To create a nonimmigrant H–2C work visa program for agricultural workers, to make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2018

Mr. Goodlatte (for himself, Mr. Peterson, Mr. Smith of Texas, Mr. Cuellar, Mr. Newhouse, Mr. Conaway, Mr. Meadows, Mr. Walker, Mr. Abraham, Mr. Aderholt, Mr. Barr, Mr. Buck, Mr. Calvert, Mr. Chabot, Mr. Cole, Mr. Collins of New York, Mr. Comer, Mr. Cramer, Mr. Crawford, Mr. Curtis, Mr. DesJarlais, Mr. Duffy, Mr. Dunn, Mr. Estes of Kansas, Mr. Faso, Mr. Gallagher, Mr. Harris, Ms. Jenkins of Kansas, Mr. Jones, Mr. Lucas, Mr. Marino, Mr. Marshall, Mr. Nunes, Mr. Reed, Mr. Ross, Mr. Rouzer, Mr. Austin Scott of Georgia, Ms. Stefanik, Mr. Stivers, Ms. Tenney, Mr. Thompson of Pennsylvania, Mr. Thornberry, Mr. Upton, Mr. Yoho, Mr. Katko, Mr. Rodney Davis of Illinois, Mr. Higgins of Louisiana, and Mr. Collins of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, Ways and Means, and Energy and Commerce, 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 create a nonimmigrant H–2C work visa program for agricultural workers, to make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “AG and Legal Workforce Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

TITLE I—AGRICULTURAL WORKER REFORM

SEC. 101. SHORT TITLE.

This title may be cited as—

(1) the “Agricultural Guestworker Act”; or

(2) the “AG Act”.

SEC. 102. H–2C TEMPORARY AGRICULTURAL WORK VISA PROGRAM.

(a) In General.—Section 101(a)(15)(H) of the Im-
migration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking “; or (iii)” and inserting “, or (c) who is coming temporarily to the United States to perform agricultural labor or services; or (iii)”.

(b) Definition.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the fol-
lowing:
“(53) The term ‘agricultural labor or services’ has
the meaning given such term by the Secretary of Agri-
culture in regulations and includes—

“(A) agricultural labor as defined in section
3121(g) of the Internal Revenue Code of 1986;
“(B) agriculture as defined in section 3(f) of
203(f));
“(C) the handling, planting, drying, packing,
packaging, processing, freezing, or grading prior to
delivery for storage of any agricultural or horti-
cultural commodity in its unmanufactured state;
“(D) all activities required for the preparation,
processing or manufacturing of a product of agri-
culture (as such term is defined in such section
3(f)), or fish or shellfish, for further distribution;
“(E) forestry-related activities;
“(F) aquaculture activities; and
“(G) activities related to the management and
training of equines,
except that in regard to labor or services consisting of
meat or poultry processing, the term ‘agricultural labor
or services’ only includes the killing of animals and the
breakdown of their carcasses.”.
SEC. 103. ADMISSION OF TEMPORARY H–2C WORKERS.

(a) PROCEDURE FOR ADMISSION.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

"SEC. 218A. ADMISSION OF TEMPORARY H–2C WORKERS.

“(a) DEFINITIONS.—In this section and section 218B:

“(1) DISPLACE.—The term ‘displace’ means to lay off a United States worker from the job for which H–2C workers are sought.

“(2) JOB.—The term ‘job’ refers to all positions with an employer that—

“(A) involve essentially the same responsibilities;

“(B) are held by workers with substantially equivalent qualifications and experience; and

“(C) are located in the same place or places of employment.

“(3) EMPLOYER.—The term ‘employer’ includes a single or joint employer, including an association acting as a joint employer with its members, who hires workers to perform agricultural labor or services."
“(4) Forestry-related activities.—The term ‘forestry-related activities’ includes tree planting, timber harvesting, logging operations, brush clearing, vegetation management, herbicide application, the maintenance of rights-of-way (including for roads, trails, and utilities), regardless of whether such right-of-way is on forest land, and the harvesting of pine straw.


“(6) Lay off.—

“(A) In general.—The term ‘lay off’—

“(i) means to cause a worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (4) of subsection (b)); and

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a simi-
lar position with the same employer at

equivalent or higher wages and benefits

than the position from which the employee

was discharged, regardless of whether or

not the employee accepts the offer.

“(B) CONSTRUCTION.—Nothing in this

paragraph is intended to limit an employee’s

rights under a collective bargaining agreement

or other employment contract.

“(7) UNITED STATES WORKER.—The term

‘United States worker’ means any worker who is—

“(A) a citizen or national of the United

States; or

“(B) an alien who is lawfully admitted for

permanent residence, is admitted as a refugee

under section 207, or is granted asylum under

section 208.

“(8) SPECIAL PROCEDURES INDUSTRY.—The

term ‘special procedures industry’ includes sheep-

herding, goat herding, and the range production of

livestock, itinerant commercial beekeeping and polli-

nation, itinerant animal shearing, and custom com-

bining and harvesting.

“(b) PETITION.—An employer that seeks to employ

aliens as H–2C workers under this section shall file with
the Secretary of Homeland Security a petition attesting to the following:

“(1) **Offer of Employment.**—The employer will offer employment to the aliens on a contractual basis as H–2C workers under this section for a specific period of time during which the aliens may not work on an at-will basis (as provided for in section 218B), and such contract shall only be required to include a description of each place of employment, period of employment, wages and other benefits to be provided, and the duties of the positions.

“(2) **Temporary Labor or Services.**—

“(A) **In General.**—The employer is seeking to employ a specific number of H–2C workers on a temporary basis and will provide compensation to such workers at a wage rate no less than that set forth in subsection (j)(2).

“(B) **Definition.**—For purposes of this paragraph, a worker is employed on a temporary basis if the employer intends to employ the worker for no longer than the time period set forth in subsection (m)(1) (subject to the exceptions in subsection (m)(3)).

“(3) **Benefits, Wages, and Working Conditions.**—The employer will provide, at a minimum,
the benefits, wages, and working conditions required by subsection (k) to all workers employed in the job for which the H–2C workers are sought.

“(4) Nondisplacement of United States workers.—The employer did not displace and will not displace United States workers employed by the employer during the period of employment of the H–2C workers and during the 30-day period immediately preceding such period of employment in the job for which the employer seeks approval to employ H–2C workers.

“(5) Recruitment.—

“(A) In general.—The employer—

“(i) conducted adequate recruitment before filing the petition; and

“(ii) was unsuccessful in locating sufficient numbers of willing and qualified United States workers for the job for which the H–2C workers are sought.

“(B) Other requirements.—The recruitment requirement under subparagraph (A) is satisfied if the employer places a local job order with the State workforce agency serving each place of employment, except that nothing in this subparagraph shall require the employer
to file an interstate job order under section 653 of title 20, Code of Federal Regulations. The State workforce agency shall post the job order on its official agency website for a minimum of 30 days and not later than 3 days after receipt using the employment statistics system authorized under section 15 of the Wagner-Peyser Act (29 U.S.C. 49l–2). The Secretary of Labor shall include links to the official Web sites of all State workforce agencies on a single webpage of the official Web site of the Department of Labor.

“(C) END OF RECRUITMENT REQUIREMENT.—The requirement to recruit United States workers for a job shall terminate on the first day that work begins for the H–2C workers.

“(6) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the H–2C workers are sought to any eligible United States workers who—

“(A) apply;

“(B) are qualified for the job; and

“(C) will be available at the time, at each place, and for the duration, of need.
This requirement shall not apply to United States workers who apply for the job on or after the first day that work begins for the H–2C workers.

“(7) **PROVISION OF INSURANCE.**—If the job for which the H–2C workers are sought is not covered by State workers’ compensation law, the employer will provide, at no cost to the workers unless State law provides otherwise, insurance covering injury and disease arising out of, and in the course of, the workers’ employment, which will provide benefits at least equal to those provided under the State workers’ compensation law for comparable employment.

“(8) **STRIKE OR LOCKOUT.**—The job that is the subject of the petition is not vacant because the former workers in that job are on strike or locked out in the course of a labor dispute.

“(c) **LIST.**—

“(1) **IN GENERAL.**—The Secretary of Homeland Security shall maintain a list of the petitions filed under this subsection, which shall—

“(A) be sorted by employer; and

“(B) include the number of H–2C workers sought, the wage rate, the period of employment, each place of employment, and the date of need for each alien.
“(2) Availability.—The Secretary of Homeland Security shall make the list available for public examination.

“(d) Petitioning for Admission.—

“(1) Consideration of petitions.—For petitions filed and considered under this subsection—

“(A) the Secretary of Homeland Security may not require such petition to be filed more than 28 days before the first date the employer requires the labor or services of H–2C workers;

“(B) within the appropriate time period under subparagraph (C) or (D), the Secretary of Homeland Security shall—

“(i) approve the petition;

“(ii) reject the petition; or

“(iii) determine that the petition is incomplete or obviously inaccurate or that the employer has not complied with the requirements of subsection (b)(5)(A)(i) (which the Secretary can ascertain by verifying whether the employer has placed a local job order as provided for in subsection (b)(5)(B));

“(C) if the Secretary determines that the petition is incomplete or obviously inaccurate,
or that the employer has not complied with the requirements of subsection (b)(5)(A)(i) (which the Secretary can ascertain by verifying whether the employer has placed a local job order as provided for in subsection (b)(5)(B)), the Secretary shall—

“(i) within 5 business days of receipt of the petition, notify the petitioner of the deficiencies to be corrected by means ensuring same or next day delivery; and

“(ii) within 5 business days of receipt of the corrected petition, approve or reject the petition and provide the petitioner with notice of such action by means ensuring same or next day delivery; and

“(D) if the Secretary does not determine that the petition is incomplete or obviously inaccurate, the Secretary shall not later than 10 business days after the date on which such petition was filed, either approve or reject the petition and provide the petitioner with notice of such action by means ensuring same or next day delivery.

“(2) Access.—By filing an H–2C petition, the petitioner and each employer (if the petitioner is an
association that is a joint employer of workers who perform agricultural labor or services) consent to allow access to each place of employment to the Department of Agriculture and the Department of Homeland Security for the purpose of investigations and audits to determine compliance with the immigration laws (as defined in section 101(a)(17)).

“(3) CONFIDENTIALITY OF INFORMATION.—No information contained in a non-fraudulent petition filed by an employer pursuant to subsection (b) which is not otherwise available to the Secretary of Homeland Security may be used—

“(A) in a civil or criminal prosecution or investigation of the petitioning employer under section 274A or the Internal Revenue Code of 1986 for unlawful employment of an alien who is the beneficiary of such petition; or

“(B) for the purpose of initiating or proceeding with removal proceedings with respect to an alien who is the beneficiary of such petition, except in the case of an alien with respect to whom a petition is denied.

“(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

“(1) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint employer
of workers who perform agricultural labor or services, H–2C workers may be transferred among its members to perform the agricultural labor or services on a temporary basis for which the petition was approved.

“(2) **TREATMENT OF VIOLATIONS.**—

“(A) **INDIVIDUAL MEMBER.**—If an individual member of an association that is a joint employer commits a violation described in paragraph (2) or (3) of subsection (h) or subsection (i)(1), the Secretary of Agriculture shall invoke penalties pursuant to subsections (h) and (i) against only that member of the association unless the Secretary of Agriculture determines that the association participated in, had knowledge of, or had reason to know of the violation.

“(B) **ASSOCIATION OF AGRICULTURAL EMPLOYERS.**—If an association that is a joint employer commits a violation described in subsections (h)(2) and (3) or (i)(1), the Secretary of Agriculture shall invoke penalties pursuant to subsections (h) and (i) against only the association and not any individual members of the association, unless the Secretary determines that the member participated in the violation.
“(f) Expedited Administrative Appeals.—The Secretary of Homeland Security shall promulgate regulations to provide for an expedited procedure for the review of a denial of a petition under this section by the Secretary. At the petitioner’s request, the review shall include a de novo administrative hearing at which new evidence may be introduced.

“(g) Fees.—The Secretary of Homeland Security shall require, as a condition of approving the petition, the payment of a fee to recover the reasonable cost of processing the petition.

“(h) Enforcement.—

“(1) Investigations and Audits.—The Secretary of Agriculture shall be responsible for conducting investigations and audits, including random audits, of employers to ensure compliance with the requirements of the H–2C program. All monetary fines levied against employers shall be paid to the Department of Agriculture and used to enhance the Department of Agriculture’s investigative and auditing abilities to ensure compliance by employers with their obligations under this section.

“(2) Violations.—If the Secretary of Agriculture finds, after notice and opportunity for a hearing, a failure to fulfill an attestation required by
this subsection, or a material misrepresentation of a material fact in a petition under this subsection, the Secretary—

“(A) may impose such administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate; and

“(B) may disqualify the employer from the employment of H–2C workers for a period of 1 year.

“(3) WILLFUL VIOLATIONS.—If the Secretary of Agriculture finds, after notice and opportunity for a hearing, a willful failure to fulfill an attestation required by this subsection, or a willful misrepresentation of a material fact in a petition under this subsection, the Secretary—

“(A) may impose such administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation, or not to exceed $15,000 per violation if in the course of such failure or misrepresentation the employer displaced one or more United States workers employed by the employer during the period of employment of H–2C workers or during the 30-day period immediately preceding
such period of employment) in the job the H–2C workers are performing as the Secretary determines to be appropriate;

“(B) may disqualify the employer from the employment of H–2C workers for a period of 2 years;

“(C) may, for a subsequent failure to fulfill an attestation required by this subsection, or a misrepresentation of a material fact in a petition under this subsection, disqualify the employer from the employment of H–2C workers for a period of 5 years; and

“(D) may, for a subsequent willful failure to fulfill an attestation required by this subsection, or a willful misrepresentation of a material fact in a petition under this subsection, permanently disqualify the employer from the employment of H–2C workers.

“(i) Failure To Pay Wages or Required Benefits.—

“(1) In general.—If the Secretary of Agriculture finds, after notice and opportunity for a hearing, that the employer has failed to provide the benefits, wages, and working conditions that the employer has attested that it would provide under this
subsection, the Secretary shall require payment of back wages, or such other required benefits, due any United States workers or H–2C workers employed by the employer.

“(2) AMOUNT.—The back wages or other required benefits described in paragraph (1)—

“(A) shall be equal to the difference between the amount that should have been paid and the amount that was paid to such workers; and

“(B) shall be distributed to the workers to whom such wages or benefits are due.

“(j) MINIMUM WAGES, BENEFITS, AND WORKING CONDITIONS.—

“(1) PREFERENTIAL TREATMENT OF H–2C WORKERS PROHIBITED.—

“(A) IN GENERAL.—Each employer seeking to hire United States workers for the job the H–2C workers will perform shall offer such United States workers not less than the same benefits, wages, and working conditions that the employer will provide to the H–2C workers, except that if an employer chooses to provide H–2C workers with housing or a housing allowance, the employer need not offer housing or a
housing allowance to such United States workers. No job offer may impose on United States workers any restrictions or obligations which will not be imposed on H–2C workers.

“(B) INTERPRETATION.—Every interpretation and determination made under this section or under any other law, regulation, or interpretative provision regarding the nature, scope, and timing of the provision of these and any other benefits, wages, and other terms and conditions of employment shall be made so that—

“(i) the services of workers to their employers and the employment opportunities afforded to workers by the employers, including those employment opportunities that require United States workers or H–2C workers to travel or relocate in order to accept or perform employment—

“(I) mutually benefit such workers, as well as their families, and employers; and

“(II) principally benefit neither employer nor employee; and
“(ii) employment opportunities within the United States benefit the United States economy.

“(2) REQUIRED WAGES.—

“(A) IN GENERAL.—Each employer petitioning for H–2C workers under this subsection (other than in the case of workers who will perform agricultural labor or services consisting of meat or poultry processing) will offer the H–2C workers, during the period of authorized employment as H–2C workers, wages that are at least the greatest of—

“(i) the applicable State or local minimum wage;

“(ii) 115 percent of the Federal minimum wage; or

“(iii) the actual wage level paid by the employer to all other individuals in the job.

“(B) SPECIAL RULES.—

“(i) ALTERNATE WAGE PAYMENT SYSTEMS.—An employer can utilize a piece rate or other alternative wage payment system so long as the employer guarantees each worker a wage rate that equals or exceeds the amount required under subpara-
graph (A) for the total hours worked in each pay period. Compensation from a piece rate or other alternative wage payment system shall include time spent during rest breaks, moving from job to job, clean up, or any other nonproductive time, provided that such time does not exceed 20 percent of the total hours in the work day.

“(ii) MEAT OR POULTRY PROCESSING.—Each employer petitioning for H–2C workers under this subsection who will perform agricultural labor or services consisting of meat or poultry processing will offer the H–2C workers, during the period of authorized employment as H–2C workers, wages that are at least the greatest of—

“(I) the applicable State or local minimum wage;

“(II) 150 percent of the Federal minimum wage;

“(III) the prevailing wage level for the occupational classification in the area of employment; or
“(IV) the actual wage level paid
by the employer to all other individ-
uals in the job.

“(3) Employment guarantee.—

“(A) In general.—

“(i) Requirement.—Each employer
petitioning for workers under this sub-
section shall guarantee to offer the H–2C
workers and United States workers per-
forming the same job employment for the
hourly equivalent of not less than 50 per-
cent of the work hours set forth in the
work contract.

“(ii) Failure to meet guar-
antee.—If an employer affords the
United States workers or the H–2C work-
ers less employment than that required
under this subparagraph, the employer
shall pay such workers the amount which
the workers would have earned if the work-
ers had worked for the guaranteed number
of hours.

“(B) Calculation of hours.—Any
hours which workers fail to work, up to a max-
imum of the number of hours specified in the
work contract for a work day, when the workers
have been offered an opportunity to do so, and
all hours of work actually performed (including
voluntary work in excess of the number of
hours specified in the work contract in a work
day) may be counted by the employer in calcu-
lating whether the period of guaranteed employ-
ment has been met.

“(C) LIMITATION.—If the workers aban-
don employment before the end of the work
contract period, or are terminated for cause,
the workers are not entitled to the 50 percent
guarantee described in subparagraph (A).

“(D) TERMINATION OF EMPLOYMENT.—

“(i) IN GENERAL.—If, before the expi-
ration of the period of employment speci-
ified in the work contract, the services of
the workers are no longer required due to
any form of natural disaster, including
flood, hurricane, freeze, earthquake, fire,
drought, plant or animal disease, pest in-
festation, regulatory action, or any other
reason beyond the control of the employer
before the employment guarantee in sub-
paragraph (A) is fulfilled, the employer may terminate the workers’ employment.

“(ii) REQUIREMENTS.—If a worker’s employment is terminated under clause (i), the employer shall—

“(I) fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed during the period beginning on the first work day and ending on the date on which such employment is terminated;

“(II) make efforts to transfer the worker to other comparable employment acceptable to the worker; and

“(III) not later than 72 hours after termination, notify the Secretary of Agriculture of such termination and stating the nature of the contract impossibility.

“(k) NONDELEGATION.—The Department of Agriculture and the Department of Homeland Security shall not delegate their investigatory, enforcement, or administrative functions relating to this section or section 218B to other agencies or departments of the Federal Government.
“(l) Compliance With Bio-Security Protocols.—Except in the case of an imminent threat to health or safety, any personnel from a Federal agency or Federal grantee seeking to determine the compliance of an employer with the requirements of this section or section 218B shall, when visiting such employer’s place of employment, make their presence known to the employer and sign-in in accordance with reasonable bio-security protocols before proceeding to any other area of the place of employment.

“(m) Limitation on H–2C Workers’ Stay in Status.—

“(1) Maximum Period.—The maximum continuous period of authorized stay as an H–2C worker (including any extensions) is 36 months.

“(2) Requirement to Remain Outside the United States.—In the case of H–2C workers whose maximum continuous period of authorized status as H–2C workers (including any extensions) have expired, the aliens may not again be eligible to be H–2C workers until they remain outside the United States for a continuous period equal to at least the lesser of 1⁄12 of the duration of their previous period of authorized status an H–2C workers or 60 days.
“(3) EXCEPTIONS.—

“(A) The Secretary of Homeland Security shall deduct absences from the United States that take place during an H–2C worker’s period of authorized status from the period that the alien is required to remain outside the United States under paragraph (2), if the alien or the alien’s employer requests such a deduction, and provides clear and convincing proof that the alien qualifies for such a deduction. Such proof shall consist of evidence such as arrival and departure records, copies of tax returns, and records of employment abroad.

“(B) There is no maximum continuous period of authorized status as set forth in paragraph (1) or a requirement to remain outside the United States as set forth in paragraph (2) for H–2C workers employed as a sheepherder, goatherder, in the range production of livestock, or who return to the workers’ permanent residence outside the United States each day.

“(n) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—In addition to the maximum continuous period of authorized status, workers’ authorized period of admission shall include—
“(A) a period of not more than 7 days prior to the beginning of authorized employment as H–2C workers for the purpose of travel to the place of employment; and

“(B) a period of not more than 14 days after the conclusion of their authorized employment for the purpose of departure from the United States or a period of not more than 30 days following the employment for the purpose of seeking a subsequent offer of employment by an employer pursuant to a petition under this section (or pursuant to at-will employment under section 218B during such times as that section is in effect) if they have not reached their maximum continuous period of authorized employment under subsection (m) (subject to the exceptions in subsection (m)(3)) unless they accept subsequent offers of employment as H–2C workers or are otherwise lawfully present.

“(2) Failure to depart.—H–2C workers who do not depart the United States within the periods referred to in paragraph (1) or, as applicable, paragraph (3), will be considered to have failed to maintain nonimmigrant status as H–2C workers and shall be subject to removal under section
237(a)(1)(C)(i). Such aliens shall be considered to be inadmissible pursuant to section 212(a)(9)(B)(i) for having been unlawfully present, with the aliens considered to have been unlawfully present for 181 days as of the 15th day following their period of employment for the purpose of departure or as of the 31st day following their period of employment for the purpose of seeking subsequent offers of employment.

“(3) Application for maximum period.—

Notwithstanding the duration of the work requested by the employer petitioning for the admission of an H–2C worker, if the alien is granted a visa, at the request of the alien, the term of the visa shall be for the maximum period described in subsection (m)(1), except that if such an alien is unable to secure subsequent employment 30 days after the conclusion of their authorized employment, the alien shall be required to depart the United States as described in paragraph (1)(B).

“(o) Abandonment of employment.—

“(1) Report by employer.—Not later than 72 hours after an employer learns of the abandonment of employment by H–2C workers before the conclusion of their work contracts, the employer
shall notify the Secretary of Agriculture and the
Secretary of Homeland Security of such abandon-
ment.

“(2) REPLACEMENT OF ALIENS.—An employer
may designate eligible aliens to replace H–2C work-
ers who abandon employment notwithstanding the
numerical limitation found in section 214(g)(1)(C).

“(p) CHANGE TO H–2C STATUS.—

“(1) Waiver.—In the case of an alien de-
scribed in paragraph (2), the Secretary of Homeland
Security shall waive the grounds of inadmissibility
under paragraphs (5)(A), (6)(A), (6)(C), (7), (9)(B),
and (9)(C) of section 212(a), and the grounds of de-
portability under paragraphs (1)(A) (with respect to
the grounds of inadmissibility waived under this
paragraph), (1)(B), (1)(C), (3)(A), and (3)(C) of
section 237(a), with respect to conduct that occurred
prior to the alien first receiving status as an H–2C
worker, solely in order to provide the alien with such
status.

“(2) ALIEN DESCRIBED.—An alien described in
this paragraph is an alien who—

“(A) was unlawfully present in the United
States on July 11, 2018; and
“(B) performed agricultural labor or services in the United States for at least 5.75 hours during each of at least 180 days during the 2-year period ending on July 11, 2018.

“(3) SPECIAL APPROVAL PROCEDURES.—Before an alien described in paragraph (2) can be provided with nonimmigrant status under section 101(a)(15)(H)(ii)(C), the alien must depart the United States for a period during the interval between the date of issuance of final rules carrying out the AG Act and the date that is 12 months after such issuance. If such an alien is the beneficiary of an approved H–2C petition, for the purpose of meeting such requirement to depart the United States before being provided with nonimmigrant status under section 101(a)(15)(H)(ii)(C), the Secretary shall authorize parole for the alien to travel to the United States without a visa and shall issue an appropriate document authorizing such travel. Prior to authorizing parole for the alien, the Secretary shall conduct an in person interview, as appropriate, and a background check to determine that the alien is not inadmissible to the United States under section 212(a) or deportable under section 237(a), except with regard to the grounds of inadmissibility and
grounds of deportability waived under paragraph (1).

“(q) Trust Fund To Assure Worker Return.—

“(1) Establishment.—There is established in the Treasury of the United States a trust fund (in this section referred to as the ‘Trust Fund’) for the purpose of providing a monetary incentive for H–2C workers to return to their country of origin upon expiration of their visas.

“(2) Withholding of wages; payment into the trust fund.—

“(A) In general.—Notwithstanding the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and State and local wage laws, all employers of H–2C workers shall withhold from the wages of all H–2C workers other than those employed as sheepherders, goatherders, in the range production of livestock, or who return to the their permanent residence outside the United States each day, an amount equivalent to 10 percent of the gross wages of each worker in each pay period and, on behalf of each worker, transfer such withheld amount to the Trust Fund.
“(B) Jobs that are not of a temporary or seasonal nature.—Employers of H–2C workers employed in jobs that are not of a temporary or seasonal nature, other than those employed as a sheepherder, goatherder, or in the range production of livestock, shall also pay into the Trust Fund an amount equivalent to the Federal tax on the wages paid to H–2C workers that the employer would be obligated to pay under chapters 21 and 23 of the Internal Revenue Code of 1986 had the H–2C workers been subject to such chapters.

“(3) Distribution of funds.—

“(A) In general.—Except as provided in subparagraph (B), amounts paid into the Trust Fund on behalf of an H–2C worker, and held pursuant to paragraph (2)(A) and interest earned thereon, shall be transferred from the Trust Fund to the Secretary of Homeland Security, who shall distribute them to the worker if the worker—

“(i) applies to the Secretary of Homeland Security (or the designee of the Secretary) for payment within 120 days of the expiration of the alien’s last authorized
stay in the United States as an H–2C worker, for which they seek amounts from the Trust Fund;

“(ii) establishes to the satisfaction of the Secretary of Homeland Security that they have complied with the terms and conditions of the H–2C program;

“(iii) once approved by the Secretary of Homeland Security for payment, physically appears at a United States embassy or consulate in the worker’s home country; and

“(iv) establishes their identity to the satisfaction of the Secretary of Homeland Security.

“(B) Exception.—The Secretary of Homeland Security shall not distribute any funds described in subparagraph (A) to a worker for any period of employment as an H–2C worker during which the worker failed to obtain and maintain health insurance required under section 107(b) of the AG and Legal Workforce Act.

“(4) Administrative Expenses.—The amounts paid into the Trust Fund and held pursu-
ant to paragraph (2)(B), and interest earned there-
on, shall be distributed annually to the Secretary of
Agriculture and the Secretary of Homeland Security
in amounts proportionate to the expenses incurred
by such officials in the administration and enforce-
ment of the terms of the H–2C program.

“(5) LAW ENFORCEMENT.—Notwithstanding
any other provision of law, amounts paid into the
Trust Fund under paragraph (2), and interest
earned thereon, that are not needed to carry out
paragraphs (3) and (4) shall, to the extent provided
in advance in appropriations Acts, be made available
to the Secretary of Homeland Security.

“(6) INVESTMENT OF TRUST FUND.—

“(A) IN GENERAL.—It shall be the duty of
the Secretary of the Treasury to invest such
portion of the Trust Fund as is not, in the Sec-
retary’s judgment, required to meet current
withdrawals. Such investments may be made
only in interest-bearing obligations of the
United States or in obligations guaranteed as to
both principal and interest by the United
States.

“(B) CREDITS TO TRUST FUND.—The in-
terest on, and the proceeds from the sale or re-
demption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

“(C) Report to Congress.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Homeland Security) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress in which the report is made.

“(r) Procedures for Special Procedures Industries.—

“(1) Work Locations.—The Secretary of Homeland Security shall permit an employer in a special procedures industry or that engages in a forestry-related activity that does not operate at a single fixed place of employment to provide, as part of its petition, a list of places of employment, which—

“(A) may include an itinerary; and
“(B) may be subsequently amended at any time by the employer, after notice to the Secretary.

“(2) WAGES.—Notwithstanding subsection (j)(2), the Secretary of Agriculture may establish monthly, weekly, or biweekly wage rates for occupations in a Special Procedures Industry for a State or other geographic area. For an employer in a Special Procedures Industry that typically pays a monthly wage, the Secretary shall require that H–2C workers be paid not less frequently than monthly and at a rate no less than the legally required monthly cash wage in an amount as re-determined annually by the Secretary.

“(3) ALLERGY LIMITATION.—An employer engaged in the commercial beekeeping or pollination services industry may require that job applicants be free from bee-related allergies, including allergies to pollen and bee venom.

“(s) FLEXIBILITY WITH RESPECT TO START DATES.—Upon approval of a petition with regard to jobs that are of a temporary or seasonal nature, the employer may begin the employment of petitioned-for H–2C workers up to ten months after the first date the employer requires the labor or services of H–2C workers.
“(t) ADJUSTMENT OF STATUS.—In applying section 245 to an alien who is an H–2C worker who was the beneficiary of a waiver under subsection (p)(1)—

“(1) such alien shall be deemed to have been inspected and admitted into the United States; and

“(2) in determining the alien’s admissibility as an immigrant, paragraphs (5)(A), (6)(A), (6)(C), (7), (9)(B), and (9)(C)(i)(I) of section 212(a) shall not apply with respect to conduct that occurred prior to the alien first receiving status as an H–2C worker.”.

(b) AT-WILL EMPLOYMENT.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218A (as inserted by subsection (a) of this section) the following:

“SEC. 218B. AT-WILL EMPLOYMENT OF TEMPORARY H–2C WORKERS.

“(a) IN GENERAL.—An employer that is designated as a ‘registered agricultural employer’ pursuant to subsection (e) may employ aliens as H–2C workers. However, an H–2C worker may only perform labor or services pursuant to this section if the worker is already lawfully present in the United States as an H–2C worker, having been admitted or otherwise provided nonimmigrant status pursuant to section 218A, and has completed the period
of employment specified in the job offer the worker accepted pursuant to section 218A or the employer has terminated the worker’s employment pursuant to section 218A(j)(3)(D)(i). An H–2C worker who abandons the employment which was the basis for admission or status pursuant to section 218A may not perform labor or services pursuant to this section until the worker has returned to their home country, been readmitted as an H–2C worker pursuant to section 218A and has completed the period of employment specified in the job offer the worker accepted pursuant to section 218A or the employer has terminated the worker’s employment pursuant to section 218A(j)(3)(D)(i).

“(b) Period of Stay.—H–2C workers performing at-will labor or services for a registered agricultural employer are subject to the period of admission, limitation of stay in status, and requirement to remain outside the United States contained in subsections (m) and (n) of section 218A.

“(c) Registered Agricultural Employers.—The Secretary of Agriculture shall establish a process to accept and adjudicate applications by employers to be designated as registered agricultural employers. The Secretary shall require, as a condition of approving the application, the payment of a fee to recover the reasonable cost
of processing the application. The Secretary shall des-
ignate an employer as a registered agricultural employer
if the Secretary determines that the employer—

“(1) employs (or plans to employ) individuals
who perform agricultural labor or services;

“(2) has not been subject to debarment from
receiving temporary agricultural labor certifications
pursuant to section 101(a)(15)(H)(ii)(a) within the
last three years;

“(3) has not been subject to disqualification
from the employment of H–2C workers within the
last five years;

“(4) agrees to, if employing H–2C workers pur-
suant to this section, fulfill the attestations con-
tained in section 218A(b) as if it had submitted a
petition making those attestations (excluding sub-
section (j)(3) of such section) and not to employ H–
2C workers who have reached their maximum con-
tinuous period of authorized status under section
218A(m) (subject to the exceptions contained in sec-
tion 218A(m)(3)) or if the workers have complied
with the terms of section 218A(m)(2); and

“(5) agrees to notify the Secretary of Agri-
culture and the Secretary of Homeland Security
each time it employs H–2C workers pursuant to this
section within 72 hours of the commencement of em-
ployment and within 72 hours of the cessation of
employment.

“(d) LENGTH OF DESIGNATION.—An employer’s des-
ignation as a registered agricultural employer shall be
valid for 3 years, and the Secretary may extend such des-
ignation for additional 3-year terms upon the reapplication
of the employer. The Secretary shall revoke a designation
before the expiration of its 3-year term if the employer
is subject to disqualification from the employment of H–
2C workers subsequent to being designated as a registered
agricultural employer.

“(e) ENFORCEMENT.—The Secretary of Agriculture
shall be responsible for conducting investigations and au-
dits, including random audits, of employers to ensure com-
pliance with the requirements of this section. All monetary
fines levied against employers shall be paid to the Depart-
ment of Agriculture and used to enhance the Department
of Agriculture’s investigatory and audit abilities to ensure
compliance by employers with their obligations under this
section and section 218A. The Secretary of Agriculture’s
enforcement powers and an employer’s liability described
in subsections (h) through (i) of section 218A are applica-
table to employers employing H–2C workers pursuant to
this section.”.
(c) Prohibition on Family Members.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking “him;” at the end and inserting “him, except that no spouse or child may be admitted under clause (ii)(c);”.

(d) Numerical Cap.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) under section 101(a)(15)(H)(ii)(c)—

“(i) may not exceed 40,000 for aliens issued visas or otherwise provided non-immigrant status under such section for the purpose of performing agricultural labor or services consisting or meat or poultry processing;

“(ii) except as otherwise provided under this subparagraph, may not exceed 410,000 for aliens issued visas or otherwise provided non-immigrant status under such section for the purpose of performing agricultural labor or
services other than agricultural labor or services consisting of meat or poultry processing;

“(iii) if the base allocation under clause (ii) is exhausted during any fiscal year the base allocation for that and subsequent fiscal years shall be increased by the lesser of 10 percent (as a percentage of the base allocation for that fiscal year) or a percentage representing the number of petitioned-for aliens (as a percentage of the base allocation for that fiscal year) who would be eligible to be issued visas or otherwise provided nonimmigrant status described in that clause during that fiscal year but for the base allocation being exhausted, and if the increased base allocation is itself exhausted during a subsequent fiscal year, the base allocation for that and subsequent fiscal years shall be further increased by the lesser of 10 percent (as a percentage of the increased base allocation for that fiscal year) or a percentage representing the number of petitioned-for aliens (as a percentage of the increased base allocation for that fiscal year) who would be eligible to be issued visas or otherwise provided nonimmigrant status described in that clause during that fiscal year
but for the increased base allocation being ex-
hausted (subject to clause (iv));

“(iv) if the base allocation under clause (ii)
is not exhausted during any fiscal year, the
base allocation under such clause for subse-
quent fiscal years shall be decreased by the
greater of 5 percent (as a percentage of the
base allocation for that fiscal year) or a per-
centage representing the unutilized portion of
the base allocation (as a percentage of the base
allocation for that fiscal year) during that fiscal
year, and if in a subsequent fiscal year the de-
creased base allocation is itself not exhausted,
the base allocation for fiscal years subsequent
to that fiscal year shall be further decreased by
the greater of 5 percent (as a percentage of the
decreased base allocation for that fiscal year) or
a percentage representing the unutilized portion
of the decreased base allocation (as a percent-
age of the decreased base allocation for that fis-
cal year) during that fiscal year (subject to
clause (iii) and except that the base allocation
shall not fall below 410,000);

“(v) for purposes of clause (ii), the numer-
ical limitations shall not apply to any alien—
“(I) who—

“(aa) was physically present in the United States on July 11, 2018; and

“(bb) performed agricultural labor or services in the United States for at least 5.75 hours during each of at least 180 days during the 2-year period ending on July 11, 2018; or

“(II) who has previously been issued a visa or otherwise provided nonimmigrant status pursuant to subclause (a) or (b) of section 101(a)(15)(H)(ii), but only to the extent that the alien is being petitioned for by an employer pursuant to section 218A(b) who previously employed the alien pursuant to subclause (a) or (b) of section 101(a)(15)(H)(ii) beginning no later than July 11, 2018; and

“(vi) if, pursuant to clause (iii), the base allocation has been increased by 10 percent in a fiscal year, once petitioned-for aliens have been issued visas or otherwise provided non-immigrant status accounting for 80 percent of that 10-percent increase in the base allocation,
the total number of aliens described in clause (ii) who may be issued visas or otherwise provided nonimmigrant status under this paragraph during that year shall be increased, in addition to any increase under clause (iii), by—

“(I) for the first 2 fiscal years after the effective date of this paragraph, a number determined appropriate by the Secretary; and

“(II) for any subsequent fiscal year, by the lesser of 10 percent (as a percentage of the base allocation for that fiscal year) or a percentage representing the number of petitioned-for aliens (as a percentage of the base allocation for that fiscal year) who would be eligible to be issued visas or otherwise provided nonimmigrant status described in that clause during that fiscal year but for the increased base allocation being exhausted,

and such further increase under this clause shall not to be considered a part of the base allocation for that fiscal year for the purpose calculating the base allocation for subsequent fiscal years.”.
(e) Secretary of Agriculture Review of Agricultural Work Needs.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

“(s) Secretary of Agriculture Review of Agricultural Work Needs.—The Secretary of Agriculture shall conduct a review, on a continual basis, of—

“(1) whether there are indicators of a shortage or surplus of workers performing agricultural labor or services;

“(2) the growth or contraction in the United States agricultural industry and whether such growth or contraction has increased or decreased the demand for workers to perform agricultural labor or services;

“(3) the level of unemployment and underemployment of United States workers (as defined in section 218A(a)(7)) in agricultural labor or services;

“(4) the number of H–2C workers (as defined in section 218A(a)(5)) who in the preceding fiscal year had to depart from the United States or be subject to removal under section 237(a)(1)(C)(i) because they could not find additional at-will employment within 30 days pursuant to section 218B; and
“(5) the estimated number of nonimmigrant ag-
icultural workers issued a visa or otherwise pro-
vided nonimmigrant status pursuant to section
101(a)(15)(H)(ii)(a) or (c) during preceding fiscal
years who remain in the United States out of com-
pliance with the terms of their status.”.

(f) INTENT.—Section 214(b) of the Immigration and
Nationality Act (8 U.S.C. 1184(b)) is amended by striking
“section 101(a)(15)(H)(i) except subclause (b1) of such
section” and inserting “clause (i), except subclause (b1),
or (ii)(c) of section 101(a)(15)(H)”.

(g) CLERICAL AMENDMENT.—The table of contents
for the Immigration and Nationality Act (8 U.S.C. 1101
et seq.) is amended by inserting after the item relating
to section 218 the following:

“Sec. 218B. At-will employment of temporary H–2C workers.”.

SEC. 104. MEDIATION.

Nonimmigrants having status under section
101(a)(15)(H)(ii)(c) of the Immigration and Nationality
Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)) may not bring civil
actions for damages against their employers, nor may any
other attorneys or individuals bring civil actions for dam-
ages on behalf of such nonimmigrants against the non-
immigrants’ employers, unless at least 90 days prior to
bringing an action a request has been made to the Federal
Mediation and Conciliation Service to assist the parties
in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.

SEC. 105. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION.

Section 3(8)(B)(ii) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(8)(B)(ii)) is amended by striking “under sections 101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and Nationality Act.” and inserting “under subclauses (a) and (c) of section 101(a)(15)(H)(ii), and section 214(c), of the Immigration and Nationality Act.”.

SEC. 106. BINDING ARBITRATION.

(a) APPLICABILITY.—H–2C workers may, as a condition of employment with an employer, be subject to mandatory binding arbitration and mediation of any grievance relating to the employment relationship. An employer shall provide any such workers with notice of such condition of employment at the time it makes job offers.

(b) ALLOCATION OF COSTS.—Any cost associated with such arbitration and mediation process shall be equally divided between the employer and the H–2C workers, except that each party shall be responsible for the cost of its own counsel, if any.

(c) DEFINITIONS.—As used in this section:
(1) The term “condition of employment” means a term, condition, obligation, or requirement that is part of the job offer, such as the term of employment, job responsibilities, employee conduct standards, and the grievance resolution process, and to which applicants or prospective H–2C workers must consent or accept in order to be hired for the position.

(2) The term “H–2C worker” means a non-immigrant described in section 218A(a)(5) of the Immigration and Nationality Act, as added by this title.

SEC. 107. COVERAGE THROUGH HEALTH EXCHANGES; REQUIRED HEALTH INSURANCE COVERAGE.

(a) Coverage Through Health Exchanges.—In applying section 1312(f)(3) of the Patient Protection and Affordable Care Act (42 U.S.C. 18032(f)(3)), an H–2C worker (as defined in section 218A(a)(5) of the Immigration and Nationality Act, as added by this title) shall not be treated as an individual who is, or is reasonably expected to be, a citizen or national of the United States or an alien lawfully present in the United States.

(b) Requirement Regarding Health Insurance Coverage.—
(1) IN GENERAL.—Notwithstanding the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and State and local wage laws, not later than 21 days after being issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)), an alien shall, in the case that qualifying health coverage is offered in the State of employment or State of residence of such alien and the alien is eligible for such coverage, for the period of employment specified in section 218A(b)(1) of the Immigration and Nationality Act, be enrolled under qualifying health coverage.

(2) QUALIFYING HEALTH COVERAGE.—For purposes of paragraph (1), the term “qualifying health coverage means”, with respect to an alien described in such paragraph, the higher of the following levels of coverage applicable to such alien:

(A) At a minimum, catastrophic health insurance coverage that provides coverage of such individual with respect to at least the State of employment and State of residence of the alien.

(B) In the case of an alien whose State of residence or State of employment requires such
an alien to maintain coverage under health insurance, such health insurance.

SEC. 108. ESTABLISHMENT OF AN AGRICULTURAL WORKER EMPLOYMENT POOL.

The Secretary of Agriculture may establish an agricultural worker employment pool and an electronic Internet-based portal to assist H–2C workers (as such term is defined in section 218A of the Immigration and Nationality Act), prospective H–2C workers, and employers to identify job opportunities in the H–2C program and willing, able, and available workers for the program, respectively, and may charge a fee for the use of such portal.

SEC. 109. PREVAILING WAGE.

Section 212(p) of the Immigration and Nationality Act (8 U.S.C. 1182(p)) is amended—

(1) in paragraph (1), by inserting after “subsections (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II)” the following: “of this section and section 218A(j)(2)(B)(ii)” ; and

(2) in paragraph (3), by inserting after “subsections (a)(5)(A), (n)(1)(A)(i)(II), and (t)(1)(A)(i)(II)” the following: “of this section and section 218A(j)(2)(B)(ii)” .
SEC. 110. PORTABILITY OF H–2C STATUS.


SEC. 111. EFFECTIVE DATES; SUNSET; REGULATIONS.

(a) Effective Dates; Regulations.—

(1) In General.—Sections 102 and 104 through 106 of this title, subsections (a) and (c) through (f) of section 103 of this title, and the amendments made by the sections, shall take effect on the date on which the Secretary issues the rules under paragraph (3), and the Secretary of Homeland Security shall accept petitions pursuant to section 218A of the Immigration and Nationality Act, as inserted by this Act, beginning no later than that date. Sections 107 and 109 of this title shall take effect on the date of the enactment of this Act.

(2) At-Will Employment.—Section 103(b) of this title and the amendments made by that subsection shall take effect when—

(A) it becomes unlawful for all persons or other entities to hire, or to recruit or refer for a fee, for employment in the United States an individual (as provided in section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C.
1324a(a)(1))) without using the verification
system set forth in section 274A(d) of such Act,
as amended by section 203 of title II, to seek
verification of the employment eligibility of an
individual; and

(B) such verification system, in providing
confirmation of an individual’s employment eli-
gibility, indicates whether an individual is eligi-
able to be employed in all occupations or only to
perform agricultural labor or services as a non-
immigrant who has been issued a visa or other-
wise provided nonimmigrant status under sec-
tion 101(a)(15)(H)(ii)(C) of the Immigration
and Nationality Act.

(3) REGULATIONS.—Notwithstanding any other
provision of law, not later than the first day of the
seventh month that begins after the date of the en-
actment of this Act, the Secretary of Homeland Se-
curity shall issue final rules, on an interim or other
basis, to carry out this title.

(b) OPERATION AND SUNSET OF THE H–2A PRO-
GRAM.—

(1) APPLICATION OF EXISTING REGULA-
tIONS.—Except as provided in paragraph (2), the
Department of Labor H–2A program regulations
published at 73 Federal Register 77110 et seq. (2008) shall be in force for all petitions approved under sections 101(a)(15)(H)(ii)(a) and 218 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(ii)(a); 8 U.S.C. 1188) beginning on the date of the enactment of this Act, except that the following, as in effect on such date, shall remain in effect, and, to the extent that any rule published at 73 Federal Register 77110 et seq. is in conflict, such rule shall have no force and effect:

(A) Paragraph (a) and subparagraphs (1) and (3) of paragraph (b) of section 655.200 of title 20, Code of Federal Regulations.

(B) Section 655.201 of title 20, Code of Federal Regulations, except the paragraphs entitled “Production of Livestock” and “Range”.

(C) Paragraphs (c), (d) and (e) of section 655.210 of title 20, Code of Federal Regulations.

(D) Section 655.230 of title 20, Code of Federal Regulations.

(E) Section 655.235 of title 20, Code of Federal Regulations.

(F) The Special Procedures Labor Certification Process for Employers in the Itinerant
Animal Shearing Industry under the H–2A Program in effect under the Training and Employment Guidance Letter No. 17–06, Change 1, Attachment B, Section II, with an effective date of October 1, 2011.

(2) EXCEPTION.—

(A) IN GENERAL.—The regulations described in paragraph (1) shall not have any force or effect with respect to any requirement regarding the seasonal nature of agricultural labor or services consisting of dairy cattle and milk production.

(B) AMENDMENT.—Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended by inserting “(except that agricultural labor or services consisting of dairy cattle and milk production need not be of a temporary or seasonal nature)” after “seasonal nature”.

(3) SUNSET.—Beginning on the date that is one year after the date on which employers can file petitions pursuant to section 218A of the Immigration and Nationality Act, as added by section 103(a) of this title, no new petitions under sections

SEC. 112. REPORT ON COMPLIANCE AND VIOLATIONS.

(a) In General.—Not later than 1 year after the first day on which employers can file petitions pursuant to section 218A of the Immigration and Nationality Act, as added by section 103(a) of this title, the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on compliance by H–2C workers with the requirements of this title and the Immigration and Nationality Act, as amended by this title. In the case of a violation of a term or condition of the temporary agricultural work visa program established by this title, the report shall identify the provision or provisions of law violated.

(b) Definition.—As used in this section, the term “H–2C worker” means a nonimmigrant described in section 218A(a)(4) of the Immigration and Nationality Act, as added by section 103(a) of this title.
TITLE II—LEGAL WORKFORCE

ACT

SEC. 201. SHORT TITLE.

This title may be cited as the “Legal Workforce Act”.

SEC. 202. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended to read as follows:

“(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.—

“(1) NEW HIRES, RECRUITMENT, AND REFERRAL.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the following:

“(A) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

“(i) ATTESTATION.—During the verification period (as defined in subparagraph (E)), the person or entity shall attest, under penalty of perjury and on a form, including electronic and telephonic formats, designated or established by the
Secretary by regulation not later than 6 months after the date of the enactment of the Legal Workforce Act, that it has verified that the individual is not an unauthorized alien by—

“(I) obtaining from the individual the individual’s social security account number or United States passport number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under subparagraph (B), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

“(II) examining—

“(aa) a document relating to the individual presenting it described in clause (ii); or
“(bb) a document relating to the individual presenting it described in clause (iii) and a document relating to the individual presenting it described in clause (iv).

“(ii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION AND ESTABLISHING IDENTITY.—A document described in this subparagraph is an individual’s—

“(I) unexpired United States passport or passport card;

“(II) unexpired permanent resident card that contains a photograph;

“(III) unexpired employment authorization card that contains a photograph;

“(IV) in the case of a non-immigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I–94 or Form I–94A, or other documentation as designated by the Secretary specifying the alien’s non-
immigrant status as long as the period of status has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified in the documentation;

“(V) passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I–94 or Form I–94A, or other documentation as designated by the Secretary, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; or

“(VI) other document designated by the Secretary of Homeland Security, if the document—

“(aa) contains a photograph of the individual and biometric identification data from the individual and such other personal identifying information relating to the individual as the Secretary of Homeland Security finds, by
regulation, sufficient for purposes of this clause;

“(bb) is evidence of authorization of employment in the United States; and

“(cc) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(iii) Documents evidencing employment authorization.—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

“(iv) Documents establishing identity of individual.—A document described in this subparagraph is—

“(I) an individual’s unexpired driver’s license or identification card if it was issued by a State or American Samoa and contains a photograph and information such as name, date of
birth, gender, height, eye color, and address;

“(II) an individual’s unexpired U.S. military identification card;

“(III) an individual’s unexpired Native American tribal identification document issued by a tribal entity recognized by the Bureau of Indian Affairs; or

“(IV) in the case of an individual under 18 years of age, a parent or legal guardian’s attestation under penalty of law as to the identity and age of the individual.

“(v) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary of Homeland Security finds, by regulation, that any document described in clause (i), (ii), or (iii) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Secretary may prohibit or place conditions on its use for purposes of this paragraph.
“(vi) SIGNATURE.—Such attestation may be manifested by either a handwritten or electronic signature.

“(B) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—During the verification period (as defined in subparagraph (E)), the individual shall attest, under penalty of perjury on the form designated or established for purposes of subparagraph (A), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary of Homeland Security to be hired, recruited, or referred for such employment. Such attestation may be manifested by either a handwritten or electronic signature. The individual shall also provide that individual’s social security account number or United States passport number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under this subparagraph, such identification or authorization number established by the Department of Homeland
Security for the alien as the Secretary may specify.

“(C) RETENTION OF VERIFICATION FORM AND VERIFICATION.—

“(i) IN GENERAL.—After completion of such form in accordance with subparagraphs (A) and (B), the person or entity shall—

“(I) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during a period beginning on the date of the recruiting or referral of the individual, or, in the case of the hiring of an individual, the date on which the verification is completed, and ending—

“(aa) in the case of the recruiting or referral of an individual, 3 years after the date of the recruiting or referral; and
“(bb) in the case of the hiring of an individual, the later of
3 years after the date the verification is completed or one
year after the date the individual’s employment is terminated;
and
“(II) during the verification period (as defined in subparagraph (E)),
make an inquiry, as provided in subsection (d), using the verification sys-
tem to seek verification of the identity and employment eligibility of an indi-
vidual.
“(ii) CONFIRMATION.—
“(I) CONFIRMATION RECEIVED.—If the person or other entity
receives an appropriate confirmation of an individual’s identity and work
eligibility under the verification system within the time period specified,
the person or entity shall record on the form an appropriate code that is
provided under the system and that indicates a final confirmation of such
identity and work eligibility of the individual.

“(II) TENTATIVE NONCONFIRMATION RECEIVED.—If the person or other entity receives a tentative nonconfirmation of an individual’s identity or work eligibility under the verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the nonconfirmation within the time period specified, the nonconfirmation shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a final nonconfirmation. If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under subsection (d). The nonconfirmation will remain tentative until a final confirmation or noncon-
firmation is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure. In no case shall an employer rescind the offer of employment to an individual because of a failure of the individual to have identity and work eligibility confirmed under this subsection until a nonconfirmation becomes final. Nothing in this subclause shall apply to a rescission of the offer of employment for any reason other than because of such a failure.

“(III) Final confirmation or nonconfirmation received.—If a final confirmation or nonconfirmation is provided by the verification system
regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

“(IV) EXTENSION OF TIME.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry,
and does not have to provide any additional proof concerning such inquiry.

“(V) Consequences of non-confirmation.—

“(aa) Termination or notification of continued employment.—If the person or other entity has received a final nonconfirmation regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

“(bb) Failure to notify.—If the person or entity fails to provide notice with re-
spect to an individual as required under item (aa), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

“(VI) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).

“(D) EFFECTIVE DATES OF NEW PROCEDURES.—

“(i) HIRING.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity hiring an individual for employment in the United States as follows:

“(I) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, on the date that is 6 months
after the date of the enactment of such Act.

“(II) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 12 months after the date of the enactment of such Act.

“(III) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 18 months after the date of the enactment of such Act.

“(IV) With respect to employers having 1 or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 24
months after the date of the enactment of such Act.

“(ii) Recruiting and referring.—
Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity recruiting or referring an individual for employment in the United States on the date that is 12 months after the date of the enactment of the Legal Workforce Act.

“(iii) Agricultural labor or services.—With respect to an employee performing agricultural labor or services, this paragraph shall not apply with respect to the verification of the employee until the date that is 24 months after the date of the enactment of the Legal Workforce Act. An employee described in this clause shall not be counted for purposes of clause (i).

“(iv) Extensions.—Upon request by an employer having 50 or fewer employees, the Secretary shall allow a one-time 6-month extension of the effective date set out in this subparagraph applicable to such employer. Such request shall be made to
the Secretary and shall be made prior to such effective date.

“(v) **TRANSITION RULE.**—Subject to paragraph (4), the following shall apply to a person or other entity hiring, recruiting, or referring an individual for employment in the United States until the effective date or dates applicable under clauses (i) through (iii):

“(I) This subsection, as in effect before the enactment of the Legal Workforce Act.

“(II) Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 7(c) of the Legal Workforce Act.

“(III) Any other provision of Federal law requiring the person or entity to participate in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect be-
fore the effective date in section 7(c) of the Legal Workforce Act, including Executive Order 13465 (8 U.S.C. 1324a note; relating to Government procurement).

“(E) VERIFICATION PERIOD DEFINED.—

“(i) IN GENERAL.—For purposes of this paragraph:

“(I) In the case of recruitment or referral, the term ‘verification period’ means the period ending on the date recruiting or referring commences.

“(II) In the case of hiring, the term ‘verification period’ means the period beginning on the date on which an offer of employment is extended and ending on the date that is three business days after the date of hire, except as provided in clause (iii). The offer of employment may be conditioned in accordance with clause (ii).

“(ii) JOB OFFER MAY BE CONDITIONAL.—A person or other entity may offer a prospective employee an employment position that is conditioned on final
verification of the identity and employment
eligibility of the employee using the proce-
dures established under this paragraph.

“(iii) Special rule.—Notwithstanding clause (i)(II), in the case of an alien who is authorized for employment and who provides evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period ends three business days after the alien receives the social security account number.

“(2) Reverification for individuals with limited work authorization.—

“(A) In general.—Except as provided in subparagraph (B), a person or entity shall make an inquiry, as provided in subsection (d), using the verification system to seek reverification of the identity and employment eligibility of all individuals with a limited period of work authorization employed by the person or entity during the three business days after the date on which the employee’s work authorization expires as follows:
“(i) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, beginning on the date that is 6 months after the date of the enactment of such Act.

“(ii) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 12 months after the date of the enactment of such Act.

“(iii) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 18 months after the date of the enactment of such Act.

“(iv) With respect to employers having 1 or more employees in the United States, but less than 20 employees in the United States, on the date of the enact-
ment of the Legal Workforce Act, begin-
ning on the date that is 24 months after
the date of the enactment of such Act.

“(B) AGRICULTURAL LABOR OR SERV-
ICES.—With respect to an employee performing
agricultural labor or services, or an employee
recruited or referred by a farm labor contractor
(as defined in section 3 of the Migrant and Sea-
sonal Agricultural Worker Protection Act (29
U.S.C. 1801)), subparagraph (A) shall not
apply with respect to the reverification of the
employee until the date that is 24 months after
the date of the enactment of the Legal Work-
force Act. For purposes of the preceding sen-
tence, the term ‘agricultural labor or services’
has the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in section
3121(g) of the Internal Revenue Code of 1986,
agriculture as defined in section 3(f) of the
203(f)), the handling, planting, drying, packing,
packaging, processing, freezing, or grading
prior to delivery for storage of any agricultural
or horticultural commodity in its unmanufac-
tured state, all activities required for the preparation, processing, or manufacturing of a product of agriculture (as such term is defined in such section 3(f)) for further distribution, and activities similar to all the foregoing as they relate to fish or shellfish facilities. An employee described in this subparagraph shall not be counted for purposes of subparagraph (A).

“(C) REVERIFICATION.—Paragraph (1)(C)(ii) shall apply to reverifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the reverification commences and ending on the date that is the later of 3 years after the date of such reverification
or 1 year after the date the individual’s employment is terminated.

“(3) PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A MANDATORY BASIS FOR CERTAIN EMPLOYEES.—

“(i) IN GENERAL.—Not later than the date that is 6 months after the date of the enactment of the Legal Workforce Act, an employer shall make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of any individual described in clause (ii) employed by the employer whose employment eligibility has not been verified under the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

“(ii) INDIVIDUALS DESCRIBED.—An individual described in this clause is any of the following:

“(I) An employee of any unit of a Federal, State, or local government.
“(II) An employee who requires a Federal security clearance working in a Federal, State or local government building, a military base, a nuclear energy site, a weapons site, or an airport or other facility that requires workers to carry a Transportation Worker Identification Credential (TWIC).

“(III) An employee assigned to perform work in the United States under a Federal contract, except that this subclause—

“(aa) is not applicable to individuals who have a clearance under Homeland Security Presidential Directive 12 (HSPD 12 clearance), are administrative or overhead personnel, or are working solely on contracts that provide Commercial Off The Shelf goods or services as set forth by the Federal Acquisition Regulatory Council, unless they are
subject to verification under sub-
clause (II); and

“(bb) only applies to con-
tracts over the simple acquisition
threshold as defined in section
2.101 of title 48, Code of Federal
Regulations.

“(B) On a mandatory basis for mul-
tiple users of same social security ac-
count number.—In the case of an employer
who is required by this subsection to use the
verification system described in subsection (d),
or has elected voluntarily to use such system,
the employer shall make inquiries to the system
in accordance with the following:

“(i) The Commissioner of Social Secu-

rity shall notify annually employees (at the
employee address listed on the Wage and
Tax Statement) who submit a social secu-

rity account number to which more than
one employer reports income and for which
there is a pattern of unusual multiple use.
The notification letter shall identify the
number of employers to which income is
being reported as well as sufficient infor-
mation notifying the employee of the proc-
ness to contact the Social Security Adminis-
tration Fraud Hotline if the employee be-
lieves the employee’s identity may have
been stolen. The notice shall not share in-
formation protected as private, in order to
avoid any recipient of the notice from
being in the position to further commit or
begin committing identity theft.

“(ii) If the person to whom the social
security account number was issued by the
Social Security Administration has been
identified and confirmed by the Commiss-
ioner, and indicates that the social secu-
ritv account number was used without
their knowledge, the Secretary and the
Commissioner shall lock the social security
account number for employment eligibility
verification purposes and shall notify the
employers of the individuals who wrong-
fully submitted the social security account
number that the employee may not be
work eligible.

“(iii) Each employer receiving such
notification of an incorrect social security
account number under clause (ii) shall use
the verification system described in sub-
section (d) to check the work eligibility sta-
tus of the applicable employee within 10
business days of receipt of the notification.

“(C) ON A VOLUNTARY BASIS.—Subject to
paragraph (2), and subparagraphs (A) through
(C) of this paragraph, beginning on the date
that is 30 days after the date of the enactment
of the Legal Workforce Act, an employer may
make an inquiry, as provided in subsection (d),
using the verification system to seek verification
of the identity and employment eligibility of any
individual employed by the employer. If an em-
ployer chooses voluntarily to seek verification of
any individual employed by the employer, the
employer shall seek verification of all individ-
uals employed at the same geographic location
or, at the option of the employer, all individuals
employed within the same job category, as the
employee with respect to whom the employer
seeks voluntarily to use the verification system.

An employer’s decision about whether or not
voluntarily to seek verification of its current
workforce under this subparagraph may not be
considered by any government agency in any proceeding, investigation, or review provided for in this Act.

“(D) VERIFICATION.—Paragraph (1)(C)(ii) shall apply to verifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the verification commences and ending on the date that is the later of 3 years after the date of such verification or 1 year after the date the individual’s employment is terminated.

“(4) EARLY COMPLIANCE.—

“(A) FORMER E–VERIFY REQUIRED USERS, INCLUDING FEDERAL CONTRACTORS.—Notwith-
standing the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary is authorized to commence requiring employers required to participate in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including employers required to participate in such program by reason of Federal acquisition laws (and regulations promulgated under those laws, including the Federal Acquisition Regulation), to commence compliance with the requirements of this subsection (and any additional requirements of such Federal acquisition laws and regulation) in lieu of any requirement to participate in the E–Verify Program.

“(B) Former E–Verify Voluntary Users and Others Desiring Early Compliance.—Notwithstanding the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary shall provide for the voluntary compliance with the requirements of this subsection by employers voluntarily electing to participate
in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) before such date, as well as by other employers seeking voluntary early compliance.

“(5) Copying of documentation permitted.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

“(6) Limitation on use of forms.—A form designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

“(7) Good faith compliance.—

“(A) In general.—Except as otherwise provided in this subsection, a person or entity is considered to have complied with a requirement of this subsection notwithstanding a tech-
nical or procedural failure to meet such require-
ment if there was a good faith attempt to com-
ply with the requirement.

“(B) Exception if failure to correct
after notice.—Subparagraph (A) shall not
apply if—

“(i) the failure is not de minimus;

“(ii) the Secretary of Homeland Secu-
rity has explained to the person or entity
the basis for the failure and why it is not
de minimus;

“(iii) the person or entity has been
provided a period of not less than 30 cal-
endar days (beginning after the date of the
explanation) within which to correct the
failure; and

“(iv) the person or entity has not cor-
rected the failure voluntarily within such
period.

“(C) Exception for pattern or prac-
tice violators.—Subparagraph (A) shall not
apply to a person or entity that has or is engag-
ing in a pattern or practice of violations of sub-
section (a)(1)(A) or (a)(2).
“(8) SINGLE EXTENSION OF DEADLINES UPON CERTIFICATION.—In a case in which the Secretary of Homeland Security has certified to the Congress that the employment eligibility verification system required under subsection (d) will not be fully operational by the date that is 6 months after the date of the enactment of the Legal Workforce Act, each deadline established under this section for an employer to make an inquiry using such system shall be extended by 6 months. No other extension of such a deadline shall be made except as authorized under paragraph (1)(D)(iv).”.

(b) DATE OF HIRE.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following:

“(4) DEFINITION OF DATE OF HIRE.—As used in this section, the term ‘date of hire’ means the date of actual commencement of employment for wages or other remuneration, unless otherwise specified.”.

SEC. 203. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

Section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) is amended to read as follows:
“(d) Employment Eligibility Verification System.—

“(1) In general.—Patterned on the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), the Secretary of Homeland Security shall establish and administer a verification system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

“(A) responds to inquiries made by persons at any time through a toll-free telephone line and other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(B) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

“(2) Initial response.—The verification system shall provide confirmation or a tentative non-confirmation of an individual’s identity and employment eligibility within 3 working days of the initial
inquiry. If providing confirmation or tentative non-
confirmation, the verification system shall provide an
appropriate code indicating such confirmation or
such nonconfirmation.

“(3) SECONDARY CONFIRMATION PROCESS IN
CASE OF TENTATIVE NONCONFIRMATION.—In cases
of tentative nonefirmafion, the Secretary shall
specify, in consultation with the Commissioner of
Social Security, an available secondary verification
process to confirm the validity of information pro-
vided and to provide a final confirmation or noncon-
firmation not later than 10 working days after the
date on which the notice of the tentative noncon-
firmation is received by the employee. The Secretary,
in consultation with the Commissioner, may extend
this deadline once on a case-by-case basis for a pe-
riod of 10 working days, and if the time is extended,
shall document such extension within the verification
system. The Secretary, in consultation with the
Commissioner, shall notify the employee and em-
ployer of such extension. The Secretary, in consulta-
tion with the Commissioner, shall create a standard
process of such extension and notification and shall
make a description of such process available to the
public. When final confirmation or nonefirmafion
is provided, the verification system shall provide an appropriate code indicating such confirmation or nonconfirmation.

“(4) DESIGN AND OPERATION OF SYSTEM.— The verification system shall be designed and operated—

“(A) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

“(B) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

“(C) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

“(D) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

“(i) the selective or unauthorized use of the system to verify eligibility; or
“(ii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants;

“(E) to maximize the prevention of identity theft use in the system; and

“(F) to limit the subjects of verification to the following individuals:

“(i) Individuals hired, referred, or recruited, in accordance with paragraph (1) or (4) of subsection (b).

“(ii) Employees and prospective employees, in accordance with paragraph (1), (2), (3), or (4) of subsection (b).

“(iii) Individuals seeking to confirm their own employment eligibility on a voluntary basis.

“(5) Responsibilities of Commissioner of Social Security.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the
time periods specified under paragraphs (2) and (3), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation) under the verification system except as provided for in this section or section 205(c)(2)(I) of the Social Security Act.

“(6) Responsibilities of Secretary of Homeland Security.—

“(A) In general.—As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and alien identification or
authorization number (or any other information as determined relevant by the Secretary) which are provided in an inquiry against such information maintained or accessed by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, whether the alien is authorized to be employed in the United States, or to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States.

“(B) AGRICULTURAL LABORERS.—The Secretary of Homeland Security shall ensure that, by the date that is 24 months after the date of the enactment of the Legal Workforce Act, whenever the verification system provides confirmation of an individual’s employment eligibility, it indicates whether the individual is eligible to be employed in all occupations or only to perform agricultural labor or services as a nonimmigrant who has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(C).
“(7) Updating Information.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

“(8) Limitation on Use of the Verification System and Any Related Systems.—

“(A) No National Identification Card.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(B) Critical Infrastructure.—The Secretary may authorize or direct any person or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195e(e))) to use the verification system to the
extent the Secretary determines that such use
will assist in the protection of the critical infra-
structure.

“(9) Remedies.—If an individual alleges that
the individual would not have been dismissed from
a job but for an error of the verification mechanism,
the individual may seek compensation only through
the mechanism of the Federal Tort Claims Act, and
injunctive relief to correct such error. No class ac-
tion may be brought under this paragraph.”.

SEC. 204. RECRUITMENT, REFERRAL, AND CONTINUATION
OF EMPLOYMENT.

(a) Additional Changes to Rules for Recruitment,
Referral, and Continuation of Employment.—Section 274A(a) of the Immigration and Nation-
ality Act (8 U.S.C. 1324a(a)) is amended—
(1) in paragraph (1)(A), by striking “for a fee”;
(2) in paragraph (1), by amending subpara-
graph (B) to read as follows:
“(B) to hire, continue to employ, or to re-
cruit or refer for employment in the United
States an individual without complying with the
requirements of subsection (b).”; and
(3) in paragraph (2), by striking “after hiring
an alien for employment in accordance with para-
graph (1),” and inserting “after complying with paragraph (1),”.

(b) Definition.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)), as amended by this title, is further amended by adding at the end the following:

“(5) Definition of recruit or refer.—As used in this section, the term ‘refer’ means the act of sending or directing a person who is in the United States or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or non-union individuals who pay union membership dues are included in the definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party. As used in this section, the term ‘recruit’ means the act of soliciting a person who is in the United States, directly or indirectly,
and referring the person to another with the intent of obtaining employment for that person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or nonunion individuals who pay union membership dues are included in this definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit that recruit, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act, except that the amendments made by subsection (a) shall take effect 6 months after the date of the enactment of this Act insofar as such amendments relate to continuation of employment.

SEC. 205. GOOD FAITH DEFENSE.

Section 274A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

“(3) GOOD FAITH DEFENSE.—
“(A) DEFENSE.—An employer (or person or entity that hires, employs, recruits, or refers (as defined in subsection (h)(5)), or is otherwise obligated to comply with this section) who establishes that it has complied in good faith with the requirements of subsection (b)—

“(i) shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good-faith reliance on information provided through the system established under subsection (d); and

“(ii) has established compliance with its obligations under subparagraphs (A) and (B) of paragraph (1) and subsection (b) absent a showing by the Secretary of Homeland Security, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

“(B) MITIGATION ELEMENT.—For purposes of subparagraph (A)(i), if an employer
proves by a preponderance of the evidence that
the employer uses a reasonable, secure, and es-

tablished technology to authenticate the identity
of the new employee, that fact shall be taken
into account for purposes of determining good
faith use of the system established under sub-
section (d).

“(C) Failure to seek and obtain
verification.—Subject to the effective dates
and other deadlines applicable under subsection
(b), in the case of a person or entity in the
United States that hires, or continues to em-
ploy, an individual, or recruits or refers an indi-
vidual for employment, the following require-
ments apply:

“(i) Failure to seek
verification.—

“(I) In general.—If the person
or entity has not made an inquiry,
under the mechanism established
under subsection (d) and in accord-
ance with the timeframes established
under subsection (b), seeking
verification of the identity and work
eligibility of the individual, the de-
fense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

“(II) **SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.**—If such a person or entity in good faith attempts to make an inquiry in order to qualify for the defense under subparagraph (A) and the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

“(ii) **FAILURE TO OBTAIN VERIFICATION.**—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity and work eligibility under such mechanism within the time period specified under subsection
(d)(2) after the time the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”

SEC. 206. PREEMPTION AND STATES’ RIGHTS.

Section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended to read as follows:

“(2) PREEMPTION.—

“(A) SINGLE, NATIONAL POLICY.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, insofar as they may now or hereafter relate to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens.

“(B) STATE ENFORCEMENT OF FEDERAL LAW.—

“(i) BUSINESS LICENSING.—A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the verification sys-
tem described in subsection (d) to verify employment eligibility when and as re-
quired under subsection (b).

“(ii) General rules.—A State, at its own cost, may enforce the provisions of this section, but only insofar as such State follows the Federal regulations imple-
menting this section, applies the Federal penalty structure set out in this section, and complies with all Federal rules and guidance concerning implementation of this section. Such State may collect any fines assessed under this section. An employer may not be subject to enforcement, includ-
ing audit and investigation, by both a Fed-
eral agency and a State for the same viola-
tion under this section. Whichever entity, the Federal agency or the State, is first to initiate the enforcement action, has the right of first refusal to proceed with the enforcement action. The Secretary must provide copies of all guidance, training, and field instructions provided to Federal officials implementing the provisions of this section to each State.”.
SEC. 207. REPEAL.

(a) IN GENERAL.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is repealed.

(b) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is deemed to refer to the employment eligibility confirmation system established under section 274A(d) of the Immigration and Nationality Act, as amended by this title.

(c) EFFECTIVE DATE.—This section shall take effect on the date that is 24 months after the date of the enactment of this Act.

(d) CLERICAL AMENDMENT.—The table of sections, in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

SEC. 208. PENALTIES.

Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(1)—
(A) by striking “Attorney General” each place such term appears and inserting “Sec-
retary of Homeland Security”; and

(B) in subparagraph (D), by striking “Service” and inserting “Department of Home-
land Security”;

(2) in subsection (e)(4)—

(A) in subparagraph (A), in the matter be-
fore clause (i), by inserting “, subject to para-
graph (10),” after “in an amount”;

(B) in subparagraph (A)(i), by striking “not less than $250 and not more than $2,000” and inserting “not less than $2,500 and not more than $5,000”;

(C) in subparagraph (A)(ii), by striking “not less than $2,000 and not more than $5,000” and inserting “not less than $5,000 and not more than $10,000”;

(D) in subparagraph (A)(iii), by striking “not less than $3,000 and not more than $10,000” and inserting “not less than $10,000 and not more than $25,000”; and

(E) by moving the margin of the continu-
ation text following subparagraph (B) two ems
to the left and by amending subparagraph (B) to read as follows:

“(B) may require the person or entity to take such other remedial action as is appropriate.”;

(3) in subsection (e)(5)—

(A) in the paragraph heading, strike “PAPERWORK”;

(B) by inserting “, subject to paragraphs (10) through (12),” after “in an amount”;

(C) by striking “$100” and inserting “$1,000”;

(D) by striking “$1,000” and inserting “$25,000”; and

(E) by adding at the end the following:

“Failure by a person or entity to utilize the employment eligibility verification system as required by law, or providing information to the system that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A).”;

(4) by adding at the end of subsection (e) the following:

“(10) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—In the case of imposition of a
civil penalty under paragraph (4)(A) with respect to
a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment or recruitment or referral by person or entity and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed may be waived or reduced if the violator establishes that the violator acted in good faith.

“(11) Mitigation Element.—For purposes of paragraph (4), the size of the business shall be taken into account when assessing the level of civil money penalty.

“(12) Authority to Debar Employers for Certain Violations.—

“(A) In General.—If a person or entity is determined by the Secretary of Homeland Security to be a repeat violator of paragraph (1)(A) or (2) of subsection (a), or is convicted of a crime under this section, such person or entity may be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the debarment standards and pursuant to the debar-
ment procedures set forth in the Federal Acquisi-
tion Regulation.

“(B) DOES NOT HAVE CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such an person or entity does not hold a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall refer the matter to the Administrator of General Services to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(C) HAS CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Govern-
ment’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or Attorney General may refer the matter to any appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(D) Review.—Any decision to debar a person or entity in accordance with this paragraph shall be reviewable pursuant to part 9.4 of the Federal Acquisition Regulation.

“(13) Office for State and Local Government Complaints.—The Secretary of Homeland Security shall establish an office—

“(A) to which State and local government agencies may submit information indicating potential violations of subsection (a), (b), or (g)(1) that were generated in the normal course of law enforcement or the normal course of other official activities in the State or locality;

“(B) that is required to indicate to the complaining State or local agency within five business days of the filing of such a complaint
by identifying whether the Secretary will fur-
ther investigate the information provided;

“(C) that is required to investigate those
complaints filed by State or local government
agencies that, on their face, have a substantial
probability of validity;

“(D) that is required to notify the com-
plaining State or local agency of the results of
any such investigation conducted; and

“(E) that is required to report to the Con-
gress annually the number of complaints re-
ceived under this paragraph, the States and lo-
calities that filed such complaints, and the reso-
lution of the complaints investigated by the Sec-
retary.”; and

(5) by amending paragraph (1) of subsection (f)
to read as follows:

“(1) CRIMINAL PENALTY.—Any person or enti-
ty which engages in a pattern or practice of viola-
tions of subsection (a) (1) or (2) shall be fined not
more than $5,000 for each unauthorized alien with
respect to which such a violation occurs, imprisoned
for not more than 18 months, or both, notwith-
standing the provisions of any other Federal law re-
lating to fine levels.”.
SEC. 209. FRAUD AND MISUSE OF DOCUMENTS.

Section 1546(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “identification document,” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”;

and

(2) in paragraph (2), by striking “identification document” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”.

SEC. 210. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2019, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by this title, including (but not limited to)—
(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 274A(d), but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the employment eligibility verification system established under such section;

(2) provide such funds annually in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Inspectors General of the Social Security Administration and the Department of Homeland Security.

(b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—In any case in which the agreement required under subsection (a) for any
fiscal year beginning on or after October 1, 2019, has not been reached as of October 1 of such fiscal year, the latest agreement between the Commissioner and the Secretary of Homeland Security providing for funding to cover the costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under subsection (a) is subsequently reached, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the employment eligibility verification system. In any case in which an interim agreement applies for any fiscal year under this subsection, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Appropriations of the Senate of the failure to reach the agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the
Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

SEC. 211. FRAUD PREVENTION.

(a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which social security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by this title, or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.

(b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which
shall provide a reliable, secure method by which victims
of identity fraud and other individuals may suspend or
limit the use of their social security account number or
other identifying information for purposes of the employ-
ment eligibility verification system established under sec-
tion 274A(d) of the Immigration and Nationality Act (8
U.S.C. 1324a(d)), as amended by this title. The Secretary
may implement the program on a limited pilot program
basis before making it fully available to all individuals.

(c) ALLOWING PARENTS TO PREVENT THEFT OF
THEIR CHILD’S IDENTITY.—The Secretary of Homeland
Security, in consultation with the Commissioner of Social
Security, shall establish a program which shall provide a
reliable, secure method by which parents or legal guard-
ians may suspend or limit the use of the social security
account number or other identifying information of a
minor under their care for the purposes of the employment
eligibility verification system established under 274A(d) of
the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
as amended by this title. The Secretary may implement
the program on a limited pilot program basis before mak-
ing it fully available to all individuals.
1 **SEC. 212. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION PHOTO TOOL.**

2 An employer or entity who uses the photo matching tool, if required by the Secretary as part of the verification system, shall match, either visually, or using facial recognition or other verification technology approved or required by the Secretary, the photo matching tool photograph to the photograph on the identity or employment eligibility document provided by the individual or to the face of the employee submitting the document for employment verification purposes, or both, as determined by the Secretary.

3 **SEC. 213. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROGRAMS.**

4 Not later than 24 months after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish by regulation not less than 2 Identity Authentication Employment Eligibility Verification pilot programs, each using a separate and distinct technology (the “Authentication Pilots”). The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees which shall be available to any employer that elects to participate.
in either of the Authentication Pilots. Any participating employer may cancel the employer’s participation in the Authentication Pilot after one year after electing to participate without prejudice to future participation. The Secretary shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Secretary’s findings on the Authentication Pilots, including the authentication technologies chosen, not later than 12 months after commencement of the Authentication Pilots.

SEC. 214. INSPECTOR GENERAL AUDITS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Social Security Administration shall complete audits of the following categories in order to uncover evidence of individuals who are not authorized to work in the United States:

(1) Workers who dispute wages reported on their social security account number when they believe someone else has used such number and name to report wages.

(2) Children’s social security account numbers used for work purposes.
(3) Employers whose workers present significant numbers of mismatched social security account numbers or names for wage reporting.

(b) SUBMISSION.—The Inspector General of the Social Security Administration shall submit the audits completed under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate for review of the evidence of individuals who are not authorized to work in the United States. The Chairmen of those Committees shall then determine information to be shared with the Secretary of Homeland Security so that such Secretary can investigate the unauthorized employment demonstrated by such evidence.