

117TH CONGRESS
1ST SESSION

H. R. 1537

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2021

Ms. LOFGREN (for herself, Mr. NEWHOUSE, Mr. COSTA, and Mr. PANETTA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Education and Labor, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

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

Sec. 1. Short title; table of contents.

TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Temporary Status for Certified Agricultural Workers

- Sec. 101. Certified agricultural worker status.
 Sec. 102. Terms and conditions of certified status.
 Sec. 103. Extensions of certified status.
 Sec. 104. Determination of continuous presence.
 Sec. 105. Employer obligations.
 Sec. 106. Administrative and judicial review.

Subtitle B—Optional Earned Residence for Long-Term Workers

- Sec. 111. Optional adjustment of status for long-term agricultural workers.
 Sec. 112. Payment of taxes.
 Sec. 113. Adjudication and decision; review.

Subtitle C—General Provisions

- Sec. 121. Definitions.
 Sec. 122. Rulemaking; fees.
 Sec. 123. Background checks.
 Sec. 124. Protection for children.
 Sec. 125. Limitation on removal.
 Sec. 126. Documentation of agricultural work history.
 Sec. 127. Employer protections.
 Sec. 128. Correction of social security records; conforming amendments.
 Sec. 129. Disclosures and privacy.
 Sec. 130. Penalties for false statements in applications.
 Sec. 131. Dissemination of information.
 Sec. 132. Exemption from numerical limitations.
 Sec. 133. Reports to Congress.
 Sec. 134. Grant program to assist eligible applicants.
 Sec. 135. Authorization of appropriations.

TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

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

- Sec. 201. Comprehensive and streamlined electronic H-2A platform.
 Sec. 202. H-2A program requirements.
 Sec. 203. Agency roles and responsibilities.
 Sec. 204. Worker protection and compliance.
 Sec. 205. Report on wage protections.
 Sec. 206. Portable H-2A visa pilot program.
 Sec. 207. Improving access to permanent residence.

Subtitle B—Preservation and Construction of Farmworker Housing

- Sec. 220. Short title.

- Sec. 221. Permanent establishment of housing preservation and revitalization program.
- Sec. 222. Eligibility for rural housing vouchers.
- Sec. 223. Amount of voucher assistance.
- Sec. 224. Rental assistance contract authority.
- Sec. 225. Funding for multifamily technical improvements.
- Sec. 226. Plan for preserving affordability of rental projects.
- Sec. 227. Covered housing programs.
- Sec. 228. New farmworker housing.
- Sec. 229. Loan and grant limitations.
- Sec. 230. Operating assistance subsidies.
- Sec. 231. Eligibility of certified workers.

Subtitle C—Foreign Labor Recruiter Accountability

- Sec. 251. Registration of foreign labor recruiters.
- Sec. 252. Enforcement.
- Sec. 253. Appropriations.
- Sec. 254. Definitions.

TITLE III—ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY

- Sec. 301. Electronic employment eligibility verification system.
- Sec. 302. Mandatory electronic verification for the agricultural industry.
- Sec. 303. Coordination with E-Verify Program.
- Sec. 304. Fraud and misuse of documents.
- Sec. 305. Technical and conforming amendments.
- Sec. 306. Protection of Social Security Administration programs.
- Sec. 307. Report on the implementation of the electronic employment verification system.
- Sec. 308. Modernizing and streamlining the employment eligibility verification process.
- Sec. 309. Rulemaking and Paperwork Reduction Act.

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

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

6 SEC. 101. CERTIFIED AGRICULTURAL WORKER STATUS.

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

- 9 (1) PRINCIPAL ALIENS.—**The Secretary may
- 10 grant certified agricultural worker status to an alien**

1 who submits a completed application, including the
2 required processing fees, before the end of the period
3 set forth in subsection (c) and who—

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

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

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

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

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

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

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

8 (b) GROUNDS FOR INELIGIBILITY.—

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

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

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

(C) paragraphs (6)(B) and (9)(A) of such section 212(a) shall not apply unless the relevant conduct began on or after the date of filing of the application for certified agricultural worker status.

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

(A) any felony offense;

(B) an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) at the time of the conviction);

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

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

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

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

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

19 (c) APPLICATION.—

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

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

8 (3) SUBMISSION OF APPLICATIONS.—

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

19 (B) FARM SERVICE AGENCY OFFICES.—
20 The Secretary, in consultation with the Sec-
21 retary of Agriculture, shall establish a process
22 for the filing of applications under this section
23 at Farm Service Agency offices throughout the
24 United States.

1 (4) EVIDENCE OF APPLICATION FILING.—As
2 soon as practicable after receiving an application for
3 certified agricultural worker status, the Secretary
4 shall provide the applicant with a document acknowl-
5 edging the receipt of such application. Such docu-
6 ment shall serve as interim proof of the alien’s au-
7 thorization to accept employment in the United
8 States and shall be accepted by an employer as evi-
9 dence of employment authorization under section
10 274A(b)(1)(C) of the Immigration and Nationality
11 Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is
12 employing the holder of such document to perform
13 agricultural labor or services, pending a final admin-
14 istrative 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 5½ years beginning on the date of
15 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 5½ years to an alien who submits
21 a completed application, including the required proc-
22 essing fees, within the 120-day period beginning 60
23 days before the expiration of the fifth year of the
24 immediately preceding grant of certified agricultural
25 worker status, if the alien—

1 (A) except as provided in section 126(c),
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 5 years in
5 which the alien held certified agricultural work-
6 er 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(c),
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 porary 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. Such an
5 alien may not be placed in removal proceedings or removed
6 from the United States until a final administrative deci-
7 sion establishing ineligibility for such status is rendered.

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

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

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

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

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

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

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

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

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

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

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

11 (3) tax records or other government records;

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

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

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

18 (1) IMPACT OF COVID—19.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (3) for national security purposes; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (a) STREAMLINED H-2A PLATFORM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(c) RECRUITING REQUIREMENTS.—

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

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

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

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

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

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

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

18 “(2) PERIOD OF RECRUITMENT.—

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

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

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

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

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

16 “(II) the date on which—

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

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

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

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

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

17 “(3) RECRUITMENT REPORT.—

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

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

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

10 “(d) WAGE REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(6) GUARANTEE OF EMPLOYMENT.—

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

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

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

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

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

graph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. The employer shall make efforts to transfer a worker to other comparable employment acceptable to the worker. If such transfer is not affected, the employer shall provide the return transportation required in subsection (f)(2).

“(7) WAGE STANDARDS AFTER 2031.—

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

“(i) whether the employment of H-2A workers has depressed the wages of United States farm workers;

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

“(iii) whether alternative wage standards would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level

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

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

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

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

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

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

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

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

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

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

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

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

14 “(4) TIMING OF INSPECTION.—

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

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

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

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

9 “(f) TRANSPORTATION REQUIREMENTS.—

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

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

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

5 “(3) LIMITATION.—

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

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

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

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

25 “(g) HEAT ILLNESS PREVENTION PLAN.—

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

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

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

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

19 “(h) H-2A PETITION PROCEDURES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(2) LABOR CERTIFICATION.—

2 “(A) REVIEW OF JOB ORDER.—

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

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

1 “(iii) EMERGENCY PROCEDURES.—

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

6 “(B) APPROVAL OF JOB ORDER.—

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

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

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

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

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

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

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

6 “(3) PETITION DECISION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(2) NUMERICAL LIMITATIONS.—

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

8 “(B) FISCAL YEARS 4 THROUGH 10.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(3) ALLOCATION OF VISAS.—

“(A) BI-ANNUAL ALLOCATION.—The annual allocation of visas described in paragraph (2) shall be evenly allocated between two halves of the fiscal year unless the Secretary of Homeland Security, in consultation with the Secretary of Agriculture and Secretary of Labor, determines that an alternative allocation would better accommodate demand for visas. Any unused visas in the first half of the fiscal year shall be added to the allocation for the subsequent half of the same fiscal year.

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

“(i) IN GENERAL.—Of the visa numbers made available in each half of the fiscal year pursuant to subparagraph (A), 50 percent of such visas shall be reserved for employers filing petitions seeking H-2A workers to engage in agricultural labor or services in the dairy industry.

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

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

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

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

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

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

24 “(4) ANNUAL ROUND TRIP HOME.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 “(4) CONTINUING H-2A WORKERS.—

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

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

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

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

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

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

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

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

9 “(5) ABANDONMENT OF EMPLOYMENT.—

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

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

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

3 “(k) REQUIRED DISCLOSURES.—

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

17 “(2) HOURS AND EARNINGS STATEMENTS.—

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

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

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

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

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

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

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

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

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

20 “(1) LABOR CONTRACTORS.—

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

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

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

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

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

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

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

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

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

5 “(m) ENFORCEMENT AUTHORITY.—

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

14 “(2) COMPLAINT PROCESS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(n) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

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

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

20 “(1) FEES.—

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

cluding the reasonable costs of providing labor certification by the Secretary of Labor.

“(B) DISTRIBUTION.—Fees collected under subparagraph (A) shall be deposited as offsetting receipts into the immigration examinations fee account in section 286(m), except that the portion of fees assessed for the Secretary of Labor shall be deposited into the H–2A Labor Certification Fee Account established pursuant to section 203(c) of the Farm Workforce Modernization Act of 2021.

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

“(A) recruiting United States workers for labor or services which might otherwise be performed by H–2A workers, including by ensuring that State workforce agencies are sufficiently funded to fulfill their functions under this section;

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

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

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

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

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

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

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

12 (A) review and process job orders;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) APPLICABILITY OF OTHER LAWS.—

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

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

24 (3) MEDIATION.—

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

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

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

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

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

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

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

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

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

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

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

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

10 (c) FARM LABOR CONTRACTOR REQUIREMENTS.—

11 (1) SURETY BONDS.—

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

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

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

4 (B) REGISTRATION DETERMINATIONS.—

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

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

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

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

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

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

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

22 (2) SUCCESSORS IN INTEREST.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (a) ESTABLISHMENT OF PILOT PROGRAM.—

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

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

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

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

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

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

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

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

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

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

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

23 (2) DESIGNATED WORKERS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (3) in paragraph (3)—

23 (A) in subparagraph (A)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(b) NOTICE OF MATURING LOANS.—

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

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

3 “(2) TO TENANTS.—

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

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

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

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

3 “(1) reducing or eliminating interest;

4 “(2) deferring loan payments;

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

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

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

20 “(e) RESTRICTIVE USE AGREEMENTS.—

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

1 “(2) TERM.—

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

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

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

20 “(f) DECOUPLING OF RENTAL ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) ADVISORY COMMITTEE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(f) FUNDING FOR FARMWORKER HOUSING.—

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

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

1 under section 514 (42 U.S.C. 1484) during
2 each of fiscal years 2022 through 2031 in an
3 aggregate amount not to exceed \$200,000,000.

4 “(B) AUTHORIZATION OF APPROPRIATIONS
5 FOR COSTS.—There is authorized to be appro-
6 priated \$75,000,000 for each of fiscal years
7 2022 through 2031 for costs (as such term is
8 defined in section 502 of the Congressional
9 Budget Act of 1974 (2 U.S.C. 661a)) of loans
10 insured pursuant the authority under subpara-
11 graph (A).

12 “(2) SECTION 516 GRANTS FOR FARMWORKER
13 HOUSING.—There is authorized to be appropriated
14 \$30,000,000 for each of fiscal years 2022 through
15 2031 for financial assistance under section 516 (42
16 U.S.C. 1486).

17 “(3) SECTION 521 HOUSING ASSISTANCE.—
18 There is authorized to be appropriated
19 \$2,700,000,000 for each of fiscal years 2022
20 through 2031 for rental assistance agreements en-
21 tered into or renewed pursuant to section 521(a)(2)
22 (42 U.S.C. 1490a(a)(2)) or agreements entered into
23 in lieu of debt forgiveness or payments for eligible
24 households as authorized by section 502(c)(5)(D).”.

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

2 Section 514 of the Housing Act of 1949 (42 U.S.C.
3 1484) is amended by adding at the end the following:

4 “(j) PER PROJECT LIMITATIONS ON ASSISTANCE.—
5 If the Secretary, in making available assistance in any
6 area under this section or section 516 (42 U.S.C. 1486),
7 establishes a limitation on the amount of assistance avail-
8 able per project, the limitation on a grant or loan award
9 per project shall not be less than \$5 million.”.

10 **SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

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

13 (1) in subparagraph (A) by inserting “or do-
14 mestic farm labor legally admitted to the United
15 States and authorized to work in agriculture” after
16 “migrant farmworkers”;

17 (2) in subparagraph (B)—

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

20 “(i) HOUSING FOR MIGRANT FARM-
21 WORKERS.—In any fiscal year”;

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

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

25 “(ii) HOUSING FOR OTHER FARM
26 LABOR.—In any fiscal year, the assistance

1 provided under this paragraph for any
2 project providing housing for domestic
3 farm labor legally admitted to the United
4 States and authorized to work in agri-
5 culture shall not exceed an amount equal
6 to 50 percent of the operating costs for the
7 project for the year, as determined by the
8 Secretary. The owner of such project shall
9 not qualify for operating assistance unless
10 the Secretary certifies that the project was
11 unoccupied or underutilized before making
12 units available to such farm labor, and
13 that a grant under this section will not dis-
14 place any farm worker who is a United
15 States worker.”; and

16 (3) in subparagraph (D), by adding at the end
17 the following:

18 “(iii) The term ‘domestic farm labor’ has
19 the same meaning given such term in section
20 514(f)(3) (42 U.S.C. 1484(f)(3)), except that
21 subparagraph (A) of such section shall not
22 apply for purposes this section.”.

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

2 Subsection (a) of section 214 of the Housing and
3 Community Development Act of 1980 (42 U.S.C. 1436a)
4 is amended—

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

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

9 (3) by inserting after paragraph (6) the fol-
10 lowing:

11 “(7) an alien granted certified agricultural
12 worker or certified agricultural dependent status
13 under title I of the Farm Workforce Modernization
14 Act of 2021, but solely for financial assistance made
15 available pursuant to section 521 or 542 of the
16 Housing Act of 1949 (42 U.S.C. 1490a, 1490r);
17 or”.

18 **Subtitle C—Foreign Labor**
19 **Recruiter Accountability**

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

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of the enactment of this Act, the Secretary of Labor,
23 in consultation with the Secretary of State and the Sec-
24 retary of Homeland Security, shall establish procedures
25 for the electronic registration of foreign labor recruiters
26 engaged in the recruitment of nonimmigrant workers de-

1 scribed in section 101(a)(15)(H)(ii)(a) of the Immigration
2 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) to
3 perform agricultural labor or services in the United States.

4 (b) PROCEDURAL REQUIREMENTS.—The procedures
5 described in subsection (a) shall—

6 (1) require the applicant to submit a sworn dec-
7 laration—

8 (A) stating the applicant's permanent
9 place of residence or principal place of business,
10 as applicable;

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

13 (C) including such other relevant informa-
14 tion as the Secretary of Labor and the Sec-
15 retary of State may require;

16 (2) include an expeditious means to update and
17 renew registrations;

18 (3) include a process, which shall include the
19 placement of personnel at each United States diplo-
20 matic mission in accordance with subsection (g)(2),
21 to receive information from the public regarding for-
22 eign labor recruiters who have allegedly engaged in
23 a foreign labor recruiting activity that is prohibited
24 under this subtitle;

1 (4) include procedures for the receipt and proc-
2 essing of complaints against foreign labor recruiters
3 and for remedies, including the revocation of a reg-
4 istration or the assessment of fines upon a deter-
5 mination by the Secretary of Labor that the foreign
6 labor recruiter has violated the requirements of this
7 subtitle;

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

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

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

20 (1) PROHIBITED FEES.—The foreign labor re-
21 cruiter, including any agent or employee of such for-
22 eign labor recruiter, shall not assess any recruitment
23 fees on a worker for any foreign labor recruiting ac-
24 tivity.

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

6 (3) REQUIRED DISCLOSURES.—The foreign
7 labor recruiter shall ascertain and disclose to the
8 worker in writing in English and in the primary lan-
9 guage of the worker at the time of the worker’s re-
10 cruitment, the following information:

11 (A) The identity and address of the em-
12 ployer and the identity and address of the per-
13 son conducting the recruiting on behalf of the
14 employer, including each subcontractor or agent
15 involved in such recruiting.

16 (B) A copy of the approved job order or
17 work contract under section 218 of the Immi-
18 gration and Nationality Act, including all assur-
19 ances and terms and conditions of employment.

20 (C) A statement, in a form specified by the
21 Secretary—

22 (i) describing the general terms and
23 conditions associated with obtaining an H-
24 2A visa and maintaining H-2A status;

1 (ii) affirming the prohibition on the
2 assessment of fees described in paragraph
3 (1), and explaining that such fees, if paid
4 by the employer, may not be passed on to
5 the worker;

6 (iii) describing the protections af-
7 forded the worker under this subtitle, in-
8 cluding procedures for reporting violations
9 to the Secretary of State, filing a com-
10 plaint with the Secretary of Labor, or fil-
11 ing a civil action; and

12 (iv) describing the protections af-
13 forded the worker by section 202 of the
14 William Wilberforce Trafficking Victims
15 Protection Reauthorization Act of 2008 (8
16 U.S.C. 1375b), including the telephone
17 number for the national human trafficking
18 resource center hotline number.

19 (4) BOND.—The foreign labor recruiter shall
20 agree to maintain a bond sufficient to ensure the
21 ability of the foreign labor recruiter to discharge its
22 responsibilities and ensure protection of workers,
23 and to forfeit such bond in an amount determined
24 by the Secretary under subsections (b)(1)(C)(ii) or

1 (c)(2)(C) of section 252 for failure to comply with
2 the provisions of this subtitle.

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

7 (6) NO RETALIATION.—The foreign labor re-
8 cruiter shall agree to refrain from intimidating,
9 threatening, restraining, coercing, discharging,
10 blacklisting or in any other manner discriminating
11 or retaliating against any worker or their family
12 members (including a former worker or an applicant
13 for employment) because such worker disclosed in-
14 formation to any person based on a reason to believe
15 that the foreign labor recruiter, or any agent or sub-
16 contractee of such foreign labor recruiter, is engag-
17 ing or has engaged in a foreign labor recruiting ac-
18 tivity that does not comply with this subtitle.

19 (7) EMPLOYEES, AGENTS, AND
20 SUBCONTRACTEES.—The foreign labor recruiter
21 shall consent to be liable for the conduct of any
22 agents or subcontractees of any level in relation to
23 the foreign labor recruiting activity of the agent or
24 subcontractee to the same extent as if the foreign
25 labor recruiter had engaged in such conduct.

1 (8) ENFORCEMENT.—If the foreign labor re-
2 cruiter is conducting foreign labor recruiting activity
3 wholly outside the United States, such foreign labor
4 recruiter shall establish a registered agent in the
5 United States who is authorized to accept service of
6 process on behalf of the foreign labor recruiter for
7 the purpose of any administrative proceeding under
8 this title or any Federal court civil action, if such
9 service is made in accordance with the appropriate
10 Federal rules for service of process.

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

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

19 (f) NOTIFICATION.—

20 (1) EMPLOYER NOTIFICATION.—

21 (A) IN GENERAL.—Not less frequently
22 than once every year, an employer of H-2A
23 workers shall provide the Secretary with the
24 names and addresses of all foreign labor re-
25 cruiters engaged to perform foreign labor re-

1 cruiting activity on behalf of the employer,
2 whether the foreign labor recruiter is to receive
3 any economic compensation for such services,
4 and, if so, the identity of the person or entity
5 who is paying for the services.

6 (B) AGREEMENT TO COOPERATE.—In ad-
7 dition to the requirements of subparagraph (A),
8 the employer shall—

9 (i) provide to the Secretary the iden-
10 tity of any foreign labor recruiter whom
11 the employer has reason to believe is en-
12 gaging in foreign labor recruiting activities
13 that do not comply with this subtitle; and

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

19 (2) FOREIGN LABOR RECRUITER NOTIFICA-
20 TION.—A registered foreign labor recruiter shall no-
21 tify the Secretary, not less frequently than once
22 every year, of the identity of any subcontractee,
23 agent, or foreign labor recruiter employee involved in
24 any foreign labor recruiting activity for, or on behalf
25 of, the foreign labor recruiter.

1 (g) ADDITIONAL RESPONSIBILITIES OF THE SEC-
2 RETARY OF STATE.—

3 (1) LISTS.—The Secretary of State, in con-
4 sultation with the Secretary of Labor shall maintain
5 and make publicly available in written form and on
6 the websites of United States embassies in the offi-
7 cial language of that country, and on websites main-
8 tained by the Secretary of Labor, regularly updated
9 lists—

10 (A) of foreign labor recruiters who hold
11 valid registrations under this section, includ-
12 ing—

13 (i) the name and address of the for-
14 eign labor recruiter;

15 (ii) the countries in which such re-
16 cruiters conduct recruitment;

17 (iii) the employers for whom recruit-
18 ing is conducted;

19 (iv) the occupations that are the sub-
20 ject of recruitment;

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

23 (vi) the name and address of the reg-
24 istered agent in the United States who is

1 authorized to accept service of process on
2 behalf of the foreign labor recruiter; and

3 (B) of foreign labor recruiters whose reg-
4 istration the Secretary has revoked.

5 (2) PERSONNEL.—The Secretary of State shall
6 ensure that each United States diplomatic mission is
7 staffed with a person who shall be responsible for re-
8 ceiving information from members of the public re-
9 garding potential violations of the requirements ap-
10 plicable to registered foreign labor recruiters and en-
11 suring that such information is conveyed to the Sec-
12 retary of Labor for evaluation and initiation of an
13 enforcement action, if appropriate.

14 (3) VISA APPLICATION PROCEDURES.—The Sec-
15 retary shall ensure that consular officers issuing
16 visas to nonimmigrants under section
17 101(a)(1)(H)(ii)(a) of the Immigration and Nation-
18 ality Act (8 U.S.C. 11001(a)(1)(H)(ii)(a))—

19 (A) provide to and review with the appli-
20 cant, in the applicant's language (or a language
21 the applicant understands), a copy of the infor-
22 mation and resources pamphlet required by sec-
23 tion 202 of the William Wilberforce Trafficking
24 Victims Protection Reauthorization Act of 2008
25 (8 U.S.C. 1375b);

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

3 (C) note in the visa application file wheth-
 4 er the foreign labor recruiter has a valid reg-
 5 istration under this section; and

6 (D) if the foreign labor recruiter holds a
 7 valid registration, review and include in the visa
 8 application file, the foreign labor recruiter's dis-
 9 closures required by subsection (c)(3).

10 (4) DATA.—The Secretary of State shall make
 11 publicly available online, on an annual basis, data
 12 disclosing the gender, country of origin (and State,
 13 county, or province, if available), age, wage, level of
 14 training, and occupational classification,
 15 disaggregated by State, of nonimmigrant workers
 16 described in section 101(a)(15)(H)(ii)(a) of the Im-
 17 migration and Nationality Act.

18 **SEC. 252. ENFORCEMENT.**

19 (a) DENIAL OR REVOCATION OF REGISTRATION.—

20 (1) GROUNDS FOR DENIAL OR REVOCATION.—

21 The Secretary shall deny an application for registra-
 22 tion, or revoke a registration, if the Secretary deter-
 23 mines that the foreign labor recruiter, or any agent
 24 or subcontractee of such foreign labor recruiter—

1 (A) knowingly made a material misrepresentation in the registration application;
2

3 (B) materially failed to comply with one or
4 more of the attestations provided under section
5 251(c); or

6 (C) is not the real party in interest.

7 (2) NOTICE.—Prior to denying an application
8 for registration or revoking a registration under this
9 subsection, the Secretary shall provide written notice
10 of the intent to deny or revoke the registration to
11 the foreign labor recruiter. Such notice shall—

12 (A) articulate with specificity all grounds
13 for denial or revocation; and

14 (B) provide the foreign labor recruiter with
15 not less than 60 days to respond.

16 (3) RE-REGISTRATION.—A foreign labor re-
17 cruitor whose registration was revoked under sub-
18 section (a) may re-register if the foreign labor re-
19 cruitor demonstrates to the Secretary's satisfaction
20 that the foreign labor recruiter has not violated this
21 subtitle in the 5 years preceding the date an applica-
22 tion for registration is filed and has taken sufficient
23 steps to prevent future violations of this subtitle.

24 (b) ADMINISTRATIVE ENFORCEMENT.—

25 (1) COMPLAINT PROCESS.—

1 (A) FILING.—A complaint may be filed
2 with the Secretary of Labor, in accordance with
3 the procedures established under section
4 251(b)(4) not later than 2 years after the ear-
5 lier of—

6 (i) the date of the last action which
7 constituted the conduct that is the subject
8 of the complaint took place; or

9 (ii) the date on which the aggrieved
10 party had actual knowledge of such con-
11 duct.

12 (B) DECISION AND PENALTIES.—If the
13 Secretary of Labor finds, after notice and an
14 opportunity for a hearing, that a foreign labor
15 recruiter failed to comply with any of the re-
16 quirements of this subtitle, the Secretary of
17 Labor may—

18 (i) levy a fine against the foreign
19 labor recruiter in an amount not more
20 than—

21 (I) \$10,000 per violation; and

22 (II) \$25,000 per violation, upon
23 the third violation;

24 (ii) order the forfeiture (or partial for-
25 feiture) of the bond and release of as much

1 of the bond as the Secretary determines is
2 necessary for the worker to recover prohib-
3 ited recruitment fees;

4 (iii) refuse to issue or renew a reg-
5 istration, or revoke a registration; or

6 (iv) disqualify the foreign labor re-
7 cruiter from registration for a period of up
8 to 5 years, or in the case of a subsequent
9 finding involving willful or multiple mate-
10 rial violations, permanently disqualify the
11 foreign labor recruiter from registration.

12 (2) AUTHORITY TO ENSURE COMPLIANCE.—The
13 Secretary of Labor is authorized to take other such
14 actions, including issuing subpoenas and seeking ap-
15 propriate injunctive relief, as may be necessary to
16 assure compliance with the terms and conditions of
17 this subtitle.

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

22 (A) under any other law, including any law
23 affecting migrant and seasonal agricultural
24 workers; or

25 (B) in the absence of a complaint.

1 (c) CIVIL ACTION.—

2 (1) IN GENERAL.—The Secretary of Labor or
3 any person aggrieved by a violation of this subtitle
4 may bring a civil action against any foreign labor re-
5 cruiter, or any employer that does not meet the re-
6 quirements under subsection (d)(1), in any court of
7 competent jurisdiction—

8 (A) to seek remedial action, including in-
9 junctive relief; and

10 (B) for damages in accordance with the
11 provisions of this subsection.

12 (2) AWARD FOR CIVIL ACTION FILED BY AN IN-
13 DIVIDUAL.—

14 (A) IN GENERAL.—If the court finds in a
15 civil action filed by an individual under this sec-
16 tion that the defendant has violated any provi-
17 sion of this subtitle, the court may award—

18 (i) damages, up to and including an
19 amount equal to the amount of actual
20 damages, and statutory damages of up to
21 \$1,000 per plaintiff per violation, or other
22 equitable relief, except that with respect to
23 statutory damages—

24 (I) multiple infractions of a sin-
25 gle provision of this subtitle (or of a

1 regulation under this subtitle) shall
2 constitute only one violation for pur-
3 poses of this subsection to determine
4 the amount of statutory damages due
5 a plaintiff; and

6 (II) if such complaint is certified
7 as a class action the court may
8 award—

9 (aa) damages up to an
10 amount equal to the amount of
11 actual damages; and

12 (bb) statutory damages of
13 not more than the lesser of up to
14 \$1,000 per class member per vio-
15 lation, or up to \$500,000; and
16 other equitable relief;

17 (ii) reasonable attorneys' fees and
18 costs; and

19 (iii) such other and further relief as
20 necessary to effectuate the purposes of this
21 subtitle.

22 (B) CRITERIA.—In determining the
23 amount of statutory damages to be awarded
24 under subparagraph (A), the court is author-
25 ized to consider whether an attempt was made

1 to resolve the issues in dispute before the resort
2 to litigation.

3 (C) BOND.—To satisfy the damages, fees,
4 and costs found owing under this paragraph,
5 the Secretary shall release as much of the bond
6 held pursuant to section 251(c)(4) as necessary.

7 (3) SUMS RECOVERED IN ACTIONS BY THE SEC-
8 RETARY OF LABOR.—

9 (A) ESTABLISHMENT OF ACCOUNT.—

10 There is established in the general fund of the
11 Treasury a separate account, which shall be
12 known as the “H-2A Foreign Labor Recruiter
13 Compensation Account”. Notwithstanding any
14 other provisions of law, there shall be deposited
15 as offsetting receipts into the account, all sums
16 recovered in an action by the Secretary of
17 Labor under this subsection.

18 (B) USE OF FUNDS.—Amounts deposited
19 into the H-2A Foreign Labor Recruiter Com-
20 pensation Account and shall be paid directly to
21 each worker affected. Any such sums not paid
22 to a worker because of inability to do so within
23 a period of 5 years following the date such
24 funds are deposited into the account shall re-
25 main available to the Secretary until expended.

1 The Secretary may transfer all or a portion of
2 such remaining sums to appropriate agencies to
3 support the enforcement of the laws prohibiting
4 the trafficking and exploitation of persons or
5 programs that aid trafficking victims.

6 (d) EMPLOYER SAFE HARBOR.—

7 (1) IN GENERAL.—An employer that hires
8 workers referred by a foreign labor recruiter with a
9 valid registration at the time of hiring shall not be
10 held jointly liable for a violation committed solely by
11 a foreign labor recruiter under this subtitle—

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

14 (B) in any Federal or State civil court ac-
15 tion filed against the foreign labor recruiter by
16 or on behalf of such workers or other aggrieved
17 party under this subtitle.

18 (2) CLARIFICATION.—Nothing in this subtitle
19 shall be construed to prohibit an aggrieved party or
20 parties from bringing a civil action for violations of
21 this subtitle or any other Federal or State law
22 against any employer who hired workers referred by
23 a foreign labor recruiter—

24 (A) without a valid registration at the time
25 of hire; or

1 (B) with a valid registration if the em-
2 ployer knew or learned of the violation and
3 failed to report such violation to the Secretary.

4 (e) PAROLE TO PURSUE RELIEF.—If other immigra-
5 tion relief is not available, the Secretary of Homeland Se-
6 curity may grant parole to permit an individual to remain
7 legally in the United States for time sufficient to fully and
8 effectively participate in all legal proceedings related to
9 any action taken pursuant to subsection (b) or (c).

10 (f) WAIVER OF RIGHTS.—Agreements by employees
11 purporting to waive or to modify their rights under this
12 subtitle shall be void as contrary to public policy.

13 (g) LIABILITY FOR AGENTS.—Foreign labor recruit-
14 ers shall be subject to the provisions of this section for
15 violations committed by the foreign labor recruiter's
16 agents or subcontractees of any level in relation to their
17 foreign labor recruiting activity to the same extent as if
18 the foreign labor recruiter had committed the violation.

19 **SEC. 253. APPROPRIATIONS.**

20 There is authorized to be appropriated such sums as
21 may be necessary for the Secretary of Labor and Secretary
22 of State to carry out the provisions of this subtitle.

23 **SEC. 254. DEFINITIONS.**

24 For purposes of this subtitle:

1 (1) FOREIGN LABOR RECRUITER.—The term
2 “foreign labor recruiter” means any person who per-
3 forms foreign labor recruiting activity in exchange
4 for money or other valuable consideration paid or
5 promised to be paid, to recruit individuals to work
6 as nonimmigrant workers described in section
7 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), including
9 any person who performs foreign labor recruiting ac-
10 tivity wholly outside of the United States. Such term
11 does not include any entity of the United States
12 Government or an employer, or employee of an em-
13 ployer, who engages in foreign labor recruiting activ-
14 ity solely to find employees for that employer’s own
15 use, and without the participation of any other for-
16 eign labor recruiter.

17 (2) FOREIGN LABOR RECRUITING ACTIVITY.—
18 The term “foreign labor recruiting activity” means
19 recruiting, soliciting, or related activities with re-
20 spect to an individual who resides outside of the
21 United States in furtherance of employment in the
22 United States, including when such activity occurs
23 wholly outside of the United States.

24 (3) RECRUITMENT FEES.—The term “recruit-
25 ment fees” has the meaning given to such term

1 under section 22.1702 of title 22 of the Code of
 2 Federal Regulations, as in effect on the date of en-
 3 actment of this Act.

4 (4) PERSON.—The term “person” means any
 5 natural person or any corporation, company, firm,
 6 partnership, joint stock company or association or
 7 other organization or entity (whether organized
 8 under law or not), including municipal corporations.

9 **TITLE III—ELECTRONIC**
 10 **VERIFICATION OF EMPLOY-**
 11 **MENT ELIGIBILITY**

12 **SEC. 301. ELECTRONIC EMPLOYMENT ELIGIBILITY**
 13 **VERIFICATION SYSTEM.**

14 (a) IN GENERAL.—Chapter 8 of title II of the Immi-
 15 gration and Nationality Act (8 U.S.C. 1321 et seq.) is
 16 amended by inserting after section 274D the following:

17 **“SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC**
 18 **VERIFICATION OF EMPLOYMENT ELIGI-**
 19 **BILITY.**

20 **“(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
 21 **TEM.—**

22 **“(1) IN GENERAL.—**The Secretary of Homeland
 23 Security (referred to in this section as the ‘Sec-
 24 retary’) shall establish and administer an electronic
 25 verification system (referred to in this section as the

1 ‘System’), patterned on the E-Verify Program de-
2 scribed in section 403(a) of the Illegal Immigration
3 Reform and Immigrant Responsibility Act of 1996
4 (8 U.S.C. 1324a note) (as in effect on the day be-
5 fore the effective date described in section 303(a)(4)
6 of the Farm Workforce Modernization Act of 2021),
7 and using the employment eligibility confirmation
8 system established under section 404 of such Act (8
9 U.S.C. 1324a note) (as so in effect) as a foundation,
10 through which the Secretary shall—

11 “(A) respond to inquiries made by persons
12 or entities seeking to verify the identity and em-
13 ployment authorization of individuals that such
14 persons or entities seek to hire, or to recruit or
15 refer for a fee, for employment in the United
16 States; and

17 “(B) maintain records of the inquiries that
18 were made, and of verifications provided (or not
19 provided) to such persons or entities as evidence
20 of compliance with the requirements of this sec-
21 tion.

22 “(2) INITIAL RESPONSE DEADLINE.—The Sys-
23 tem shall provide confirmation or a tentative non-
24 confirmation of an individual’s identity and employ-

1 ment authorization as soon as practicable, but not
2 later than 3 calendar days after the initial inquiry.

3 “(3) GENERAL DESIGN AND OPERATION OF
4 SYSTEM.—The Secretary shall design and operate
5 the System—

6 “(A) using responsive web design and
7 other technologies to maximize its ease of use
8 and accessibility for users on a variety of elec-
9 tronic devices and screen sizes, and in remote
10 locations;

11 “(B) to maximize the accuracy of re-
12 sponses to inquiries submitted by persons or en-
13 tities;

14 “(C) to maximize the reliability of the Sys-
15 tem and to register each instance when the Sys-
16 tem is unable to receive inquiries;

17 “(D) to protect the privacy and security of
18 the personally identifiable information main-
19 tained by or submitted to the System;

20 “(E) to provide direct notification of an in-
21 quiry to an individual with respect to whom the
22 inquiry is made, including the results of such
23 inquiry, and information related to the process
24 for challenging the results, in cases in which the
25 individual has established a user account as de-

scribed in paragraph (4)(B) or an electronic mail address for the individual is submitted by the person or entity at the time the inquiry is made; and

“(F) to maintain appropriate administrative, technical, and physical safeguards to prevent misuse of the System and unfair immigration-related employment practices.

“(4) MEASURES TO PREVENT IDENTITY THEFT AND OTHER FORMS OF FRAUD.—To prevent identity theft and other forms of fraud, the Secretary shall design and operate the System with the following attributes:

“(A) PHOTO MATCHING TOOL.—The System shall display the digital photograph of the individual, if any, that corresponds to the document presented by an individual to establish identity and employment authorization so that the person or entity that makes an inquiry can compare the photograph displayed by the System to the photograph on the document presented by the individual.

“(B) INDIVIDUAL MONITORING AND SUSPENSION OF IDENTIFYING INFORMATION.—The System shall enable individuals to establish user

1 accounts, after authentication of an individual's
2 identity, that would allow an individual to—

3 “(i) confirm the individual's own em-
4 ployment authorization;

5 “(ii) receive electronic notification
6 when the individual's social security ac-
7 count number or other personally identi-
8 fying information has been submitted to
9 the System;

10 “(iii) monitor the use history of the
11 individual's personally identifying informa-
12 tion in the System, including the identities
13 of all persons or entities that have sub-
14 mitted such identifying information to the
15 System, the date of each query run, and
16 the System response for each query run;

17 “(iv) suspend or limit the use of the
18 individual's social security account number
19 or other personally identifying information
20 for purposes of the System; and

21 “(v) provide notice to the Department
22 of Homeland Security of any suspected
23 identity fraud or other improper use of
24 personally identifying information.

1 “(C) BLOCKING MISUSED SOCIAL SECUR-
2 RITY ACCOUNT NUMBERS.—

3 “(i) IN GENERAL.—The Secretary, in
4 consultation with the Commissioner of So-
5 cial Security (referred to in this section as
6 the ‘Commissioner’), shall develop, after
7 publication in the Federal Register and an
8 opportunity for public comment, a process
9 in which social security account numbers
10 that have been identified to be subject to
11 unusual multiple use in the System or that
12 are otherwise suspected or determined to
13 have been compromised by identity fraud
14 or other misuse, shall be blocked from use
15 in the System unless the individual using
16 such number is able to establish, through
17 secure and fair procedures, that the indi-
18 vidual is the legitimate holder of the num-
19 ber.

20 “(ii) NOTICE.—If the Secretary blocks
21 or suspends a social security account num-
22 ber under this subparagraph, the Secretary
23 shall provide notice to the persons or enti-
24 ties that have made inquiries to the Sys-
25 tem using such account number that the

1 identity and employment authorization of
2 the individual who provided such account
3 number must be re-verified.

4 “(D) ADDITIONAL IDENTITY AUTHENTICA-
5 TION TOOL.—The Secretary shall develop, after
6 publication in the Federal Register and an op-
7 portunity for public comment, additional secu-
8 rity measures to adequately verify the identity
9 of an individual whose identity may not be
10 verified using the photo tool described in sub-
11 paragraph (A). Such additional security meas-
12 ures—

13 “(i) shall be kept up-to-date with
14 technological advances; and

15 “(ii) shall be designed to provide a
16 high level of certainty with respect to iden-
17 tity authentication.

18 “(E) CHILD-LOCK PILOT PROGRAM.—The
19 Secretary, in consultation with the Commis-
20 sioner, shall establish a reliable, secure program
21 through which parents or legal guardians may
22 suspend or limit the use of the social security
23 account number or other personally identifying
24 information of a minor under their care for
25 purposes of the System. The Secretary may im-

1 plement the program on a limited pilot basis be-
2 fore making it fully available to all individuals.

3 “(5) RESPONSIBILITIES OF THE COMMISSIONER
4 OF SOCIAL SECURITY.—The Commissioner, in con-
5 sultation with the Secretary, shall establish a reli-
6 able, secure method, which, within the time periods
7 specified in paragraph (2) and subsection
8 (b)(4)(D)(i)(II), compares the name and social secu-
9 rity account number provided in an inquiry against
10 such information maintained by the Commissioner in
11 order to validate (or not validate) the information
12 provided by the person or entity with respect to an
13 individual whose identity and employment authoriza-
14 tion the person or entity seeks to confirm, the cor-
15 respondence of the name and number, and whether
16 the individual has presented a social security ac-
17 count number that is not valid for employment. The
18 Commissioner shall not disclose or release social se-
19 curity information (other than such confirmation or
20 nonconfirmation) under the System except as pro-
21 vided under this section.

22 “(6) RESPONSIBILITIES OF THE SECRETARY OF
23 HOMELAND SECURITY.—

24 “(A) IN GENERAL.—The Secretary of
25 Homeland Security shall establish a reliable, se-

1 cure method, which, within the time periods
2 specified in paragraph (2) and subsection
3 (b)(4)(D)(i)(II), compares the name and identi-
4 fication or other authorization number (or any
5 other information determined relevant by the
6 Secretary) which are provided in an inquiry
7 against such information maintained or
8 accessed by the Secretary in order to validate
9 (or not validate) the information provided, the
10 correspondence of the name and number, and
11 whether the individual is authorized to be em-
12 ployed in the United States.

13 “(B) TRAINING.—The Secretary shall pro-
14 vide and regularly update training materials on
15 the use of the System for persons and entities
16 making inquiries.

17 “(C) AUDIT.—The Secretary shall provide
18 for periodic auditing of the System to detect
19 and prevent misuse, discrimination, fraud, and
20 identity theft, to protect privacy and assess
21 System accuracy, and to preserve the integrity
22 and security of the information in the System.

23 “(D) NOTICE OF SYSTEM CHANGES.—The
24 Secretary shall provide appropriate notification
25 to persons and entities registered in the System

1 of any change made by the Secretary or the
2 Commissioner related to permitted and prohib-
3 ited documents, and use of the System.

4 “(7) RESPONSIBILITIES OF THE SECRETARY OF
5 STATE.—As part of the System, the Secretary of
6 State shall provide to the Secretary of Homeland Se-
7 curity access to passport and visa information as
8 needed to confirm that a passport or passport card
9 presented under subsection (b)(3)(A)(i) confirms the
10 employment authorization and identity of the indi-
11 vidual presenting such document, and that a pass-
12 port, passport card, or visa photograph matches the
13 Secretary of State’s records, and shall provide such
14 assistance as the Secretary of Homeland Security
15 may request in order to resolve tentative noncon-
16 firmations or final nonconfirmations relating to such
17 information.

18 “(8) UPDATING INFORMATION.—The Commis-
19 sioner, the Secretary of Homeland Security, and the
20 Secretary of State shall update records in their cus-
21 tody in a manner that promotes maximum accuracy
22 of the System and shall provide a process for the
23 prompt correction of erroneous information, includ-
24 ing instances in which it is brought to their atten-

1 tion through the tentative nonconfirmation review
2 process under subsection (b)(4)(D).

3 “(9) MANDATORY AND VOLUNTARY SYSTEM
4 USES.—

5 “(A) MANDATORY USERS.—Except as oth-
6 erwise provided under Federal or State law,
7 such as sections 302 and 303 of the Farm
8 Workforce Modernization Act of 2021, nothing
9 in this section shall be construed as requiring
10 the use of the System by any person or entity
11 hiring, recruiting, or referring for a fee, an in-
12 dividual for employment in the United States.

13 “(B) VOLUNTARY USERS.—Beginning
14 after the date that is 30 days after the date on
15 which final rules are published under section
16 309(a) of the Farm Workforce Modernization
17 Act of 2021, a person or entity may use the
18 System on a voluntary basis to seek verification
19 of the identity and employment authorization of
20 individuals the person or entity is hiring, re-
21 cruiting, or referring for a fee for employment
22 in the United States.

23 “(C) PROCESS FOR NON-USERS.—The em-
24 ployment verification process for any person or
25 entity hiring, recruiting, or referring for a fee,

1 an individual for employment in the United
2 States shall be governed by section 274A(b) un-
3 less the person or entity—

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

6 “(ii) has opted to use the System vol-
7 untarily in accordance with subparagraph
8 (B).

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

12 “(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—
13 Notwithstanding section 274A(b), the requirements re-
14 ferred to in paragraphs (1)(B) and (3) of section 274A(a)
15 are, in the case of a person or entity that uses the System
16 for the hiring, recruiting, or referring for a fee, an indi-
17 vidual for employment in the United States, the following:

18 “(1) INDIVIDUAL ATTESTATION OF EMPLOY-
19 MENT AUTHORIZATION.—During the period begin-
20 ning on the date on which an offer of employment
21 is accepted and ending on the date of hire, the indi-
22 vidual shall attest, under penalty of perjury on a
23 form designated by the Secretary, that the individual
24 is authorized to be employed in the United States by
25 providing on such form—

1 “(A) the individual’s name and date of
2 birth;

3 “(B) the individual’s social security ac-
4 count number (unless the individual has applied
5 for and not yet been issued such a number);

6 “(C) whether the individual is—

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

9 “(ii) an alien lawfully admitted for
10 permanent residence; or

11 “(iii) an alien who is otherwise au-
12 thorized by the Secretary to be hired, re-
13 cruited, or referred for employment in the
14 United States; and

15 “(D) if the individual does not attest to
16 United States citizenship or nationality, such
17 identification or other authorization number es-
18 tablished by the Department of Homeland Se-
19 curity for the alien as the Secretary may speci-
20 fy.

21 “(2) EMPLOYER ATTESTATION AFTER EXAM-
22 INATION OF DOCUMENTS.—Not later than 3 busi-
23 ness days after the date of hire, the person or entity
24 shall attest, under penalty of perjury on the form
25 designated by the Secretary for purposes of para-

1 graph (1), that it has verified that the individual is
2 not an unauthorized alien by—

3 “(A) obtaining from the individual the in-
4 formation described in paragraph (1) and re-
5 cording such information on the form;

6 “(B) examining—

7 “(i) a document described in para-
8 graph (3)(A); or

9 “(ii) a document described in para-
10 graph (3)(B) and a document described in
11 paragraph (3)(C); and

12 “(C) attesting that the information re-
13 corded on the form is consistent with the docu-
14 ments examined.

15 “(3) ACCEPTABLE DOCUMENTS.—

16 “(A) DOCUMENTS ESTABLISHING EMPLOY-
17 MENT AUTHORIZATION AND IDENTITY.—A doc-
18 ument described in this subparagraph is an in-
19 dividual’s—

20 “(i) United States passport or pass-
21 port card;

22 “(ii) permanent resident card that
23 contains a photograph;

24 “(iii) foreign passport containing tem-
25 porary evidence of lawful permanent resi-

1 dence in the form of an official I–551 (or
2 successor) stamp from the Department of
3 Homeland Security or a printed notation
4 on a machine-readable immigrant visa;

5 “(iv) unexpired employment author-
6 ization card that contains a photograph;

7 “(v) in the case of a nonimmigrant
8 alien authorized to engage in employment
9 for a specific employer incident to status,
10 a foreign passport with Form I–94, Form
11 I–94A, or other documentation as des-
12 ignated by the Secretary specifying the
13 alien’s nonimmigrant status as long as
14 such status has not yet expired and the
15 proposed employment is not in conflict
16 with any restrictions or limitations identi-
17 fied in the documentation;

18 “(vi) passport from the Federated
19 States of Micronesia or the Republic of the
20 Marshall Islands with Form I–94, Form I–
21 94A, or other documentation as designated
22 by the Secretary, indicating nonimmigrant
23 admission under the Compact of Free As-
24 sociation Between the United States and

1 the Federated States of Micronesia or the
2 Republic of the Marshall Islands; or

3 “(vii) other document designated by
4 the Secretary, by notice published in the
5 Federal Register, if the document—

6 “(I) contains a photograph of the
7 individual, biometric identification
8 data, and other personal identifying
9 information relating to the individual;

10 “(II) is evidence of authorization
11 for employment in the United States;
12 and

13 “(III) contains security features
14 to make it resistant to tampering,
15 counterfeiting, and fraudulent use.

16 “(B) DOCUMENTS ESTABLISHING EMPLOY-
17 MENT AUTHORIZATION.—A document described
18 in this subparagraph is—

19 “(i) an individual’s social security ac-
20 count number card (other than such a card
21 which specifies on the face that the
22 issuance of the card does not authorize em-
23 ployment in the United States); or

24 “(ii) a document establishing employ-
25 ment authorization that the Secretary de-

1 termines, by notice published in the Fed-
2 eral Register, to be acceptable for purposes
3 of this subparagraph, provided that such
4 documentation contains security features
5 to make it resistant to tampering, counter-
6 feiting, and fraudulent use.

7 “(C) DOCUMENTS ESTABLISHING IDEN-
8 TITY.—A document described in this subpara-
9 graph is—

10 “(i) an individual’s driver’s license or
11 identification card if it was issued by a
12 State or one of the outlying possessions of
13 the United States and contains a photo-
14 graph and personal identifying information
15 relating to the individual;

16 “(ii) an individual’s unexpired United
17 States military identification card;

18 “(iii) an individual’s unexpired Native
19 American tribal identification document
20 issued by a tribal entity recognized by the
21 Bureau of Indian Affairs;

22 “(iv) in the case of an individual
23 under 18 years of age, a parent or legal
24 guardian’s attestation under penalty of law

1 as to the identity and age of the individual;
2 or

3 “(v) a document establishing identity
4 that the Secretary determines, by notice
5 published in the Federal Register, to be ac-
6 ceptable for purposes of this subparagraph,
7 if such documentation contains a photo-
8 graph of the individual, biometric identi-
9 fication data, and other personal identi-
10 fying information relating to the indi-
11 vidual, and security features to make it re-
12 sistant to tampering, counterfeiting, and
13 fraudulent use.

14 “(D) AUTHORITY TO PROHIBIT USE OF
15 CERTAIN DOCUMENTS.—If the Secretary finds
16 that any document or class of documents de-
17 scribed in subparagraph (A), (B), or (C) does
18 not reliably establish identity or employment
19 authorization or is being used fraudulently to
20 an unacceptable degree, the Secretary may, by
21 notice published in the Federal Register, pro-
22 hibit or place conditions on the use of such doc-
23 ument or class of documents for purposes of
24 this section.

1 “(4) USE OF THE SYSTEM TO SCREEN IDEN-
2 TITY AND EMPLOYMENT AUTHORIZATION.—

3 “(A) IN GENERAL.—In the case of a per-
4 son or entity that uses the System for the hir-
5 ing, recruiting, or referring for a fee an indi-
6 vidual for employment in the United States,
7 during the period described in subparagraph
8 (B), the person or entity shall submit an in-
9 quiry through the System described in sub-
10 section (a) to seek verification of the identity
11 and employment authorization of the individual.

12 “(B) VERIFICATION PERIOD.—

13 “(i) IN GENERAL.—Except as pro-
14 vided in clause (ii), and subject to sub-
15 section (d), the verification period shall
16 begin on the date of hire and end on the
17 date that is 3 business days after the date
18 of hire, or such other reasonable period as
19 the Secretary may prescribe.

20 “(ii) SPECIAL RULE.—In the case of
21 an alien who is authorized to be employed
22 in the United States and who provides evi-
23 dence from the Social Security Administra-
24 tion that the alien has applied for a social
25 security account number, the verification

1 period shall end 3 business days after the
2 alien receives the social security account
3 number.

4 “(C) CONFIRMATION.—If a person or enti-
5 ty receives confirmation of an individual’s iden-
6 tity and employment authorization, the person
7 or entity shall record such confirmation on the
8 form designated by the Secretary for purposes
9 of paragraph (1).

10 “(D) TENTATIVE NONCONFIRMATION.—

11 “(i) IN GENERAL.—In cases of ten-
12 tative nonconfirmation, the Secretary shall
13 provide, in consultation with the Commis-
14 sioner, a process for—

15 “(I) an individual to contest the
16 tentative nonconfirmation not later
17 than 10 business days after the date
18 of the receipt of the notice described
19 in clause (ii); and

20 “(II) the Secretary to issue a
21 confirmation or final nonconfirmation
22 of an individual’s identity and employ-
23 ment authorization not later than 30
24 calendar days after the Secretary re-

1 ceives notice from the individual con-
2 testing a tentative nonconfirmation.

3 “(ii) NOTICE.—If a person or entity
4 receives a tentative nonconfirmation of an
5 individual’s identity or employment author-
6 ization, the person or entity shall, not later
7 than 3 business days after receipt, notify
8 such individual in writing in a language
9 understood by the individual and on a form
10 designated by the Secretary, that shall in-
11 clude a description of the individual’s right
12 to contest the tentative nonconfirmation.
13 The person or entity shall attest, under
14 penalty of perjury, that the person or enti-
15 ty provided (or attempted to provide) such
16 notice to the individual, and the individual
17 shall acknowledge receipt of such notice in
18 a manner specified by the Secretary.

19 “(iii) NO CONTEST.—

20 “(I) IN GENERAL.—A tentative
21 nonconfirmation shall become final if,
22 upon receiving the notice described in
23 clause (ii), the individual—

24 “(aa) refuses to acknowledge
25 receipt of such notice;

1 “(bb) acknowledges in writ-
2 ing, in a manner specified by the
3 Secretary, that the individual will
4 not contest the tentative noncon-
5 firmation; or

6 “(cc) fails to contest the
7 tentative nonconfirmation within
8 the 10-business-day period begin-
9 ning on the date the individual
10 received such notice.

11 “(II) RECORD OF NO CON-
12 TEST.—The person or entity shall in-
13 dicate in the System that the indi-
14 vidual did not contest the tentative
15 nonconfirmation and shall specify the
16 reason the tentative nonconfirmation
17 became final under subclause (I).

18 “(III) EFFECT OF FAILURE TO
19 CONTEST.—An individual’s failure to
20 contest a tentative nonconfirmation
21 shall not be considered an admission
22 of any fact with respect to any viola-
23 tion of this Act or any other provision
24 of law.

25 “(iv) CONTEST.—

1 “(I) IN GENERAL.—An individual
2 may contest a tentative nonconfirma-
3 tion by using the tentative noncon-
4 firmation review process under clause
5 (i), not later than 10 business days
6 after receiving the notice described in
7 clause (ii). Except as provided in
8 clause (iii), the nonconfirmation shall
9 remain tentative until a confirmation
10 or final nonconfirmation is provided
11 by the System.

12 “(II) PROHIBITION ON TERMI-
13 NATION.—In no case shall a person or
14 entity terminate employment or take
15 any adverse employment action
16 against an individual for failure to ob-
17 tain confirmation of the individual’s
18 identity and employment authoriza-
19 tion until the person or entity receives
20 a notice of final nonconfirmation from
21 the System. Nothing in this subclause
22 shall prohibit an employer from termi-
23 nating the employment of the indi-
24 vidual for any other lawful reason.

1 “(III) CONFIRMATION OR FINAL
2 NONCONFIRMATION.—The Secretary,
3 in consultation with the Commis-
4 sioner, shall issue notice of a con-
5 firmation or final nonconfirmation of
6 the individual’s identity and employ-
7 ment authorization not later than 30
8 calendar days after the date the Sec-
9 retary receives notice from the indi-
10 vidual contesting the tentative non-
11 confirmation.

12 “(E) FINAL NONCONFIRMATION.—

13 “(i) NOTICE.—If a person or entity
14 receives a final nonconfirmation of an indi-
15 vidual’s identity or employment authoriza-
16 tion, the person or entity shall, not later
17 than 3 business days after receipt, notify
18 such individual of the final nonconfirma-
19 tion in writing, on a form designated by
20 the Secretary, which shall include informa-
21 tion regarding the individual’s right to ap-
22 peal the final nonconfirmation as provided
23 under subparagraph (F). The person or
24 entity shall attest, under penalty of per-
25 jury, that the person or entity provided (or

1 attempted to provide) the notice to the in-
2 dividual, and the individual shall acknowl-
3 edge receipt of such notice in a manner
4 designated by the Secretary.

5 “(ii) TERMINATION OR NOTIFICATION
6 OF CONTINUED EMPLOYMENT.—If a per-
7 son or entity receives a final nonconfirma-
8 tion regarding an individual, the person or
9 entity may terminate employment of the
10 individual. If the person or entity does not
11 terminate such employment pending appeal
12 of the final nonconfirmation, the person or
13 entity shall notify the Secretary of such
14 fact through the System. Failure to notify
15 the Secretary in accordance with this
16 clause shall be deemed a violation of sec-
17 tion 274A(a)(1)(A).

18 “(iii) PRESUMPTION OF VIOLATION
19 FOR CONTINUED EMPLOYMENT.—If a per-
20 son or entity continues to employ an indi-
21 vidual after receipt of a final nonconfirma-
22 tion, there shall be a rebuttable presump-
23 tion that the person or entity has violated
24 paragraphs (1)(A) and (a)(2) of section
25 274A(a).

1 “(F) APPEAL OF FINAL NONCONFIRMA-
2 TION.—

3 “(i) ADMINISTRATIVE APPEAL.—The
4 Secretary, in consultation with the Com-
5 missioner, shall develop a process by which
6 an individual may seek administrative re-
7 view of a final nonconfirmation. Such proc-
8 ess shall—

9 “(I) permit the individual to sub-
10 mit additional evidence establishing
11 identity or employment authorization;

12 “(II) ensure prompt resolution of
13 an appeal (but in no event shall there
14 be a failure to respond to an appeal
15 within 30 days); and

16 “(III) permit the Secretary to
17 impose a civil money penalty (not to
18 exceed \$500) on an individual upon
19 finding that an appeal was frivolous
20 or filed for purposes of delay.

21 “(ii) COMPENSATION FOR LOST
22 WAGES RESULTING FROM GOVERNMENT
23 ERROR OR OMISSION.—

24 “(I) IN GENERAL.—If, upon con-
25 sideration of an appeal of a final non-

1 confirmation, the Secretary deter-
2 mines that the final nonconfirmation
3 was issued in error, the Secretary
4 shall further determine whether the
5 final nonconfirmation was the result
6 of government error or omission. If
7 the Secretary determines that the
8 final nonconfirmation was solely the
9 result of government error or omission
10 and the individual was terminated
11 from employment, the Secretary shall
12 compensate the individual for lost
13 wages.

14 “(II) CALCULATION OF LOST
15 WAGES.—Lost wages shall be cal-
16 culated based on the wage rate and
17 work schedule that were in effect
18 prior to the individual’s termination.
19 The individual shall be compensated
20 for lost wages beginning on the first
21 scheduled work day after employment
22 was terminated and ending 90 days
23 after completion of the administrative
24 review process described in this sub-
25 paragraph or the day the individual is

1 reinstated or obtains other employ-
2 ment, whichever occurs first.

3 “(III) LIMITATION ON COM-
4 PENSATION.—No compensation for
5 lost wages shall be awarded for any
6 period during which the individual
7 was not authorized for employment in
8 the United States.

9 “(IV) SOURCE OF FUNDS.—
10 There is established in the general
11 fund of the Treasury, a separate ac-
12 count which shall be known as the
13 ‘Electronic Verification Compensation
14 Account’. Fees collected under sub-
15 sections (f) and (g) shall be deposited
16 in the Electronic Verification Com-
17 pensation Account and shall remain
18 available for purposes of providing
19 compensation for lost wages under
20 this subclause.

21 “(iii) JUDICIAL REVIEW.—Not later
22 than 30 days after the dismissal of an ap-
23 peal under this subparagraph, an indi-
24 vidual may seek judicial review of such dis-
25 missal in the United States District Court

1 in the jurisdiction in which the employer
2 resides or conducts business.

3 “(5) RETENTION OF VERIFICATION RECORDS.—

4 “(A) IN GENERAL.—After completing the
5 form designated by the Secretary in accordance
6 with paragraphs (1) and (2), the person or enti-
7 ty shall retain the form in paper, microfiche,
8 microfilm, electronic, or other format deemed
9 acceptable by the Secretary, and make it avail-
10 able for inspection by officers of the Depart-
11 ment of Homeland Security, the Department of
12 Justice, or the Department of Labor during the
13 period beginning on the date the verification is
14 completed and ending on the later of—

15 “(i) the date that is 3 years after the
16 date of hire; or

17 “(ii) the date that is 1 year after the
18 date on which the individual’s employment
19 is terminated.

20 “(B) COPYING OF DOCUMENTATION PER-
21 MITTED.—Notwithstanding any other provision
22 of law, a person or entity may copy a document
23 presented by an individual pursuant to this sec-
24 tion and may retain the copy, but only for the

1 purpose of complying with the requirements of
2 this section.

3 “(c) REVERIFICATION OF PREVIOUSLY HIRED INDIVIDUALS.—

4 “(1) MANDATORY REVERIFICATION.—In the
5 case of a person or entity that uses the System for
6 the hiring, recruiting, or referring for a fee an indi-
7 vidual for employment in the United States, the per-
8 son or entity shall submit an inquiry using the Sys-
9 tem to verify the identity and employment authoriza-
10 tion of—

11 “(A) an individual with a limited period of
12 employment authorization, within 3 business
13 days before the date on which such employment
14 authorization expires; and

15 “(B) an individual, not later than 10 days
16 after receiving a notification from the Secretary
17 requiring the verification of such individual pur-
18 suant to subsection (a)(4)(C).

19 “(2) REVERIFICATION PROCEDURES.—The
20 verification procedures under subsection (b) shall
21 apply to reverifications under this subsection, except
22 that employers shall—

23 “(A) use a form designated by the Sec-
24 retary for purposes of this paragraph; and
25

1 “(B) retain the form in paper, microfiche,
2 microfilm, electronic, or other format deemed
3 acceptable by the Secretary, and make it avail-
4 able for inspection by officers of the Depart-
5 ment of Homeland Security, the Department of
6 Justice, or the Department of Labor during the
7 period beginning on the date the reverification
8 commences and ending on the later of—

9 “(i) the date that is 3 years after the
10 date of reverification; or

11 “(ii) the date that is 1 year after the
12 date on which the individual’s employment
13 is terminated.

14 “(3) LIMITATION ON REVERIFICATION.—Except
15 as provided in paragraph (1), a person or entity may
16 not otherwise reverify the identity and employment
17 authorization of a current employee, including an
18 employee continuing in employment.

19 “(d) GOOD FAITH COMPLIANCE.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, a person or entity that uses
22 the System is considered to have complied with the
23 requirements of this section notwithstanding a tech-
24 nical failure of the System, or other technical or pro-
25 cedural failure to meet such requirement if there

1 was a good faith attempt to comply with the require-
2 ment.

3 “(2) EXCEPTION FOR FAILURE TO CORRECT
4 AFTER NOTICE.—Paragraph (1) shall not apply if—

5 “(A) the failure is not de minimis;

6 “(B) the Secretary has provided notice to
7 the person or entity of the failure, including an
8 explanation as to why it is not de minimis;

9 “(C) the person or entity has been pro-
10 vided a period of not less than 30 days (begin-
11 ning after the date of the notice) to correct the
12 failure; and

13 “(D) the person or entity has not corrected
14 the failure voluntarily within such period.

15 “(3) EXCEPTION FOR PATTERN OR PRACTICE
16 VIOLATORS.—Paragraph (1) shall not apply to a
17 person or entity that has engaged or is engaging in
18 a pattern or practice of violations of paragraph
19 (1)(A) or (2) of section 274A(a).

20 “(4) DEFENSE.—In the case of a person or en-
21 tity that uses the System for the hiring, recruiting,
22 or referring for a fee an individual for employment
23 in the United States, the person or entity shall not
24 be liable to a job applicant, an employee, the Federal
25 Government, or a State or local government, under

1 Federal, State, or local criminal or civil law, for any
2 employment-related action taken with respect to an
3 employee in good-faith reliance on information pro-
4 vided by the System. Such person or entity shall be
5 deemed to have established compliance with its obli-
6 gations under this section, absent a showing by the
7 Secretary, by clear and convincing evidence, that the
8 employer had knowledge that an employee is an un-
9 authorized alien.

10 “(e) LIMITATIONS.—

11 “(1) NO NATIONAL IDENTIFICATION CARD.—
12 Nothing in this section shall be construed to author-
13 ize, directly or indirectly, the issuance or use of na-
14 tional identification cards or the establishment of a
15 national identification card.

16 “(2) USE OF RECORDS.—Notwithstanding any
17 other provision of law, nothing in this section shall
18 be construed to permit or allow any department, bu-
19 reau, or other agency of the United States Govern-
20 ment to utilize any information, database, or other
21 records assembled under this section for any purpose
22 other than the verification of identity and employ-
23 ment authorization of an individual or to ensure the
24 secure, appropriate, and non-discriminatory use of
25 the System.

1 “(f) PENALTIES.—

2 “(1) IN GENERAL.—Except as provided in this
3 subsection, the provisions of subsections (e) through
4 (g) of section 274A shall apply with respect to com-
5 pliance with the provisions of this section and pen-
6 alties for non-compliance for persons or entities that
7 use the System.

8 “(2) CEASE AND DESIST ORDER WITH CIVIL
9 MONEY PENALTIES FOR HIRING, RECRUITING, AND
10 REFERRAL VIOLATIONS.—Notwithstanding the civil
11 money penalties set forth in section 274A(e)(4), with
12 respect to a violation of paragraph (1)(A) or (2) of
13 section 274A(a) by a person or entity that has hired,
14 recruited, or referred for a fee, an individual for em-
15 ployment in the United States, a cease and desist
16 order—

17 “(A) shall require the person or entity to
18 pay a civil penalty in an amount, subject to
19 subsection (d), of—

20 “(i) not less than \$2,500 and not
21 more than \$5,000 for each unauthorized
22 alien with respect to whom a violation of
23 either such subsection occurred;

24 “(ii) not less than \$5,000 and not
25 more than \$10,000 for each such alien in

1 the case of a person or entity previously
2 subject to one order under this paragraph;
3 or

4 “(iii) not less than \$10,000 and not
5 more than \$25,000 for each such alien in
6 the case of a person or entity previously
7 subject to more than one order under this
8 paragraph; and

9 “(B) may require the person or entity to
10 take such other remedial action as appropriate.

11 “(3) ORDER FOR CIVIL MONEY PENALTY FOR
12 VIOLATIONS.—With respect to a violation of section
13 274A(a)(1)(B), the order under this paragraph shall
14 require the person or entity to pay a civil penalty in
15 an amount, subject to paragraphs (4), (5), and (6),
16 of not less than \$1,000 and not more than \$25,000
17 for each individual with respect to whom such viola-
18 tion occurred. Failure by a person or entity to utilize
19 the System as required by law or providing informa-
20 tion to the System that the person or entity knows
21 or reasonably believes to be false, shall be treated as
22 a violation of section 274A(a)(1)(A).

23 “(4) EXEMPTION FROM PENALTY FOR GOOD
24 FAITH VIOLATION.—

1 “(A) IN GENERAL.—A person or entity
2 that uses the System is presumed to have acted
3 with knowledge for purposes of paragraphs
4 (1)(A) and (2) of section 274A(a) if the person
5 or entity fails to make an inquiry to verify the
6 identity and employment authorization of the
7 individual through the System.

8 “(B) GOOD FAITH EXEMPTION.—In the
9 case of imposition of a civil penalty under para-
10 graph (2)(A) with respect to a violation of para-
11 graph (1)(A) or (2) of section 274A(a) for hir-
12 ing or continuation of employment or recruit-
13 ment or referral by a person or entity, and in
14 the case of imposition of a civil penalty under
15 paragraph (3) for a violation of section
16 274A(a)(1)(B) for hiring or recruitment or re-
17 ferral by a person or entity, the penalty other-
18 wise imposed may be waived or reduced if the
19 person or entity establishes that the person or
20 entity acted in good faith.

21 “(5) MITIGATION ELEMENTS.—For purposes of
22 paragraphs (2)(A) and (3), when assessing the level
23 of civil money penalties, in addition to the good faith
24 of the person or entity being charged, due consider-
25 ation shall be given to the size of the business, the

1 seriousness of the violation, whether or not the indi-
2 vidual was an unauthorized alien, and the history of
3 previous violations.

4 “(6) CRIMINAL PENALTY.—Notwithstanding
5 section 274A(f)(1) and the provisions of any other
6 Federal law relating to fine levels, any person or en-
7 tity that is required to comply with the provisions of
8 this section and that engages in a pattern or prac-
9 tice of violations of paragraph (1) or (2) of section
10 274A(a), shall be fined not more than \$5,000 for
11 each unauthorized alien with respect to whom such
12 a violation occurs, imprisoned for not more than 18
13 months, or both.

14 “(7) ELECTRONIC VERIFICATION COMPENSA-
15 TION ACCOUNT.—Civil money penalties collected
16 under this subsection shall be deposited in the Elec-
17 tronic Verification Compensation Account for the
18 purpose of compensating individuals for lost wages
19 as a result of a final nonconfirmation issued by the
20 System that was based on government error or omis-
21 sion, as set forth in subsection (b)(4)(F)(ii)(IV).

22 “(8) DEBARMENT.—

23 “(A) IN GENERAL.—If a person or entity
24 is determined by the Secretary to be a repeat
25 violation of paragraph (1)(A) or (2) of section

1 274A(a) or is convicted of a crime under sec-
2 tion 274A, such person or entity may be consid-
3 ered for debarment from the receipt of Federal
4 contracts, grants, or cooperative agreements in
5 accordance with the debarment standards and
6 pursuant to the debarment procedures set forth
7 in the Federal Acquisition Regulation.

8 “(B) NO CONTRACT, GRANT, AGREE-
9 MENT.—If the Secretary or the Attorney Gen-
10 eral wishes to have a person or entity consid-
11 ered for debarment in accordance with this
12 paragraph, and such a person or entity does not
13 hold a Federal contract, grant or cooperative
14 agreement, the Secretary or Attorney General
15 shall refer the matter to the Administrator of
16 General Services to determine whether to list
17 the person or entity on the List of Parties Ex-
18 cluded from Federal Procurement, and if so, for
19 what duration and under what scope.

20 “(C) CONTRACT, GRANT, AGREEMENT.—If
21 the Secretary or the Attorney General wishes to
22 have a person or entity considered for debar-
23 ment in accordance with this paragraph, and
24 such person or entity holds a Federal contract,
25 grant, or cooperative agreement, the Secretary

1 or Attorney General shall advise all agencies or
2 departments holding a contract, grant, or coop-
3 erative agreement with the person or entity of
4 the Government's interest in having the person
5 or entity considered for debarment, and after
6 soliciting and considering the views of all such
7 agencies and departments, the Secretary or At-
8 torney General may refer the matter to the ap-
9 propriate lead agency to determine whether to
10 list the person or entity on the List of Parties
11 Excluded from Federal Procurement, and if so,
12 for what duration and under what scope.

13 “(D) REVIEW.—Any decision to debar a
14 person or entity in accordance with this sub-
15 section shall be reviewable pursuant to part 9.4
16 of the Federal Acquisition Regulation.

17 “(9) PREEMPTION.—The provisions of this sec-
18 tion preempt any State or local law, ordinance, pol-
19 icy, or rule, including any criminal or civil fine or
20 penalty structure, relating to the hiring, continued
21 employment, or status verification for employment
22 eligibility purposes, of unauthorized aliens, except
23 that a State, locality, municipality, or political sub-
24 division may exercise its authority over business li-

1 censing and similar laws as a penalty for failure to
2 use the System as required under this section.

3 “(g) UNFAIR IMMIGRATION-RELATED EMPLOYMENT
4 PRACTICES AND THE SYSTEM.—

5 “(1) IN GENERAL.—In addition to the prohibi-
6 tions on discrimination set forth in section 274B, it
7 is an unfair immigration-related employment prac-
8 tice for a person or entity, in the course of utilizing
9 the System—

10 “(A) to use the System for screening an
11 applicant prior to the date of hire;

12 “(B) to terminate the employment of an
13 individual or take any adverse employment ac-
14 tion with respect to that individual due to a
15 tentative nonconfirmation issued by the System;

16 “(C) to use the System to screen any indi-
17 vidual for any purpose other than confirmation
18 of identity and employment authorization as
19 provided in this section;

20 “(D) to use the System to verify the iden-
21 tity and employment authorization of a current
22 employee, including an employee continuing in
23 employment, other than reverification author-
24 ized under subsection (c);

1 “(E) to use the System to discriminate
2 based on national origin or citizenship status;

3 “(F) to willfully fail to provide an indi-
4 vidual with any notice required under this title;

5 “(G) to require an individual to make an
6 inquiry under the self-verification procedures
7 described in subsection (a)(4)(B) or to provide
8 the results of such an inquiry as a condition of
9 employment, or hiring, recruiting, or referring;
10 or

11 “(H) to terminate the employment of an
12 individual or take any adverse employment ac-
13 tion with respect to that individual based upon
14 the need to verify the identity and employment
15 authorization of the individual as required by
16 subsection (b).

17 “(2) PREEMPLOYMENT SCREENING AND BACK-
18 GROUND CHECK.—Nothing in paragraph (1)(A)
19 shall be construed to preclude a preemployment
20 screening or background check that is required or
21 permitted under any other provision of law.

22 “(3) CIVIL MONEY PENALTIES FOR DISCRIMINA-
23 TORY CONDUCT.—Notwithstanding section
24 274B(g)(2)(B)(iv), the penalties that may be im-
25 posed by an administrative law judge with respect to

1 a finding that a person or entity has engaged in an
2 unfair immigration-related employment practice de-
3 scribed in paragraph (1) are—

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

7 “(B) in the case of a person or entity pre-
8 viously subject to a single order under this
9 paragraph, not less than \$4,000 and not more
10 than \$10,000 for each individual discriminated
11 against; and

12 “(C) in the case of a person or entity pre-
13 viously subject to more than one order under
14 this paragraph, not less than \$6,000 and not
15 more than \$20,000 for each individual discrimi-
16 nated against.

17 “(4) ELECTRONIC VERIFICATION COMPENSA-
18 TION ACCOUNT.—Civil money penalties collected
19 under this subsection shall be deposited in the Elec-
20 tronic Verification Compensation Account for the
21 purpose of compensating individuals for lost wages
22 as a result of a final nonconfirmation issued by the
23 System that was based on government error or omis-
24 sion, as set forth in subsection (b)(4)(F)(ii)(IV).

1 “(h) CLARIFICATION.—All rights and remedies pro-
 2 vided under any Federal, State, or local law relating to
 3 workplace rights, including but not limited to back pay,
 4 are available to an employee despite—

5 “(1) the employee’s status as an unauthorized
 6 alien during or after the period of employment; or

7 “(2) the employer’s or employee’s failure to
 8 comply with the requirements of this section.

9 “(i) DEFINITION.—In this section, the term ‘date of
 10 hire’ means the date on which employment for pay or
 11 other remuneration commences.”.

12 (b) CONFORMING AMENDMENT.—The table of con-
 13 tents for the Immigration and Nationality Act is amended
 14 by inserting after the item relating to section 274D the
 15 following:

 “Sec. 274E. Requirements for the electronic verification of employment eligi-
 bility.”.

16 **SEC. 302. MANDATORY ELECTRONIC VERIFICATION FOR**
 17 **THE AGRICULTURAL INDUSTRY.**

18 (a) IN GENERAL.—The requirements for the elec-
 19 tronic verification of identity and employment authoriza-
 20 tion described in section 274E of the Immigration and Na-
 21 tionality Act, as inserted by section 301 of this Act, shall
 22 apply to a person or entity hiring, recruiting, or referring
 23 for a fee an individual for agricultural employment in the

1 United States in accordance with the effective dates set
2 forth in subsection (b).

3 (b) EFFECTIVE DATES.—

4 (1) HIRING.—Subsection (a) shall apply to a
5 person or entity hiring an individual for agricultural
6 employment in the United States as follows:

7 (A) With respect to employers having 500
8 or more employees in the United States on the
9 date of the enactment of this Act, on the date
10 that is 6 months after completion of the appli-
11 cation period described in section 101(c).

12 (B) With respect to employers having 100
13 or more employees in the United States (but
14 less than 500 such employees) on the date of
15 the enactment of this Act, on the date that is
16 9 months after completion of the application pe-
17 riod described in section 101(c).

18 (C) With respect to employers having 20
19 or more employees in the United States (but
20 less than 100 such employees) on the date of
21 the enactment of this Act, on the date that is
22 12 months after completion of the application
23 period described in section 101(c).

24 (D) With respect to employers having one
25 or more employees in the United States, (but

1 less than 20 such employees) on the date of the
2 enactment of this Act, on the date that is 15
3 months after completion of the application pe-
4 riod described in section 101(c).

5 (2) RECRUITING AND REFERRING FOR A FEE.—

6 Subsection (a) shall apply to a person or entity re-
7 cruiting or referring for a fee an individual for agri-
8 cultural employment in the United States on the
9 date that is 12 months after completion of the appli-
10 cation period described in section 101(c).

11 (3) TRANSITION RULE.—Except as required
12 under subtitle A of title IV of the Illegal Immigra-
13 tion Reform and Immigrant Responsibility Act of
14 1996 (8 U.S.C. 1324a note) (as in effect on the day
15 before the effective date described in section
16 303(a)(4)), Executive Order No. 13465 (8 U.S.C.
17 1324a note; relating to Government procurement),
18 or any State law requiring persons or entities to use
19 the E-Verify Program described in section 403(a) of
20 the Illegal Immigration Reform and Immigrant Re-
21 sponsibility Act of 1996 (8 U.S.C. 1324a note) (as
22 in effect on the day before the effective date de-
23 scribed in section 303(a)(4)), sections 274A and
24 274B of the Immigration and Nationality Act (8
25 U.S.C. 1324a and 1324b) shall apply to a person or

1 entity hiring, recruiting, or referring an individual
2 for employment in the United States until the appli-
3 cable effective date under this subsection.

4 (4) E-VERIFY VOLUNTARY USERS AND OTHERS
5 DESIRING EARLY COMPLIANCE.—Nothing in this
6 subsection shall be construed to prohibit persons or
7 entities, including persons or entities that have vol-
8 untarily elected to participate in the E-Verify Pro-
9 gram described in section 403(a) of the Illegal Im-
10 migration Reform and Immigrant Responsibility Act
11 of 1996 (8 U.S.C. 1324a note) (as in effect on the
12 day before the effective date described in section
13 303(a)(4)), from seeking early compliance on a vol-
14 untary basis.

15 (c) RURAL ACCESS TO ASSISTANCE FOR TENTATIVE
16 NONCONFIRMATION REVIEW PROCESS.—

17 (1) IN GENERAL.—The Secretary of Homeland
18 Security shall coordinate with the Secretary of Agri-
19 culture, in consultation with the Commissioner of
20 Social Security, to create a process for individuals to
21 seek assistance in contesting a tentative noncon-
22 firmation as described in section 274E(b)(4)(D) of
23 the Immigration and Nationality Act, as inserted by
24 section 301 of this Act, at local offices or service
25 centers of the U.S. Department of Agriculture.

1 (2) STAFFING AND RESOURCES.—The Sec-
2 retary of Homeland Security and Secretary of Agri-
3 culture shall ensure that local offices and service
4 centers of the U.S. Department of Agriculture are
5 staffed appropriately and have the resources nec-
6 essary to provide information and support to individ-
7 uals seeking the assistance described in paragraph
8 (1), including by facilitating communication between
9 such individuals and the Department of Homeland
10 Security or the Social Security Administration.

11 (3) CLARIFICATION.—Nothing in this sub-
12 section shall be construed to delegate authority or
13 transfer responsibility for reviewing and resolving
14 tentative nonconfirmations from the Secretary of
15 Homeland Security and the Commissioner of Social
16 Security to the Secretary of Agriculture.

17 (d) DOCUMENT ESTABLISHING EMPLOYMENT AU-
18 THORIZATION AND IDENTITY.—In accordance with section
19 274E(b)(3)(A)(vii) of the Immigration and Nationality
20 Act, as inserted by section 301 of this Act, and not later
21 than 12 months after the completion of the application
22 period described in section 101(c) of this Act, the Sec-
23 retary of Homeland Security shall recognize documentary
24 evidence of certified agricultural worker status described
25 in section 102(a)(2) of this Act as valid proof of employ-

1 ment authorization and identity for purposes of section
2 274E(b)(3)(A) of the Immigration and Nationality Act,
3 as inserted by section 301 of this Act.

4 (e) AGRICULTURAL EMPLOYMENT.—For purposes of
5 this section, the term “agricultural employment” means
6 agricultural labor or services, as defined by section
7 101(a)(15)(H)(ii) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.

9 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

10 (a) REPEAL.—

11 (1) IN GENERAL.—Subtitle A of title IV of the
12 Illegal Immigration Reform and Immigrant Respon-
13 sibility Act of 1996 (8 U.S.C. 1324a note) is re-
14 pealed.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions, in section 1(d) of the Illegal Immigration Re-
17 form and Immigrant Responsibility Act of 1996, is
18 amended by striking the items relating to subtitle A
19 of title IV.

20 (3) REFERENCES.—Any reference in any Fed-
21 eral, State, or local law, Executive order, rule, regu-
22 lation, or delegation of authority, or any document
23 of, or pertaining to, the Department of Homeland
24 Security, Department of Justice, or the Social Secu-
25 rity Administration, to the E-Verify Program de-

1 scribed in section 403(a) of the Illegal Immigration
2 Reform and Immigrant Responsibility Act of 1996
3 (8 U.S.C. 1324a note), or to the employment eligi-
4 bility confirmation system established under section
5 404 of the Illegal Immigration Reform and Immigrant
6 Responsibility Act of 1996 (8 U.S.C. 1324a
7 note), is deemed to refer to the employment eligi-
8 bility confirmation system established under section
9 274E of the Immigration and Nationality Act, as in-
10 serted by section 301 of this Act.

11 (4) EFFECTIVE DATE.—This subsection, and
12 the amendments made by this subsection, shall take
13 effect on the date that is 30 days after the date on
14 which final rules are published under section 309(a).

15 (b) FORMER E-VERIFY MANDATORY USERS, IN-
16 CLUDING FEDERAL CONTRACTORS.—Beginning on the ef-
17 fective date in subsection (a)(4), the Secretary of Home-
18 land Security shall require employers required to partici-
19 pate in the E-Verify Program described in section 403(a)
20 of the Illegal Immigration Reform and Immigrant Respon-
21 sibility Act of 1996 (8 U.S.C. 1324a note) by reason of
22 any Federal, State, or local law, Executive order, rule, reg-
23 ulation, or delegation of authority, including employers re-
24 quired to participate in such program by reason of Federal
25 acquisition laws (and regulations promulgated under those

1 laws, including the Federal Acquisition Regulation), to
2 comply with the requirements of section 274E of the Im-
3 migration and Nationality Act, as inserted by section 301
4 of this Act (and any additional requirements of such Fed-
5 eral acquisition laws and regulation) in lieu of any require-
6 ment to participate in the E-Verify Program.

7 (c) FORMER E-VERIFY VOLUNTARY USERS.—Begin-
8 ning on the effective date in subsection (a)(4), the Sec-
9 retary of Homeland Security shall provide for the vol-
10 untary compliance with the requirements of section 274E
11 of the Immigration and Nationality Act, as inserted by
12 section 301 of this Act, by employers voluntarily electing
13 to participate in the E-Verify Program described in sec-
14 tion 403(a) of the Illegal Immigration Reform and Immi-
15 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)
16 before such date.

17 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

18 Section 1546(b) of title 18, United States Code, is
19 amended—

20 (1) in paragraph (1), by striking “identification
21 document,” and inserting “identification document
22 or document meant to establish employment author-
23 ization,”;

24 (2) in paragraph (2), by striking “identification
25 document” and inserting “identification document or

1 document meant to establish employment authoriza-
2 tion,”; and

3 (3) in the matter following paragraph (3) by in-
4 serting “or section 274E(b)” after “section
5 274A(b)”.

6 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
8 274A of the Immigration and Nationality Act (8 U.S.C.
9 1324a) is amended—

10 (1) in paragraph (1)(B)(ii) of subsection (a), by
11 striking “subsection (b).” and inserting “section
12 274B.”; and

13 (2) in the matter preceding paragraph (1) of
14 subsection (b), by striking “The requirements re-
15 ferred” and inserting “Except as provided in section
16 274E, the requirements referred”.

17 (b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT
18 PRACTICES.—Section 274B(a)(1) of the Immigration and
19 Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the
20 matter preceding subparagraph (A), by inserting “includ-
21 ing misuse of the verification system as described in sec-
22 tion 274E(g)” after “referral for a fee,”.

1 **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
2 **TION PROGRAMS.**

3 (a) FUNDING UNDER AGREEMENT.—Effective for
4 fiscal years beginning on or after October 1, 2021, the
5 Commissioner and the Secretary shall ensure that an
6 agreement is in place which shall—

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

12 (A) acquiring, installing, and maintaining
13 technological equipment and systems necessary
14 for the fulfillment of such responsibilities, but
15 only that portion of such costs that are attrib-
16 utable exclusively to such responsibilities; and

17 (B) responding to individuals who contest
18 a tentative nonconfirmation or administratively
19 appeal a final nonconfirmation provided with
20 respect to employment eligibility verification;

21 (2) provide such funds annually in advance of
22 the applicable quarter based on an estimating meth-
23 odology agreed to by the Commissioner and the Sec-
24 retary (except in such instances where the delayed
25 enactment of an annual appropriation may preclude
26 such quarterly payments); and

1 (3) require an annual accounting and reconcili-
2 ation of the actual costs incurred and the funds pro-
3 vided under the agreement, which shall be reviewed
4 by the Inspectors General of the Social Security Ad-
5 ministration and the Department of Homeland Secu-
6 rity.

7 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
8 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
9 which the agreement required under subsection (a) for any
10 fiscal year beginning on or after October 1, 2021, has not
11 been reached as of October 1 of such fiscal year, the latest
12 agreement described in such subsection shall be deemed
13 in effect on an interim basis for such fiscal year until such
14 time as an agreement required under subsection (a) is sub-
15 sequently reached, except that the terms of such interim
16 agreement shall be modified to adjust for inflation and any
17 increase or decrease in the volume of requests under the
18 employment eligibility verification system. In any case in
19 which an interim agreement applies for any fiscal year
20 under this subsection, the Commissioner and the Sec-
21 retary shall, not later than October 1 of such fiscal year,
22 notify the Committee on Ways and Means, the Committee
23 on the Judiciary, and the Committee on Appropriations
24 of the House of Representatives and the Committee on
25 Finance, the Committee on the Judiciary, and the Com-

1 mittee on Appropriations of the Senate of the failure to
2 reach the agreement required under subsection (a) for
3 such fiscal year. Until such time as the agreement re-
4 quired under subsection (a) has been reached for such fis-
5 cal year, the Commissioner and the Secretary shall, not
6 later than the end of each 90-day period after October
7 1 of such fiscal year, notify such Committees of the status
8 of negotiations between the Commissioner and the Sec-
9 retary in order to reach such an agreement.

10 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE**
11 **ELECTRONIC EMPLOYMENT VERIFICATION**
12 **SYSTEM.**

13 Not later than 24 months after the date on which
14 final rules are published under section 309(a), and annu-
15 ally thereafter, the Secretary shall submit to Congress a
16 report that includes the following:

17 (1) An assessment of the accuracy rates of the
18 responses of the electronic employment verification
19 system established under section 274E of the Immi-
20 gration and Nationality Act, as inserted by section
21 301 of this Act (referred to in this section as the
22 “System”), including tentative and final noncon-
23 firmation notices issued to employment-authorized
24 individuals and confirmation notices issued to indi-
25 viduals who are not employment-authorized.

1 (2) An assessment of any challenges faced by
2 persons or entities (including small employers) in
3 utilizing the System.

4 (3) An assessment of any challenges faced by
5 employment-authorized individuals who are issued
6 tentative or final nonconfirmation notices.

7 (4) An assessment of the incidence of unfair
8 immigration-related employment practices, as de-
9 scribed in section 274E(g) of the Immigration and
10 Nationality Act, as inserted by section 301 of this
11 Act, related to the use of the System.

12 (5) An assessment of the photo matching and
13 other identity authentication tools, as described in
14 section 274E(a)(4) of the Immigration and Nation-
15 ality Act, as inserted by section 301 of this Act, in-
16 cluding—

17 (A) an assessment of the accuracy rates of
18 such tools;

19 (B) an assessment of the effectiveness of
20 such tools at preventing identity fraud and
21 other misuse of identifying information;

22 (C) an assessment of any challenges faced
23 by persons, entities, or individuals utilizing such
24 tools; and

1 (D) an assessment of operation and main-
2 tenance costs associated with such tools.

3 (6) A summary of the activities and findings of
4 the U.S. Citizenship and Immigrations Services E-
5 Verify Monitoring and Compliance Branch, or any
6 successor office, including—

7 (A) the number, types and outcomes of au-
8 dits, investigations, and other compliance activi-
9 ties initiated by the Branch in the previous
10 year;

11 (B) the capacity of the Branch to detect
12 and prevent violations of section 274E(g) of the
13 Immigration and Nationality Act, as inserted by
14 this Act; and

15 (C) an assessment of the degree to which
16 persons and entities misuse the System, includ-
17 ing—

18 (i) use of the System before an indi-
19 vidual's date of hire;

20 (ii) failure to provide required notifi-
21 cations to individuals;

22 (iii) use of the System to interfere
23 with or otherwise impede individuals' as-
24 sertions of their rights under other laws;
25 and

1 (iv) use of the System for unauthor-
2 ized purposes; and

3 (7) An assessment of the impact of implementa-
4 tion of the System in the agricultural industry and
5 the use of the verification system in agricultural in-
6 dustry hiring and business practices.

7 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**
8 **MENT ELIGIBILITY VERIFICATION PROCESS.**

9 Not later than 12 months after the date of the enact-
10 ment of this Act, the Secretary, in consultation with the
11 Commissioner, shall submit to Congress a plan to mod-
12 ernize and streamline the employment eligibility
13 verification process that shall include—

14 (1) procedures to allow persons and entities to
15 verify the identity and employment authorization of
16 newly hired individuals where the in-person, physical
17 examination of identity and employment authoriza-
18 tion documents is not practicable;

19 (2) a proposal to create a simplified employ-
20 ment verification process that allows employers that
21 utilize the employment eligibility verification system
22 established under section 274E of the Immigration
23 and Nationality Act, as inserted by section 301 of
24 this Act, to verify the identity and employment au-
25 thorization of individuals without also having to

1 complete and retain Form I–9, Employment Eligi-
2 bility Verification, or any subsequent replacement
3 form; and

4 (3) any other proposal that the Secretary deter-
5 mines would simplify the employment eligibility
6 verification process without compromising the integ-
7 rity or security of the system.

8 **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

9 (a) IN GENERAL.—Not later than 180 days prior to
10 the end of the application period defined in section 101(c)
11 of this Act, the Secretary shall publish in the Federal Reg-
12 ister proposed rules implementing this title and the
13 amendments made by this title. The Secretary shall final-
14 ize such rules not later than 180 days after the date of
15 publication.

16 (b) PAPERWORK REDUCTION ACT.—

17 (1) IN GENERAL.—The requirements under
18 chapter 35 of title 44, United States Code, (com-
19 monly known as the “Paperwork Reduction Act”)
20 shall apply to any action to implement this title or
21 the amendments made by this title.

22 (2) ELECTRONIC FORMS.—All forms designated
23 or established by the Secretary that are necessary to
24 implement this title and the amendments made by
25 this title shall be made available in paper and elec-

1 tronic formats, and shall be designed in such a man-
2 ner to facilitate electronic completion, storage, and
3 transmittal.

4 (3) LIMITATION ON USE OF FORMS.—All forms
5 designated or established by the Secretary that are
6 necessary to implement this title, and the amend-
7 ments made by this title, and any information con-
8 tained in or appended to such forms, may not be
9 used for purposes other than for enforcement of this
10 Act and any other provision of Federal criminal law.

○