment from the receipt of Federal  
4           contracts, grants, or cooperative agreements in  
5           accordance with the debarment standards and  
6           pursuant to the debarment procedures set forth  
7           in the Federal Acquisition Regulation.

8           “(B) NO CONTRACT, GRANT, AGREE-  
9           MENT.—If the Secretary or the Attorney Gen-  
10          eral wishes to have a person or entity consid-  
11          ered for debarment in accordance with this  
12          paragraph, and such a person or entity does not  
13          hold a Federal contract, grant or cooperative  
14          agreement, the Secretary or Attorney General  
15          shall refer the matter to the Administrator of  
16          General Services to determine whether to list  
17          the person or entity on the List of Parties Ex-  
18          cluded from Federal Procurement, and if so, for  
19          what duration and under what scope.

20          “(C) CONTRACT, GRANT, AGREEMENT.—If  
21          the Secretary or the Attorney General wishes to  
22          have a person or entity considered for debar-  
23          ment in accordance with this paragraph, and  
24          such person or entity holds a Federal contract,  
25          grant, or cooperative agreement, the Secretary



1 or Attorney General shall advise all agencies or  
2 departments holding a contract, grant, or coop-  
3 erative agreement with the person or entity of  
4 the Government's interest in having the person  
5 or entity considered for debarment, and after  
6 soliciting and considering the views of all such  
7 agencies and departments, the Secretary or At-  
8 torney General may refer the matter to the ap-  
9 propriate lead agency to determine whether to  
10 list the person or entity on the List of Parties  
11 Excluded from Federal Procurement, and if so,  
12 for what duration and under what scope.

13 “(D) REVIEW.—Any decision to debar a  
14 person or entity in accordance with this sub-  
15 section shall be reviewable pursuant to part 9.4  
16 of the Federal Acquisition Regulation.

17 “(9) PREEMPTION.—The provisions of this sec-  
18 tion preempt any State or local law, ordinance, pol-  
19 icy, or rule, including any criminal or civil fine or  
20 penalty structure, relating to the hiring, continued  
21 employment, or status verification for employment  
22 eligibility purposes, of unauthorized aliens, except  
23 that a State, locality, municipality, or political sub-  
24 division may exercise its authority over business li-

1 censing and similar laws as a penalty for failure to  
2 use the System as required under this section.

3 “(g) UNFAIR IMMIGRATION-RELATED EMPLOYMENT  
4 PRACTICES AND THE SYSTEM.—

5 “(1) IN GENERAL.—In addition to the prohibi-  
6 tions on discrimination set forth in section 274B, it  
7 is an unfair immigration-related employment prac-  
8 tice for a person or entity, in the course of utilizing  
9 the System—

10 “(A) to use the System for screening an  
11 applicant prior to the date of hire;

12 “(B) to terminate the employment of an  
13 individual or take any adverse employment ac-  
14 tion with respect to that individual due to a  
15 tentative nonconfirmation issued by the System;

16 “(C) to use the System to screen any indi-  
17 vidual for any purpose other than confirmation  
18 of identity and employment authorization as  
19 provided in this section;

20 “(D) to use the System to verify the iden-  
21 tity and employment authorization of a current  
22 employee, including an employee continuing in  
23 employment, other than reverification author-  
24 ized under subsection (e);

1           “(E) to use the System to discriminate  
2 based on national origin or citizenship status;

3           “(F) to willfully fail to provide an indi-  
4 vidual with any notice required under this title;

5           “(G) to require an individual to make an  
6 inquiry under the self-verification procedures  
7 described in subsection (a)(4)(B) or to provide  
8 the results of such an inquiry as a condition of  
9 employment, or hiring, recruiting, or referring;  
10 or

11           “(H) to terminate the employment of an  
12 individual or take any adverse employment ac-  
13 tion with respect to that individual based upon  
14 the need to verify the identity and employment  
15 authorization of the individual as required by  
16 subsection (b).

17           “(2) PREEMPLOYMENT SCREENING AND BACK-  
18 GROUND CHECK.—Nothing in paragraph (1)(A)  
19 shall be construed to preclude a preemployment  
20 screening or background check that is required or  
21 permitted under any other provision of law.

22           “(3) CIVIL MONEY PENALTIES FOR DISCRIMINA-  
23 TORY CONDUCT.—Notwithstanding section  
24 274B(g)(2)(B)(iv), the penalties that may be im-  
25 posed by an administrative law judge with respect to

1 a finding that a person or entity has engaged in an  
2 unfair immigration-related employment practice de-  
3 scribed in paragraph (1) are—

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

7 “(B) in the case of a person or entity pre-  
8 viously subject to a single order under this  
9 paragraph, not less than \$4,000 and not more  
10 than \$10,000 for each individual discriminated  
11 against; and

12 “(C) in the case of a person or entity pre-  
13 viously subject to more than one order under  
14 this paragraph, not less than \$6,000 and not  
15 more than \$20,000 for each individual discrimi-  
16 nated against.

17 “(4) ELECTRONIC VERIFICATION COMPENSA-  
18 TION ACCOUNT.—Civil money penalties collected  
19 under this subsection shall be deposited in the Elec-  
20 tronic Verification Compensation Account for the  
21 purpose of compensating individuals for lost wages  
22 as a result of a final nonconfirmation issued by the  
23 System that was based on government error or omis-  
24 sion, as set forth in subsection (b)(4)(F)(ii)(IV).

1       “(h) CLARIFICATION.—All rights and remedies pro-  
2 vided under any Federal, State, or local law relating to  
3 workplace rights, including but not limited to back pay,  
4 are available to an employee despite—

5           “(1) the employee’s status as an unauthorized  
6 alien during or after the period of employment; or

7           “(2) the employer’s or employee’s failure to  
8 comply with the requirements of this section.

9       “(i) DEFINITION.—In this section, the term ‘date of  
10 hire’ means the date on which employment for pay or  
11 other remuneration commences.”.

12       (b) CONFORMING AMENDMENT.—The table of con-  
13 tents for the Immigration and Nationality Act is amended  
14 by inserting after the item relating to section 274D the  
15 following:

“Sec. 274E. Requirements for the electronic verification of employment eligi-  
bility.”.

16 **SEC. 302. MANDATORY ELECTRONIC VERIFICATION FOR**  
17 **THE AGRICULTURAL INDUSTRY.**

18       (a) IN GENERAL.—The requirements for the elec-  
19 tronic verification of identity and employment authoriza-  
20 tion described in section 274E of the Immigration and Na-  
21 tionality Act, as inserted by section 301 of this Act, shall  
22 apply to a person or entity hiring, recruiting, or referring  
23 for a fee an individual for agricultural employment in the

1 United States in accordance with the effective dates set  
2 forth in subsection (b).

3 (b) EFFECTIVE DATES.—

4 (1) HIRING.—Subsection (a) shall apply to a  
5 person or entity hiring an individual for agricultural  
6 employment in the United States as follows:

7 (A) With respect to employers having 500  
8 or more employees in the United States on the  
9 date of the enactment of this Act, on the date  
10 that is 6 months after completion of the appli-  
11 cation period described in section 101(c).

12 (B) With respect to employers having 100  
13 or more employees in the United States (but  
14 less than 500 such employees) on the date of  
15 the enactment of this Act, on the date that is  
16 9 months after completion of the application pe-  
17 riod described in section 101(c).

18 (C) With respect to employers having 20  
19 or more employees in the United States (but  
20 less than 100 such employees) on the date of  
21 the enactment of this Act, on the date that is  
22 12 months after completion of the application  
23 period described in section 101(c).

24 (D) With respect to employers having one  
25 or more employees in the United States, (but

1 less than 20 such employees) on the date of the  
2 enactment of this Act, on the date that is 15  
3 months after completion of the application pe-  
4 riod described in section 101(c).

5 (2) RECRUITING AND REFERRING FOR A FEE.—  
6 Subsection (a) shall apply to a person or entity re-  
7 cruiting or referring for a fee an individual for agri-  
8 cultural employment in the United States on the  
9 date that is 12 months after completion of the appli-  
10 cation period described in section 101(c).

11 (3) TRANSITION RULE.—Except as required  
12 under subtitle A of title IV of the Illegal Immigra-  
13 tion Reform and Immigrant Responsibility Act of  
14 1996 (8 U.S.C. 1324a note) (as in effect on the day  
15 before the effective date described in section  
16 303(a)(4)), Executive Order No. 13465 (8 U.S.C.  
17 1324a note; relating to Government procurement),  
18 or any State law requiring persons or entities to use  
19 the E-Verify Program described in section 403(a) of  
20 the Illegal Immigration Reform and Immigrant Re-  
21 sponsibility Act of 1996 (8 U.S.C. 1324a note) (as  
22 in effect on the day before the effective date de-  
23 scribed in section 303(a)(4)), sections 274A and  
24 274B of the Immigration and Nationality Act (8  
25 U.S.C. 1324a and 1324b) shall apply to a person or

1       entity hiring, recruiting, or referring an individual  
2       for employment in the United States until the appli-  
3       cable effective date under this subsection.

4           (4) E-VERIFY VOLUNTARY USERS AND OTHERS  
5       DESIRING EARLY COMPLIANCE.—Nothing in this  
6       subsection shall be construed to prohibit persons or  
7       entities, including persons or entities that have vol-  
8       untarily elected to participate in the E-Verify Pro-  
9       gram described in section 403(a) of the Illegal Im-  
10      migration Reform and Immigrant Responsibility Act  
11      of 1996 (8 U.S.C. 1324a note) (as in effect on the  
12      day before the effective date described in section  
13      303(a)(4)), from seeking early compliance on a vol-  
14      untary basis.

15      (c) RURAL ACCESS TO ASSISTANCE FOR TENTATIVE  
16      NONCONFIRMATION REVIEW PROCESS.—

17           (1) IN GENERAL.—The Secretary of Homeland  
18      Security shall coordinate with the Secretary of Agri-  
19      culture, in consultation with the Commissioner of  
20      Social Security, to create a process for individuals to  
21      seek assistance in contesting a tentative noncon-  
22      firmation as described in section 274E(b)(4)(D) of  
23      the Immigration and Nationality Act, as inserted by  
24      section 301 of this Act, at local offices or service  
25      centers of the U.S. Department of Agriculture.



1           (2) STAFFING AND RESOURCES.—The Sec-  
2       retary of Homeland Security and Secretary of Agri-  
3       culture shall ensure that local offices and service  
4       centers of the U.S. Department of Agriculture are  
5       staffed appropriately and have the resources nec-  
6       essary to provide information and support to individ-  
7       uals seeking the assistance described in paragraph  
8       (1), including by facilitating communication between  
9       such individuals and the Department of Homeland  
10      Security or the Social Security Administration.

11          (3) CLARIFICATION.—Nothing in this sub-  
12      section shall be construed to delegate authority or  
13      transfer responsibility for reviewing and resolving  
14      tentative nonconfirmations from the Secretary of  
15      Homeland Security and the Commissioner of Social  
16      Security to the Secretary of Agriculture.

17      (d) DOCUMENT ESTABLISHING EMPLOYMENT AU-  
18      THORIZATION AND IDENTITY.—In accordance with section  
19      274E(b)(3)(A)(vii) of the Immigration and Nationality  
20      Act, as inserted by section 301 of this Act, and not later  
21      than 12 months after the completion of the application  
22      period described in section 101(c) of this Act, the Sec-  
23      retary of Homeland Security shall recognize documentary  
24      evidence of certified agricultural worker status described  
25      in section 102(a)(2) of this Act as valid proof of employ-

1 ment authorization and identity for purposes of section  
2 274E(b)(3)(A) of the Immigration and Nationality Act,  
3 as inserted by section 301 of this Act.

4 (e) **AGRICULTURAL EMPLOYMENT.**—For purposes of  
5 this section, the term “agricultural employment” means  
6 agricultural labor or services, as defined by section  
7 101(a)(15)(H)(ii) of the Immigration and Nationality Act  
8 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.

9 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

10 (a) **REPEAL.**—

11 (1) **IN GENERAL.**—Subtitle A of title IV of the  
12 Illegal Immigration Reform and Immigrant Respon-  
13 sibility Act of 1996 (8 U.S.C. 1324a note) is re-  
14 pealed.

15 (2) **CLERICAL AMENDMENT.**—The table of sec-  
16 tions, in section 1(d) of the Illegal Immigration Re-  
17 form and Immigrant Responsibility Act of 1996, is  
18 amended by striking the items relating to subtitle A  
19 of title IV.

20 (3) **REFERENCES.**—Any reference in any Fed-  
21 eral, State, or local law, Executive order, rule, regu-  
22 lation, or delegation of authority, or any document  
23 of, or pertaining to, the Department of Homeland  
24 Security, Department of Justice, or the Social Secu-  
25 rity Administration, to the E-Verify Program de-

1 scribed in section 403(a) of the Illegal Immigration  
2 Reform and Immigrant Responsibility Act of 1996  
3 (8 U.S.C. 1324a note), or to the employment eligi-  
4 bility confirmation system established under section  
5 404 of the Illegal Immigration Reform and Immig-  
6 rant Responsibility Act of 1996 (8 U.S.C. 1324a  
7 note), is deemed to refer to the employment eligi-  
8 bility confirmation system established under section  
9 274E of the Immigration and Nationality Act, as in-  
10 serted by section 301 of this Act.

11 (4) EFFECTIVE DATE.—This subsection, and  
12 the amendments made by this subsection, shall take  
13 effect on the date that is 30 days after the date on  
14 which final rules are published under section 309(a).

15 (b) FORMER E-VERIFY MANDATORY USERS, IN-  
16 CLUDING FEDERAL CONTRACTORS.—Beginning on the ef-  
17 fective date in subsection (a)(4), the Secretary of Home-  
18 land Security shall require employers required to partici-  
19 pate in the E-Verify Program described in section 403(a)  
20 of the Illegal Immigration Reform and Immigrant Respon-  
21 sibility Act of 1996 (8 U.S.C. 1324a note) by reason of  
22 any Federal, State, or local law, Executive order, rule, reg-  
23 ulation, or delegation of authority, including employers re-  
24 quired to participate in such program by reason of Federal  
25 acquisition laws (and regulations promulgated under those

1 laws, including the Federal Acquisition Regulation), to  
2 comply with the requirements of section 274E of the Im-  
3 migration and Nationality Act, as inserted by section 301  
4 of this Act (and any additional requirements of such Fed-  
5 eral acquisition laws and regulation) in lieu of any require-  
6 ment to participate in the E-Verify Program.

7 (c) FORMER E-VERIFY VOLUNTARY USERS.—Begin-  
8 ning on the effective date in subsection (a)(4), the Sec-  
9 retary of Homeland Security shall provide for the vol-  
10 untary compliance with the requirements of section 274E  
11 of the Immigration and Nationality Act, as inserted by  
12 section 301 of this Act, by employers voluntarily electing  
13 to participate in the E-Verify Program described in sec-  
14 tion 403(a) of the Illegal Immigration Reform and Immi-  
15 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)  
16 before such date.

17 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

18 Section 1546(b) of title 18, United States Code, is  
19 amended—

20 (1) in paragraph (1), by striking “identification  
21 document,” and inserting “identification document  
22 or document meant to establish employment author-  
23 ization,”;

24 (2) in paragraph (2), by striking “identification  
25 document” and inserting “identification document or

1 document meant to establish employment authoriza-  
2 tion,”; and

3 (3) in the matter following paragraph (3) by in-  
4 serting “or section 274E(b)” after “section  
5 274A(b)”.

6 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section  
8 274A of the Immigration and Nationality Act (8 U.S.C.  
9 1324a) is amended—

10 (1) in paragraph (1)(B)(ii) of subsection (a), by  
11 striking “subsection (b).” and inserting “section  
12 274B.”; and

13 (2) in the matter preceding paragraph (1) of  
14 subsection (b), by striking “The requirements re-  
15 ferred” and inserting “Except as provided in section  
16 274E, the requirements referred”.

17 (b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT  
18 PRACTICES.—Section 274B(a)(1) of the Immigration and  
19 Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the  
20 matter preceding subparagraph (A), by inserting “includ-  
21 ing misuse of the verification system as described in sec-  
22 tion 274E(g)” after “referral for a fee,”.

1 **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**  
2 **TION PROGRAMS.**

3 (a) FUNDING UNDER AGREEMENT.—Effective for  
4 fiscal years beginning on or after October 1, 2021, the  
5 Commissioner and the Secretary shall ensure that an  
6 agreement is in place which shall—

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

12 (A) acquiring, installing, and maintaining  
13 technological equipment and systems necessary  
14 for the fulfillment of such responsibilities, but  
15 only that portion of such costs that are attrib-  
16 utable exclusively to such responsibilities; and

17 (B) responding to individuals who contest  
18 a tentative nonconfirmation or administratively  
19 appeal a final nonconfirmation provided with  
20 respect to employment eligibility verification;

21 (2) provide such funds annually in advance of  
22 the applicable quarter based on an estimating meth-  
23 odology agreed to by the Commissioner and the Sec-  
24 retary (except in such instances where the delayed  
25 enactment of an annual appropriation may preclude  
26 such quarterly payments); and

1           (3) require an annual accounting and reconcili-  
2           ation of the actual costs incurred and the funds pro-  
3           vided under the agreement, which shall be reviewed  
4           by the Inspectors General of the Social Security Ad-  
5           ministration and the Department of Homeland Secu-  
6           rity.

7           (b) CONTINUATION OF EMPLOYMENT VERIFICATION  
8           IN ABSENCE OF TIMELY AGREEMENT.—In any case in  
9           which the agreement required under subsection (a) for any  
10          fiscal year beginning on or after October 1, 2021, has not  
11          been reached as of October 1 of such fiscal year, the latest  
12          agreement described in such subsection shall be deemed  
13          in effect on an interim basis for such fiscal year until such  
14          time as an agreement required under subsection (a) is sub-  
15          sequently reached, except that the terms of such interim  
16          agreement shall be modified to adjust for inflation and any  
17          increase or decrease in the volume of requests under the  
18          employment eligibility verification system. In any case in  
19          which an interim agreement applies for any fiscal year  
20          under this subsection, the Commissioner and the Sec-  
21          retary shall, not later than October 1 of such fiscal year,  
22          notify the Committee on Ways and Means, the Committee  
23          on the Judiciary, and the Committee on Appropriations  
24          of the House of Representatives and the Committee on  
25          Finance, the Committee on the Judiciary, and the Com-

1 mittee on Appropriations of the Senate of the failure to  
2 reach the agreement required under subsection (a) for  
3 such fiscal year. Until such time as the agreement re-  
4 quired under subsection (a) has been reached for such fis-  
5 cal year, the Commissioner and the Secretary shall, not  
6 later than the end of each 90-day period after October  
7 1 of such fiscal year, notify such Committees of the status  
8 of negotiations between the Commissioner and the Sec-  
9 retary in order to reach such an agreement.

10 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE**  
11 **ELECTRONIC EMPLOYMENT VERIFICATION**  
12 **SYSTEM.**

13 Not later than 24 months after the date on which  
14 final rules are published under section 309(a), and annu-  
15 ally thereafter, the Secretary shall submit to Congress a  
16 report that includes the following:

17 (1) An assessment of the accuracy rates of the  
18 responses of the electronic employment verification  
19 system established under section 274E of the Immi-  
20 gration and Nationality Act, as inserted by section  
21 301 of this Act (referred to in this section as the  
22 “System”), including tentative and final noncon-  
23 firmation notices issued to employment-authorized  
24 individuals and confirmation notices issued to indi-  
25 viduals who are not employment-authorized.



1           (2) An assessment of any challenges faced by  
2 persons or entities (including small employers) in  
3 utilizing the System.

4           (3) An assessment of any challenges faced by  
5 employment-authorized individuals who are issued  
6 tentative or final nonconfirmation notices.

7           (4) An assessment of the incidence of unfair  
8 immigration-related employment practices, as de-  
9 scribed in section 274E(g) of the Immigration and  
10 Nationality Act, as inserted by section 301 of this  
11 Act, related to the use of the System.

12           (5) An assessment of the photo matching and  
13 other identity authentication tools, as described in  
14 section 274E(a)(4) of the Immigration and Nation-  
15 ality Act, as inserted by section 301 of this Act, in-  
16 cluding—

17                   (A) an assessment of the accuracy rates of  
18 such tools;

19                   (B) an assessment of the effectiveness of  
20 such tools at preventing identity fraud and  
21 other misuse of identifying information;

22                   (C) an assessment of any challenges faced  
23 by persons, entities, or individuals utilizing such  
24 tools; and

1 (D) an assessment of operation and main-  
2 tenance costs associated with such tools.

3 (6) A summary of the activities and findings of  
4 the U.S. Citizenship and Immigrations Services E-  
5 Verify Monitoring and Compliance Branch, or any  
6 successor office, including—

7 (A) the number, types and outcomes of au-  
8 dits, investigations, and other compliance activi-  
9 ties initiated by the Branch in the previous  
10 year;

11 (B) the capacity of the Branch to detect  
12 and prevent violations of section 274E(g) of the  
13 Immigration and Nationality Act, as inserted by  
14 this Act; and

15 (C) an assessment of the degree to which  
16 persons and entities misuse the System, includ-  
17 ing—

18 (i) use of the System before an indi-  
19 vidual's date of hire;

20 (ii) failure to provide required notifi-  
21 cations to individuals;

22 (iii) use of the System to interfere  
23 with or otherwise impede individuals' as-  
24 sertions of their rights under other laws;  
25 and

1 (iv) use of the System for unauthor-  
2 ized purposes; and

3 (7) An assessment of the impact of implementa-  
4 tion of the System in the agricultural industry and  
5 the use of the verification system in agricultural in-  
6 dustry hiring and business practices.

7 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**  
8 **MENT ELIGIBILITY VERIFICATION PROCESS.**

9 Not later than 12 months after the date of the enact-  
10 ment of this Act, the Secretary, in consultation with the  
11 Commissioner, shall submit to Congress a plan to mod-  
12 ernize and streamline the employment eligibility  
13 verification process that shall include—

14 (1) procedures to allow persons and entities to  
15 verify the identity and employment authorization of  
16 newly hired individuals where the in-person, physical  
17 examination of identity and employment authoriza-  
18 tion documents is not practicable;

19 (2) a proposal to create a simplified employ-  
20 ment verification process that allows employers that  
21 utilize the employment eligibility verification system  
22 established under section 274E of the Immigration  
23 and Nationality Act, as inserted by section 301 of  
24 this Act, to verify the identity and employment au-  
25 thorization of individuals without also having to

1 complete and retain Form I–9, Employment Eligi-  
2 bility Verification, or any subsequent replacement  
3 form; and

4 (3) any other proposal that the Secretary deter-  
5 mines would simplify the employment eligibility  
6 verification process without compromising the integ-  
7 rity or security of the system.

8 **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

9 (a) IN GENERAL.—Not later than 180 days prior to  
10 the end of the application period defined in section 101(c)  
11 of this Act, the Secretary shall publish in the Federal Reg-  
12 ister proposed rules implementing this title and the  
13 amendments made by this title. The Secretary shall final-  
14 ize such rules not later than 180 days after the date of  
15 publication.

16 (b) PAPERWORK REDUCTION ACT.—

17 (1) IN GENERAL.—The requirements under  
18 chapter 35 of title 44, United States Code, (com-  
19 monly known as the “Paperwork Reduction Act”)   
20 shall apply to any action to implement this title or  
21 the amendments made by this title.

22 (2) ELECTRONIC FORMS.—All forms designated  
23 or established by the Secretary that are necessary to  
24 implement this title and the amendments made by  
25 this title shall be made available in paper and elec-

1       tronic formats, and shall be designed in such a man-  
2       ner to facilitate electronic completion, storage, and  
3       transmittal.

4           (3) LIMITATION ON USE OF FORMS.—All forms  
5       designated or established by the Secretary that are  
6       necessary to implement this title, and the amend-  
7       ments made by this title, and any information con-  
8       tained in or appended to such forms, may not be  
9       used for purposes other than for enforcement of this  
10      Act and any other provision of Federal criminal law.