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

14 (A) performed agricultural labor or serv-
15 ices in the United States for at least 1,035
16 hours (or 180 work days) during the 2-year pe-
17 riod preceding the date of the introduction of
18 this Act;

19 (B) is inadmissible or deportable from the
20 United States on the date of the introduction of
21 this Act;

22 (C) subject to section 104, has been con-
23 tinuously present in the United States since the
24 date of the introduction of this Act and until

1 the date on which the alien is granted certified
2 agricultural worker status; and

3 (D) is not otherwise ineligible for certified
4 agricultural worker status as provided in sub-
5 section (b).

6 (2) DEPENDENT SPOUSE AND CHILDREN.—The
7 Secretary may grant certified agricultural dependent
8 status to the spouse or child of an alien granted cer-
9 tified agricultural worker status under paragraph
10 (1) if the spouse or child is not ineligible for cer-
11 tified agricultural dependent status as provided in
12 subsection (b).

13 (b) GROUNDS FOR INELIGIBILITY.—

14 (1) GROUNDS OF INADMISSIBILITY.—Except as
15 provided in paragraph (3), an alien is ineligible for
16 certified agricultural worker or certified agricultural
17 dependent status if the Secretary determines that
18 the alien is inadmissible under section 212(a) of the
19 Immigration and Nationality Act (8 U.S.C.
20 1182(a)), except that in determining inadmis-
21 sibility—

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

24 (B) subparagraphs (A), (C), (D), (F), and
25 (G) of such section 212(a)(6) and paragraphs

1 (9)(C) and (10)(B) of such section 212(a) shall
2 not apply unless based on the act of unlawfully
3 entering the United States after the date of in-
4 troduction of this Act; and

5 (C) paragraphs (6)(B) and (9)(A) of such
6 section 212(a) shall not apply unless the rel-
7 evant conduct began on or after the date of fil-
8 ing of the application for certified agricultural
9 worker status.

10 (2) ADDITIONAL CRIMINAL BARS.—Except as
11 provided in paragraph (3), an alien is ineligible for
12 certified agricultural worker or certified agricultural
13 dependent status if the Secretary determines that,
14 excluding any offense under State law for which an
15 essential element is the alien’s immigration status
16 and any minor traffic offense, the alien has been
17 convicted of—

18 (A) any felony offense;

19 (B) an aggravated felony (as defined in
20 section 101(a)(43) of the Immigration and Na-
21 tionality Act (8 U.S.C. 1101(a)(43)) at the
22 time of the conviction);

23 (C) two misdemeanor offenses involving
24 moral turpitude, as described in section
25 212(a)(2)(A)(i)(I) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)),
2 unless an offense is waived by the Secretary
3 under paragraph (3)(B); or

4 (D) three or more misdemeanor offenses
5 not occurring on the same date, and not arising
6 out of the same act, omission, or scheme of
7 misconduct.

8 (3) WAIVERS FOR CERTAIN GROUNDS OF INAD-
9 MISSIBILITY.—For humanitarian purposes, family
10 unity, or if otherwise in the public interest, the Sec-
11 retary may waive the grounds of inadmissibility
12 under—

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

16 (B) subparagraphs (A) and (D) of section
17 212(a)(2) of the Immigration and Nationality
18 Act (8 U.S.C. 1182(a)(2)), unless inadmis-
19 sibility is based on a conviction that would oth-
20 erwise render the alien ineligible under subpara-
21 graph (A), (B), or (D) of paragraph (2).

22 (c) APPLICATION.—

23 (1) APPLICATION PERIOD.—Except as provided
24 in paragraph (2), the Secretary shall accept initial
25 applications for certified agricultural worker status

1 during the 18-month period beginning on the date
2 on which the interim final rule is published in the
3 Federal Register pursuant to section 122(a).

4 (2) EXTENSION.—If the Secretary determines,
5 during the initial period described in paragraph (1),
6 that additional time is required to process initial ap-
7 plications for certified agricultural worker status or
8 for other good cause, the Secretary may extend the
9 period for accepting applications for up to an addi-
10 tional 12 months.

11 (3) SUBMISSION OF APPLICATIONS.—

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

22 (B) FARM SERVICE AGENCY OFFICES.—
23 The Secretary, in consultation with the Sec-
24 retary of Agriculture, shall establish a process
25 for the filing of applications under this section

1 at Farm Service Agency offices throughout the
2 United States.

3 (4) EVIDENCE OF APPLICATION FILING.—As
4 soon as practicable after receiving an application for
5 certified agricultural worker status, the Secretary
6 shall provide the applicant with a document acknowl-
7 edging the receipt of such application. Such docu-
8 ment shall serve as interim proof of the alien’s au-
9 thorization to accept employment in the United
10 States and shall be accepted by an employer as evi-
11 dence of employment authorization under section
12 274A(b)(1)(C) of the Immigration and Nationality
13 Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-
14 ministrative decision on the application.

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

22 (A) may apply for advance parole, which
23 shall be granted upon demonstrating a legiti-
24 mate need to travel outside the United States
25 for a temporary purpose;

1 (B) may not be detained by the Secretary
2 or removed from the United States unless the
3 Secretary makes a prima facie determination
4 that such alien is, or has become, ineligible for
5 certified agricultural worker status;

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

10 (D) may not be considered an unauthor-
11 ized alien (as defined in section 274A(h)(3) of
12 the Immigration and Nationality Act (8 U.S.C.
13 1324a(h)(3))).

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

24 (d) ADJUDICATION AND DECISION.—

1 (1) IN GENERAL.—Subject to section 123, the
2 Secretary shall render a decision on an application
3 for certified agricultural worker status not later than
4 180 days after the date the application is filed.

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

8 (A) written notice that describes the basis
9 for ineligibility or the deficiencies in the evi-
10 dence submitted; and

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

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

21 (e) ALTERNATIVE H-2A STATUS.—An alien who has
22 not met the required period of agricultural labor or serv-
23 ices under subsection (a)(1)(A), but is otherwise eligible
24 for certified agricultural worker status under such sub-
25 section, shall be eligible for classification as a non-

1 immigrant described in section 101(a)(15)(H)(ii)(a) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(15)(H)(ii)(a)) upon approval of a petition sub-
4 mitted by a sponsoring employer, if the alien has per-
5 formed at least 575 hours (or 100 work days) of agricul-
6 tural labor or services during the 3-year period preceding
7 the date of the introduction of this Act. The Secretary
8 shall create a procedure to provide for such classification
9 without requiring the alien to depart the United States
10 and obtain a visa abroad.

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

12 (a) IN GENERAL.—

13 (1) APPROVAL.—Upon approval of an applica-
14 tion for certified agricultural worker status, or an
15 extension of such status pursuant to section 103, the
16 Secretary shall issue—

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

19 (B) documentary evidence of certified agri-
20 cultural dependent status to any qualified de-
21 pendent included on such application.

22 (2) DOCUMENTARY EVIDENCE.—In addition to
23 any other features and information as the Secretary
24 may prescribe, the documentary evidence described
25 in paragraph (1)—

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

3 (B) shall contain a digitized photograph;

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

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

12 (3) VALIDITY PERIOD.—Certified agricultural
13 worker and certified agricultural dependent status
14 shall be valid for five and one-half years beginning
15 on the date of approval.

16 (4) TRAVEL AUTHORIZATION.—An alien with
17 certified agricultural worker or certified agricultural
18 dependent status may—

19 (A) travel within and outside of the United
20 States, including commuting to the United
21 States from a residence in a foreign country;
22 and

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

1 (i) valid, unexpired documentary evi-
2 dence of certified agricultural worker or
3 certified agricultural worker dependent sta-
4 tus as described in subsection (a); or

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

10 (b) ABILITY TO CHANGE STATUS.—

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

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

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

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

1 (c) PROHIBITION ON PUBLIC BENEFITS, TAX BENE-
2 FITS, AND HEALTH CARE SUBSIDIES.—Aliens granted
3 certified agricultural worker or certified agricultural de-
4 pendent status shall be considered lawfully present in the
5 United States for all purposes for the duration of their
6 status, except that such aliens—

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

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

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

22 (4) shall be subject to the rules applicable to in-
23 dividuals not lawfully present set forth in section
24 5000A(d)(3) of the Internal Revenue Code of 1986
25 (26 U.S.C. 5000A(d)(3)).

1 (d) REVOCATION OF STATUS.—

2 (1) IN GENERAL.—The Secretary may revoke
3 certified agricultural worker or certified agricultural
4 dependent status if, after providing notice to the
5 alien and the opportunity to provide evidence to con-
6 test the proposed revocation, the Secretary deter-
7 mines that the alien no longer meets the eligibility
8 requirements for such status under section 101(b).

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

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

17 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

18 (1) PRINCIPAL ALIENS.—The Secretary may
19 extend certified agricultural worker status for addi-
20 tional periods of five and one-half years to an alien
21 who submits a completed application, including the
22 required processing fees, within the 120-day period
23 beginning 60 days before the expiration of the fifth
24 year of the immediately preceding grant of certified
25 agricultural worker status, if the alien—

1 (A) except as provided in subsection (b),
2 has performed agricultural labor or services in
3 the United States for at least 575 hours (or
4 100 work days) for each of the prior five years
5 in which the alien held certified agricultural
6 worker status; and

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

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

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

22 (b) STATUS FOR WORKERS WITH PENDING APPLICA-
23 TIONS.—

24 (1) IN GENERAL.—Certified agricultural worker
25 status of an alien who timely files an application to

1 extend such status under subsection (a) (and the
2 status of the alien's dependents) shall be automati-
3 cally extended through the date on which the Sec-
4 retary makes a final administrative decision regard-
5 ing such application.

6 (2) DOCUMENTATION OF EMPLOYMENT AU-
7 THORIZATION.—As soon as practicable after receipt
8 of an application to extend certified agricultural
9 worker status under subsection (a), the Secretary
10 shall issue a document to the alien acknowledging
11 the receipt of such application. An employer of the
12 worker may not refuse to accept such document as
13 evidence of employment authorization under section
14 274A(b)(1)(C) of the Immigration and Nationality
15 Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-
16 ministrative decision on the application.

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

20 (1) written notice that describes the basis for
21 ineligibility or the deficiencies of the evidence sub-
22 mitted; and

23 (2) at least 90 days to contest ineligibility or
24 submit additional evidence.

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

2 (a) EFFECT OF NOTICE TO APPEAR.—The contin-
3 uous presence in the United States of an applicant for cer-
4 tified agricultural worker status under section 101 shall
5 not terminate when the alien is served a notice to appear
6 under section 239(a) of the Immigration and Nationality
7 Act (8 U.S.C. 1229(a)).

8 (b) TREATMENT OF CERTAIN BREAKS IN PRES-
9 ENCE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graphs (2) and (3), an alien shall be considered to
12 have failed to maintain continuous presence in the
13 United States under this subtitle if the alien de-
14 parted the United States for any period exceeding
15 90 days, or for any periods, in the aggregate, ex-
16 ceeding 180 days.

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

1 (3) TRAVEL AUTHORIZED BY THE SEC-
2 RETARY.—Any period of travel outside of the United
3 States by an alien that was authorized by the Sec-
4 retary shall not be counted toward any period of de-
5 parture from the United States under paragraph
6 (1).

7 **SEC. 105. EMPLOYER OBLIGATIONS.**

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

13 (b) CIVIL PENALTIES.—

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

23 (2) LIMITATION.—The penalty under paragraph
24 (1) for failure to provide employment records shall
25 not apply unless the alien has provided the employer

1 with evidence of employment authorization described
2 in section 102 or 103.

3 (3) DEPOSIT OF CIVIL PENALTIES.—Civil pen-
4 alties collected under this paragraph shall be depos-
5 ited into the Immigration Examinations Fee Ac-
6 count under section 286(m) of the Immigration and
7 Nationality Act (8 U.S.C. 1356(m)).

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

9 (a) 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 certified
12 agricultural worker status under this subtitle, an applica-
13 tion to extend such status, or a revocation of such status.

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

21 (c) JUDICIAL REVIEW.—Notwithstanding any other
22 provision of law, judicial review of the Secretary’s decision
23 to deny an application for certified agricultural worker
24 status, an application to extend such status, or the deci-
25 sion to revoke such status, shall be limited to the review

1 of an order of removal under section 242 of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1252).

3 **Subtitle B—Optional Earned**
4 **Residence for Long-term Workers**

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

7 (a) REQUIREMENTS FOR ADJUSTMENT OF STA-
8 TUS.—

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

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

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

23 (ii) for fewer than 10 years prior to
24 the date of the enactment of this Act and

1 for at least 8 years in certified agricultural
2 worker status; and

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

6 (2) DEPENDENT ALIENS.—

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

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

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

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

1 (i) the death of the certified agricul-
2 tural worker, so long as the spouse or child
3 submits a petition not later than 2 years
4 after the date of the worker's death; or

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

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

14 (b) PENALTY FEE.—In addition to any processing
15 fee that the Secretary may assess in accordance with sec-
16 tion 122(b), a principal alien seeking adjustment of status
17 under this subtitle shall pay a \$1,000 penalty fee, which
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 (c) EFFECT OF PENDING APPLICATION.—During the
22 period beginning on the date on which an alien applies
23 for adjustment of status under this subtitle, and ending
24 on the date on which the Secretary makes a final adminis-

1 trative decision regarding such application, the alien and
2 any dependents included on the application—

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

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

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

15 (4) may not be considered an unauthorized
16 alien (as defined in section 274A(h)(3) of the Immi-
17 gration and Nationality Act (8 U.S.C.
18 1324a(h)(3))).

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

1 as evidence of employment authorization under section
2 274A(b)(1)(C) of the Immigration and Nationality Act (8
3 U.S.C. 1324a(b)(1)(C)), pending a final administrative
4 decision on the application.

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

13 **SEC. 112. PAYMENT OF TAXES.**

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

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

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

22 (a) **IN GENERAL.**—Subject to the requirements of
23 section 123, the Secretary shall render a decision on an
24 application for adjustment of status under this subtitle not

1 later than 180 days after the date on which the application
2 is filed.

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

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

9 (2) at least 90 days to contest ineligibility or
10 submit additional evidence.

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

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

19 **Subtitle C—General Provisions**

20 **SEC. 121. DEFINITIONS.**

21 In this title:

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided, any term used in this title that is used in the
24 immigration laws shall have the meaning given such
25 term in the immigration laws (as such term is de-

1 fined in section 101 of the Immigration and Nation-
2 ality Act (8 U.S.C. 1101)).

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

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

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

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

24 (4) APPROPRIATE UNITED STATES DISTRICT
25 COURT.—The term “appropriate United States dis-

1 trict court” means the United States District Court
2 for the District of Columbia or the United States
3 district court with jurisdiction over the alien’s prin-
4 cipal place of residence.

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

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

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

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

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

22 (B) any other entity that the Secretary
23 designates as having substantial experience,
24 demonstrated competence, and a history of
25 long-term involvement in the preparation and

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

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

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

9 **SEC. 122. RULEMAKING; FEES.**

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

20 (b) FEES.—

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

25 (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 and shall
5 not be placed in removal proceedings or removed from the
6 United States until a final administrative decision estab-
7 lishing 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 shall provide evidence
19 that the alien has worked the requisite number of hours
20 or days required under sections 101, 103, or 111, as appli-
21 cable. The Secretary shall establish special procedures to
22 properly credit work in cases in which an alien was em-
23 ployed under an assumed name.

24 (b) EVIDENCE.—An alien may meet the burden of
25 proof under subsection (a) by producing sufficient evi-

1 dence to show the extent of such employment as a matter
2 of just and reasonable inference. Such evidence may in-
3 clude:

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

7 (2) employment records maintained by collective
8 bargaining associations;

9 (3) tax records or other government records;

10 (4) sworn affidavits from individuals who have
11 direct knowledge of the alien's work history; or

12 (5) any other documentation designated by the
13 Secretary for such purpose.

14 (c) EXCEPTION FOR EXTRAORDINARY CIR-
15 CUMSTANCES.—

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

23 (A) pregnancy, illness, disease, disabling
24 injury, or physical limitation of 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; or

6 (D) termination from agricultural employ-
7 ment, if the Secretary determines that—

8 (i) the termination was without just
9 cause; and

10 (ii) the alien was unable to find alter-
11 native agricultural employment after a rea-
12 sonable job search.

13 (2) EFFECT OF DETERMINATION.—A deter-
14 mination under paragraph (1)(D) shall not be con-
15 clusive, binding, or admissible in a separate or sub-
16 sequent judicial or administrative action or pro-
17 ceeding between the alien and a current or prior em-
18 ployer of the alien or any other party.

19 **SEC. 127. EMPLOYER PROTECTIONS.**

20 (a) CONTINUING EMPLOYMENT.—An employer that
21 continues to employ an alien knowing that the alien in-
22 tends to apply for certified agricultural worker status
23 under subtitle A shall not violate section 274A(a)(2) of
24 the Immigration and Nationality Act (8 U.S.C.
25 1324a(a)(2)) by continuing to employ the alien for the du-

1 ration of the application period under section 101(c), and
2 with respect to an alien who applies for certified agricul-
3 tural status, for the duration of the period during which
4 the alien's application is pending final determination.

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

15 (c) ADDITIONAL PROTECTIONS.—Employers that
16 provide unauthorized aliens with copies of employment
17 records or other evidence of employment in support of an
18 application for certified agricultural worker status or ad-
19 justment of status under this title shall not be subject to
20 civil and criminal liability pursuant to such section 274A
21 for employing such unauthorized aliens. Records or other
22 evidence of employment provided by employers in response
23 to a request for such records for the purpose of estab-
24 lishing eligibility for status under this title may not be

1 used for any purpose other than establishing such eligi-
2 bility.

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

7 **SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS.**

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

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

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

14 (3) by inserting after subparagraph (C) the fol-
15 lowing:

16 “(D) who is granted certified agricultural
17 worker status, certified agricultural dependent
18 status, or lawful permanent resident status
19 under title I of the Farm Work Modernization
20 Act of 2019,”; and

21 (4) in the undesignated matter following sub-
22 paragraph (D), as added by paragraph (3), by strik-
23 ing “1990.” and inserting “1990, or in the case of
24 an alien described in subparagraph (D), if such con-
25 duct is alleged to have occurred before the date on

1 which the alien was granted status under title I of
2 the Farm Work Modernization Act of 2019.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect on the first day of the sev-
5 enth month that begins after the date of the enactment
6 of this Act.

7 **SEC. 129. DISCLOSURES AND PRIVACY.**

8 (a) **IN GENERAL.**—The Secretary may not disclose
9 or use information provided in an application for certified
10 agricultural worker status or adjustment of status under
11 this title (including information provided during adminis-
12 trative or judicial review) for the purpose of immigration
13 enforcement.

14 (b) **REFERRALS PROHIBITED.**—The Secretary, based
15 solely on information provided in an application for cer-
16 tified agricultural worker status or adjustment of status
17 under this title (including information provided during ad-
18 ministrative or judicial review), may not refer an applicant
19 to U.S. Immigration and Customs Enforcement, U.S. Cus-
20 toms and Border Protection, or any designee of either
21 such entity.

22 (c) **EXCEPTIONS.**—Notwithstanding subsections (a)
23 and (b), information provided in an application for cer-
24 tified agricultural worker status or adjustment of status

1 under this title may be shared with Federal security and
2 law enforcement agencies—

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

5 (2) to identify or prevent fraudulent claims or
6 schemes;

7 (3) for national security purposes; or

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

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

13 (e) PRIVACY.—The Secretary shall ensure that ap-
14 propriate administrative and physical safeguards are in
15 place to protect the security, confidentiality, and integrity
16 of personally identifiable information collected, main-
17 tained, and disseminated pursuant to this title.

18 **SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICA-**
19 **TIONS.**

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

21 (1) files an application for certified agricultural
22 worker status or adjustment of status under this
23 title and knowingly falsifies, conceals, or covers up
24 a material fact or makes any false, fictitious, or
25 fraudulent statements or representations, or makes

1 or uses any false writing or document knowing the
2 same to contain any false, fictitious, or fraudulent
3 statement or entry; or

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

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

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

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

16 **SEC. 131. DISSEMINATION OF INFORMATION.**

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

19 (1) the Secretary of Homeland Security, in co-
20 operation with qualified designated entities, shall
21 broadly disseminate information described in sub-
22 section (b); and

23 (2) the Secretary of Agriculture, in consultation
24 with the Secretary of Homeland Security, shall dis-
25 seminate to agricultural employers a document con-

1 taining the information described in subsection (b)
2 for posting at employer worksites.

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

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

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

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

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

15 **SEC. 133. REPORTS TO CONGRESS.**

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

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

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

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

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

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

21 (6) the number of principal aliens who were
22 granted lawful permanent resident status under sub-
23 title B, and the number of spouses and children who
24 were granted such status as dependents;

1 (7) the number of principal aliens included in
2 petitions described in section 101(e), and the num-
3 ber of dependent spouses and children included in
4 such applications; and

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

9 **SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
10 **CANTS.**

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

16 (b) **ELIGIBLE NONPROFIT ORGANIZATION.**—For
17 purposes of this section, the term “eligible nonprofit orga-
18 nization” means an organization described in section
19 501(c)(3) of the Internal Revenue Code of 1986 (exclud-
20 ing a recipient of funds under title X of the Economic
21 Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that
22 has demonstrated qualifications, experience, and expertise
23 in providing quality services to farm workers or aliens.

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

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

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

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

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

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

21 (d) SOURCE OF FUNDS.—In addition to any funds
22 appropriated to carry out this section, the Secretary may
23 use up to \$10,000,000 from the Immigration Examina-
24 tions Fee Account under section 286(m) of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1356(m)) to carry out
2 this section.

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

10 **SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

11 There is authorized to be appropriated to the Sec-
12 retary, such sums as may be necessary to implement this
13 title, including any amounts needed for costs associated
14 with the initiation of such implementation, for each of fis-
15 cal years 2020 through 2022.

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

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

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

23 (a) STREAMLINED H-2A PLATFORM.—

24 (1) IN GENERAL.—Not later than 12 months
25 after the date of the enactment of this Act, the Sec-

1 retary of Homeland Security, in consultation with
2 the Secretary of Labor, the Secretary of Agriculture,
3 the Secretary of State, and United States Digital
4 Service, shall ensure the establishment of an elec-
5 tronic platform through which a petition for an H-
6 2A worker may be filed. Such platform shall—

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

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

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

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

24 (ii) submit requests for inspections
25 and licensing;

1 (iii) receive notices of approval and
2 denial; and

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

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

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

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

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

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

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

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

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

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

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

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

19 Section 218 of the Immigration and Nationality Act
20 (8 U.S.C. 1188) is amended to read as follows:

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

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

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

10 “(b) H-2A PETITION REQUIREMENTS.—An employer
11 filing a petition for an H-2A worker to perform agricul-
12 tural labor or services shall attest to and demonstrate
13 compliance, as and when appropriate, with all applicable
14 requirements under this section, including the following:

15 “(1) NEED FOR LABOR OR SERVICES.—The em-
16 ployer has described the need for agricultural labor
17 or services in a job order that includes a description
18 of the nature and location of the work to be per-
19 formed, the anticipated period or periods (expected
20 start and end dates) for which the workers will be
21 needed, and the number of job opportunities in
22 which the employer seeks to employ the workers.

23 “(2) NONDISPLACEMENT OF UNITED STATES
24 WORKERS.—The employer has not and will not dis-
25 place United States workers employed by the em-

1 employer during the period of employment of the H–
2 2A worker and during the 60-day period imme-
3 diately preceding such period of employment in the
4 job for which the employer seeks approval to employ
5 the H–2A worker.

6 “(3) STRIKE OR LOCKOUT.—Each place of em-
7 ployment described in the petition is not, at the time
8 of filing the petition and until the petition is ap-
9 proved, subject to a strike or lockout in the course
10 of a labor dispute.

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

20 “(5) WAGES, BENEFITS, AND WORKING CONDI-
21 TIONS.—The employer shall offer and provide, at a
22 minimum, the wages, benefits, and working condi-
23 tions required by this section to the H–2A worker
24 and all United States workers who are similarly em-
25 ployed. The employer—

1 “(A) shall offer such United States work-
2 ers not less than the same benefits, wages, and
3 working conditions that the employer is offering
4 or will provide to the H-2A worker; and

5 “(B) may not impose on such United
6 States workers any restrictions or obligations
7 that will not be imposed on the H-2A worker.

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

16 “(7) COMPLIANCE WITH LABOR AND EMPLOY-
17 MENT LAWS.—The employer shall comply with all
18 applicable Federal, State and local employment-re-
19 lated laws and regulations.

20 “(c) RECRUITING REQUIREMENTS.—

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

24 “(A) JOB ORDER.—As provided in sub-
25 section (h)(1), the employer shall complete a

1 job order for posting on the electronic job reg-
2 istry maintained by the Secretary of Labor and
3 for distribution by the appropriate State work-
4 force agency. Such posting shall remain on the
5 job registry as an active job order through the
6 period described in paragraph (2)(B).

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

10 “(i) make reasonable efforts to con-
11 tact any United States worker the em-
12 ployer employed in the previous year in the
13 same occupation and area of intended em-
14 ployment for which an H-2A worker is
15 sought (excluding workers who were termi-
16 nated for cause or abandoned the work-
17 site); and

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

21 “(C) POSITIVE RECRUITMENT.—During
22 the period of recruitment, the employer shall
23 complete any other positive recruitment steps
24 within a multi-state region of traditional or ex-
25 pected labor supply where the Secretary of

1 Labor finds that there are a significant number
2 of qualified United States workers who, if re-
3 cruited, would be willing to make themselves
4 available for work at the time and place needed.

5 “(2) PERIOD OF RECRUITMENT.—

6 “(A) IN GENERAL.—For purposes of this
7 subsection, the period of recruitment begins on
8 the date on which the job order is posted on the
9 online job registry and ends on the date that
10 H–2A workers depart for the employer’s place
11 of employment. For a petition involving more
12 than 1 start date under subsection (h)(1)(C),
13 the end of the period of recruitment shall be de-
14 termined by the date of departure of the H–2A
15 workers for the final start date identified in the
16 petition.

17 “(B) REQUIREMENT TO HIRE US WORK-
18 ERS.—

19 “(i) IN GENERAL.—Notwithstanding
20 the limitations of subparagraph (A), the
21 employer will provide employment to any
22 qualified United States worker who applies
23 to the employer for any job opportunity in-
24 cluded in the petition until the later of—

1 “(I) the date that is 30 days
2 after the date on which work begins;

3 “(II) the date on which—

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

7 “(bb) if the employer is a
8 labor contractor, 50 percent of
9 the work contract for the job op-
10 portunity has elapsed.

11 “(ii) STAGGERED ENTRY.—For a peti-
12 tion involving more than 1 start date
13 under subsection (h)(1)(C), each start date
14 designated in the petition shall establish a
15 separate job opportunity. An employer may
16 not reject a United States worker because
17 the worker is unable or unwilling to fill
18 more than 1 job opportunity included in
19 the petition.

20 “(iii) EXCEPTION.—Notwithstanding
21 clause (i), the employer may offer a job op-
22 portunity to an H-2A worker instead of an
23 alien granted certified agricultural worker
24 status under title I of the Farm Workforce
25 Modernization Act of 2019 if the H-2A

1 worker was employed by the employer in
2 each of 3 years during the most recent 4-
3 year period.

4 “(3) RECRUITMENT REPORT.—

5 “(A) IN GENERAL.—The employer shall
6 maintain a recruitment report through the ap-
7 plicable period described in paragraph (2)(B)
8 and submit regular updates through the elec-
9 tronic platform on the results of recruitment.
10 The employer shall retain the recruitment re-
11 port, and all associated recruitment documenta-
12 tion, for a period of 3 years from the date of
13 certification.

14 “(B) BURDEN OF PROOF.—If the employer
15 asserts that any eligible individual who has ap-
16 plied or been referred is not able, willing or
17 qualified, the employer bears the burden of
18 proof to establish that the individual is not able,
19 willing or qualified because of a lawful, employ-
20 ment-related reason.

21 “(d) WAGE REQUIREMENTS.—

22 “(1) IN GENERAL.—Each employer under this
23 section will offer the worker, during the period of
24 authorized employment, wages that are at least the
25 greatest of—

1 “(A) the agreed-upon collective bargaining
2 wage;

3 “(B) the adverse effect wage rate (or any
4 successor wage established under paragraph
5 (7));

6 “(C) the prevailing wage (hourly wage or
7 piece rate); or

8 “(D) the Federal or state minimum wage.

9 “(2) ADVERSE EFFECT WAGE RATE DETER-
10 MINATIONS.—

11 “(A) IN GENERAL.—Except as provided
12 under subparagraph (B), the applicable adverse
13 effect wage rate for each State and occupational
14 classification for a calendar year shall be as fol-
15 lows:

16 “(i) The annual average hourly wage
17 for the occupational classification in the
18 State or region as reported by the Sec-
19 retary of Agriculture based on a wage sur-
20 vey conducted by such Secretary.

21 “(ii) If a wage described in clause (i)
22 is not reported, the national annual aver-
23 age hourly wage for the occupational clas-
24 sification as reported by the Secretary of

1 Agriculture based on a wage survey con-
2 ducted by such Secretary.

3 “(iii) If a wage described in clause (i)
4 or (ii) is not reported, the statewide annual
5 average hourly wage for the standard occu-
6 pational classification as reported by the
7 Secretary of Labor based on a wage survey
8 conducted by such Secretary.

9 “(iv) If a wage described in clause (i),
10 (ii), or (iii) is not reported, the national av-
11 erage hourly wage for the occupational
12 classification as reported by the Secretary
13 of Labor based on a wage survey con-
14 ducted by such Secretary.

15 “(B) LIMITATIONS ON WAGE FLUCTUA-
16 TIONS.—

17 “(i) WAGE FREEZE FOR CALENDAR
18 YEAR 2020.—For calendar year 2020, the
19 adverse effect wage rate for each State and
20 occupational classification under this sub-
21 section shall be the adverse effect wage
22 rate that was in effect for H-2A workers
23 in the applicable State in calendar year
24 2019.

1 “(ii) CALENDAR YEARS 2021 THROUGH
2 2029.—For each of calendar years 2021
3 through 2029, the adverse effect wage rate
4 for each State and occupational classifica-
5 tion under this subsection shall be the
6 wage calculated under subparagraph (A),
7 except that such wage may not:

8 “(I) be more than 1.5 percent
9 lower than the wage in effect for H-
10 2A workers in the applicable State
11 and occupational classification in the
12 immediately preceding calendar year;

13 “(II) except as provided in clause
14 (III), be more than 3.25 percent high-
15 er than the wage in effect for H-2A
16 workers in the applicable State and
17 occupational classification in the im-
18 mediately preceding calendar year;
19 and

20 “(III) if the application of clause
21 (II) results in a wage that is lower
22 than 110% of the applicable Federal
23 or state minimum wage, be more than
24 4.25 percent higher than the wage in
25 effect for H-2A workers in the appli-

1 cable State and occupational classi-
2 fication in the immediately preceding
3 calendar year.

4 “(iii) CALENDAR YEARS AFTER
5 2029.—For any calendar year after 2029,
6 the applicable wage rate described in para-
7 graph (1)(B) shall be the wage rate estab-
8 lished pursuant to paragraph (7)(D). Until
9 such wage rate is effective, the adverse ef-
10 fect wage rate for each State and occupa-
11 tional classification under this subsection
12 shall be the wage calculated under sub-
13 paragraph (A), except that such wage may
14 not be more than 1.5 percent lower or 3.25
15 percent higher than the wage in effect for
16 H–2A workers in the applicable State and
17 occupational classification in the imme-
18 diately preceding calendar year.

19 “(3) MULTIPLE OCCUPATIONS.—If the primary
20 job duties for the job opportunity described in the
21 petition do not fall within a single occupational clas-
22 sification, the applicable wage rates under subpara-
23 graphs (B) and (C) of paragraph (1) for the job op-
24 portunity shall be based on the highest such wage
25 rates for all applicable occupational classifications.

1 “(4) PUBLICATION; WAGES IN EFFECT.—

2 “(A) PUBLICATION.—Prior to the start of
3 each calendar year, the Secretary of Labor shall
4 publish the applicable adverse effect wage rate
5 (or successor wage rate, if any), and prevailing
6 wage if available, for each State and occupa-
7 tional classification through notice in the Fed-
8 eral Register.

9 “(B) JOB ORDERS IN EFFECT.—Except as
10 provided in subparagraph (C), publication by
11 the Secretary of Labor of an updated adverse
12 effect wage rate or prevailing wage for a State
13 and occupational classification shall not affect
14 the wage rate guaranteed in any approved job
15 order for which recruitment efforts have com-
16 menced at the time of publication.

17 “(C) EXCEPTION FOR YEAR-ROUND
18 JOBS.—If the Secretary of Labor publishes an
19 updated adverse effect wage rate or prevailing
20 wage for a State and occupational classification
21 concerning a petition described in subsection
22 (i), and the updated wage is higher than the
23 wage rate guaranteed in the work contract, the
24 employer shall pay the updated wage not later

1 than 14 days after publication of the updated
2 wage in the Federal Register.

3 “(5) WORKERS PAID ON A PIECE RATE OR
4 OTHER INCENTIVE BASIS.—If an employer pays by
5 the piece rate or other incentive method and requires
6 1 or more minimum productivity standards as a con-
7 dition of job retention, such standards shall be speci-
8 fied in the job order and shall be no more than those
9 normally required (at the time of the first petition
10 for H-2A workers) by other employers for the activ-
11 ity in the area of intended employment, unless the
12 Secretary of Labor approves a higher minimum
13 standard resulting from material changes in produc-
14 tion methods.

15 “(6) GUARANTEE OF EMPLOYMENT.—

16 “(A) OFFER TO WORKER.—The employer
17 shall guarantee the worker employment for the
18 hourly equivalent of at least three-fourths of the
19 work days of the total period of employment,
20 beginning with the first work day after the ar-
21 rival of the worker at the place of employment
22 and ending on the date specified in the job
23 offer. For purposes of this subparagraph, the
24 hourly equivalent means the number of hours in
25 the work days as stated in the job offer and

1 shall exclude the worker's Sabbath and Federal
2 holidays. If the employer affords the worker less
3 employment than that required under this para-
4 graph, the employer shall pay the worker the
5 amount which the worker would have earned
6 had the worker, in fact, worked for the guaran-
7 teed number of hours.

8 “(B) FAILURE TO WORK.—Any hours
9 which the worker fails to work, up to a max-
10 imum of the number of hours specified in the
11 job offer for a work day, when the worker has
12 been offered an opportunity to do so, and all
13 hours of work actually performed (including vol-
14 untary work in excess of the number of hours
15 specified in the job offer in a work day, on the
16 worker's Sabbath, or on Federal holidays) may
17 be counted by the employer in calculating
18 whether the period of guaranteed employment
19 has been met.

20 “(C) ABANDONMENT OF EMPLOYMENT;
21 TERMINATION FOR CAUSE.—If the worker vol-
22 untarily abandons employment without good
23 cause before the end of the contract period, or
24 is terminated for cause, the worker is not enti-

1 tled to the guarantee of employment described
2 in subparagraph (A).

3 “(D) CONTRACT IMPOSSIBILITY.—If, be-
4 fore the expiration of the period of employment
5 specified in the job offer, the services of the
6 worker are no longer required for reasons be-
7 yond the control of the employer due to any
8 form of natural disaster before the guarantee in
9 subparagraph (A) is fulfilled, the employer may
10 terminate the worker’s employment. In the
11 event of such termination, the employer shall
12 fulfill the employment guarantee in subpara-
13 graph (A) for the work days that have elapsed
14 from the first work day after the arrival of the
15 worker to the termination of employment. The
16 employer shall make efforts to transfer a
17 United States worker to other comparable em-
18 ployment acceptable to the worker. If such
19 transfer is not affected, the employer shall pro-
20 vide the return transportation required in sub-
21 section (f)(2).

22 “(7) WAGE STANDARDS AFTER 2029.—

23 “(A) STUDY OF ADVERSE EFFECT WAGE
24 RATE.—Beginning in fiscal year 2026, the Sec-

1 retary of Agriculture and Secretary of Labor
2 shall jointly conduct a study that addresses—

3 “(i) whether the employment of H–2A
4 workers has depressed the wages of United
5 States farm workers;

6 “(ii) whether an adverse effect wage
7 rate is necessary to protect the wages of
8 United States farm workers in occupations
9 in which H–2A workers are employed;

10 “(iii) whether alternative wage stand-
11 ards would be sufficient to prevent wages
12 in occupations in which H–2A workers are
13 employed from falling below the wage level
14 that would have prevailed in the absence of
15 H–2A employment;

16 “(iv) whether any changes are war-
17 ranted in the current methodologies for
18 calculating the adverse effect wage rate
19 and the prevailing wage rate; and

20 “(v) recommendations for future wage
21 protection under this section.

22 “(B) FINAL REPORT.—Not later than Oc-
23 tober 1, 2027, the Secretary of Agriculture and
24 Secretary of Labor shall jointly prepare and
25 submit a report to the Congress setting forth

1 the findings of the study conducted under sub-
2 paragraph (A) and recommendations for future
3 wage protections under this section.

4 “(C) CONSULTATION.—In conducting the
5 study under subparagraph (A) and preparing
6 the report under subparagraph (B), the Sec-
7 retary of Agriculture and Secretary of Labor
8 shall consult with representatives of agricultural
9 employers and an equal number of representa-
10 tives of agricultural workers, at the national,
11 state and local level.

12 “(D) WAGE DETERMINATION AFTER
13 2029.—Upon publication of the report described
14 in subparagraph (B), the Secretary of Labor, in
15 consultation with and the approval of the Sec-
16 retary of Agriculture, shall make a rule to es-
17 tablish a process for annually determining the
18 wage rate for purposes of paragraph (1)(B) for
19 fiscal years after 2029. Such process shall be
20 designed to ensure that the employment of H-
21 2A workers does not undermine the wages and
22 working conditions of similarly employed United
23 States workers.

24 “(e) HOUSING REQUIREMENTS.—Employers shall
25 furnish housing in accordance with regulations established

1 by the Secretary of Labor. Such regulations shall be con-
2 sistent with the following:

3 “(1) IN GENERAL.—The employer shall be per-
4 mitted at the employer’s option to provide housing
5 meeting applicable Federal standards for temporary
6 labor camps or to secure housing which meets the
7 local standards for rental and/or public accommoda-
8 tions or other substantially similar class of habi-
9 tation: Provided, That in the absence of applicable
10 local standards, State standards for rental and/or
11 public accommodations or other substantially similar
12 class of habitation shall be met: Provided further,
13 That in the absence of applicable local or State
14 standards, Federal temporary labor camp standards
15 shall apply.

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

22 “(3) UNITED STATES WORKERS.—Notwith-
23 standing paragraphs (1) and (2), an employer is not
24 required to provide housing to United States work-

1 ers who are reasonably able to return to their resi-
2 dence within the same day.

3 “(4) TIMING OF INSPECTION.—

4 “(A) IN GENERAL.—The Secretary of
5 Labor or designee shall make a determination
6 as to whether the housing furnished by an em-
7 ployer for a worker meets the requirements im-
8 posed by this subsection prior to the date on
9 which the Secretary of Labor is required to
10 make a certification with respect to a petition
11 for the admission of such worker.

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

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

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

22 “(f) TRANSPORTATION REQUIREMENTS.—

23 “(1) TRAVEL TO PLACE OF EMPLOYMENT.—A
24 worker who completes 50 percent of the period of
25 employment specified in the job order shall be reim-

1 bursed by the employer for the cost of the worker's
2 transportation and subsistence from the place from
3 which the worker came to work for the employer (or
4 place of last employment, if the worker traveled
5 from such place) to the place of employment.

6 “(2) TRAVEL FROM PLACE OF EMPLOYMENT.—
7 For a worker who completes the period of employ-
8 ment specified in the job order or who is terminated
9 without cause, the employer shall provide or pay for
10 the worker's transportation and subsistence from the
11 place of employment to the place from which the
12 worker, disregarding intervening employment, came
13 to work for the employer, or to the place of next em-
14 ployment, if the worker has contracted with a subse-
15 quent employer who has not agreed to provide or
16 pay for the worker's transportation and subsistence
17 to such subsequent employer's place of employment.

18 “(3) LIMITATION.—

19 “(A) AMOUNT OF REIMBURSEMENT.—Ex-
20 cept as provided in subparagraph (B), the
21 amount of reimbursement provided under para-
22 graph (1) or (2) to a worker need not exceed
23 the lesser of—

1 “(i) the actual cost to the worker of
2 the transportation and subsistence in-
3 volved; or

4 “(ii) the most economical and reason-
5 able common carrier transportation
6 charges and subsistence costs for the dis-
7 tance involved.

8 “(B) DISTANCE TRAVELED.—For travel to
9 or from the worker’s home country, if the travel
10 distance between the worker’s home and the rel-
11 evant consulate is 50 miles or less, reimburse-
12 ment for transportation and subsistence may be
13 based on transportation to or from the con-
14 sulate.

15 “(g) HEAT ILLNESS PREVENTION PLAN.—The em-
16 ployer shall maintain a reasonable plan that describes the
17 employer’s procedures for the prevention of heat illness,
18 including appropriate training, access to water and shade,
19 the provision of breaks, and the protocols for emergency
20 response. Such plan shall—

21 “(1) be in writing in English and, to the extent
22 necessary, any language common to a significant
23 portion of the workers if they are not fluent in
24 English; and

1 “(2) be posted at a conspicuous location at the
2 worksite and provided to employees prior to the com-
3 mencement of labor or services.

4 “(h) H-2A PETITION PROCEDURES.—

5 “(1) SUBMISSION OF PETITION AND JOB
6 ORDER.—

7 “(A) IN GENERAL.—The employer shall
8 submit information required for the adjudica-
9 tion of the H-2A petition, including a job
10 order, through the electronic platform no more
11 than 75 calendar days and no fewer than 60
12 calendar days before the employer’s first date of
13 need specified in the petition.

14 “(B) FILING BY AGRICULTURAL ASSOCIA-
15 TIONS.—An association of agricultural pro-
16 ducers that use agricultural services may file an
17 H-2A petition under subparagraph (A). If an
18 association is a joint or sole employer of work-
19 ers who perform agricultural labor or services,
20 H-2A workers may be used for the approved
21 job opportunities of any of the association’s
22 producer members and such workers may be
23 transferred among its producer members to per-
24 form the agricultural labor or services for which
25 the petition was approved.

1 “(C) PETITIONS INVOLVING STAGGERED
2 ENTRY.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), an employer may file
5 a petition involving employment in the
6 same occupational classification and same
7 area of intended employment with multiple
8 start dates if—

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

12 “(II) the multiple start dates
13 share a common end date that is no
14 longer than 1 year after the first start
15 date;

16 “(III) no more than 120 days
17 separate the first start date and the
18 final start date listed in the petition;

19 “(IV) the need for multiple start
20 dates arises from variations in labor
21 needs associated with the job oppor-
22 tunity identified in the petition.

23 “(ii) LABOR CONTRACTORS.—A labor
24 contractor may not file a petition described
25 in clause (i) unless the labor contractor—

1 “(I) is filing as a joint employer
2 with its contractees, or is operating in
3 a State in which joint employment
4 and liability between the labor con-
5 tractor and its contractees is other-
6 wise established; or

7 “(II) has posted and is maintain-
8 ing a premium surety bond as de-
9 scribed in subsection (1)(1).

10 “(2) LABOR CERTIFICATION.—

11 “(A) REVIEW OF JOB ORDER.—

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

23 “(ii) STANDARD.—The job order must
24 include all material terms and conditions
25 of employment, including the requirements

1 of this section, and must be otherwise con-
2 sistent with the minimum standards pro-
3 vided under federal, state or local law. In
4 considering the question of whether a spe-
5 cific qualification is appropriate in a job
6 order, the Secretary of Labor shall apply
7 the normal and accepted qualification re-
8 quired by non-H-2A employers in the
9 same or comparable occupations and crops.

10 “(iii) EMERGENCY PROCEDURES.—
11 The Secretary of Labor shall establish
12 emergency procedures for the curing of de-
13 ficiencies that cannot be resolved during
14 the period described in clause (i).

15 “(B) APPROVAL OF JOB ORDER.—

16 “(i) IN GENERAL.—Upon approval of
17 the job order, the Secretary of Labor shall
18 immediately place for public examination a
19 copy of the job order on the online job reg-
20 istry, and the State workforce agency serv-
21 ing the area of intended employment shall
22 commence the recruitment of United
23 States workers.

24 “(ii) REFERRAL OF UNITED STATES
25 WORKERS.—The Secretary of Labor and

1 State workforce agency shall keep the job
2 order active until the end of the period de-
3 scribed in subsection (c)(2) and shall refer
4 to the employer each United States worker
5 who applies for the job opportunity.

6 “(C) REVIEW OF INFORMATION FOR DEFICI-
7 CIENCIES.—Within 7 business days of the ap-
8 proval of the job order, the Secretary of Labor
9 shall review the information necessary to make
10 a labor certification and notify the employer
11 through the electronic platform if such informa-
12 tion does not meet the standards for approval.
13 Such notification shall include a description of
14 any deficiency, and the employer shall be pro-
15 vided 5 business days to cure such deficiency.

16 “(D) CERTIFICATION AND AUTHORIZATION
17 OF WORKERS.—Not later than 30 days before
18 the date that labor or services are first required
19 to be performed, the Secretary of Labor shall
20 issue the requested labor certification if the
21 Secretary determines that the requirements for
22 certification set forth in this section have been
23 met.

24 “(E) EXPEDITED ADMINISTRATIVE AP-
25 PEALS OF CERTAIN DETERMINATIONS.—The

1 Secretary of Labor shall by regulation establish
2 a procedure for an employer to request the ex-
3 pedited review of a denial of a labor certifi-
4 cation under this section, or the revocation of
5 such a certification. Such procedure shall re-
6 quire the Secretary to expeditiously, but no
7 later than 72 hours after expedited review is re-
8 quested, issue a de novo determination on a
9 labor certification that was denied in whole or
10 in part because of the availability of able, will-
11 ing and qualified workers if the employer dem-
12 onstrates, consistent with subsection (c)(3)(B),
13 that such workers are not actually available at
14 the time or place such labor or services are re-
15 quired.

16 “(3) PETITION DECISION.—

17 “(A) IN GENERAL.—Not later than 7 busi-
18 ness days after the Secretary of Labor issues
19 the certification, the Secretary of Homeland Se-
20 curity shall issue a decision on the petition and
21 shall transmit a notice of action to the peti-
22 tioner via the electronic platform.

23 “(B) APPROVAL.—Upon approval of a pe-
24 tition under this section, the Secretary of
25 Homeland Security shall ensure that such ap-

1 proval is noted in the electronic platform and is
2 available to the Secretary of State and U.S.
3 Customs and Border Protection, as necessary,
4 to facilitate visa issuance and admission.

5 “(C) PARTIAL APPROVAL.—A petition for
6 multiple named beneficiaries may be partially
7 approved with respect to eligible beneficiaries
8 notwithstanding the ineligibility, or potential in-
9 eligibility, of one or more other beneficiaries.

10 “(D) POST-CERTIFICATION AMEND-
11 MENTS.—The Secretary of Labor shall provide
12 a process for amending a request for labor cer-
13 tification in conjunction with an H-2A petition,
14 subsequent to certification by the Secretary of
15 Labor, in cases in which the requested amend-
16 ment does not materially change the petition
17 (including the job order).

18 “(4) ROLES OF AGRICULTURAL ASSOCIA-
19 TIONS.—

20 “(A) MEMBER’S VIOLATION DOES NOT
21 NECESSARILY DISQUALIFY ASSOCIATION OR
22 OTHER MEMBERS.—If an individual producer
23 member of a joint employer association is deter-
24 mined to have committed an act that results in
25 the denial of a petition with respect to the

1 member, the denial shall apply only to that
2 member of the association unless the Secretary
3 of Labor determines that the association or
4 other member participated in, had knowledge
5 of, or reason to know of, the violation.

6 “(B) ASSOCIATION’S VIOLATION DOES NOT
7 NECESSARILY DISQUALIFY MEMBERS.—

8 “(i) If an association representing ag-
9 ricultural producers as a joint employer is
10 determined to have committed an act that
11 results in the denial of a petition with re-
12 spect to the association, the denial shall
13 apply only to the association and does not
14 apply to any individual producer member
15 of the association unless the Secretary of
16 Labor determines that the member partici-
17 pated in, had knowledge of, or reason to
18 know of, the violation.

19 “(ii) If an association of agricultural
20 producers certified as a sole employer is
21 determined to have committed an act that
22 results in the denial of a petition with re-
23 spect to the association, no individual pro-
24 ducer member of such association may be
25 the beneficiary of the services of H-2A

1 workers in the commodity and occupation
2 in which such aliens were employed by the
3 association which was denied during the
4 period such denial is in force, unless such
5 producer member employs such aliens in
6 the commodity and occupation in question
7 directly or through an association which is
8 a joint employer of such workers with the
9 producer member.

10 “(5) SPECIAL PROCEDURES.—The Secretary of
11 Labor, in consultation with the Secretary of Agri-
12 culture and Secretary of Homeland Security, may by
13 regulation establish alternate procedures that rea-
14 sonably modify program requirements under this
15 section, when the Secretary determines that such
16 modifications are required due to the unique nature
17 of the work involved.

18 “(6) CONSTRUCTION OCCUPATIONS.—An em-
19 ployer may not file a petition under this section on
20 behalf of a worker if the majority of the worker’s
21 duties will fall within a construction or extraction oc-
22 cupational classification.

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

24 “(1) IN GENERAL.—Notwithstanding the re-
25 quirement in section 101(a)(15)(H)(ii)(a) that the

1 agricultural labor or services performed by an H-2A
2 worker be of a temporary or seasonal nature, the
3 Secretary of Homeland Security may, consistent
4 with the provisions of this subsection, approve a pe-
5 tition for an H-2A worker to perform agricultural
6 services or labor that is not of a temporary or sea-
7 sonal nature.

8 “(2) NUMERICAL LIMITATIONS.—

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

16 “(B) FISCAL YEARS 4 THROUGH 10.—

17 “(i) IN GENERAL.—The total number
18 of aliens who may be issued visas or other-
19 wise provided H-2A nonimmigrant status
20 under paragraph (1) for the first fiscal
21 year following the fiscal years referred to
22 in subparagraph (A) and for each of the
23 following six fiscal years may not exceed a
24 numerical limitation jointly imposed by the

1 Secretary of Agriculture and Secretary of
2 Labor in accordance with clause (ii).

3 “(ii) ANNUAL ADJUSTMENTS.—For
4 each fiscal year referred to in clause (i),
5 the Secretary of Agriculture and Secretary
6 of Labor, in consultation with the Sec-
7 retary of Homeland Security, shall estab-
8 lish a numerical limitation for purposes of
9 clause (i). Such numerical limitation may
10 not be lower 20,000 and may not vary by
11 more than 12.5 percent compared to the
12 numerical limitation applicable to the im-
13 mediately preceding fiscal year. In estab-
14 lishing such numerical limitation, the Sec-
15 retaries shall consider appropriate factors,
16 including—

17 “(I) a demonstrated shortage of
18 agricultural workers;

19 “(II) the level of unemployment
20 and underemployment of agricultural
21 workers during the preceding fiscal
22 year;

23 “(III) the number of H-2A work-
24 ers sought by employers during the
25 preceding fiscal year to engage in ag-

1 ricultural labor or services not of a
2 temporary or seasonal nature;

3 “ (IV) the number of such H-2A
4 workers issued a visa in the most re-
5 cent fiscal year who remain in the
6 United States in compliance with the
7 terms of such visa;

8 “ (V) the estimated number of
9 United States workers, including
10 workers who obtained certified agri-
11 cultural worker status under title I of
12 the Farm Workforce Modernization
13 Act of 2019, who worked during the
14 preceding fiscal year in agricultural
15 labor or services not of a temporary
16 or seasonal nature;

17 “ (VI) the number of such United
18 States workers who accepted jobs of-
19 fered by employers using the online
20 job registry during the preceding fis-
21 cal year;

22 “ (VII) any growth or contraction
23 of the United States agricultural in-
24 dustry that has increased or decreased

1 the demand for agricultural workers;
2 and

3 “(VIII) any changes in the real
4 wages paid to agricultural workers in
5 the United States as an indication of
6 a shortage or surplus of agricultural
7 labor.

8 “(C) SUBSEQUENT FISCAL YEARS.—For
9 each fiscal year following the fiscal years re-
10 ferred to in subparagraph (B), the Secretary of
11 Agriculture and Secretary of Labor shall jointly
12 determine, in consultation with the Secretary of
13 Homeland Security, and after considering ap-
14 propriate factors, including those factors listed
15 in subclauses (I) through (VIII) of subpara-
16 graph (B)(ii), whether to establish a numerical
17 limitation for that fiscal year. If a numerical
18 limitation is so established—

19 “(i) such numerical limitation may
20 not be lower than highest number of aliens
21 admitted under this subsection in any of
22 the three fiscal years immediately pre-
23 ceding the fiscal year for which the numer-
24 ical limitation is to be established; and

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

6 “(D) EMERGENCY PROCEDURES.—The
7 Secretary of Agriculture and Secretary of
8 Labor, in consultation with the Secretary of
9 Homeland Security, shall jointly establish by
10 regulation procedures for immediately adjusting
11 a numerical limitation imposed under subpara-
12 graph (B) or (C) to account for significant
13 labor shortages.

14 “(3) ALLOCATION OF VISAS.—

15 “(A) BI-ANNUAL ALLOCATION.—The an-
16 nual allocation of visas described in paragraph
17 (2) shall be evenly allocated between two halves
18 of the fiscal year unless the Secretary of Home-
19 land Security, in consultation with the Sec-
20 retary of Agriculture and Secretary of Labor,
21 determines that an alternative allocation would
22 better accommodate demand for visas. Any un-
23 used visas in the first half of the fiscal year
24 shall be added to the allocation for the subse-
25 quent half of the same fiscal year.

1 “(B) RESERVE FOR DAIRY LABOR OR
2 SERVICES.—

3 “(i) IN GENERAL.—Of the visa num-
4 bers made available in each half of the fis-
5 cal year pursuant to subparagraph (A), 50
6 percent of such visas shall be reserved for
7 employers filing petitions seeking H-2A
8 workers to engage in agricultural labor or
9 services in the dairy industry.

10 “(ii) EXCEPTION.—If, after four
11 months have elapsed in one half of the fis-
12 cal year, the Secretary of Homeland Secu-
13 rity determines that application of clause
14 (i) will result in visas going unused during
15 that half of the fiscal year, clause (i) shall
16 not apply to visas under this paragraph
17 during the remainder of such calendar
18 half.

19 “(4) ANNUAL ROUND TRIP HOME.—

20 “(A) IN GENERAL.—In addition to the
21 other requirements of this section, an employer
22 shall provide H-2A workers employed under
23 this subsection, at no cost to such workers, with
24 annual round trip travel, including transpor-
25 tation and subsistence during travel, to their

1 homes in their communities of origin. The em-
2 ployer must provide such travel within 14
3 months of the initiation of the worker's employ-
4 ment, and no more than 14 months can elapse
5 between each required period of travel.

6 “(B) LIMITATION.—The cost of travel
7 under subparagraph (A) need not exceed the
8 lesser of—

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

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

16 “(5) FAMILY HOUSING.—An employer seeking
17 to employ an H-2A worker pursuant to this sub-
18 section shall offer family housing to workers with
19 families if such workers are engaged in agricultural
20 employment that is not of a seasonal or temporary
21 nature. The worker may reject such an offer. The
22 employer may not charge the worker for the work-
23 er's housing, except that if the worker accepts family
24 housing, a prorated rent based on the fair market

1 value for such housing may be charged for the work-
2 er's family members.

3 “(6) WORKPLACE SAFETY PLAN FOR DAIRY EM-
4 PLOYEES.—

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

15 “(i) be in writing in English and, to
16 the extent necessary, any language com-
17 mon to a significant portion of the workers
18 if they are not fluent in English;

19 “(ii) be posted at a conspicuous loca-
20 tion at the worksite and provided to em-
21 ployees prior to the commencement of
22 labor or services.

23 “(B) CONTENTS OF PLAN.—The Secretary
24 of Labor, in consultation with the Secretary of
25 Agriculture, shall establish by regulation the

1 minimum requirements for the plan described
2 in subparagraph (A). Such plan shall include
3 measures to—

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

10 “(ii) protect against sexual harass-
11 ment and violence, resolve complaints in-
12 volving harassment or violence, and protect
13 against retaliation against workers report-
14 ing harassment or violence; and

15 “(iii) contain other provisions nec-
16 essary for ensuring workplace safety, as
17 determined by the Secretary of Labor, in
18 consultation with the Secretary of Agri-
19 culture.

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

22 “(1) DISQUALIFICATION.—An alien shall be in-
23 eligible for admission to the United States as an H-
24 2A worker pursuant to a petition filed under this
25 section if the alien was admitted to the United

1 States as an H-2A worker within the past 5 years
2 of the date the petition was filed and—

3 “(A) violated a material provision of this
4 section, including the requirement to promptly
5 depart the United States when the alien’s au-
6 thorized period of admission has expired, unless
7 the alien has good cause for such failure to de-
8 part; or

9 “(B) otherwise violated a term or condition
10 of admission into the United States as an H-
11 2A worker.

12 “(2) VISA VALIDITY.—A visa issued to an H-
13 2A worker shall be valid for three years and shall
14 allow for multiple entries during the approved period
15 of admission.

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

18 “(A) IN GENERAL.—An alien admissible as
19 an H-2A worker shall be authorized to stay in
20 the United States for the period of employment
21 specified in the petition approved by the Sec-
22 retary of Homeland Security under this section.
23 The maximum continuous period of authorized
24 stay for an H-2A worker is 36 months.

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

9 “(C) EXCEPTIONS.—The Secretary of
10 Homeland Security shall deduct absences from
11 the United States that take place during an H–
12 2A worker’s period of authorized stay from the
13 period that the alien is required to remain out-
14 side the United States under subparagraph (B),
15 if the alien or the alien’s employer requests
16 such a deduction, and provides clear and con-
17 vincing proof that the alien qualifies for such a
18 deduction. Such proof shall consist of evidence
19 including, but not limited to, arrival and depart-
20 ure records, copies of tax returns, and records
21 of employment abroad.

22 “(D) ADMISSION.—In addition to the max-
23 imum continuous period of authorized stay, an
24 H–2A worker’s authorized period of admission
25 shall include an additional period of 10 days

1 prior to the beginning of the period of employ-
2 ment for the purpose of traveling to the place
3 of employment and 45 days at the end of the
4 period of employment for the purpose of trav-
5 eling home or seeking an extension of status
6 based on a subsequent offer of employment if
7 the worker has not reached the maximum con-
8 tinuous period of authorized stay under sub-
9 paragraph (A) (subject to the exceptions in sub-
10 paragraph (C)).

11 “(4) CONTINUING H-2A WORKERS.—

12 “(A) SUCCESSIVE EMPLOYMENT.—An H-
13 2A worker is authorized to start new or concur-
14 rent employment upon the filing of a nonfrivo-
15 lous H-2A petition, or as of the requested start
16 date, whichever is later if—

17 “(i) the petition to start new or con-
18 current employment was filed prior to the
19 expiration of the H-2A worker’s period of
20 admission as defined in paragraph (3)(D);
21 and

22 “(ii) the H-2A worker has not been
23 employed without authorization in the
24 United States from the time of last admis-
25 sion to the United States in H-2A status

1 through the filing of the petition for new
2 employment.

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

7 “(i) is the beneficiary of an approved
8 petition, filed under section 204(a)(1)(E)
9 or (F) for preference status under section
10 203(b)(3)(A)(iii), and

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

14 may apply for, and the Secretary of Homeland
15 Security may grant, an extension of such non-
16 immigrant status until the Secretary of Home-
17 land Security issues a final administrative deci-
18 sion on the alien’s application for adjustment of
19 status or the Secretary of State issues a final
20 decision on the alien’s application for an immi-
21 grant visa.

22 “(5) ABANDONMENT OF EMPLOYMENT.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), an H–2A worker who aban-
25 dons the employment which was the basis for

1 the worker's authorized stay, without good
2 cause, shall be considered to have failed to
3 maintain H-2A status and shall depart the
4 United States or be subject to removal under
5 section 237(a)(1)(C)(i).

6 “(B) GRACE PERIOD TO SECURE NEW EM-
7 PLOYMENT.—An H-2A worker shall not be con-
8 sidered to have failed to maintain H-2A status
9 solely on the basis of a cessation of the employ-
10 ment on which the alien's classification was
11 based for a period of 45 consecutive days, or
12 until the end of the authorized validity period,
13 whichever is shorter, once during each author-
14 ized validity period.

15 “(k) REQUIRED DISCLOSURES.—

16 “(1) DISCLOSURE OF WORK CONTRACT.—Not
17 later than the time the H-2A worker applies for a
18 visa, the employer shall provide the worker with a
19 copy of the work contract that includes the disclo-
20 sures and rights under this section (or in the ab-
21 sence of such a contract, a copy of the job order and
22 proof of the certification described in subparagraphs
23 (B) and (D) of subsection (h)(2)). An H-2A worker
24 moving from one H-2A employer to a subsequent
25 H-2A employer shall be provided with a copy of the

1 new employment contract no later than the time an
2 offer of employment is made by the subsequent em-
3 ployer.

4 “(2) HOURS AND EARNINGS STATEMENTS.—
5 The employer shall furnish to H-2A workers, on or
6 before each payday, in 1 or more written state-
7 ments—

8 “(A) the worker’s total earnings for the
9 pay period;

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

12 “(C) the hours of employment offered to
13 the worker and the hours of employment actu-
14 ally worked;

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

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

19 “(F) any other information required by
20 federal, state or local law.

21 “(3) NOTICE OF WORKER RIGHTS.—The em-
22 ployer must post and maintain in a conspicuous lo-
23 cation at the place of employment, a poster provided
24 by the Secretary of Labor in English, and, to the ex-
25 tent necessary, any language common to a signifi-

1 cant portion of the workers if they are not fluent in
2 English, which sets out the rights and protections
3 for workers employed pursuant to this section.

4 “(1) LABOR CONTRACTORS; FOREIGN LABOR RE-
5 CRUITERS; PROHIBITION ON FEES.—

6 “(1) LABOR CONTRACTORS.—

7 “(A) SURETY BOND.—An employer that is
8 a labor contractor who seeks to employ H-2A
9 workers shall maintain a surety bond in an
10 amount required under subparagraph (B). Such
11 bond shall be payable to the Secretary of Labor
12 or pursuant to the resolution of a civil or crimi-
13 nal proceeding, for the payment of wages and
14 benefits, including any assessment of interest,
15 owed to an H-2A worker or a similarly em-
16 ployed United States worker, or a United
17 States worker who has been rejected or dis-
18 placed in violation of this section.

19 “(B) AMOUNT OF BOND.—The Secretary
20 of Labor shall annually publish in the Federal
21 Register a schedule of required bond amounts
22 that are determined by such Secretary to be
23 sufficient for labor contractors to discharge fi-
24 nancial obligations under this section based on
25 the number of workers the labor contractor

1 seeks to employ and the wages such workers are
2 required to be paid.

3 “(C) PREMIUM BOND.—A labor contractor
4 seeking to file a petition involving more than 1
5 start date under subsection (h)(1)(C) shall
6 maintain a surety bond that is at least 15 per-
7 cent higher than the applicable bond amount
8 determined by the Secretary under subpara-
9 graph (B).

10 “(D) USE OF FUNDS.—Any sums paid to
11 the Secretary under subparagraph (A) that are
12 not paid to a worker because of the inability to
13 do so within a period of 5 years following the
14 date of a violation giving rise to the obligation
15 to pay shall remain available to the Secretary
16 without further appropriation until expended to
17 support the enforcement of this section.

18 “(2) FOREIGN LABOR RECRUITING.—If the em-
19 ployer has retained the services of a foreign labor re-
20 cruter, the employer shall use a foreign labor re-
21 cruter registered under section 251 of the Farm
22 Workforce Modernization Act of 2019.

23 “(3) PROHIBITION AGAINST EMPLOYEES PAY-
24 ING FEES.—Neither the employer nor its agents
25 shall seek or receive payment of any kind from any

1 worker for any activity related to the H-2A process,
2 including payment of the employer's attorneys' fees,
3 application fees, or recruitment costs. An employer
4 and its agents may receive reimbursement for costs
5 that are the responsibility and primarily for the ben-
6 efit of the worker, such as government-required
7 passport fees.

8 “(4) THIRD PARTY CONTRACTS.—The contract
9 between an employer and any labor contractor or
10 any foreign labor recruiter (or any agent of such
11 labor contractor or foreign labor recruiter) whom the
12 employer engages shall include a term providing for
13 the termination of such contract for cause if the con-
14 tractor or recruiter, either directly or indirectly, in
15 the placement or recruitment of H-2A workers seeks
16 or receives payments or other compensation from
17 prospective employees. Upon learning that a labor
18 contractor or foreign labor recruiter has sought or
19 collected such payments, the employer shall so termi-
20 nate any contracts with such contractor or recruiter.

21 “(m) ENFORCEMENT AUTHORITY.—

22 “(1) IN GENERAL.—The Secretary of Labor is
23 authorized to take such actions against employers,
24 including imposing appropriate penalties and seeking
25 monetary and injunctive relief and specific perform-

1 ance of contractual obligations, as may be necessary
2 to ensure compliance with the requirements of this
3 section and with the applicable terms and conditions
4 of employment.

5 “(2) COMPLAINT PROCESS.—

6 “(A) PROCESS.—The Secretary of Labor
7 shall establish a process for the receipt, inves-
8 tigation, and disposition of complaints alleging
9 failure of an employer to comply with the re-
10 quirements under this section and with the ap-
11 plicable terms and conditions of employment.

12 “(B) FILING.—A complaint referred to in
13 subparagraph (A) may be filed not later than 2
14 years after the date of the conduct that is the
15 subject of the complaint.

16 “(C) COMPLAINT NOT EXCLUSIVE.—A
17 complaint filed under this paragraph is not an
18 exclusive remedy and the filing of such a com-
19 plaint does not waive any rights or remedies of
20 the aggrieved party under this law or other
21 laws.

22 “(D) DECISION AND REMEDIES.—If the
23 Secretary of Labor finds, after notice and op-
24 portunity for a hearing, that the employer failed
25 to comply with the requirements of this section

1 or the terms and conditions of employment, the
2 Secretary of Labor may require payment of un-
3 paid wages, unpaid benefits, fees assessed in
4 violation of this section, damages, and civil
5 money penalties. The Secretary is also author-
6 ized to impose other administrative remedies,
7 including disqualification of the employer from
8 utilizing the H-2A program for a period of up
9 to 5 years in the event of willful or multiple
10 material violations. The Secretary is authorized
11 to permanently disqualify an employer from uti-
12 lizing the H-2A program upon a subsequent
13 finding involving willful or multiple material
14 violations.

15 “(E) DISPOSITION OF PENALTIES.—Civil
16 penalties collected under this paragraph shall be
17 deposited into the H-2A Labor Certification
18 Fee Account established under section 203 of
19 the Farm Workforce Modernization Act of
20 2019.

21 “(3) STATUTORY CONSTRUCTION.—Nothing in
22 this subsection may be construed as limiting the au-
23 thority of the Secretary of Labor to conduct an in-
24 vestigation—

1 “(A) under any other law, including any
2 law affecting migrant and seasonal agricultural
3 workers; or

4 “(B) in the absence of a complaint.

5 “(4) RETALIATION PROHIBITED.—It is a viola-
6 tion of this subsection for any person who has filed
7 a petition under this section to intimidate, threaten,
8 restrain, coerce, blacklist, discharge, or in any other
9 manner discriminate against, or to cause any person
10 to intimidate, threaten, restrain, coerce, blacklist, or
11 in any manner discriminate against, an employee, in-
12 cluding a former employee or an applicant for em-
13 ployment, because the employee—

14 “(A) has disclosed information to the em-
15 ployer, or to any other person, that the em-
16 ployee reasonably believes evidences a violation
17 under this section, or any rule or regulation re-
18 lating to this section;

19 “(B) has filed a complaint concerning the
20 employer’s compliance with the requirements
21 under this section or any rule or regulation per-
22 taining to this section;

23 “(C) cooperates or seeks to cooperate in an
24 investigation or other proceeding concerning the
25 employer’s compliance with the requirements

1 under this section or any rule or regulation per-
2 taining to this section; or

3 “(D) has taken steps to exercise or assert
4 any right or protection under the provisions of
5 this section, or any rule or regulation pertaining
6 to this section, or any other relevant federal,
7 state, or local law.

8 “(5) INTERAGENCY COMMUNICATION.—The
9 Secretary of Labor, in consultation with the Sec-
10 retary of Homeland Security, Secretary of State and
11 the Equal Employment Opportunity Commission,
12 shall establish mechanisms by which the agencies
13 and their components share information, including
14 by public electronic means, regarding complaints,
15 studies, investigations, findings and remedies regard-
16 ing compliance by employers with the requirements
17 of the H–2A program and other employment-related
18 laws and regulations.

19 “(n) DEFINITIONS.—In this section:

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

1 “(2) H-2A WORKER.—The term ‘H-2A worker’
2 means a nonimmigrant described in section
3 101(a)(15)(H)(ii)(a).

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

9 “(4) ONLINE JOB REGISTRY.—The term ‘online
10 job registry’ means the online job registry of the
11 Secretary of Labor required under section 201(b) of
12 the Farm Workforce Modernization Act of 2019 (or
13 similar successor registry).

14 “(5) SIMILARLY EMPLOYED.—The term ‘simi-
15 larly employed’, in the case of a worker, means a
16 worker in the same occupational classification as the
17 classification or classifications for which the H-2A
18 worker is sought.

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

21 “(A) a citizen or national of the United
22 States;

23 “(B) an alien who is lawfully admitted for
24 permanent residence, is admitted as a refugee
25 under section 207, is granted asylum under sec-

1 tion 208, or is an immigrant otherwise author-
2 ized to be employed in the United States;

3 “(C) an alien granted certified agricultural
4 worker status under title I of the Farm Work-
5 force Modernization Act of 2019; or

6 “(D) an individual who is not an unauthor-
7 ized alien (as defined in section 274A(h)(3))
8 with respect to the employment in which the
9 worker is engaging.

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

11 “(1) FEES.—

12 “(A) IN GENERAL.—The Secretary of
13 Homeland Security shall impose a fee to proc-
14 ess petitions under this section. Such fee shall
15 be set at a level that is sufficient to recover the
16 reasonable costs of processing the petition, in-
17 cluding the reasonable costs of providing labor
18 certification by the Secretary of Labor.

19 “(B) DISTRIBUTION.—Fees collected
20 under subparagraph (A) shall be deposited as
21 offsetting receipts into the immigration exami-
22 nations fee account in section 286(m), except
23 that the portion of fees assessed for the Sec-
24 retary of Labor shall be deposited into the H-
25 2A Labor Certification Fee Account established

1 pursuant to section 203(c) of the Farm Work-
2 force Modernization Act of 2019 .

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

6 “(A) recruiting United States workers for
7 labor or services which might otherwise be per-
8 formed by H–2A workers, including by ensuring
9 that State workforce agencies are sufficiently
10 funded to fulfill their functions under this sec-
11 tion;

12 “(B) enabling the Secretary of Labor to
13 make determinations and certifications under
14 this section and under section 212(a)(5)(A)(i);

15 “(C) monitoring the terms and conditions
16 under which H–2A workers (and United States
17 workers employed by the same employers) are
18 employed in the United States; and

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

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

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

1 (1) consulting with State workforce agencies
2 to—

3 (A) review and process job orders;

4 (B) facilitate the recruitment and referral
5 of able, willing and qualified United States
6 workers who will be available at the time and
7 place needed;

8 (C) determine prevailing wages and prac-
9 tices; and

10 (D) conduct timely inspections to ensure
11 compliance with applicable Federal, State, or
12 local housing standards and Federal regulations
13 for H-2A housing;

14 (2) determining whether the employer has met
15 the conditions for approval of the H-2A petition de-
16 scribed in section 218(a) of the Immigration and
17 Nationality Act (8 U.S.C. 1188(a));

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

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

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

4 (6) ensuring that guidance to State workforce
5 agencies to conduct wage surveys is regularly up-
6 dated.

7 (b) RESPONSIBILITIES OF THE SECRETARY OF
8 HOMELAND SECURITY.—With respect to the administra-
9 tion of the H–2A program, the Secretary of Homeland Se-
10 curity shall be responsible for—

11 (1) adjudicating petitions for the admission of
12 H–2A workers, which shall include an assessment as
13 to whether each beneficiary will be employed in ac-
14 cordance with the terms and conditions of the cer-
15 tification and whether any named beneficiaries qual-
16 ify for such employment;

17 (2) transmitting a copy of the final decision on
18 the petition to the employer, and in the case of ap-
19 proved petitions, ensuring that the petition approval
20 is reflected in the electronic platform to facilitate the
21 prompt issuance of a visa by the Department of
22 State (if required) and the admission of the H–2A
23 workers to the United States; and

24 (3) establishing a reliable and secure method
25 through which H–2A workers can access information

1 about their H-2A visa status, including information
2 on pending, approved, or denied petitions to extend
3 such status.

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

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

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

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

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

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

23 (3) ADDITIONAL FUNDS.—Amounts available
24 under paragraph (1) shall be available in addition to
25 any other funds appropriated or made available to

1 the Department of Labor under other laws, includ-
2 ing section 218(o)(2) of the Immigration and Na-
3 tionality Act.

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

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

10 (b) APPLICABILITY OF OTHER LAWS.—

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

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

23 (3) MEDIATION.—

24 (A) FREE MEDIATION SERVICES.—The
25 Federal Mediation and Conciliation Service

1 shall be available to assist in resolving disputes
2 arising under this section between H-2A work-
3 ers and agricultural employers without charge
4 to the parties.

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

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

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

9 (E) AUTHORIZATION OF APPROPRIA-
10 TIONS.—

11 (i) IN GENERAL.—Subject to clause
12 (ii), there is authorized to be appropriated
13 to the Federal Mediation and Conciliation
14 Service, \$500,000 for each fiscal year to
15 carry out this subparagraph.

16 (ii) MEDIATION.—Notwithstanding
17 any other provision of law, the Director of
18 the Federal Mediation and Conciliation
19 Service is authorized—

20 (I) to conduct the mediation or
21 other dispute resolution activities from
22 any other account containing amounts
23 available to the Director; and

1 (II) to reimburse such account
2 with amounts appropriated pursuant
3 to clause (i).

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

8 (c) FARM LABOR CONTRACTOR REQUIREMENTS.—

9 (1) SURETY BONDS.—

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

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

1 cial obligations based on the number of workers to be cov-
2 ered.”.

3 (B) REGISTRATION DETERMINATIONS.—

4 Section 103(a) of the Migrant and Seasonal
5 Worker Protection Act (29 U.S.C. 1813(a)), is
6 amended—

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

9 (2) in paragraph (5)(B), by striking the period
10 at the end and inserting “;”; and

11 (3) by adding at the end the following:

12 “(6) has failed to maintain a surety bond in
13 compliance with section 101(e); or

14 “(7) has been disqualified by the Secretary of
15 Labor from importing nonimmigrants described in
16 section 101(a)(15)(H)(ii) of the Immigration and
17 Nationality Act.”.

18 (2) SUCCESSORS IN INTEREST.—

19 (A) DECLARATION.—Section 102 of the
20 Migrant and Seasonal Worker Protection Act
21 (29 U.S.C. 1812), is amended—

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

24 (2) in paragraph (5), by striking the period at
25 the end and inserting “; and”; and

1 (3) by adding at the end the following:

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

10 (B) REBUTTABLE PRESUMPTION.—Section
11 103 of the Migrant and Seasonal Worker Pro-
12 tection Act (29 U.S.C. 1813), as amended by
13 this Act, is further amended by inserting after
14 subsection (a) the following new subsection
15 (and renumbering the remaining subsections ac-
16 cordingly):

17 “(b)(1) There shall be a rebuttable presumption that
18 an applicant for issuance or renewal of a certificate is not
19 the real party in interest in the application if the appli-
20 cant—

21 “(A) is the immediate family member of
22 any person who has been refused issuance or
23 renewal of a certificate, or has had a certificate
24 suspended or revoked;

1 “(B) identifies a vehicle, facility, or real
2 property under paragraphs (2) or (3) of section
3 102 that has been previously listed by a person
4 who has been refused issuance or renewal of a
5 certificate, or has had a certificate suspended or
6 revoked.

7 “(2) An applicant described in paragraph (1)
8 bears the burden of demonstrating to the Secretary’s
9 satisfaction that the applicant is the real party in in-
10 terest in the application.”.

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

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

18 (1) whether, and the manner in which, the em-
19 ployment of H-2A workers in the United States has
20 impacted the wages, working conditions, or job op-
21 portunities of United States farm workers;

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

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

5 (4) the degree to which the adverse effect wage
6 rate is affected by the inclusion in wage surveys of
7 piece rate compensation, bonus payments, and other
8 pay incentives, and whether such forms of incentive
9 compensation should be surveyed and reported sepa-
10 rately from hourly base rates;

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

15 (6) whether, and the manner in which, the H-
16 2A program affects the ability of United States
17 farms to compete with agricultural commodities im-
18 ported from outside the United States;

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

22 (8) whether alternative wage standards would
23 be sufficient to prevent wages in occupations in
24 which H-2A workers are employed from falling

1 below the wage level that would have prevailed in the
2 absence of the H-2A program;

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

6 (10) recommendations for future wage protec-
7 tion under this section.

8 (b) In preparing the report described in subsection
9 (a), the Secretary of Labor and Secretary of Agriculture
10 shall engage with equal numbers of representatives of ag-
11 ricultural employers and agricultural workers, both locally
12 and nationally.

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

14 (a) ESTABLISHMENT OF PILOT PROGRAM.—

15 (1) IN GENERAL.—Not later than 18 months
16 after the date of the enactment of this Act, the Sec-
17 retary of Homeland Security, in consultation with
18 the Secretary of Labor and Secretary of Agriculture,
19 shall establish through regulation a 6-year pilot pro-
20 gram to facilitate the free movement and employ-
21 ment of temporary or seasonal H-2A workers to
22 perform agricultural labor or services for agricul-
23 tural employers registered with the Secretary of Ag-
24 riculture. Notwithstanding the requirements of sec-
25 tion 218 of the Immigration and Nationality Act,

1 such regulation shall establish the requirements for
2 the pilot program, consistent with subsection (b).
3 For purposes of this section, such a worker shall be
4 referred to as a portable H-2A worker, and status
5 as such a worker shall be referred to as portable H-
6 2A status

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

23 (3) LIMITATION.—Notwithstanding the
24 issuance of the regulation described in paragraph
25 (1), the Secretary of State may not issue a portable

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

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

13 (1) REGISTERED AGRICULTURAL EMPLOY-
14 ERS.—

15 (A) DESIGNATION.—Agricultural employ-
16 ers shall be provided the ability to seek designa-
17 tion as registered agricultural employers. Rea-
18 sonable fees may be assessed commensurate
19 with the cost of processing applications for des-
20 ignation. A designation shall be valid for a pe-
21 riod of up to 3 years unless revoked for failure
22 to comply with program requirements. Reg-
23 istered employers that comply with program re-
24 quirements may apply to renew such designa-

1 tion for additional periods of up to 3 years for
2 the duration of the pilot program.

3 (B) LIMITATIONS.—Registered agricultural
4 employers may employ aliens with portable H–
5 2A status without filing a petition. Such em-
6 ployers shall pay such aliens at least the wage
7 required under section 218(d) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1188(d)).

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

18 (2) DESIGNATED WORKERS.—

19 (A) IN GENERAL.—Individuals who have
20 been previously admitted to the United States
21 in H–2A status, and maintained such status
22 during the period of admission, shall be pro-
23 vided the opportunity to apply for portable H–
24 2A status. Portable H–2A workers shall be sub-
25 ject to the provisions on visa validity and peri-

1 ods of authorized stay and admission for H–2A
2 workers described in sections 218(j)(2) and (3)
3 of the Immigration and Nationality Act (8
4 U.S.C. 1188(j)(2) and (3)).

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

7 (i) INITIAL OFFER OF EMPLOYMENT
8 REQUIRED.—No alien may be granted
9 portable H–2A status without an initial
10 valid offer of employment to perform tem-
11 porary or agricultural labor or services
12 from a registered agricultural employer.

13 (ii) NUMERICAL LIMITATIONS.—The
14 total number of aliens who may hold valid
15 portable H–2A status at any one time may
16 not exceed 10,000. Notwithstanding such
17 limitation, the Secretary of Homeland Se-
18 curity may further limit the number of
19 aliens with valid portable H–2A status if
20 the Secretary determines that there are an
21 insufficient number of registered agricul-
22 tural employers or job opportunities to
23 support the employment of all such port-
24 able H–2A workers.

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

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

17 (E) MAINTENANCE OF STATUS.—A port-
18 able H–2A worker who does not secure new em-
19 ployment with a registered agricultural em-
20 ployer within 60 days shall be considered to
21 have failed to maintain such status and shall
22 depart the United States or be subject to re-
23 moval under section 237(a)(1)(C)(i) of the Im-
24 migration and Nationality Act (8 U.S.C.
25 1188(a)(1)(C)(i).

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

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

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

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

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

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

12 (4) an assessment of the impact of the pilot
13 program on the wages and working conditions of
14 United States farm workers;

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

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

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

24 (8) findings and recommendations regarding ef-
25 fective recruitment mechanisms, including use of

1 new technology to match workers with employers
2 and ensure compliance with applicable labor and em-
3 ployment laws and regulations.

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

5 (a) **WORLDWIDE LEVEL.**—Section 201(d)(1)(A) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1151(d)(1)(A)) is amended by striking “140,000” and in-
8 serting “180,000”.

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

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

14 (2) in paragraph (2)(A) by striking “28.6 per-
15 cent of such worldwide level” and inserting
16 “40,040”;

17 (3) in paragraph (3)—

18 (A) in subparagraph (A)—

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

22 (ii) by amending clause (iii) to read as
23 follows:

24 “(iii) **OTHER WORKERS.**—Other quali-
25 fied immigrants who, at the time of peti-

1 tioning for classification under this para-
2 graph—

3 “**(I)** are capable of performing
4 unskilled labor, not of a temporary or
5 seasonal nature, for which qualified
6 workers are not available in the
7 United States; or

8 “**(II)** can demonstrate employ-
9 ment in the United States as an H-
10 2A nonimmigrant worker for at least
11 100 days in each of at least 10
12 years.”;

13 **(B)** by amending subparagraph **(B)** to read
14 as follows:

15 “**(B)** **VISAS ALLOCATED FOR OTHER**
16 **WORKERS.—**

17 “(i) **IN GENERAL.—**Except as pro-
18 vided in clauses (ii) and (iii), 50,000 of the
19 visas made available under this paragraph
20 shall be reserved for qualified immigrants
21 described in subparagraph **(A)(iii)**.

22 “(ii) **PREFERENCE FOR AGRICUL-**
23 **TURAL WORKERS.—**Subject to clause (iii),
24 not less than four-fifths of the visas de-
25 scribed in clause (i) shall be reserved for—

1 “(I) qualified immigrants de-
2 scribed in subparagraph (A)(iii)(I)
3 who will be performing agricultural
4 labor or services in the United States;
5 and

6 “(II) qualified immigrants de-
7 scribed in subparagraph (A)(iii)(II).

8 “(iii) EXCEPTION.—If because of the
9 application of clause (ii), the total number
10 of visas available under this paragraph for
11 a calendar quarter exceeds the number of
12 qualified immigrants who otherwise may be
13 issued such a visa, clause (ii) shall not
14 apply to visas under this paragraph during
15 the remainder of such calendar quarter.

16 “(iv) NO PER COUNTRY LIMITS.—
17 Visas described under clause (ii) shall be
18 issued without regard to the numerical lim-
19 itation under section 202(a)(2).”; and

20 (C) by amending subparagraph (C) by
21 striking “An immigrant visa” and inserting
22 “Except for qualified immigrants petitioning for
23 classification under subparagraph (A)(iii)(II),
24 an immigrant visa”;

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

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

6 (c) PETITIONING PROCEDURE.—Section
7 204(a)(1)(E) of the Immigration and Nationality Act (8
8 U.S.C. 1154(a)(1)(E)) is amended by inserting “or
9 203(b)(3)(A)(iii)(II)” after “203(b)(1)(A)”.

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

15 **Subtitle B—Preservation and Con-**
16 **struction of Farmworker Hous-**
17 **ing**

18 **SEC. 220. SHORT TITLE.**

19 This subtitle may be cited as the “Strategy and In-
20 vestment in Rural Housing Preservation Act of 2019”.

21 **SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRES-**
22 **ERVATION AND REVITALIZATION PROGRAM.**

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

1 **“SEC. 545. HOUSING PRESERVATION AND REVITALIZATION**
2 **PROGRAM.**

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

7 “(b) NOTICE OF MATURING LOANS.—

8 “(1) TO OWNERS.—On an annual basis, the
9 Secretary shall provide written notice to each owner
10 of a property financed under section 515 or both
11 sections 514 and 516 that will mature within the 4-
12 year period beginning upon the provision of such no-
13 tice, setting forth the options and financial incen-
14 tives that are available to facilitate the extension of
15 the loan term or the option to decouple a rental as-
16 sistance contract pursuant to subsection (f).

17 “(2) TO TENANTS.—

18 “(A) IN GENERAL.—For each property fi-
19 nanced under section 515 or both sections 514
20 and 516, not later than the date that is 2 years
21 before the date that such loan will mature, the
22 Secretary shall provide written notice to each
23 household residing in such property that in-
24 forms them of the date of the loan maturity,
25 the possible actions that may happen with re-
26 spect to the property upon such maturity, and

1 how to protect their right to reside in federally
2 assisted housing after such maturity.

3 “(B) LANGUAGE.—Notice under this para-
4 graph shall be provided in plain English and
5 shall be translated to other languages in the
6 case of any property located in an area in which
7 a significant number of residents speak such
8 other languages.

9 “(c) LOAN RESTRUCTURING.—Under the program
10 under this section, the Secretary may restructure such ex-
11 isting housing loans, as the Secretary considers appro-
12 priate, for the purpose of ensuring that such projects have
13 sufficient resources to preserve the projects to provide safe
14 and affordable housing for low-income residents and farm
15 laborers, by—

16 “(1) reducing or eliminating interest;

17 “(2) deferring loan payments;

18 “(3) subordinating, reducing, or reamortizing
19 loan debt; and

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

24 “(d) RENEWAL OF RENTAL ASSISTANCE.—When the
25 Secretary offers to restructure a loan pursuant to sub-

1 section (c), the Secretary shall offer to renew the rental
2 assistance contract under section 521(a)(2) for a 20-year
3 term that is subject to annual appropriations, provided
4 that the owner agrees to bring the property up to such
5 standards that will ensure its maintenance as decent, safe,
6 and sanitary housing for the full term of the rental assist-
7 ance contract.

8 “(e) RESTRICTIVE USE AGREEMENTS.—

9 “(1) REQUIREMENT.—As part of the preserva-
10 tion and revitalization agreement for a project, the
11 Secretary shall obtain a restrictive use agreement
12 that obligates the owner to operate the project in ac-
13 cordance with this title.

14 “(2) TERM.—

15 “(A) NO EXTENSION OF RENTAL ASSIST-
16 ANCE CONTRACT.—Except when the Secretary
17 enters into a 20-year extension of the rental as-
18 sistance contract for the project, the term of
19 the restrictive use agreement for the project
20 shall be consistent with the term of the restruc-
21 tured loan for the project.

22 “(B) EXTENSION OF RENTAL ASSISTANCE
23 CONTRACT.—If the Secretary enters into a 20-
24 year extension of the rental assistance contract

1 for a project, the term of the restrictive use
2 agreement for the project shall be for 20 years.

3 “(C) TERMINATION.—The Secretary may
4 terminate the 20-year use restrictive use agree-
5 ment for a project prior to the end of its term
6 if the 20-year rental assistance contract for the
7 project with the owner is terminated at any
8 time for reasons outside the owner’s control.

9 “(f) DECOUPLING OF RENTAL ASSISTANCE.—

10 “(1) RENEWAL OF RENTAL ASSISTANCE CON-
11 TRACT.—If the Secretary determines that a matur-
12 ing loan for a project cannot reasonably be restruc-
13 tured in accordance with subsection (c) and the
14 project was operating with rental assistance under
15 section 521, the Secretary may renew the rental as-
16 sistance contract, notwithstanding any provision of
17 section 521, for a term, subject to annual appropria-
18 tions, of at least 10 years but not more than 20
19 years.

20 “(2) RENTS.—Any agreement to extend the
21 term of the rental assistance contract under section
22 521 for a project shall obligate the owner to con-
23 tinue to maintain the project as decent, safe and
24 sanitary housing and to operate the development in

1 accordance with this title, except that rents shall be
2 based on the lesser of—

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

4 or

5 “(B) the operating cost adjustment factor
6 as a payment standard as provided under sec-
7 tion 524 of the Multifamily Assisted Housing
8 Reform and Affordability Act of 1997 (42
9 U.S.C. 1437 note).

10 “(g) MULTIFAMILY HOUSING TRANSFER TECHNICAL
11 ASSISTANCE.—Under the program under this section, the
12 Secretary may provide grants to qualified non-profit orga-
13 nizations and public housing agencies to provide technical
14 assistance, including financial and legal services, to bor-
15 rowers under loans under this title for multifamily housing
16 to facilitate the acquisition of such multifamily housing
17 properties in areas where the Secretary determines there
18 is a risk of loss of affordable housing.

19 “(h) TRANSFER OF RENTAL ASSISTANCE.—After the
20 loan or loans for a rental project originally financed under
21 section 515 or both sections 514 and 516 have matured
22 or have been prepaid and the owner has chosen not to
23 restructure the loan pursuant to subsection (c), a tenant
24 residing in such project shall have 18 months prior to loan
25 maturation or prepayment to transfer the rental assist-

1 ance assigned to the tenant's unit to another rental project
2 originally financed under section 515 or both sections 514
3 and 516, and the owner of the initial project may rent
4 the tenant's previous unit to a new tenant without income
5 restrictions.

6 “(i) ADMINISTRATIVE EXPENSES.—Of any amounts
7 made available for the program under this section for any
8 fiscal year, the Secretary may use not more than
9 \$1,000,000 for administrative expenses for carrying out
10 such program.

11 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated for the program under
13 this section \$200,000,000 for each of fiscal years 2020
14 through 2024.”.

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

16 Section 542 of the Housing Act of 1949 (42 U.S.C.
17 1490r) is amended by adding at the end the following new
18 subsection:

19 “(c) ELIGIBILITY OF HOUSEHOLDS IN SECTION 514,
20 515, AND 516 PROJECTS.—The Secretary may provide
21 rural housing vouchers under this section for any low-in-
22 come household (including those not receiving rental as-
23 sistance) residing, for a term longer than the remaining
24 term of their lease in effect just prior to prepayment, in
25 a property financed with a loan made or insured under

1 section 514 or 515 (42 U.S.C. 1484, 1485) which has
2 been prepaid without restrictions imposed by the Secretary
3 pursuant to section 502(c)(5)(G)(ii)(I) (42 U.S.C.
4 1472(c)(5)(G)(ii)(I)), has been foreclosed, or has matured
5 after September 30, 2005, or residing in a property as-
6 sisted under section 514 or 516 that is owned by a non-
7 profit organization or public agency.”.

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

9 Notwithstanding any other provision of law, in the
10 case of any rural housing voucher provided pursuant to
11 section 542 of the Housing Act of 1949 (42 U.S.C.
12 1490r), the amount of the monthly assistance payment for
13 the household on whose behalf such assistance is provided
14 shall be determined as provided in subsection (a) of such
15 section 542.

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

17 Subsection (d) of section 521 of the Housing Act of
18 1949 (42 U.S.C. 1490a(d)) is amended—

19 (1) in paragraph (1), by inserting after sub-
20 paragraph (A) the following new subparagraph (and
21 renumbering the remaining subparagraphs accord-
22 ingly):

23 “(B) upon request of an owner of a project
24 financed under section 514 or 515, the Sec-
25 retary is authorized to enter into renewal of

1 such agreements for a period of 20 years or the
2 term of the loan, whichever is shorter, subject
3 to amounts made available in appropriations
4 Acts;” and

5 (2) by adding at the end the following new
6 paragraph:

7 “(3) In the case of any rental assistance con-
8 tract authority that becomes available because of the
9 termination of assistance on behalf of an assisted
10 family—

11 “(A) at the option of the owner of the
12 rental project, the Secretary shall provide the
13 owner a period of 6 months before such assist-
14 ance is made available pursuant to subpara-
15 graph (B) during which the owner may use
16 such assistance authority to provide assistance
17 of behalf of an eligible unassisted family that—

18 “(i) is residing in the same rental
19 project that the assisted family resided in
20 prior to such termination; or

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

23 “(B) except for assistance used as provided
24 in subparagraph (A), the Secretary shall use
25 such remaining authority to provide such assist-

1 ance on behalf of eligible families residing in
2 other rental projects originally financed under
3 section 515 or both sections 514 and 516 of
4 this Act.”.

5 **SEC. 225. FUNDING FOR MULTIFAMILY TECHNICAL IM-**
6 **PROVEMENTS.**

7 There is authorized to be appropriated to the Sec-
8 retary of Agriculture \$50,000,000 for fiscal year 2020 for
9 improving the technology of the Department of Agri-
10 culture used to process loans for multifamily housing and
11 otherwise managing such housing. Such improvements
12 shall be made within the 5-year period beginning upon the
13 appropriation of such amounts and such amount shall re-
14 main available until the expiration of such 5-year period.

15 **SEC. 226. PLAN FOR PRESERVING AFFORDABILITY OF**
16 **RENTAL PROJECTS.**

17 (a) PLAN.—The Secretary of Agriculture (in this sec-
18 tion referred to as the “Secretary”) shall submit a written
19 plan to the Congress, not later than the expiration of the
20 6-month period beginning on the date of the enactment
21 of this Act, for preserving the affordability for low-income
22 families of rental projects for which loans were made
23 under section 515 or made to nonprofit or public agencies
24 under section 514 and avoiding the displacement of tenant
25 households, which shall—

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

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

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

8 (4) provide for detailed reporting on outcomes;
9 and

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

12 (b) ADVISORY COMMITTEE.—

13 (1) ESTABLISHMENT; PURPOSE.—The Sec-
14 retary shall establish an advisory committee whose
15 purpose shall be to assist the Secretary in preserving
16 section 515 properties and section 514 properties
17 owned by nonprofit or public agencies through the
18 multifamily housing preservation and revitalization
19 program under section 545 and in implementing the
20 plan required under subsection (a).

21 (2) MEMBER.—The advisory committee shall
22 consist of 16 members, appointed by the Secretary,
23 as follows:

24 (A) A State Director of Rural Develop-
25 ment for the Department of Agriculture.

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

3 (C) Two representatives of for-profit devel-
4 opers or owners of multifamily rural rental
5 housing.

6 (D) Two representatives of non-profit de-
7 velopers or owners of multifamily rural rental
8 housing.

9 (E) Two representatives of State housing
10 finance agencies.

11 (F) Two representatives of tenants of mul-
12 tifamily rural rental housing.

13 (G) One representative of a community de-
14 velopment financial institution that is involved
15 in preserving the affordability of housing as-
16 sisted under sections 514, 515, and 516 of the
17 Housing Act of 1949.

18 (H) One representative of a nonprofit or-
19 ganization that operates nationally and has ac-
20 tively participated in the preservation of hous-
21 ing assisted by the Rural Housing Service by
22 conducting research regarding, and providing fi-
23 nancing and technical assistance for, preserving
24 the affordability of such housing.

1 (I) One representative of low-income hous-
2 ing tax credit investors.

3 (J) One representative of regulated finan-
4 cial institutions that finance affordable multi-
5 family rural rental housing developments.

6 (K) Two representatives from non-profit
7 organizations representing farmworkers, includ-
8 ing one organization representing farmworker
9 women.

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

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

15 (A) Assisting the Rural Housing Service of
16 the Department of Agriculture to improve esti-
17 mates of the size, scope, and condition of rental
18 housing portfolio of the Service, including the
19 time frames for maturity of mortgages and
20 costs for preserving the portfolio as affordable
21 housing.

22 (B) Reviewing current policies and proce-
23 dures of the Rural Housing Service regarding
24 preservation of affordable rental housing fi-
25 nanced under sections 514, 515, 516, and 538

1 of the Housing Act of 1949, the Multifamily
2 Preservation and Revitalization Demonstration
3 program (MPR), and the rental assistance pro-
4 gram and making recommendations regarding
5 improvements and modifications to such policies
6 and procedures.

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

9 (D) Providing reports to the Congress and
10 the public on meetings, recommendations, and
11 other findings of the advisory committee.

12 (5) TRAVEL COSTS.—Any amounts made avail-
13 able for administrative costs of the Department of
14 Agriculture may be used for costs of travel by mem-
15 bers of the advisory committee to meetings of the
16 committee.

17 **SEC. 227. COVERED HOUSING PROGRAMS.**

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

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

23 (2) by redesignating subparagraph (J) as sub-
24 paragraph (K); and

1 (3) by inserting after subparagraph (I) the fol-
2 lowing new subparagraph:

3 “(J) rural development housing voucher
4 assistance provided by the Secretary of Agri-
5 culture pursuant to section 542 of the Housing
6 Act of 1949 (42 U.S.C. 1490r), without regard
7 to subsection (b) of such section, and applicable
8 appropriation Acts; and”.

9 **SEC. 228. NEW FARMWORKER HOUSING.**

10 Section 513 of the Housing Act of 1949 (42 U.S.C.
11 1483) is amended by adding at the end the following new
12 subsection:

13 “(f) FUNDING FOR FARMWORKER HOUSING.—

14 “(1) SECTION 514 FARMWORKER HOUSING
15 LOANS.—

16 “(A) INSURANCE AUTHORITY.—The Sec-
17 retary of Agriculture may, to the extent ap-
18 proved in appropriation Acts, insure loans
19 under section 514 (42 U.S.C. 1484) during
20 each of fiscal years 2020 through 2029 in an
21 aggregate amount not to exceed \$200,000,000.

22 “(B) AUTHORIZATION OF APPROPRIATIONS
23 FOR COSTS.—There is authorized to be appro-
24 priated \$75,000,000 for each of fiscal years
25 2020 through 2029 for costs (as such term is

1 defined in section 502 of the Congressional
2 Budget Act of 1974 (2 U.S.C. 661a)) of loans
3 insured pursuant the authority under subpara-
4 graph (A).

5 “(2) SECTION 516 GRANTS FOR FARMWORKER
6 HOUSING.—There is authorized to be appropriated
7 \$30,000,000 for each of fiscal years 2020 through
8 2029 for financial assistance under section 516 (42
9 U.S.C. 1486).

10 “(3) SECTION 521 HOUSING ASSISTANCE.—
11 There is authorized to be appropriated
12 \$2,700,000,000 for each of fiscal years 2020
13 through 2029 for rental assistance agreements en-
14 tered into or renewed pursuant to section 521(a)(2)
15 (42 U.S.C. 1490a(a)(2)) or agreements entered into
16 in lieu of debt forgiveness or payments for eligible
17 households as authorized by section 502(c)(5)(D).”.

18 **SEC. 229. LOAN AND GRANT LIMITATIONS.**

19 Subsection (j) of section 514 of the Housing Act of
20 1949 (42 U.S.C. 1484(j)) shall be amended to read as
21 follows:

22 “(j) PER PROJECT LIMITATIONS ON ASSISTANCE.—
23 If the Secretary, in making available assistance in any
24 area under this section or section 516 (42 U.S.C. 1486),
25 establishes a limitation on the amount of assistance avail-

1 able per project, the limitation on a grant or loan award
2 per project shall not be less than \$5 million.”.

3 **SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

4 Subsection (a)(5) of section 521 of the Housing Act
5 of 1949 (42 U.S.C. 1490a(a)(5)) is amended—

6 (1) in subparagraph (A) by inserting “or do-
7 mestic farm labor legally admitted to the United
8 States and authorized to work in agriculture” after
9 “migrant farmworkers”;

10 (2) in subparagraph (B)—

11 (A) by striking “AMOUNT.—In any fiscal
12 year” and inserting “AMOUNT.—

13 “(i) HOUSING FOR MIGRANT
14 FARMWORKERS.—In any fiscal year”;

15 (B) by inserting “providing housing for mi-
16 grant farmworkers” after “any project”; and

17 (C) by inserting at the end the following:

18 “(ii) HOUSING FOR OTHER FARM
19 LABOR.—In any fiscal year, the assistance
20 provided under this paragraph for any
21 project providing housing for domestic
22 farm labor legally admitted to the United
23 States and authorized to work in agri-
24 culture shall not exceed an amount equal
25 to 50 percent of the operating costs for the

1 project for the year, as determined by the
2 Secretary. The owner of such project shall
3 not qualify for operating assistance unless
4 the Secretary certifies that the project was
5 unoccupied or underutilized before making
6 units available to such farm labor, and
7 that a grant under this section will not dis-
8 place any farm worker who is a United
9 States worker.”; and

10 (3) in subparagraph (D), by adding at the end
11 the following:

12 “(iii) The term ‘domestic farm labor’
13 has the same meaning given such term in
14 section 514(f)(3) (42 U.S.C. 1484(f)(3)),
15 except that subparagraph (A) of such sec-
16 tion shall not apply for purposes this sec-
17 tion.”.

18 **SEC. 231. ELIGIBILITY OF CERTIFIED WORKERS.**

19 Subsection (a) of section 214 of the Housing and
20 Community Development Act of 1980 (42 U.S.C. 1436a)
21 is amended—

22 (1) in paragraph (6), by striking “or” at the
23 end;

24 (2) by redesignating paragraph (7) as para-
25 graph (8); and

1 (3) by inserting after paragraph (6) the fol-
2 lowing:

3 “(7) an alien granted certified agricultural
4 worker or certified agricultural dependent status
5 under title I of the Farm Workforce Modernization
6 Act of 2019, but solely for financial assistance made
7 available pursuant to section 521 or 542 of the
8 Housing Act of 1949 (42 U.S.C. 1490a, 1490r);
9 or”.

10 **Subtitle C—Foreign Labor**
11 **Recruiter Accountability**

12 **SEC. 251. REGISTRATION OF FOREIGN LABOR RECRUITERS.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of the enactment of this Act, the Secretary of Labor,
15 in consultation with the Secretary of State and the Sec-
16 retary of Homeland Security, shall establish procedures
17 for the electronic registration of foreign labor recruiters
18 engaged in the recruitment of nonimmigrant workers de-
19 scribed in section 101(a)(15)(H)(ii)(a) of the Immigration
20 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) to
21 perform agricultural labor or services in the United States.

22 (b) PROCEDURAL REQUIREMENTS.—The procedures
23 described in subsection (a) shall—

24 (1) require the applicant to submit a sworn dec-
25 laration—

1 (A) stating the applicant's permanent
2 place of residence or principal place of business,
3 as applicable;

4 (B) describing the foreign labor recruiting
5 activities in which the applicant is engaged; and

6 (C) including such other relevant informa-
7 tion as the Secretary of Labor and the Sec-
8 retary of State may require;

9 (2) include an expeditious means to update and
10 renew registrations;

11 (3) include a process, which shall include the
12 placement of personnel at each United States diplo-
13 matic mission in accordance with subsection (g)(2),
14 to receive information from the public regarding for-
15 eign labor recruiters who have allegedly engaged in
16 a foreign labor recruiting activity that is prohibited
17 under this subtitle;

18 (4) include procedures for the receipt and proc-
19 essing of complaints against foreign labor recruiters
20 and for remedies, including the revocation of a reg-
21 istration or the assessment of fines upon a deter-
22 mination by the Secretary of Labor that the foreign
23 labor recruiter has violated the requirements of this
24 subtitle;

1 (5) require the applicant to post a bond in an
2 amount sufficient to ensure the ability of the appli-
3 cant to discharge its responsibilities and ensure pro-
4 tection of workers, including payment of wages; and

5 (6) allow the Secretary of Labor and the Sec-
6 retary of State to consult with other appropriate
7 Federal agencies to determine whether any reason
8 exists to deny registration to a foreign labor re-
9 cruiter or revoke such registration.

10 (c) ATTESTATIONS.—Foreign labor recruiters reg-
11 istering under this subtitle shall attest and agree to abide
12 by the following requirements:

13 (1) PROHIBITED FEES.—The foreign labor re-
14 cruiter, including any agent or employee of such for-
15 eign labor recruiter, shall not assess any recruitment
16 fees on a worker for any foreign labor recruiting ac-
17 tivity.

18 (2) PROHIBITION ON FALSE AND MISLEADING
19 INFORMATION.—The foreign labor recruiter shall not
20 knowingly provide materially false or misleading in-
21 formation to any worker concerning any matter re-
22 quired to be disclosed under this subtitle.

23 (3) REQUIRED DISCLOSURES.—The foreign
24 labor recruiter shall ascertain and disclose to the
25 worker in writing in English and in the primary lan-

1 guage of the worker at the time of the worker's re-
2 cruitment, the following information:

3 (A) The identity and address of the em-
4 ployer and the identity and address of the per-
5 son conducting the recruiting on behalf of the
6 employer, including each subcontractor or agent
7 involved in such recruiting.

8 (B) A copy of the approved job order or
9 work contract under section 218 of the Immi-
10 gration and Nationality Act, including all assur-
11 ances and terms and conditions of employment.

12 (C) A statement, in a form specified by the
13 Secretary—

14 (i) describing the general terms and
15 conditions associated with obtaining an H-
16 2A visa and maintaining H-2A status;

17 (ii) affirming the prohibition on the
18 assessment of fees described in paragraph
19 (1), and explaining that such fees, if paid
20 by the employer, may not be passed on to
21 the worker;

22 (iii) describing the protections af-
23 farded the worker under this subtitle, in-
24 cluding procedures for reporting violations
25 to the Secretary of State, filing a com-

1 plaint with the Secretary of Labor, or fil-
2 ing a civil action; and

3 (iv) describing the protections af-
4 forded the worker by section 202 of the
5 William Wilberforce Trafficking Victims
6 Protection Reauthorization Act of 2008 (8
7 U.S.C. 1375b), including the telephone
8 number for the national human trafficking
9 resource center hotline number.

10 (4) BOND.—The foreign labor recruiter shall
11 agree to maintain a bond sufficient to ensure the
12 ability of the foreign labor recruiter to discharge its
13 responsibilities and ensure protection of workers,
14 and to forfeit such bond in an amount determined
15 by the Secretary under subsections (b)(1)(C)(ii) or
16 (c)(2)(C) of section 252 for failure to comply with
17 the provisions of this subtitle.

18 (5) COOPERATION IN INVESTIGATION.—The
19 foreign labor recruiter shall agree to cooperate in
20 any investigation under section 252 of this subtitle
21 by the Secretary or other appropriate authorities.

22 (6) NO RETALIATION.—The foreign labor re-
23 cruiter shall agree to refrain from intimidating,
24 threatening, restraining, coercing, discharging,
25 blacklisting or in any other manner discriminating

1 or retaliating against any worker or their family
2 members (including a former worker or an applicant
3 for employment) because such worker disclosed in-
4 formation to any person based on a reason to believe
5 that the foreign labor recruiter, or any agent or sub-
6 contractee of such foreign labor recruiter, is engag-
7 ing or has engaged in a foreign labor recruiting ac-
8 tivity that does not comply with this subtitle.

9 (7) EMPLOYEES, AGENTS, AND
10 SUBCONTRACTEES.—The foreign labor recruiter
11 shall consent to be liable for the conduct of any
12 agents or subcontractees of any level in relation to
13 the foreign labor recruiting activity of the agent or
14 subcontractee to the same extent as if the foreign
15 labor recruiter had engaged in such conduct.

16 (8) ENFORCEMENT.—If the foreign labor re-
17 cruter is conducting foreign labor recruiting activity
18 wholly outside the United States, such foreign labor
19 recruiter shall establish a registered agent in the
20 United States who is authorized to accept service of
21 process on behalf of the foreign labor recruiter for
22 the purpose of any administrative proceeding under
23 this title or any Federal court civil action, if such
24 service is made in accordance with the appropriate
25 Federal rules for service of process.

1 (d) TERM OF REGISTRATION.—Unless suspended or
2 revoked, a registration under this section shall be valid
3 for 2 years.

4 (e) APPLICATION FEE.—The Secretary shall require
5 a foreign labor recruiter that submits an application for
6 registration under this section to pay a reasonable fee, suf-
7 ficient to cover the full costs of carrying out the registra-
8 tion activities under this subtitle.

9 (f) NOTIFICATION.—

10 (1) EMPLOYER NOTIFICATION.—

11 (A) IN GENERAL.—Not less frequently
12 than once every year, an employer of H-2A
13 workers shall provide the Secretary with the
14 names and addresses of all foreign labor re-
15 cruiterers engaged to perform foreign labor re-
16 cruiting activity on behalf of the employer,
17 whether the foreign labor recruiter is to receive
18 any economic compensation for such services,
19 and, if so, the identity of the person or entity
20 who is paying for the services.

21 (B) AGREEMENT TO COOPERATE.—In ad-
22 dition to the requirements of subparagraph (A),
23 the employer shall—

24 (i) provide to the Secretary the iden-
25 tity of any foreign labor recruiter whom

1 the employer has reason to believe is en-
2 gaging in foreign labor recruiting activities
3 that do not comply with this subtitle; and
4 (ii) promptly respond to any request
5 by the Secretary for information regarding
6 the identity of a foreign labor recruiter
7 with whom the employer has a contract or
8 other agreement.

9 (2) FOREIGN LABOR RECRUITER NOTIFICA-
10 TION.—A registered foreign labor recruiter shall no-
11 tify the Secretary, not less frequently than once
12 every year, of the identity of any subcontractee,
13 agent, or foreign labor recruiter employee involved in
14 any foreign labor recruiting activity for, or on behalf
15 of, the foreign labor recruiter.

16 (g) ADDITIONAL RESPONSIBILITIES OF THE SEC-
17 RETARY OF STATE.—

18 (1) LISTS.—The Secretary of State, in con-
19 sultation with the Secretary of Labor shall maintain
20 and make publicly available in written form and on
21 the websites of United States embassies in the offi-
22 cial language of that country, and on websites main-
23 tained by the Secretary of Labor, regularly updated
24 lists—

1 (A) of foreign labor recruiters who hold
2 valid registrations under this section, includ-
3 ing—

4 (i) the name and address of the for-
5 eign labor recruiter;

6 (ii) the countries in which such re-
7 cruiters conduct recruitment;

8 (iii) the employers for whom recruit-
9 ing is conducted;

10 (iv) the occupations that are the sub-
11 ject of recruitment;

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

14 (vi) the name and address of the reg-
15 istered agent in the United States who is
16 authorized to accept service of process on
17 behalf of the foreign labor recruiter; and

18 (B) of foreign labor recruiters whose reg-
19 istration the Secretary has revoked.

20 (2) PERSONNEL.—The Secretary of State shall
21 ensure that each United States diplomatic mission is
22 staffed with a person who shall be responsible for re-
23 ceiving information from members of the public re-
24 garding potential violations of the requirements ap-
25 plicable to registered foreign labor recruiters and en-

1 suring that such information is conveyed to the Sec-
2 retary of Labor for evaluation and initiation of an
3 enforcement action, if appropriate.

4 (3) VISA APPLICATION PROCEDURES.—The Sec-
5 retary shall ensure that consular officers issuing
6 visas to nonimmigrants under section
7 101(a)(1)(H)(ii)(a) of the Immigration and Nation-
8 ality Act (8 U.S.C. 11001(a)(1)(H)(ii)(a))—

9 (A) provide to and review with the appli-
10 cant, in the applicant’s language (or a language
11 the applicant understands), a copy of the infor-
12 mation and resources pamphlet required by sec-
13 tion 202 of the William Wilberforce Trafficking
14 Victims Protection Reauthorization Act of 2008
15 (8 U.S.C. 1375b);

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

18 (C) note in the visa application file wheth-
19 er the foreign labor recruiter has a valid reg-
20 istration under this section; and

21 (D) if the foreign labor recruiter holds a
22 valid registration, review and include in the visa
23 application file, the foreign labor recruiter’s dis-
24 closures required by subsection (c)(3).

1 (4) DATA.—The Secretary of State shall make
2 publicly available online, on an annual basis, data
3 disclosing the gender, country of origin (and state,
4 county, or province, if available), age, wage, level of
5 training, and occupational classification,
6 disaggregated by State, of nonimmigrant workers
7 described in section 101(a)(15)(H)(ii)(a) of the Im-
8 migration and Nationality Act.

9 **SEC. 252. ENFORCEMENT.**

10 (a) DENIAL OR REVOCATION OF REGISTRATION.—

11 (1) GROUNDS FOR DENIAL OR REVOCATION.—

12 The Secretary shall deny an application for registra-
13 tion, or revoke a registration, if the Secretary deter-
14 mines that the foreign labor recruiter, or any agent
15 or subcontractee of such foreign labor recruiter—

16 (A) knowingly made a material misrepre-
17 sentation in the registration application;

18 (B) materially failed to comply with one or
19 more of the attestations provided under section
20 251(c); or

21 (C) is not the real party in interest.

22 (2) NOTICE.—Prior to denying an application
23 for registration or revoking a registration under this
24 subsection, the Secretary shall provide written notice

1 of the intent to deny or revoke the registration to
2 the foreign labor recruiter. Such notice shall—

3 (A) articulate with specificity all grounds
4 for denial or revocation; and

5 (B) provide the foreign labor recruiter with
6 not less than 60 days to respond.

7 (3) RE-REGISTRATION.—A foreign labor re-
8 cruiter whose registration was revoked under sub-
9 section (a) may re-register if the foreign labor re-
10 cruiter demonstrates to the Secretary's satisfaction
11 that the foreign labor recruiter has not violated this
12 subtitle in the 5 years preceding the date an applica-
13 tion for registration is filed and has taken sufficient
14 steps to prevent future violations of this subtitle.

15 (b) ADMINISTRATIVE ENFORCEMENT.—

16 (1) COMPLAINT PROCESS.—

17 (A) FILING.—A complaint may be filed
18 with the Secretary of Labor, in accordance with
19 the procedures established under section
20 251(b)(4) not later than 2 years after the ear-
21 lier of—

22 (i) the date of the last action which
23 constituted the conduct that is the subject
24 of the complaint took place; or

1 (ii) the date on which the aggrieved
2 party had actual knowledge of such con-
3 duct.

4 (B) DECISION AND PENALTIES.—If the
5 Secretary of Labor finds, after notice and an
6 opportunity for a hearing, that a foreign labor
7 recruiter failed to comply with any of the re-
8 quirements of this subtitle, the Secretary of
9 Labor may—

10 (i) levy a fine against the foreign
11 labor recruiter in an amount not more
12 than—

13 (I) \$10,000 per violation; and

14 (II) \$25,000 per violation, upon
15 the third violation;

16 (ii) order the forfeiture (or partial for-
17 feiture) of the bond and release of as much
18 of the bond as the Secretary determines is
19 necessary for the worker to recover prohib-
20 ited recruitment fees;

21 (iii) refuse to issue or renew a reg-
22 istration, or revoke a registration; or

23 (iv) disqualify the foreign labor re-
24 cruiter from registration for a period of up
25 to 5 years, or in the case of a subsequent

1 finding involving willful or multiple mate-
2 rial violations, permanently disqualify the
3 foreign labor recruiter from registration.

4 (2) AUTHORITY TO ENSURE COMPLIANCE.—The
5 Secretary of Labor is authorized to take other such
6 actions, including issuing subpoenas and seeking ap-
7 propriate injunctive relief, as may be necessary to
8 assure compliance with the terms and conditions of
9 this subtitle.

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

14 (A) under any other law, including any law
15 affecting migrant and seasonal agricultural
16 workers; or

17 (B) in the absence of a complaint.

18 (c) CIVIL ACTION.—

19 (1) IN GENERAL.—The Secretary of Labor or
20 any person aggrieved by a violation of this subtitle
21 may bring a civil action against any foreign labor re-
22 cruitor, or any employer that does not meet the re-
23 quirements under subsection (d)(1), in any court of
24 competent jurisdiction—

1 (A) to seek remedial action, including in-
2 junctive relief; and

3 (B) for damages in accordance with the
4 provisions of this subsection.

5 (2) AWARD FOR CIVIL ACTION FILED BY AN IN-
6 DIVIDUAL.—

7 (A) IN GENERAL.—If the court finds in a
8 civil action filed by an individual under this sec-
9 tion that the defendant has violated any provi-
10 sion of this subtitle, the court may award—

11 (i) damages, up to and including an
12 amount equal to the amount of actual
13 damages, and statutory damages of up to
14 \$1,000 per plaintiff per violation, or other
15 equitable relief, except that with respect to
16 statutory damages—

17 (I) multiple infractions of a sin-
18 gle provision of this subtitle (or of a
19 regulation under this subtitle) shall
20 constitute only 1 violation for pur-
21 poses of this subsection to determine
22 the amount of statutory damages due
23 a plaintiff; and

1 (II) if such complaint is certified
2 as a class action the court may
3 award—

4 (aa) damages up to an
5 amount equal to the amount of
6 actual damages; and

7 (bb) statutory damages of
8 not more than the lesser of up to
9 \$1,000 per class member per vio-
10 lation, or up to \$500,000; and
11 other equitable relief;

12 (ii) reasonable attorneys' fees and
13 costs; and

14 (iii) such other and further relief as
15 necessary to effectuate the purposes of this
16 subtitle.

17 (B) CRITERIA.—In determining the
18 amount of statutory damages to be awarded
19 under subparagraph (A), the court is author-
20 ized to consider whether an attempt was made
21 to resolve the issues in dispute before the resort
22 to litigation.

23 (C) BOND.—To satisfy the damages, fees,
24 and costs found owing under this paragraph,

1 the Secretary shall release as much of the bond
2 held pursuant to section 251(c)(4) as necessary.

3 (3) SUMS RECOVERED IN ACTIONS BY THE SEC-
4 RETARY OF LABOR.—

5 (A) ESTABLISHMENT OF ACCOUNT.—

6 There is established in the general fund of the
7 Treasury a separate account, which shall be
8 known as the “H–2A Foreign Labor Recruiter
9 Compensation Account”. Notwithstanding any
10 other provisions of law, there shall be deposited
11 as offsetting receipts into the account, all sums
12 recovered in an action by the Secretary of
13 Labor under this subsection.

14 (B) USE OF FUNDS.—Amounts deposited
15 into the H–2A Foreign Labor Recruiter Com-
16 pensation Account and shall be paid directly to
17 each worker affected. Any such sums not paid
18 to a worker because of inability to do so within
19 a period of 5 years following the date such
20 funds are deposited into the account shall re-
21 main available to the Secretary until expended.
22 The Secretary may transfer all or a portion of
23 such remaining sums to appropriate agencies to
24 support the enforcement of the laws prohibiting

1 the trafficking and exploitation of persons or
2 programs that aid trafficking victims.

3 (d) EMPLOYER SAFE HARBOR.—

4 (1) IN GENERAL.—An employer that hires
5 workers referred by a foreign labor recruiter with a
6 valid registration at the time of hiring shall not be
7 held jointly liable for a violation committed solely by
8 a foreign labor recruiter under this subtitle—

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

11 (B) in any federal or State civil court ac-
12 tion filed against the foreign labor recruiter by
13 or on behalf of such workers or other aggrieved
14 party under this subtitle.

15 (2) CLARIFICATION.—Nothing in this subtitle
16 shall be construed to prohibit an aggrieved party or
17 parties from bringing a civil action for violations of
18 this subtitle or any other federal or State law
19 against any employer who hired workers referred by
20 a foreign labor recruiter—

21 (A) without a valid registration at the time
22 of hire; or

23 (B) with a valid registration if the em-
24 ployer knew or learned of the violation and
25 failed to report such violation to the Secretary.

1 (e) PAROLE TO PURSUE RELIEF.—If other immigra-
2 tion relief is not available, the Secretary of Homeland Se-
3 curity may grant parole to permit an individual to remain
4 legally in the United States for time sufficient to fully and
5 effectively participate in all legal proceedings related to
6 any action taken pursuant to subsections (b) or (c).

7 (f) WAIVER OF RIGHTS.—Agreements by employees
8 purporting to waive or to modify their rights under this
9 subtitle shall be void as contrary to public policy.

10 (g) LIABILITY FOR AGENTS.—Foreign labor recruit-
11 ers shall be subject to the provisions of this section for
12 violations committed by the foreign labor recruiter’s
13 agents or subcontractees of any level in relation to their
14 foreign labor recruiting activity to the same extent as if
15 the foreign labor recruiter had committed the violation.

16 **SEC. 253. APPROPRIATIONS.**

17 There is authorized to be appropriated such sums as
18 may be necessary for the Secretary of Labor and Secretary
19 of State to carry out the provisions of this subtitle.

20 **SEC. 254. DEFINITIONS.**

21 For purposes of this subtitle:

22 (1) FOREIGN LABOR RECRUITER.—The term
23 “foreign labor recruiter” means any person who per-
24 forms foreign labor recruiting activity in exchange
25 for money or other valuable consideration paid or

1 promised to be paid, to recruit individuals to work
2 as nonimmigrant workers described in section
3 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), including
5 any person who performs foreign labor recruiting ac-
6 tivity wholly outside of the United States. Such term
7 does not include any entity of the United States
8 Government or an employer, or employee of an em-
9 ployer, who engages in foreign labor recruiting activ-
10 ity solely to find employees for that employer's own
11 use, and without the participation of any other for-
12 eign labor recruiter.

13 (2) FOREIGN LABOR RECRUITING ACTIVITY.—
14 The term “foreign labor recruiting activity” means
15 recruiting, soliciting, or related activities with re-
16 spect to an individual who resides outside of the
17 United States in furtherance of employment in the
18 United States, including when such activity occurs
19 wholly outside of the United States.

20 (3) RECRUITMENT FEES.—The term “recruit-
21 ment fees” has the meaning given to such term
22 under section 22.1702 of title 22 of the Code of
23 Federal Regulations, as in effect on the date of en-
24 actment of this Act.

1 (4) PERSON.—The term “person” means any
2 natural person or any corporation, company, firm,
3 partnership, joint stock company or association or
4 other organization or entity (whether organized
5 under law or not), including municipal corporations.

6 **TITLE III—ELECTRONIC**
7 **VERIFICATION OF EMPLOY-**
8 **MENT ELIGIBILITY**

9 **SEC. 301. ELECTRONIC EMPLOYMENT ELIGIBILITY**
10 **VERIFICATION SYSTEM.**

11 (a) IN GENERAL.—Chapter 8 of title II of the Immi-
12 gration and Nationality Act (8 U.S.C. 1321 et seq.) is
13 amended by inserting after section 274D the following:

14 **“SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC**
15 **VERIFICATION OF EMPLOYMENT ELIGI-**
16 **BILITY.**

17 **“(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
18 **TEM.—**

19 **“(1) IN GENERAL.—**The Secretary of Homeland
20 Security (referred to in this section as the ‘Sec-
21 retary’) shall establish and administer an electronic
22 verification system (referred to in this section as the
23 ‘System’), patterned on the E-Verify Program de-
24 scribed in section 403(a) of the Illegal Immigration
25 Reform and Immigrant Responsibility Act of 1996

1 (8 U.S.C. 1324a note) (as in effect on the day be-
2 fore the effective date described in section 303(a)(4)
3 of the Farm Workforce Modernization Act of 2019),
4 and using the employment eligibility confirmation
5 system established under section 404 of such Act (8
6 U.S.C. 1324a note) (as so in effect) as a foundation,
7 through which the Secretary shall—

8 “(A) respond to inquiries made by persons
9 or entities seeking to verify the identity and em-
10 ployment authorization of individuals that such
11 persons or entities seek to hire, or to recruit or
12 refer for a fee, for employment in the United
13 States; and

14 “(B) maintain records of the inquiries that
15 were made, and of verifications provided (or not
16 provided) to such persons or entities as evidence
17 of compliance with the requirements of this sec-
18 tion.

19 “(2) INITIAL RESPONSE DEADLINE.—The Sys-
20 tem shall provide confirmation or a tentative non-
21 confirmation of an individual’s identity and employ-
22 ment authorization as soon as practicable, but not
23 later than 3 calendar days after the initial inquiry.

1 “(3) GENERAL DESIGN AND OPERATION OF
2 SYSTEM.—The Secretary shall design and operate
3 the System—

4 “(A) using responsive web design and
5 other technologies to maximize its ease of use
6 and accessibility for users on a variety of elec-
7 tronic devices and screen sizes, and in remote
8 locations;

9 “(B) to maximize the accuracy of re-
10 sponses to inquiries submitted by persons or en-
11 tities;

12 “(C) to maximize the reliability of the Sys-
13 tem and to register each instance when the Sys-
14 tem is unable to receive inquiries;

15 “(D) to protect the privacy and security of
16 the personally identifiable information main-
17 tained by or submitted to the System;

18 “(E) to provide direct notification of an in-
19 quiry to an individual with respect to whom the
20 inquiry is made, including the results of such
21 inquiry, and information related to the process
22 for challenging the results; and

23 “(F) to maintain appropriate administra-
24 tive, technical, and physical safeguards to pre-

1 vent misuse of the System and unfair immigra-
2 tion-related employment practices.

3 “(4) MEASURES TO PREVENT IDENTITY THEFT
4 AND OTHER FORMS OF FRAUD.—To prevent identity
5 theft and other forms of fraud, the Secretary shall
6 design and operate the System with the following at-
7 tributes:

8 “(A) PHOTO MATCHING TOOL.—The Sys-
9 tem shall display the digital photograph of the
10 individual, if any, that corresponds to the docu-
11 ment presented by an individual to establish
12 identity and employment authorization so that
13 the person or entity that makes an inquiry can
14 compare the photograph displayed by the Sys-
15 tem to the photograph on the document pre-
16 sented by the individual.

17 “(B) INDIVIDUAL MONITORING AND SUS-
18 PENSION OF IDENTIFYING INFORMATION.—The
19 System shall enable individuals to establish user
20 accounts, after authentication of an individual’s
21 identity, that would allow an individual to—

22 “(i) confirm the individual’s own em-
23 ployment authorization;

24 “(ii) receive electronic notification
25 when the individual’s social security ac-

1 count number or other personally identi-
2 fying information has been submitted to
3 the System;

4 “(iii) monitor the use history of the
5 individual’s personally identifying informa-
6 tion in the System, including the identities
7 of all persons or entities that have sub-
8 mitted such identifying information to the
9 System, the date of each query run, and
10 the System response for each query run;

11 “(iv) suspend or limit the use of the
12 individual’s social security account number
13 or other personally identifying information
14 for purposes of the System; and

15 “(v) provide notice to the Department
16 of Homeland Security of any suspected
17 identity fraud or other improper use of
18 personally identifying information.

19 “(C) BLOCKING MISUSED SOCIAL SECU-
20 RITY ACCOUNT NUMBERS.—

21 “(i) IN GENERAL.—The Secretary, in
22 consultation with the Commissioner of So-
23 cial Security (referred to in this section as
24 the ‘Commissioner’), shall develop, after
25 publication in the Federal Register and an

1 opportunity for public comment, a process
2 in which social security account numbers
3 that have been identified to be subject to
4 unusual multiple use in the System or that
5 are otherwise suspected or determined to
6 have been compromised by identity fraud
7 or other misuse, shall be blocked from use
8 in the System unless the individual using
9 such number is able to establish, through
10 secure and fair procedures, that the indi-
11 vidual is the legitimate holder of the num-
12 ber.

13 “(ii) NOTICE.—If the Secretary blocks
14 or suspends a social security account num-
15 ber under this subparagraph, the Secretary
16 shall provide notice to the persons or enti-
17 ties that have made inquiries to the Sys-
18 tem using such account number that the
19 identity and employment authorization of
20 the individual who provided such account
21 number must be re-verified.

22 “(D) ADDITIONAL IDENTITY AUTHENTICA-
23 TION TOOL.—The Secretary shall develop, after
24 publication in the Federal Register and an op-
25 portunity for public comment, additional secu-

1 rity measures to adequately verify the identity
2 of an individual whose identity may not be
3 verified using the photo tool described in sub-
4 paragraph (A). Such additional security meas-
5 ures—

6 “(i) shall be kept up-to-date with
7 technological advances; and

8 “(ii) shall be designed to provide a
9 high level of certainty with respect to iden-
10 tity authentication.

11 “(E) CHILD-LOCK PILOT PROGRAM.—The
12 Secretary, in consultation with the Commis-
13 sioner, shall establish a reliable, secure program
14 through which parents or legal guardians may
15 suspend or limit the use of the social security
16 account number or other personally identifying
17 information of a minor under their care for
18 purposes of the System. The Secretary may im-
19 plement the program on a limited pilot basis be-
20 fore making it fully available to all individuals.

21 “(5) RESPONSIBILITIES OF THE COMMISSIONER
22 OF SOCIAL SECURITY.—The Commissioner, in con-
23 sultation with the Secretary, shall establish a reli-
24 able, secure method, which, within the time periods
25 specified in paragraph (2) and subsection

1 (b)(4)(D)(i)(II), compares the name and social secu-
2 rity account number provided in an inquiry against
3 such information maintained by the Commissioner in
4 order to validate (or not validate) the information
5 provided by the person or entity with respect to an
6 individual whose identity and employment authoriza-
7 tion the person or entity seeks to confirm, the cor-
8 respondence of the name and number, and whether
9 the individual has presented a social security ac-
10 count number that is not valid for employment. The
11 Commissioner shall not disclose or release social se-
12 curity information (other than such confirmation or
13 nonconfirmation) under the System except as pro-
14 vided under this section or section 205(c)(2)(I) of
15 the Social Security Act (42 U.S.C. 405).

16 “(6) RESPONSIBILITIES OF THE SECRETARY OF
17 HOMELAND SECURITY.—

18 “(A) IN GENERAL.—The Secretary of
19 Homeland Security shall establish a reliable, se-
20 cure method, which, within the time periods
21 specified in paragraph (2) and subsection
22 (b)(4)(D)(i)(II), compares the name and identi-
23 fication or other authorization number (or any
24 other information determined relevant by the
25 Secretary) which are provided in an inquiry

1 against such information maintained or
2 accessed by the Secretary in order to validate
3 (or not validate) the information provided, the
4 correspondence of the name and number, and
5 whether the individual is authorized to be em-
6 ployed in the United States.

7 “(B) TRAINING.—The Secretary shall pro-
8 vide and regularly update training materials on
9 the use of the System for persons and entities
10 making inquiries.

11 “(C) AUDIT.—The Secretary shall provide
12 for periodic auditing of the System to detect
13 and prevent misuse, discrimination, fraud, and
14 identity theft, to protect privacy and assess
15 System accuracy, and to preserve the integrity
16 and security of the information in the System.

17 “(D) NOTICE OF SYSTEM CHANGES.—The
18 Secretary shall provide appropriate notification
19 to persons and entities registered in the System
20 of any change made by the Secretary or the
21 Commissioner related to permitted and prohib-
22 ited documents, and use of the System.

23 “(7) RESPONSIBILITIES OF THE SECRETARY OF
24 STATE.—As part of the System, the Secretary of
25 State shall provide to the Secretary of Homeland Se-

1 security access to passport and visa information as
2 needed to confirm that a passport or passport card
3 presented under subsection (b)(3)(A)(i) confirms the
4 employment authorization and identity of the indi-
5 vidual presenting such document, and that a pass-
6 port, passport card, or visa photograph matches the
7 Secretary of State's records, and shall provide such
8 assistance as the Secretary of Homeland Security
9 may request in order to resolve tentative noncon-
10 firmations or final nonconfirmations relating to such
11 information.

12 “(8) UPDATING INFORMATION.—The Commis-
13 sioner, the Secretary of Homeland Security, and the
14 Secretary of State shall update records in their cus-
15 tody in a manner that promotes maximum accuracy
16 of the System and shall provide a process for the
17 prompt correction of erroneous information, includ-
18 ing instances in which it is brought to their atten-
19 tion through the secondary verification process
20 under subsection (b)(4)(D).

21 “(9) MANDATORY AND VOLUNTARY SYSTEM
22 USES.—

23 “(A) MANDATORY USERS.—Except as oth-
24 erwise provided under Federal or State law,
25 such as sections 302 and 303 of the Farm

1 Workforce Modernization Act of 2019, nothing
2 in this section shall be construed as requiring
3 the use of the System by any person or entity
4 hiring, recruiting, or referring for a fee, an in-
5 dividual for employment in the United States.

6 “(B) VOLUNTARY USERS.—Beginning
7 after the date that is 30 days after the date on
8 which final rules are published under section
9 309(a) of the Farm Workforce Modernization
10 Act of 2019, a person or entity may use the
11 System on a voluntary basis to seek verification
12 of the identity and employment authorization of
13 individuals the person or entity is hiring, re-
14 cruiting, or referring for a fee for employment
15 in the United States

16 “(C) PROCESS FOR NON-USERS.—The em-
17 ployment verification process for any person or
18 entity hiring, recruiting, or referring for a fee,
19 an individual for employment in the United
20 States shall be governed by section 274A(b) un-
21 less the person or entity—

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

1 “(ii) has opted to use the System vol-
2 untarily in accordance with subparagraph
3 (B).

4 “(10) NO FEE FOR USE.—The Secretary may
5 not charge a fee to an individual, person, or entity
6 related to the use of the System.

7 “(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—
8 Notwithstanding section 274A(b), the requirements re-
9 ferred to in paragraphs (1)(B) and (3) of section 274A(a)
10 are, in the case of a person or entity that uses the System
11 for the hiring, recruiting, or referring for a fee, an indi-
12 vidual for employment in the United States, the following:

13 “(1) INDIVIDUAL ATTESTATION OF EMPLOY-
14 MENT AUTHORIZATION.—During the period begin-
15 ning on the date on which an offer of employment
16 is accepted and ending on the date of hire, the indi-
17 vidual shall attest, under penalty of perjury on a
18 form designated by the Secretary, that the individual
19 is authorized to be employed in the United States by
20 providing on such form—

21 “(A) the individual’s name and date of
22 birth;

23 “(B) the individual’s social security ac-
24 count number (unless the individual has applied
25 for and not yet been issued such a number);

1 “(C) whether the individual is—

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

4 “(ii) an alien lawfully admitted for
5 permanent residence; or

6 “(iii) an alien who is otherwise au-
7 thorized by the Secretary to be hired, re-
8 cruited, or referred for employment in the
9 United States; and

10 “(D) if the individual does not attest to
11 United States citizenship or nationality, such
12 identification or other authorization number es-
13 tablished by the Department of Homeland Se-
14 curity for the alien as the Secretary may speci-
15 fy.

16 “(2) EMPLOYER ATTESTATION AFTER EXAM-
17 INATION OF DOCUMENTS.—

18 “(A) ATTESTATION.—Not later than 3
19 business days after the date of hire, the person
20 or entity shall attest, under penalty of perjury
21 on the form designated by the Secretary for
22 purposes of paragraph (1), that it has verified
23 that the individual is not an unauthorized alien
24 by—

1 “(i) obtaining from the individual the
2 information described in paragraph (1)
3 and recording such information on the
4 form;

5 “(ii) examining—

6 “(I) a document described in
7 paragraph (3)(A); or

8 “(II) a document described in
9 paragraph (3)(B) and a document de-
10 scribed in paragraph (3)(C); and

11 “(iii) attesting that the information
12 recorded on the form is consistent with the
13 documents examined.

14 “(3) ACCEPTABLE DOCUMENTS.—

15 “(A) DOCUMENTS ESTABLISHING EMPLOY-
16 MENT AUTHORIZATION AND IDENTITY.—A doc-
17 ument described in this subparagraph is an in-
18 dividual’s—

19 “(i) United States passport or pass-
20 port card;

21 “(ii) permanent resident card that
22 contains a photograph;

23 “(iii) foreign passport containing tem-
24 porary evidence of lawful permanent resi-
25 dence in the form of an official I-551 (or

1 successor) stamp from the Department of
2 Homeland Security or a printed notation
3 on a machine-readable immigrant visa;

4 “(iv) unexpired employment author-
5 ization card that contains a photograph;

6 “(v) in the case of a nonimmigrant
7 alien authorized to engage in employment
8 for a specific employer incident to status,
9 a foreign passport with Form I-94, Form
10 I-94A, or other documentation as des-
11 ignated by the Secretary specifying the
12 alien’s nonimmigrant status as long as
13 such status has not yet expired and the
14 proposed employment is not in conflict
15 with any restrictions or limitations identi-
16 fied in the documentation;

17 “(vi) passport from the Federated
18 States of Micronesia or the Republic of the
19 Marshall Islands with Form I-94, Form I-
20 94A, or other documentation as designated
21 by the Secretary, indicating nonimmigrant
22 admission under the Compact of Free As-
23 sociation Between the United States and
24 the Federated States of Micronesia or the
25 Republic of the Marshall Islands; or

1 “(vii) other document designated by
2 the Secretary, by notice published in the
3 Federal Register, if the document—

4 “(I) contains a photograph of the
5 individual, biometric identification
6 data, and other personal identifying
7 information relating to the individual;

8 “(II) is evidence of authorization
9 for employment in the United States;
10 and

11 “(III) contains security features
12 to make it resistant to tampering,
13 counterfeiting, and fraudulent use.

14 “(B) DOCUMENTS ESTABLISHING EMPLOY-
15 MENT AUTHORIZATION.—A document described
16 in this subparagraph is—

17 “(i) an individual’s social security ac-
18 count number card (other than such a card
19 which specifies on the face that the
20 issuance of the card does not authorize em-
21 ployment in the United States); or

22 “(ii) a document establishing employ-
23 ment authorization that the Secretary de-
24 termines, by notice published in the Fed-
25 eral Register, to be acceptable for purposes

1 of this subparagraph, provided that such
2 documentation contains security features
3 to make it resistant to tampering, counter-
4 feiting, and fraudulent use.

5 “(C) DOCUMENTS ESTABLISHING IDEN-
6 TITY.—A document described in this subpara-
7 graph is—

8 “(i) an individual’s driver’s license or
9 identification card if it was issued by a
10 State or one of the outlying possessions of
11 the United States and contains a photo-
12 graph and personal identifying information
13 relating to the individual;

14 “(ii) an individual’s unexpired United
15 States military identification card;

16 “(iii) an individual’s unexpired Native
17 American tribal identification document
18 issued by a tribal entity recognized by the
19 Bureau of Indian Affairs;

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

1 “(v) a document establishing identity
2 that the Secretary determines, by notice
3 published in the Federal Register, to be ac-
4 ceptable for purposes of this subparagraph,
5 if such documentation contains a photo-
6 graph of the individual, biometric identi-
7 fication data, and other personal identi-
8 fying information relating to the indi-
9 vidual, and security features to make it re-
10 sistant to tampering, counterfeiting, and
11 fraudulent use.

12 “(D) AUTHORITY TO PROHIBIT USE OF
13 CERTAIN DOCUMENTS.—If the Secretary finds
14 that any document or class of documents de-
15 scribed in subparagraph (A), (B), or (C) does
16 not reliably establish identity or employment
17 authorization or is being used fraudulently to
18 an unacceptable degree, the Secretary may, by
19 notice published in the Federal Register, pro-
20 hibit or place conditions on the use of such doc-
21 ument or class of documents for purposes of
22 this section.

23 “(4) USE OF THE SYSTEM TO SCREEN IDEN-
24 TITY AND EMPLOYMENT AUTHORIZATION.—

1 “(A) IN GENERAL.—In the case of a per-
2 son or entity that uses the System for the hir-
3 ing, recruiting, or referring for a fee an indi-
4 vidual for employment in the United States,
5 during the period described in subparagraph
6 (B), the person or entity shall submit an in-
7 quiry through the System described in sub-
8 section (a) to seek verification of the identity
9 and employment authorization of the individual.

10 “(B) VERIFICATION PERIOD.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), and subject to sub-
13 section (d), the verification period shall
14 begin on the date of hire and end on the
15 date that is 3 business days after the date
16 of hire, or such other reasonable period as
17 the Secretary may prescribe.

18 “(ii) SPECIAL RULE.—In the case of
19 an alien who is authorized to be employed
20 in the United States and who provides evi-
21 dence from the Social Security Administra-
22 tion that the alien has applied for a social
23 security account number, the verification
24 period shall end 3 business days after the

1 alien receives the social security account
2 number.

3 “(C) CONFIRMATION.—If a person or enti-
4 ty receives confirmation of an individual’s iden-
5 tity and employment authorization, the person
6 or entity shall record such confirmation on the
7 form designated by the Secretary for purposes
8 of paragraph (1).

9 “(D) TENTATIVE NONCONFIRMATION.—

10 “(i) IN GENERAL.—In cases of ten-
11 tative nonconfirmation, the Secretary shall
12 provide, in consultation with the Commis-
13 sioner, a process for—

14 “(I) an individual to contest the
15 tentative nonconfirmation not later
16 than 10 business days after the date
17 of the receipt of the notice described
18 in clause (ii); and

19 “(II) the Secretary to issue a
20 confirmation or final nonconfirmation
21 of an individual’s identity and employ-
22 ment authorization not later than 30
23 calendar days after the Secretary re-
24 ceives notice from the individual con-
25 testing a tentative nonconfirmation.

1 “(ii) NOTICE.—If a person or entity
2 receives a tentative nonconfirmation of an
3 individual’s identity or employment author-
4 ization, the person or entity shall, not later
5 than 3 business days after receipt, notify
6 such individual in writing in a language
7 understood by the individual and on a form
8 designated by the Secretary, that shall in-
9 clude a description of the individual’s right
10 to contest the tentative nonconfirmation.
11 The person or entity shall attest, under
12 penalty of perjury, that the person or enti-
13 ty provided (or attempted to provide) such
14 notice to the individual, and the individual
15 shall acknowledge receipt of such notice in
16 a manner specified by the Secretary.

17 “(iii) NO CONTEST.—

18 “(I) IN GENERAL.—A tentative
19 nonconfirmation shall become final if,
20 upon receiving the notice described in
21 clause (ii), the individual—

22 “(aa) refuses to acknowledge
23 receipt of such notice;

24 “(bb) acknowledges in writ-
25 ing, in a manner specified by the

1 Secretary, that the individual will
2 not contest the tentative noncon-
3 firmation; or

4 “(cc) fails to contest the
5 tentative nonconfirmation within
6 the 10-business-day period begin-
7 ning on the date the individual
8 received such notice.

9 “(II) RECORD OF NO CON-
10 TEST.—The person or entity shall in-
11 dicate in the System that the indi-
12 vidual did not contest the tentative
13 nonconfirmation and shall specify the
14 reason the tentative nonconfirmation
15 became final under subclause (I).

16 “(III) EFFECT OF FAILURE TO
17 CONTEST.—An individual’s failure to
18 contest a tentative nonconfirmation
19 shall not be considered an admission
20 of any fact with respect to any viola-
21 tion of this Act or any other provision
22 of law.

23 “(iv) CONTEST.—

24 “(I) IN GENERAL.—An individual
25 may contest a tentative nonconfirma-

1 tion by using the process for sec-
2 ondary verification under clause (i),
3 not later than 10 business days after
4 receiving the notice described in
5 clause (ii). Except as provided in
6 clause (iii), the nonconfirmation shall
7 remain tentative until a confirmation
8 or final nonconfirmation is provided
9 by the System.

10 “(II) PROHIBITION ON TERMI-
11 NATION.—In no case shall a person or
12 entity terminate employment or take
13 any adverse employment action
14 against an individual for failure to ob-
15 tain confirmation of the individual’s
16 identity and employment authoriza-
17 tion until the person or entity receives
18 a notice of final nonconfirmation from
19 the System. Nothing in this subclause
20 shall prohibit an employer from termi-
21 nating the employment of the indi-
22 vidual for any other lawful reason.

23 “(III) CONFIRMATION OR FINAL
24 NONCONFIRMATION.—The Secretary,
25 in consultation with the Commis-

1 sioner, shall issue notice of a con-
2 firmation or final nonconfirmation of
3 the individual's identity and employ-
4 ment authorization not later than 30
5 calendar days after the date the Sec-
6 retary receives notice from the indi-
7 vidual contesting the tentative non-
8 confirmation.

9 “(E) FINAL NONCONFIRMATION.—

10 “(i) NOTICE.—If a person or entity
11 receives a final nonconfirmation of an indi-
12 vidual's identity or employment authoriza-
13 tion, the person or entity shall, not later
14 than 3 business days after receipt, notify
15 such individual of the final nonconfirma-
16 tion in writing, on a form designated by
17 the Secretary, which shall include informa-
18 tion regarding the individual's right to ap-
19 peal the final nonconfirmation as provided
20 under subparagraph (F). The person or
21 entity shall attest, under penalty of per-
22 jury, that the person or entity provided (or
23 attempted to provide) the notice to the in-
24 dividual, and the individual shall acknowl-

1 edge receipt of such notice in a manner
2 designated by the Secretary.

3 “(ii) TERMINATION OR NOTIFICATION
4 OF CONTINUED EMPLOYMENT.—If a per-
5 son or entity receives a final nonconfirma-
6 tion regarding an individual, the person or
7 entity may terminate employment of the
8 individual. If the person or entity does not
9 terminate such employment pending appeal
10 of the final nonconfirmation, the person or
11 entity shall notify the Secretary of such
12 fact through the System. Failure to notify
13 the Secretary in accordance with this
14 clause shall be deemed a violation of sec-
15 tion 274A(a)(1)(A).

16 “(iii) PRESUMPTION OF VIOLATION
17 FOR CONTINUED EMPLOYMENT.—If a per-
18 son or entity continues to employ an indi-
19 vidual after receipt of a final nonconfirma-
20 tion, there shall be a rebuttable presump-
21 tion that the person or entity has violated
22 paragraphs (1)(A) and (a)(2) of section
23 274A(a).

24 “(F) APPEAL OF FINAL NONCONFIRMA-
25 TION.—

1 “(i) ADMINISTRATIVE APPEAL.—The
2 Secretary, in consultation with the Com-
3 missioner, shall develop a process by which
4 an individual may seek administrative re-
5 view of a final nonconfirmation. Such pro-
6 cess shall—

7 “(I) permit the individual to sub-
8 mit additional evidence establishing
9 identity or employment authorization;

10 “(II) ensure prompt resolution of
11 an appeal (but in no event shall there
12 be a failure to respond to an appeal
13 within 30 days); and

14 “(III) permit the Secretary to
15 impose a civil money penalty (not to
16 exceed \$500) on an individual upon
17 finding that an appeal was frivolous
18 or filed for purposes of delay.

19 “(ii) COMPENSATION FOR LOST
20 WAGES RESULTING FROM GOVERNMENT
21 ERROR OR OMISSION.—

22 “(I) IN GENERAL.—If, upon con-
23 sideration of an appeal of a final non-
24 confirmation, the Secretary deter-
25 mines that the final nonconfirmation

1 was issued in error, the Secretary
2 shall further determine whether the
3 final nonconfirmation was the result
4 of government error or omission. If
5 the Secretary determines that the
6 final nonconfirmation was solely the
7 result of government error or omission
8 and the individual was terminated
9 from employment, the Secretary shall
10 compensate the individual for lost
11 wages.

12 “(II) CALCULATION OF LOST
13 WAGES.—Lost wages shall be cal-
14 culated based on the wage rate and
15 work schedule that were in effect
16 prior to the individual’s termination.
17 The individual shall be compensated
18 for lost wages beginning on the first
19 scheduled work day after employment
20 was terminated and ending 90 days
21 after completion of the administrative
22 review process described in this sub-
23 paragraph or the day the individual is
24 reinstated or obtains other employ-
25 ment, whichever occurs first.

1 “(III) LIMITATION ON COM-
2 PENSATION.—No compensation for
3 lost wages shall be awarded for any
4 period during which the individual
5 was not authorized for employment in
6 the United States.

7 “(IV) SOURCE OF FUNDS.—
8 There is established in the general
9 fund of the Treasury, a separate ac-
10 count which shall be known as the
11 ‘Electronic Verification Compensation
12 Account’. Fees collected under sub-
13 sections (f) and (g) shall be deposited
14 in the Electronic Verification Com-
15 pensation Account and shall remain
16 available for purposes of providing
17 compensation for lost wages under
18 this subclause.

19 “(iii) JUDICIAL REVIEW.—Not later
20 than 30 days after the dismissal of an ap-
21 peal under this subparagraph, an indi-
22 vidual may seek judicial review of such dis-
23 missal in the United States District Court
24 in the jurisdiction in which the employer
25 resides or conducts business.

1 “(5) RETENTION OF VERIFICATION RECORDS.—

2 “(A) IN GENERAL.—After completing the
3 form designated by the Secretary in accordance
4 with paragraphs (1) and (2), the person or enti-
5 ty shall retain the form in paper, microfiche,
6 microfilm, electronic, or other format deemed
7 acceptable by the Secretary, and make it avail-
8 able for inspection by officers of the Depart-
9 ment of Homeland Security, the Department of
10 Justice, or the Department of Labor during the
11 period beginning on the date the verification is
12 completed and ending on the later of—

13 “(i) the date that is 3 years after the
14 date of hire; or

15 “(ii) the date that is 1 year after the
16 date on which the individual’s employment
17 is terminated.

18 “(B) COPYING OF DOCUMENTATION PER-
19 MITTED.—Notwithstanding any other provision
20 of law, a person or entity may copy a document
21 presented by an individual pursuant to this sec-
22 tion and may retain the copy, but only for the
23 purpose of complying with the requirements of
24 this section.

1 “(c) REVERIFICATION OF PREVIOUSLY HIRED INDI-
2 VIDUALS.—

3 “(1) MANDATORY REVERIFICATION.—In the
4 case of a person or entity that uses the System for
5 the hiring, recruiting, or referring for a fee an indi-
6 vidual for employment in the United States, the per-
7 son or entity shall submit an inquiry using the Sys-
8 tem to verify the identity and employment authoriza-
9 tion of—

10 “(A) an individual with a limited period of
11 employment authorization, within 3 business
12 days before the date on which such employment
13 authorization expires; and

14 “(B) an individual, not later than 10 days
15 after receiving a notification from the Secretary
16 requiring the verification of such individual pur-
17 suant to subsection (a)(4)(C).

18 “(2) REVERIFICATION PROCEDURES.—The
19 verification procedures under subsection (b) shall
20 apply to reverifications under this subsection, except
21 that employers shall—

22 “(A) use a form designated by the Sec-
23 retary for purposes of this paragraph; and

24 “(B) retain the form in paper, microfiche,
25 microfilm, electronic, or other format deemed

1 acceptable by the Secretary, and make it avail-
2 able for inspection by officers of the Depart-
3 ment of Homeland Security, the Department of
4 Justice, or the Department of Labor during the
5 period beginning on the date the reverification
6 commences and ending on the later of—

7 “(i) the date that is 3 years after the
8 date of reverification; or

9 “(ii) the date that is 1 year after the
10 date on which the individual’s employment
11 is terminated.

12 “(3) LIMITATION ON REVERIFICATION.—Except
13 as provided in paragraph (1), a person or entity may
14 not otherwise reverify the identity and employment
15 authorization of a current employee, including an
16 employee continuing in employment.

17 “(d) GOOD FAITH COMPLIANCE.—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, a person or entity that uses
20 the System is considered to have complied with the
21 requirements of this section notwithstanding a tech-
22 nical failure of the System, or other technical or pro-
23 cedural failure to meet such requirement if there
24 was a good faith attempt to comply with the require-
25 ment.

1 “(2) EXCEPTION FOR FAILURE TO CORRECT
2 AFTER NOTICE.—Paragraph (1) shall not apply if—

3 “(A) the failure is not de minimis;

4 “(B) the Secretary has provided notice to
5 the person or entity of the failure, including an
6 explanation as to why it is not de minimis;

7 “(C) the person or entity has been pro-
8 vided a period of not less than 30 days (begin-
9 ning after the date of the notice) to correct the
10 failure; and

11 “(D) the person or entity has not corrected
12 the failure voluntarily within such period.

13 “(3) EXCEPTION FOR PATTERN OR PRACTICE
14 VIOLATORS.—Paragraph (1) shall not apply to a
15 person or entity that has engaged or is engaging in
16 a pattern or practice of violations of paragraph
17 (1)(A) or (2) of section 274A(a).

18 “(4) DEFENSE.—In the case of a person or en-
19 tity that uses the System for the hiring, recruiting,
20 or referring for a fee an individual for employment
21 in the United States, the person or entity shall not
22 be liable to a job applicant, an employee, the Federal
23 government, or a State or local government, under
24 Federal, State, or local criminal or civil law, for any
25 employment-related action taken with respect to an

1 employee in good-faith reliance on information pro-
2 vided by the System. Such person or entity shall be
3 deemed to have established compliance with its obli-
4 gations under this section, absent a showing by the
5 Secretary, by clear and convincing evidence, that the
6 employer had knowledge that an employee is an un-
7 authorized alien.

8 “(e) LIMITATIONS.—

9 “(1) NO NATIONAL IDENTIFICATION CARD.—

10 Nothing in this section shall be construed to author-
11 ize, directly or indirectly, the issuance or use of na-
12 tional identification cards or the establishment of a
13 national identification card.

14 “(2) USE OF RECORDS.—Notwithstanding any
15 other provision of law, nothing in this section shall
16 be construed to permit or allow any department, bu-
17 reau, or other agency of the United States Govern-
18 ment to utilize any information, database, or other
19 records assembled under this section for any purpose
20 other than the verification of identity and employ-
21 ment authorization of an individual or to ensure the
22 secure, appropriate, and non-discriminatory use of
23 the System.

24 “(f) PENALTIES.—

1 “(1) IN GENERAL.—Except as provided in this
2 subsection, the provisions of subsections (e) through
3 (g) of section 274A shall apply with respect to com-
4 pliance with the provisions of this section and pen-
5 alties for non-compliance for persons or entities that
6 use the System.

7 “(2) CEASE AND DESIST ORDER WITH CIVIL
8 MONEY PENALTIES FOR HIRING, RECRUITING, AND
9 REFERRAL VIOLATIONS.—Notwithstanding the civil
10 money penalties set forth in section 274A(e)(4), with
11 respect to a violation of paragraph (1)(A) or (2) of
12 section 274A(a) by a person or entity that has hired,
13 recruited, or referred for a fee, an individual for em-
14 ployment in the United States, a cease and desist
15 order—

16 “(A) shall require the person or entity to
17 pay a civil penalty in an amount, subject to
18 subsection (d), of—

19 “(i) not less than \$2,500 and not
20 more than \$5,000 for each unauthorized
21 alien with respect to whom a violation of
22 either such subsection occurred;

23 “(ii) not less than \$5,000 and not
24 more than \$10,000 for each such alien in
25 the case of a person or entity previously

1 subject to one order under this paragraph;

2 or

3 “(iii) not less than \$10,000 and not
4 more than \$25,000 for each such alien in
5 the case of a person or entity previously
6 subject to more than one order under this
7 paragraph; and

8 “(B) may require the person or entity to
9 take such other remedial action as appropriate.

10 “(3) ORDER FOR CIVIL MONEY PENALTY FOR
11 VIOLATIONS.—With respect to a violation of section
12 274A(a)(1)(B), the order under this paragraph shall
13 require the person or entity to pay a civil penalty in
14 an amount, subject to paragraphs (4), (5), and (6),
15 of not less than \$1,000 and not more than \$25,000
16 for each individual with respect to whom such viola-
17 tion occurred. Failure by a person or entity to utilize
18 the System as required by law or providing informa-
19 tion to the System that the person or entity knows
20 or reasonably believes to be false, shall be treated as
21 a violation of section 274A(a)(1)(A).

22 “(4) EXEMPTION FROM PENALTY FOR GOOD
23 FAITH VIOLATION.—

24 “(A) IN GENERAL.—A person or entity
25 that uses the System is presumed to have acted

1 with knowledge for purposes of paragraphs
2 (1)(A) and (2) of section 274A(a) if the person
3 or entity fails to make an inquiry to verify the
4 identity and employment authorization of the
5 individual through the System.

6 “(B) GOOD FAITH EXEMPTION.—In the
7 case of imposition of a civil penalty under para-
8 graph (2)(A) with respect to a violation of para-
9 graph (1)(A) or (2) of section 274A(a) for hir-
10 ing or continuation of employment or recruit-
11 ment or referral by a person or entity, and in
12 the case of imposition of a civil penalty under
13 paragraph (3) for a violation of section
14 274A(a)(1)(B) for hiring or recruitment or re-
15 ferral by a person or entity, the penalty other-
16 wise imposed may be waived or reduced if the
17 person or entity establishes that the person or
18 entity acted in good faith.

19 “(5) MITIGATION ELEMENTS.—For purposes of
20 paragraphs (2)(A) and (3), when assessing the level
21 of civil money penalties, in addition to the good faith
22 of the person or entity being charged, due consider-
23 ation shall be given to the size of the business, the
24 seriousness of the violation, whether or not the indi-

1 vidual was an unauthorized alien, and the history of
2 previous violations.

3 “(6) CRIMINAL PENALTY.—Notwithstanding
4 section 274A(f)(1) and the provisions of any other
5 Federal law relating to fine levels, any person or en-
6 tity that is required to comply with the provisions of
7 this section and that engages in a pattern or prac-
8 tice of violations of paragraph (1) or (2) of section
9 274A(a), shall be fined not more than \$5,000 for
10 each unauthorized alien with respect to whom such
11 a violation occurs, imprisoned for not more than 18
12 months, or both.

13 “(7) ELECTRONIC VERIFICATION COMPENSA-
14 TION ACCOUNT.—Civil money penalties collected
15 under this subsection shall be deposited in the Elec-
16 tronic Verification Compensation Account for the
17 purpose of compensating individuals for lost wages
18 as a result of a final nonconfirmation issued by the
19 System that was based on government or employer
20 error or omission, as set forth in subsection
21 (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 “(10) PREEMPTION.—The provisions of this
18 section preempt any State or local law, ordinance,
19 policy, 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 1 or
25 more employees in the United States, (but less

1 than 20 such employees) on the date of the en-
2 actment 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.—Subsection
6 (a) shall apply to a person or entity recruiting or re-
7 ferring an individual for agricultural employment in
8 the United States on the date that is 12 months
9 after completion of the application period described
10 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 13465 (8 U.S.C. 1324a
17 note; relating to Government procurement), or any
18 State law requiring persons or entities to use the E-
19 Verify Program described in section 403(a) of the Il-
20 legal Immigration Reform and Immigrant Responsi-
21 bility Act of 1996 (8 U.S.C. 1324a note) (as in ef-
22 fect on the day before the effective date described in
23 section 303(a)(4)), sections 274A and 274B of the
24 Immigration and Nationality Act (8 U.S.C. 1324a
25 and 1324b) shall apply to a person or entity hiring,

1 recruiting, or referring an individual for employment
2 in the United States until the applicable effective
3 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 SECONDARY REVIEW PROC-
16 ESS.—

17 (1) IN GENERAL.—The Secretary of Homeland
18 Security and the Commissioner of Social Security
19 shall coordinate with the Secretary of Agriculture to
20 create an alternate process for an individual to con-
21 test a tentative nonconfirmation as described in sec-
22 tion 274E(b)(4)(D) of the Immigration and Nation-
23 ality Act, as inserted by section 301 of this Act, by
24 appearing in-person at a local office or service center

1 of the U.S. Department of Agriculture or at a local
2 office of the U.S. Social Security Administration.

3 (2) STAFFING AND RESOURCES.—The Sec-
4 retary of Agriculture and Commissioner of Social
5 Security shall ensure that local offices and service
6 centers of the U.S. Department of Agriculture and
7 local offices of the U.S. Social Security Administra-
8 tion are staffed appropriately and have the resources
9 necessary to receive in-person requests for secondary
10 review of a tentative nonconfirmation under para-
11 graph (1) from individuals and to facilitate the sec-
12 ondary review process by serving as a single point of
13 contact between the individual and the Department
14 of Homeland Security and the Social Security Ad-
15 ministration.

16 (d) DOCUMENT ESTABLISHING EMPLOYMENT AU-
17 THORIZATION AND IDENTITY.—In accordance with section
18 274E(b)(3)(A)(vii) of the Immigration and Nationality
19 Act, as inserted by section 301 of this Act, and not later
20 than 12 months after the completion of the application
21 period described in section 101(c) of this Act, the Sec-
22 retary of Homeland Security shall recognize documentary
23 evidence of certified agricultural worker status described
24 in section 102(a)(2) of this Act as valid proof of employ-
25 ment authorization and identity for purposes of section

1 274E(b)(3)(A) of the Immigration and Nationality Act,
2 as inserted by section 301 of this Act.

3 (e) AGRICULTURAL EMPLOYMENT.—For purposes of
4 this section, the term “agricultural employment” means
5 agricultural labor or services, as defined by section
6 101(a)(15)(H)(ii) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.

8 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

9 (a) REPEAL.—

10 (1) IN GENERAL.—Subtitle A of title IV of the
11 Illegal Immigration Reform and Immigrant Respon-
12 sibility Act of 1996 (8 U.S.C. 1324a note) is re-
13 pealed.

14 (2) CLERICAL AMENDMENT.—The table of sec-
15 tions, in section 1(d) of the Illegal Immigration Re-
16 form and Immigrant Responsibility Act of 1996, is
17 amended by striking the items relating to subtitle A
18 of title IV.

19 (3) REFERENCES.—Any reference in any Fed-
20 eral, State, or local law, Executive order, rule, regu-
21 lation, or delegation of authority, or any document
22 of, or pertaining to, the Department of Homeland
23 Security, Department of Justice, or the Social Secu-
24 rity Administration, to the E-Verify Program de-
25 scribed in section 403(a) of the Illegal Immigration

1 Reform and Immigrant Responsibility Act of 1996
2 (8 U.S.C. 1324a note), or to the employment eligi-
3 bility confirmation system established under section
4 404 of the Illegal Immigration Reform and Immig-
5 rant Responsibility Act of 1996 (8 U.S.C. 1324a
6 note), is deemed to refer to the employment eligi-
7 bility confirmation system established under section
8 274E of the Immigration and Nationality Act, as in-
9 serted by section 301 of this Act.

10 (4) EFFECTIVE DATE.—This subsection, and
11 the amendments made by this subsection, shall take
12 effect on the date that is 30 days after the date on
13 which final rules are published under section 309(a).

14 (b) FORMER E-VERIFY MANDATORY USERS, IN-
15 CLUDING FEDERAL CONTRACTORS.—Beginning on the ef-
16 fective date in subsection (a)(4), the Secretary of Home-
17 land Security shall require employers required to partici-
18 pate in the E-Verify Program described in section 403(a)
19 of the Illegal Immigration Reform and Immigrant Respon-
20 sibility Act of 1996 (8 U.S.C. 1324a note) by reason of
21 any Federal, State, or local law, Executive order, rule, reg-
22 ulation, or delegation of authority, including employers re-
23 quired to participate in such program by reason of Federal
24 acquisition laws (and regulations promulgated under those
25 laws, including the Federal Acquisition Regulation), to

1 comply with the requirements of section 274E of the Im-
2 migration and Nationality Act, as inserted by section 301
3 of this Act (and any additional requirements of such Fed-
4 eral acquisition laws and regulation) in lieu of any require-
5 ment to participate in the E-Verify Program.

6 (c) FORMER E-VERIFY VOLUNTARY USERS.—Begin-
7 ning on the effective date in subsection (a)(4), the Sec-
8 retary of Homeland Security shall provide for the vol-
9 untary compliance with the requirements of section 274E
10 of the Immigration and Nationality Act, as inserted by
11 section 301 of this Act, by employers voluntarily electing
12 to participate in the E-Verify Program described in sec-
13 tion 403(a) of the Illegal Immigration Reform and Immi-
14 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)
15 before such date.

16 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

17 Section 1546(b) of title 18, United States Code, is
18 amended—

19 (1) in paragraph (1), by striking “identification
20 document,” and inserting “identification document
21 or document meant to establish employment author-
22 ization,”;

23 (2) in paragraph (2), by striking “identification
24 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”;

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, 2020, the
5 Commissioner and the Secretary shall enter into and
6 maintain an agreement which shall—

7 (1) provide funds to the Commissioner for the
8 full costs of the responsibilities of the Commissioner
9 under section 274E(a)(5) of the Immigration and
10 Nationality Act, as inserted by section 301 of this
11 Act, including—

12 (A) acquiring, installing, and maintaining
13 technological equipment and systems necessary
14 for the fulfillment of the responsibilities of the
15 Commissioner under such section, but only that
16 portion of such costs that are attributable ex-
17 clusively to such responsibilities; and

18 (B) responding to individuals who contest
19 a tentative nonconfirmation or administratively
20 appeal a final nonconfirmation provided by the
21 electronic employment eligibility verification
22 system established under such section;

23 (2) provide such funds annually in advance of
24 the applicable quarter based on an estimating meth-
25 odology agreed to by the Commissioner and the Sec-
26 retary (except in such instances where the delayed

1 enactment of an annual appropriation may preclude
2 such quarterly payments); and

3 (3) require an annual accounting and reconcili-
4 ation of the actual costs incurred and the funds pro-
5 vided under the agreement, which shall be reviewed
6 by the Inspectors General of the Social Security Ad-
7 ministration and the Department of Homeland Secu-
8 rity.

9 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
10 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
11 which the agreement required under subsection (a) for any
12 fiscal year beginning on or after October 1, 2020, has not
13 been reached as of October 1 of such fiscal year, the latest
14 agreement between the Commissioner and the Secretary
15 providing for funding to cover the costs of the responsibil-
16 ities of the Commissioner under section 274E(a)(5) of the
17 Immigration and Nationality Act, as inserted by section
18 301 of this Act, shall be deemed in effect on an interim
19 basis for such fiscal year until such time as an agreement
20 required under subsection (a) is subsequently reached, ex-
21 cept that the terms of such interim agreement shall be
22 modified by the Director of the Office of Management and
23 Budget to adjust for inflation and any increase or decrease
24 in the volume of requests under the employment eligibility
25 verification system. In any case in which an interim agree-

1 ment applies for any fiscal year under this subsection, the
2 Commissioner and the Secretary shall, not later than Oc-
3 tober 1 of such fiscal year, notify the Committee on Ways
4 and Means, the Committee on the Judiciary, and the Com-
5 mittee on Appropriations of the House of Representatives
6 and the Committee on Finance, the Committee on the Ju-
7 diciary, and the Committee on Appropriations of the Sen-
8 ate of the failure to reach the agreement required under
9 subsection (a) for such fiscal year. Until such time as the
10 agreement required under subsection (a) has been reached
11 for such fiscal year, the Commissioner and the Secretary
12 shall, not later than the end of each 90-day period after
13 October 1 of such fiscal year, notify such Committees of
14 the status of negotiations between the Commissioner and
15 the Secretary in order to reach such an agreement.

16 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE**
17 **ELECTRONIC EMPLOYMENT VERIFICATION**
18 **SYSTEM.**

19 Not later than 24 months after the date on which
20 final rules are published under section 309(a), and annu-
21 ally thereafter, the Secretary shall submit to Congress a
22 report that includes:

- 23 (1) An assessment of the accuracy rates of the
24 responses of the electronic employment verification
25 system established under section 274E of the Immi-

1 gration and Nationality Act, as inserted by section
2 301 of this Act (referred to in this section as the
3 “System”), including tentative and final noncon-
4 firmation notices issued to employment-authorized
5 individuals and confirmation notices issued to indi-
6 viduals who are not employment-authorized;

7 (2) An assessment of any challenges faced by
8 persons or entities (including small employers) in
9 utilizing the System;

10 (3) An assessment of any challenges faced by
11 employment-authorized individuals who are issued
12 tentative or final nonconfirmation notices;

13 (4) An assessment of the incidence of unfair
14 immigration-related employment practices, as de-
15 scribed in section 274E(g) of the Immigration and
16 Nationality Act, as inserted by section 301 of this
17 Act, related to the use of the System.

18 (5) An assessment of the photo matching and
19 other identity authentication tools, as described in
20 section 274E(a)(4) of the Immigration and Nation-
21 ality Act, as inserted by section 301 of this Act, in-
22 cluding—

23 (A) an assessment of the accuracy rates of
24 such tools;

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

4 (C) an assessment of any challenges faced
5 by persons, entities, or individuals utilizing such
6 tools; and

7 (D) an assessment of operation and main-
8 tenance costs associated with such tools; and

9 (6) A summary of the activities and findings of
10 the U.S. Citizenship and Immigrations Services E-
11 Verify Monitoring and Compliance Branch, or any
12 successor office, including—

13 (A) the number, types and outcomes of au-
14 dits, investigations, and other compliance activi-
15 ties initiated by the Branch in the previous
16 year;

17 (B) the capacity of the Branch to detect
18 and prevent violations of section 274E(g) of the
19 Immigration and Nationality Act, as inserted by
20 this Act; and

21 (C) an assessment of the degree to which
22 persons and entities misuse the System, includ-
23 ing—

24 (i) use of the System before an indi-
25 vidual's date of hire;

1 (ii) failure to provide required notifi-
2 cations to individuals;

3 (iii) use of the System to interfere
4 with or otherwise impede individuals' as-
5 sertions of their rights under other laws;
6 and

7 (iv) use of the System for unauthor-
8 ized purposes; and

9 (7) An assessment of the impact of implementa-
10 tion of the System in the agricultural industry and
11 the use of the verification system in agricultural in-
12 dustry hiring and business practices.

13 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**
14 **MENT ELIGIBILITY VERIFICATION PROCESS.**

15 Not later than 12 months after the date of the enact-
16 ment of this Act, the Secretary, in consultation with the
17 Commissioner, shall submit to Congress a plan to mod-
18 ernize and streamline the employment eligibility
19 verification process that shall include—

20 (1) procedures to allow persons and entities to
21 verify the identity and employment authorization of
22 newly hired individuals where the in-person, physical
23 examination of identity and employment authoriza-
24 tion documents is not practicable;

1 (2) a proposal to create a simplified employ-
2 ment verification process that allows employers that
3 utilize the employment eligibility verification system
4 established under section 274E of the Immigration
5 and Nationality Act, as inserted by section 301 of
6 this Act, to verify the identity and employment au-
7 thorization of individuals without also having to
8 complete and retain Form I-9, Employment Eligi-
9 bility Verification, or any subsequent replacement
10 form; and

11 (3) any other proposal that the Secretary deter-
12 mines would simplify the employment eligibility
13 verification process without compromising the integ-
14 rity or security of the system.

15 **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

16 (a) **IN GENERAL.**—Not later than 180 days prior to
17 the end of the application period defined in section 101(c)
18 of this Act, the Secretary shall publish in the Federal Reg-
19 ister proposed rules implementing this title and the
20 amendments made by this title. The Secretary shall final-
21 ize such rules not later than 180 days after the date of
22 publication.

23 (b) **PAPERWORK REDUCTION ACT.**—

24 (1) **IN GENERAL.**—The requirements under
25 chapter 35 of title 44, United States Code, (com-

1 monly known as the “Paperwork Reduction Act”)
2 shall apply to any action to implement this title or
3 the amendments made by this title.

4 (2) ELECTRONIC FORMS.—All forms designated
5 or established by the Secretary that are necessary to
6 implement this title and the amendments made by
7 this title shall be made available in paper and elec-
8 tronic formats, and shall be designed in such a man-
9 ner to facilitate electronic completion, storage, and
10 transmittal.

11 (3) LIMITATION ON USE OF FORMS.—All form
12 designated or established by the Secretary that are
13 necessary to implement this title, and the amend-
14 ments made by this title, and any information con-
15 tained in or appended to such forms, may not be
16 used for purposes other than for enforcement of this
17 Act and any other provision of Federal criminal law.

