

116TH CONGRESS
1ST SESSION

H. R. 5038

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

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 12, 2019

Ms. LOFGREN (for herself, Mr. NEWHOUSE, Mr. PETERSON, Mr. SIMPSON, Mr. NADLER, Mr. DIAZ-BALART, Ms. SÁNCHEZ, Mr. LAMALFA, Mr. PANNETTA, Mr. AMODEI, Mr. COX of California, Mr. BAIRD, Mr. COSTA, Mrs. BROOKS of Indiana, Mr. HARDER of California, Mr. COLE, Mr. BRINDISI, Mr. CURTIS, Ms. JUDY CHU of California, Mr. RODNEY DAVIS of Illinois, Ms. FUDGE, Mr. GIBBS, Mr. LAWSON of Florida, Mrs. RODGERS of Washington, Ms. SLOTKIN, Mr. MITCHELL, Mr. CORREA, Mr. NUNES, Ms. TORRES SMALL of New Mexico, Mr. REED, Ms. GARCIA of Texas, Ms. STEFANIK, Mr. DAVID SCOTT of Georgia, Mr. STIVERS, Mr. CARBAJAL, Mr. UPTON, Mr. SCHRADER, Mr. YOUNG, Ms. CRAIG, Mr. WALDEN, Mr. CÁRDENAS, Mr. FITZPATRICK, Ms. SPANBERGER, Mr. VELA, Mrs. TORRES of California, Ms. SCHRIER, Mr. SMUCKER, Mr. PETERS, Mr. TIPTON, and Mr. CROW) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Education and Labor, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Farm Workforce Modernization Act of 2019”.

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

Sec. 1. Short title; table of contents.

TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Temporary Status for Certified Agricultural Workers

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

Subtitle B—Optional Earned Residence for Long-Term Workers

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

Subtitle C—General Provisions

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

TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE
 FUTURE

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

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

Subtitle B—Preservation and Construction of Farmworker Housing

- Sec. 220. Short title.
- Sec. 221. Permanent establishment of housing preservation and revitalization program.
- Sec. 222. Eligibility for rural housing vouchers.
- Sec. 223. Amount of voucher assistance.
- Sec. 224. Rental assistance contract authority.
- Sec. 225. Funding for multifamily technical improvements.
- Sec. 226. Plan for preserving affordability of rental projects.
- Sec. 227. Covered housing programs.
- Sec. 228. New farmworker housing.
- Sec. 229. Loan and grant limitations.
- Sec. 230. Operating assistance subsidies.
- Sec. 231. Eligibility of certified workers.

Subtitle C—Foreign Labor Recruiter Accountability

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

TITLE III—ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

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

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

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

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

9 (1) PRINCIPAL ALIENS.—The Secretary may
10 grant certified agricultural worker status to an alien
11 who submits a completed application, including the
12 required processing fees, before the end of the period
13 set forth in subsection (c) and who—

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

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

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

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

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

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

13 (b) GROUNDS FOR INELIGIBILITY.—

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

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

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

(9)(C) and (10)(B) of such section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of introduction of this Act; and

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

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

(A) any felony offense;

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

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

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

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

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

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

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

(c) APPLICATION.—

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

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

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

11 (3) SUBMISSION OF APPLICATIONS.—

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

22 (B) FARM SERVICE AGENCY OFFICES.—

23 The Secretary, in consultation with the Sec-
24 retary of Agriculture, shall establish a process
25 for the filing of applications under this section

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

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

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

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

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

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

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

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

24 (d) ADJUDICATION AND DECISION.—

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

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

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

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

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

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

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

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

12 (a) IN GENERAL.—

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

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

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

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

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

3 (B) shall contain a digitized photograph;

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

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

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

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

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

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

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

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

10 (b) ABILITY TO CHANGE STATUS.—

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

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

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

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

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

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

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

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

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

1 (d) REVOCATION OF STATUS.—

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

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

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

17 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) CIVIL PENALTIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) DEPENDENT ALIENS.—

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

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

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

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

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

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

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

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

21 (c) EFFECT OF PENDING APPLICATION.—During the
22 period beginning on the date on which an alien applies
23 for adjustment of status under this subtitle, and ending
24 on the date on which the Secretary makes a final adminis-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **Subtitle C—General Provisions**

20 **SEC. 121. DEFINITIONS.**

21 In this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (b) FEES.—

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

25 (2) FEE WAIVER; INSTALLMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (3) tax records or other government records;

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

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

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

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

24 (A) pregnancy, illness, disease, disabling
25 injury, or physical limitation of the alien;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3) for national security purposes; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 135. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary, such sums as may be necessary to implement this title, including any amounts needed for costs associated with the initiation of such implementation, for each of fiscal years 2020 through 2022.

TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

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

SEC. 201. COMPREHENSIVE AND STREAMLINED ELECTRONIC H-2A PLATFORM.

(a) STREAMLINED H-2A PLATFORM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(2) NONDISPLACEMENT OF UNITED STATES
25 WORKERS.—The employer has not and will not dis-

1 place United States workers employed by the em-
2 ployer during the period of employment of the H-
3 2A worker and during the 60-day period imme-
4 diately preceding such period of employment in the
5 job for which the employer seeks approval to employ
6 the H-2A worker.

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

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

21 “(5) WAGES, BENEFITS, AND WORKING CONDI-
22 TIONS.—The employer shall offer and provide, at a
23 minimum, the wages, benefits, and working condi-
24 tions required by subsections (d) through (g) to the

1 H-2A worker and all United States workers who are
2 similarly employed. The employer—

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

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

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

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

22 “(c) RECRUITING REQUIREMENTS.—

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

1 “(A) JOB ORDER.—As provided in sub-
2 section (h)(1), the employer shall complete a
3 job order for posting on the electronic job reg-
4 istry maintained by the Secretary of Labor and
5 for distribution by the appropriate State work-
6 force agency. Such posting shall remain on the
7 job registry as an active job order through the
8 period described in paragraph (2)(B).

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

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

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

23 “(C) POSITIVE RECRUITMENT.—During
24 the period of recruitment, the employer shall
25 complete any other positive recruitment steps

1 within a multistate region of traditional or ex-
2 pected labor supply where the Secretary of
3 Labor finds that there are a significant number
4 of qualified United States workers who, if re-
5 cruited, would be willing to make themselves
6 available for work at the time and place needed.

7 “(2) PERIOD OF RECRUITMENT.—

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

19 “(B) REQUIREMENT TO HIRE UNITED
20 STATES WORKERS.—

21 “(i) IN GENERAL.—Notwithstanding
22 the limitations of subparagraph (A), the
23 employer will provide employment to any
24 qualified United States worker who applies

1 to the employer for any job opportunity in-
2 cluded in the petition until the later of—

3 “(I) the date that is 30 days
4 after the date on which work begins;
5 or

6 “(II) the date on which—

7 “(aa) 33 percent of the work
8 contract for the job opportunity
9 has elapsed; or

10 “(bb) if the employer is a
11 farm labor contractor, 50 percent
12 of the work contract for the job
13 opportunity has elapsed.

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

23 “(iii) EXCEPTION.—Notwithstanding
24 clause (i), the employer may offer a job op-
25 portunity to an H-2A worker instead of an

1 alien granted certified agricultural worker
2 status under title I of the Farm Workforce
3 Modernization Act of 2019 if the H-2A
4 worker was employed by the employer in
5 each of 3 years during the most recent 4-
6 year period.

7 “(3) RECRUITMENT REPORT.—

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

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

24 “(d) WAGE REQUIREMENTS.—

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

5 “(A) the agreed-upon collective bargaining
6 wage;

7 “(B) the adverse effect wage rate (or any
8 successor wage established under paragraph
9 (7));

10 “(C) the prevailing wage (hourly wage or
11 piece rate); or

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

13 “(2) ADVERSE EFFECT WAGE RATE DETER-
14 MINATIONS.—

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

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

1 “(ii) If a wage described in clause (i)
 2 is not reported, the national annual aver-
 3 age hourly wage for the occupational clas-
 4 sification as reported by the Secretary of
 5 Agriculture based on a wage survey con-
 6 ducted by such Secretary.

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

13 “(iv) If a wage described in clause (i),
 14 (ii), or (iii) is not reported, the national av-
 15 erage hourly wage for the occupational
 16 classification as reported by the Secretary
 17 of Labor.

18 “(B) LIMITATIONS ON WAGE FLUCTUA-
 19 TIONS.—

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

1 in the applicable State in calendar year
2 2019.

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

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

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

22 “(III) if the application of clause
23 (II) results in a wage that is lower
24 than 110 percent of the applicable
25 Federal or State minimum wage, be

1 more than 4.25 percent higher than
2 the wage in effect for H-2A workers
3 in the applicable State and occupa-
4 tional classification in the immediately
5 preceding calendar year.

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

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

portunity shall be based on the highest such wage rates for all applicable occupational classifications.

“(4) PUBLICATION; WAGES IN EFFECT.—

“(A) PUBLICATION.—Prior to the start of each calendar year, the Secretary of Labor shall publish the applicable adverse effect wage rate (or successor wage rate, if any), and prevailing wage if available, for each State and occupational classification through notice in the Federal Register.

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

“(C) EXCEPTION FOR YEAR-ROUND JOBS.—If the Secretary of Labor publishes an updated adverse effect wage rate or prevailing wage for a State and occupational classification concerning a petition described in subsection (i), and the updated wage is higher than the wage rate guaranteed in the work contract, the

1 employer shall pay the updated wage not later
2 than 14 days after publication of the updated
3 wage in the Federal Register.

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

16 “(6) GUARANTEE OF EMPLOYMENT.—

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

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

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

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

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

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

22 “(7) WAGE STANDARDS AFTER 2029.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(2) PREVAILING PRACTICE.—The employer
17 shall provide family housing to workers with families
18 who request it when it is the prevailing practice in
19 the area and occupation of intended employment to
20 provide family housing.

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

1 “(4) TIMING OF INSPECTION.—

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

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

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

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

20 “(f) TRANSPORTATION REQUIREMENTS.—

21 “(1) TRAVEL TO PLACE OF EMPLOYMENT.—A
22 worker who completes 50 percent of the period of
23 employment for the job opportunity for which the
24 worker was hired shall be reimbursed by the em-
25 ployer for the cost of the worker’s transportation

1 and subsistence from the place from which the work-
2 er came to work for the employer (or place of last
3 employment, if the worker traveled from such place)
4 to the place of employment.

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

6 For a worker who completes the period of employ-
7 ment for the job opportunity or who is terminated
8 without cause, the employer shall provide or pay for
9 the worker’s transportation and subsistence from the
10 place of employment to the place from which the
11 worker, disregarding intervening employment, came
12 to work for the employer, or to the place of next em-
13 ployment, if the worker has contracted with a subse-
14 quent employer who has not agreed to provide or
15 pay for the worker’s transportation and subsistence
16 to such subsequent employer’s place of employment.

17 “(3) LIMITATION.—

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

23 “(i) the actual cost to the worker of
24 the transportation and subsistence in-
25 volved; or

1 “(ii) the most economical and reason-
2 able common carrier transportation
3 charges and subsistence costs for the dis-
4 tance involved.

5 “(B) DISTANCE TRAVELED.—If the dis-
6 tance traveled from the worker’s home to the
7 relevant consulate is 50 miles or less, reim-
8 bursement for transportation and subsistence
9 may be based on transportation from the con-
10 sulate.

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

17 “(1) be in writing in English and, to the extent
18 necessary, any language common to a significant
19 portion of the workers if they are not fluent in
20 English; and

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

24 “(h) H-2A PETITION PROCEDURES.—

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

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

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

22 “(C) PETITIONS INVOLVING STAGGERED
23 ENTRY.—

24 “(i) IN GENERAL.—Except as pro-
25 vided in clause (ii), an employer may file

1 a petition involving employment in the
2 same occupational classification and same
3 area of intended employment with multiple
4 start dates if—

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

8 “(II) the multiple start dates
9 share a common end date that is no
10 longer than 1 year after the first start
11 date;

12 “(III) no more than 120 days
13 separate the first start date and the
14 final start date listed in the petition;
15 and

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

20 “(ii) FARM LABOR CONTRACTORS.—A
21 farm labor contractor may not file a peti-
22 tion described in clause (i) unless the farm
23 labor contractor—

24 “(I) is filing as a joint employer
25 with its contractees, or is operating in

1 a State in which joint employment
2 and liability between the farm labor
3 contractor and its contractees is oth-
4 erwise established; or

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

8 “(2) LABOR CERTIFICATION.—

9 “(A) REVIEW OF JOB ORDER.—

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

21 “(ii) STANDARD.—The job order must
22 include all material terms and conditions
23 of employment, including the requirements
24 of this section, and must be otherwise con-
25 sistent with the minimum standards pro-

1 vided under Federal, State, or local law. In
2 considering the question of whether a spe-
3 cific qualification is appropriate in a job
4 order, the Secretary shall apply the normal
5 and accepted qualification required by non-
6 H-2A employers in the same or com-
7 parable occupations and crops.

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

13 “(B) APPROVAL OF JOB ORDER.—

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

22 “(ii) REFERRAL OF UNITED STATES
23 WORKERS.—The Department of Labor and
24 State workforce agency shall keep the job
25 order active until the end of the period de-

1 scribed in subsection (c)(2) and shall refer
2 to the employer each United States worker
3 who applies for the job opportunity.

4 “(C) REVIEW OF INFORMATION FOR DEFICI-
5 CIENCIES.—Within 7 business days of the ap-
6 proval of the job order, the Secretary shall re-
7 view the information necessary to make a labor
8 certification and notify the employer through
9 the electronic platform if such information does
10 not meet the standards for approval. Such noti-
11 fication shall include a description of any defi-
12 ciency, and the employer shall be provided 5
13 business days to cure such deficiency.

14 “(D) CERTIFICATION AND AUTHORIZATION
15 OF WORKERS.—Not later than 30 days before
16 the date that labor or services are first required
17 to be performed, the Secretary of Labor shall
18 issue the requested labor certification if—

19 “(i) the employer has complied with
20 the requirements for certification set forth
21 in this section; and

22 “(ii) the Secretary of Labor deter-
23 mines that there are not sufficient quali-
24 fied, willing, and available United States
25 workers to perform the agricultural labor

1 or services as required by the terms and
2 conditions of the job offer.

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

20 “(3) PETITION DECISION.—

21 “(A) IN GENERAL.—Not later than 7 busi-
22 ness days after the Secretary of Labor issues
23 the certification, the Secretary of Homeland Se-
24 curity shall issue a decision on the petition and

1 shall transmit a notice of action to the peti-
2 tioner via the electronic platform.

3 “(B) APPROVAL.—Upon approval of a pe-
4 tition under this section, the Secretary of
5 Homeland Security shall ensure that such ap-
6 proval is noted in the electronic platform and is
7 available to the Secretary of State and U.S.
8 Customs and Border Protection, as necessary,
9 to facilitate visa issuance and admission.

10 “(C) PARTIAL APPROVAL.—A petition for
11 multiple named beneficiaries may be partially
12 approved with respect to eligible beneficiaries
13 notwithstanding the ineligibility, or potential in-
14 eligibility, of one or more other beneficiaries.

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

23 “(4) ROLES OF AGRICULTURAL ASSOCIA-
24 TIONS.—

1 “(A) MEMBER’S VIOLATION DOES NOT
2 NECESSARILY DISQUALIFY ASSOCIATION OR
3 OTHER MEMBERS.—If an individual producer
4 member of a joint employer association is deter-
5 mined to have committed an act that results in
6 the denial of a petition with respect to the
7 member, the denial shall apply only to that
8 member of the association unless the Secretary
9 of Labor determines that the association or
10 other member participated in, had knowledge
11 of, or reason to know of, the violation.

12 “(B) ASSOCIATION’S VIOLATION DOES NOT
13 NECESSARILY DISQUALIFY MEMBERS.—

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

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

17 “(5) SPECIAL PROCEDURES.—The Secretary of
18 Labor, in consultation with the Secretary of Agri-
19 culture and Secretary of Homeland Security, may by
20 regulation establish alternate procedures that rea-
21 sonably modify program requirements under this
22 section, when the Secretary determines that such
23 modifications are required due to the unique nature
24 of the work involved.

25 “(6) CONSTRUCTION OCCUPATIONS.—

1 “(A) IN GENERAL.—Unless the employer
2 is an agricultural producer, an employer may
3 not file a petition under this section on behalf
4 of a worker when the majority of the worker’s
5 duties will fall within a construction or extrac-
6 tion occupational classification.

7 “(B) CLARIFICATION.—An H-2A worker
8 may only perform duties that fall within a con-
9 struction or extraction occupational classifica-
10 tion if such duties are agricultural labor or
11 services.

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

13 “(1) IN GENERAL.—Notwithstanding section
14 101(a)(15)(H)(ii)(a), the Secretary of Homeland Se-
15 curity may, consistent with the provisions of this
16 subsection, approve a petition for an H-2A worker
17 to perform agricultural services or labor that is not
18 of a temporary or seasonal nature.

19 “(2) NUMERICAL LIMITATIONS.—

20 “(A) FIRST 3 FISCAL YEARS.—The total
21 number of aliens who may be issued visas or
22 otherwise provided H-2A nonimmigrant status
23 under paragraph (1) for the first fiscal year
24 during which the first visa is issued under such

1 paragraph and for each of the following two fis-
2 cal years may not exceed 20,000.

3 “(B) FISCAL YEARS 4 THROUGH 10.—

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

14 “(ii) ANNUAL ADJUSTMENTS.—For
15 each fiscal year referred to in clause (i),
16 the Secretary of Agriculture and Secretary
17 of Labor, in consultation with the Sec-
18 retary of Homeland Security, shall estab-
19 lish a numerical limitation for purposes of
20 clause (i). Such numerical limitation may
21 not be lower 20,000 and may not vary by
22 more than 12.5 percent compared to the
23 numerical limitation applicable to the im-
24 mediately preceding fiscal year. In estab-
25 lishing such numerical limitation, the Sec-

1 retaries shall consider appropriate factors,
2 including—

3 “(I) a demonstrated shortage of
4 agricultural workers;

5 “(II) the level of unemployment
6 and underemployment of agricultural
7 workers during the preceding fiscal
8 year;

9 “(III) the number of H–2A work-
10 ers sought by employers during the
11 preceding fiscal year to engage in ag-
12 ricultural labor or services not of a
13 temporary or seasonal nature;

14 “(IV) the number of such H–2A
15 workers issued a visa in the most re-
16 cent fiscal year who remain in the
17 United States in compliance with the
18 terms of such visa;

19 “(V) the estimated number of
20 United States workers, including
21 workers who obtained certified agri-
22 cultural worker status under title I of
23 the Farm Workforce Modernization
24 Act of 2019, who worked during the
25 preceding fiscal year in agricultural

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

3 “(VI) the number of such United
4 States workers who accepted jobs of-
5 fered by employers using the online
6 job registry during the preceding fis-
7 cal year;

8 “(VII) any growth or contraction
9 of the United States agricultural in-
10 dustry that has increased or decreased
11 the demand for agricultural workers;
12 and

13 “(VIII) any changes in the real
14 wages paid to agricultural workers in
15 the United States as an indication of
16 a shortage or surplus of agricultural
17 labor.

18 “(C) SUBSEQUENT FISCAL YEARS.—For
19 each fiscal year following the fiscal years re-
20 ferred to in subparagraph (B), the Secretary of
21 Agriculture and Secretary of Labor shall jointly
22 determine, in consultation with the Secretary of
23 Homeland Security, and after considering ap-
24 propriate factors, including those factors listed
25 in subclauses (I) through (VIII) of subpara-

graph (B)(ii), whether to establish a numerical limitation for that fiscal year. If a numerical limitation is so established—

“(i) such numerical limitation may not be lower than highest number of aliens admitted under this subsection in any of the three fiscal years immediately preceding the fiscal year for which the numerical limitation is to be established; and

“(ii) the total number of aliens who may be issued visas or otherwise provided H-2A nonimmigrant status under paragraph (1) for that fiscal year may not exceed such numerical limitation.

“(D) EMERGENCY PROCEDURES.—The Secretary of Agriculture and Secretary of Labor, in consultation with the Secretary of Homeland Security, shall jointly establish by regulation procedures for immediately adjusting a numerical limitation imposed under subparagraph (B) or (C) to account for significant labor shortages.

“(3) ALLOCATION OF VISAS.—

“(A) BI-ANNUAL ALLOCATION.—The annual allocation of visas described in paragraph

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

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

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

“(ii) EXCEPTION.—If, after four months have elapsed in one half of the fiscal year, the Secretary of Homeland Security determines that application of clause (i) will result in visas going unused during that half of the fiscal year, clause (i) shall not apply to visas under this paragraph

1 during the remainder of such calendar
2 half.

3 “(4) ANNUAL ROUND TRIP HOME.—

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

15 “(B) LIMITATION.—The cost of travel
16 under subparagraph (A) need not exceed the
17 lesser of—

18 “(i) the actual cost to the worker of
19 the transportation and subsistence in-
20 volved; or

21 “(ii) the most economical and reason-
22 able common carrier transportation
23 charges and subsistence costs for the dis-
24 tance involved.

1 “(5) FAMILY HOUSING.—An employer seeking
2 to employ an H-2A worker pursuant to this sub-
3 section shall offer family housing to workers with
4 families if such workers are engaged in agricultural
5 employment that is not of a seasonal or temporary
6 nature. The worker may reject such an offer. The
7 employer may not charge the worker for the work-
8 er’s housing, except that if the worker accepts family
9 housing, a prorated rent based on the fair market
10 value for such housing may be charged for the work-
11 er’s family members.

12 “(6) WORKPLACE SAFETY PLAN FOR DAIRY EM-
13 PLOYEES.—

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

24 “(i) be in writing in English and, to
25 the extent necessary, any language com-

mon to a significant portion of the workers
if they are not fluent in English; and

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

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

“(i) require workers (other than the employer’s family members) whose positions require contact with animals to complete animal care training, including animal handling and job-specific animal care;

“(ii) protect against sexual harassment and violence, resolve complaints involving harassment or violence, and protect against retaliation against workers reporting harassment or violence; and

“(iii) contain other provisions necessary for ensuring workplace safety, as determined by the Secretary of Labor, in

1 consultation with the Secretary of Agri-
2 culture.

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

5 “(1) DISQUALIFICATION.—An alien shall be in-
6 eligible for admission to the United States as an H-
7 2A worker pursuant to a petition filed under this
8 section if the alien was admitted to the United
9 States as an H-2A worker within the past 5 years
10 of the date the petition was filed and—

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

17 “(B) otherwise violated a term or condition
18 of admission into the United States as an H-
19 2A worker.

20 “(2) VISA VALIDITY.—A visa issued to an H-
21 2A worker shall be valid for three years and shall
22 allow for multiple entries during the approved period
23 of admission.

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

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

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

16 “(C) EXCEPTIONS.—The Secretary of
17 Homeland Security shall deduct absences from
18 the United States that take place during an H-
19 2A worker’s period of authorized stay from the
20 period that the alien is required to remain out-
21 side the United States under subparagraph (B),
22 if the alien or the alien’s employer requests
23 such a deduction, and provides clear and con-
24 vincing proof that the alien qualifies for such a
25 deduction. Such proof shall consist of evidence

1 including, but not limited to, arrival and depar-
2 ture records, copies of tax returns, and records
3 of employment abroad.

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

18 “(4) CONTINUING H-2A WORKERS.—

19 “(A) SUCCESSIVE EMPLOYMENT.—An H-
20 2A worker is authorized to start new or concur-
21 rent employment upon the filing of a nonfrivo-
22 lous H-2A petition, or as of the requested start
23 date, whichever is later if—

24 “(i) the petition to start new or con-
25 current employment was filed prior to the

1 expiration of the H–2A worker’s period of
2 admission as defined in paragraph (3)(D);
3 and

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

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

14 “(i) is the beneficiary of an approved
15 petition, filed under section 204(a)(1)(E)
16 or (F) for preference status under section
17 203(b)(3)(A)(iii); and

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

21 may apply for, and the Secretary of Homeland
22 Security may grant, an extension of such non-
23 immigrant status until the Secretary of Home-
24 land Security issues a final administrative deci-
25 sion on the alien’s application for adjustment of

1 status or the Secretary of State issues a final
2 decision on the alien's application for an immi-
3 grant visa.

4 “(5) ABANDONMENT OF EMPLOYMENT.—

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

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

22 “(k) REQUIRED DISCLOSURES.—

23 “(1) DISCLOSURE OF WORK CONTRACT.—Not
24 later than the time the H-2A worker applies for a
25 visa, the employer shall provide the worker with a

1 copy of the work contract that includes the disclo-
2 sures and rights under this section (or in the ab-
3 sence of such a contract, a copy of the job order and
4 proof of the certification described in subparagraphs
5 (B) and (D) of subsection (h)(2)). An H-2A worker
6 moving from one H-2A employer to a subsequent
7 H-2A employer shall be provided with a copy of the
8 new employment contract no later than the time an
9 offer of employment is made by the subsequent em-
10 ployer.

11 “(2) HOURS AND EARNINGS STATEMENTS.—
12 The employer shall furnish to H-2A workers, on or
13 before each payday, in one or more written state-
14 ments—

15 “(A) the worker’s total earnings for the
16 pay period;

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

19 “(C) the hours of employment offered to
20 the worker and the hours of employment actu-
21 ally worked;

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

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

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

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

11 “(1) FARM LABOR CONTRACTORS; FOREIGN LABOR
12 RECRUITERS; PROHIBITION ON FEES.—

13 “(1) FARM LABOR CONTRACTORS.—

14 “(A) SURETY BOND.—An employer that is
15 a farm labor contractor who seeks to employ
16 H-2A workers shall post or maintain a surety
17 bond in an amount required under subpara-
18 graph (B). Such bond shall be payable to the
19 Secretary of Labor or pursuant to the resolu-
20 tion of a civil or criminal proceeding, for the
21 payment of wages and benefits, including any
22 assessment of interest, owed to an H-2A work-
23 er or a similarly employed United States work-
24 er, or a United States worker who has been re-
25 jected or displaced in violation of this section.

1 “(B) AMOUNT OF BOND.—The Secretary
2 of Labor shall annually publish in the Federal
3 Register a schedule of required bond amounts
4 that are determined by such Secretary to be
5 sufficient for farm labor contractors to dis-
6 charge financial obligations under this section
7 based on the number of workers the farm labor
8 contractor seeks to employ and the wages such
9 workers are required to be paid.

10 “(C) PREMIUM BOND.—A farm labor con-
11 tractor seeking to file a petition involving more
12 than 1 start date under subsection (h)(1)(C)
13 shall post and maintain a surety bond that is
14 at least 15 percent higher than the applicable
15 bond amount determined by the Secretary
16 under subparagraph (B).

17 “(D) USE OF FUNDS.—Any sums paid to
18 the Secretary under subparagraph (A) that are
19 not paid to a worker because of the inability to
20 do so within a period of 5 years following the
21 date of a violation giving rise to the obligation
22 to pay shall remain available to the Secretary
23 without further appropriation until expended to
24 support the enforcement of this section.

1 “(2) FOREIGN LABOR RECRUITING.—If the em-
2 ployer has retained the services of a foreign labor re-
3 cruiter, the employer shall use a foreign labor re-
4 cruiter registered under section 251 of the Farm
5 Workforce Modernization Act of 2019.

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

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

1 that a farm labor contractor or foreign labor re-
2 cruiter has sought or collected such payments, the
3 employer shall so terminate any contracts with such
4 contractor or recruiter.

5 “(m) ENFORCEMENT AUTHORITY.—

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

14 “(2) COMPLAINT PROCESS.—

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

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

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

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

1 “(E) DISPOSITION OF PENALTIES.—Civil
2 penalties collected under this paragraph shall be
3 deposited into the H-2A Labor Certification
4 Fee Account established under section 203 of
5 the Farm Workforce Modernization Act of
6 2019.

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

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

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

15 “(4) RETALIATION PROHIBITED.—It is a viola-
16 tion of this subsection for any person who has filed
17 a petition under this section to intimidate, threaten,
18 restrain, coerce, blacklist, discharge, or in any other
19 manner discriminate against, or to cause any person
20 to intimidate, threaten, restrain, coerce, blacklist, or
21 in any manner discriminate against, an employee, in-
22 cluding a former employee or an applicant for em-
23 ployment, because the employee—

24 “(A) has disclosed information to the em-
25 ployer, or to any other person, that the em-

1 ployee reasonably believes evidences a violation
2 under this section, or any rule or regulation re-
3 lating to this section;

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

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

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

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

1 ing compliance by employers with the requirements
2 of the H-2A program and other employment-related
3 laws and regulations.

4 “(n) DEFINITIONS.—In this section:

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

10 “(2) H-2A WORKER.—The term ‘H-2A worker’
11 means a nonimmigrant described in section
12 101(a)(15)(H)(ii)(a).

13 “(3) JOB ORDER.—The term ‘job order’ means
14 the document containing the material terms and
15 conditions of employment relating to wages, hours,
16 working conditions, worksite and other benefits, in-
17 cluding obligations and assurances required under
18 this section.

19 “(4) ONLINE JOB REGISTRY.—The term ‘online
20 job registry’ means the online job registry of the
21 Secretary of Labor required under section 201(b) of
22 the Farm Workforce Modernization Act of 2019 (or
23 similar successor registry).

24 “(5) SIMILARLY EMPLOYED.—The term ‘simi-
25 larly employed’, in the case of a worker, means a

1 worker in the same occupational classification as the
2 classification or classifications for which the H-2A
3 worker is sought.

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

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

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

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

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

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

21 “(1) FEES.—

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

1 reasonable costs of processing the petition, in-
2 cluding the reasonable costs of providing labor
3 certification by the Secretary of Labor.

4 “(B) DISTRIBUTION.—Fees collected
5 under subparagraph (A) shall be deposited as
6 offsetting receipts into the immigration exami-
7 nations fee account in section 286(m), except
8 that the portion of fees assessed for the Sec-
9 retary of Labor shall be deposited into the H-
10 2A Labor Certification Fee Account established
11 pursuant to section 203(c) of the Farm Work-
12 force Modernization Act of 2019.

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

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

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

1 “(C) monitoring the terms and conditions
 2 under which H-2A workers (and United States
 3 workers employed by the same employers) are
 4 employed in the United States; and

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

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

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

12 (1) consulting with State workforce agencies
 13 to—

14 (A) review and process job orders;

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

19 (C) determine prevailing wages and prac-
 20 tices; and

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

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

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

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

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

15 (6) ensuring that guidance to State workforce
16 agencies to conduct wage surveys is regularly up-
17 dated.

18 (b) RESPONSIBILITIES OF THE SECRETARY OF
19 HOMELAND SECURITY.—With respect to the administra-
20 tion of the H-2A program, the Secretary of Homeland Se-
21 curity shall be responsible for—

22 (1) adjudicating petitions for the admission of
23 H-2A workers, which shall include an assessment as
24 to whether each beneficiary will be employed in ac-
25 cordance with the terms and conditions of the cer-

1 tification and whether the named beneficiaries qual-
2 ify for such employment;

3 (2) transmitting a copy of the final decision on
4 the petition to the employer, and in the case of ap-
5 proved petitions, ensuring that the petition approval
6 is reflected in the electronic platform to facilitate the
7 prompt issuance of a visa by the Department of
8 State (if required) and the admission of the H-2A
9 workers to the United States; and

10 (3) establishing a reliable and secure method
11 through which H-2A workers can access information
12 about their H-2A visa status, including information
13 on pending, approved, or denied petitions to extend
14 such status.

15 (c) ESTABLISHMENT OF ACCOUNT AND USE OF
16 FUNDS.—

17 (1) ESTABLISHMENT OF ACCOUNT.—There is
18 established in the general fund of the Treasury a
19 separate account, which shall be known as the “H-
20 2A Labor Certification Fee Account”. Notwith-
21 standing any other provisions of law, there shall be
22 deposited as offsetting receipts into the account all
23 amounts—

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

4 (B) collected as a fee under section
5 218(o)(1)(B) of the Immigration and Nation-
6 ality Act.

7 (2) USE OF FEES.—Amounts deposited into the
8 H-2A Labor Certification Fee Account shall be
9 available (except as otherwise provided in this para-
10 graph) without fiscal year limitation and without the
11 requirement for specification in appropriations Acts
12 to the Secretary of Labor for use, directly or
13 through grants, contracts, or other arrangements, in
14 such amounts as the Secretary of Labor determines
15 are necessary for the costs of Federal and State ad-
16 ministration in carrying out activities in connection
17 with labor certification under section 218 of the Im-
18 migration and Nationality Act. Such costs may in-
19 clude personnel salaries and benefits, equipment and
20 infrastructure for adjudication and customer service
21 processes, the operation and maintenance of an on-
22 line job registry, and program integrity activities.
23 The Secretary, in determining what amounts to
24 transfer to States for State administration in car-
25 rying out activities in connection with labor certifi-

1 cation under section 218 of the Immigration and
2 Nationality Act shall consider the number of H-2A
3 workers employed in that State and shall adjust the
4 amount transferred to that State accordingly. In ad-
5 dition, 10 percent of the amounts deposited into the
6 H-2A Labor Certification Fee Account shall be
7 available to the Office of Inspector General of the
8 Department of Labor to conduct audits and criminal
9 investigations relating to such foreign labor certifi-
10 cation programs.

11 (3) ADDITIONAL FUNDS.—Amounts available
12 under paragraph (1) shall be available in addition to
13 any other funds appropriated or made available to
14 the Department of Labor under other laws, includ-
15 ing section 218(o)(2) of the Immigration and Na-
16 tionality Act.

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

18 (a) EQUALITY OF TREATMENT.—H-2A workers shall
19 not be denied any right or remedy under any Federal,
20 State, or local labor or employment law applicable to
21 United States workers engaged in agricultural employ-
22 ment.

23 (b) APPLICABILITY OF OTHER LAWS.—

24 (1) MIGRANT AND SEASONAL AGRICULTURAL
25 WORKER PROTECTION ACT.—H-2A workers shall be

1 considered migrant agricultural workers for purposes
2 of the Migrant and Seasonal Agricultural Worker
3 Protection Act (29 U.S.C. 1801 et seq.).

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

11 (3) MEDIATION.—

12 (A) FREE MEDIATION SERVICES.—The
13 Federal Mediation and Conciliation Service
14 shall be available to assist in resolving disputes
15 arising under this section between H-2A work-
16 ers and agricultural employers without charge
17 to the parties.

18 (B) COMPLAINT.—If an H-2A worker files
19 a civil action alleging one or more violations of
20 section 218 of the Immigration and Nationality
21 Act (8 U.S.C. 1188), the Fair Labor Standards
22 Act of 1938 (29 U.S.C. 201 et seq.), or the Mi-
23 grant and Seasonal Agricultural Worker Protec-
24 tion Act (29 U.S.C. 1801 et seq.), not later
25 than 60 days after the filing of proof of service

1 of the complaint, a party to the action may file
2 a request with the Federal Mediation and Con-
3 ciliation Service to assist the parties in reaching
4 a satisfactory resolution of all issues involving
5 all parties to the dispute.

6 (C) NOTICE.—Upon filing a request under
7 subparagraph (B) and giving of notice to the
8 parties, the parties shall attempt mediation
9 within the period specified in subparagraph
10 (D), except that nothing in this paragraph shall
11 limit the ability of a court to order preliminary
12 injunctive relief to protect health and safety.

13 (D) 90-DAY LIMIT.—The Federal Medi-
14 ation and Conciliation Service may conduct me-
15 diation or other nonbinding dispute resolution
16 activities for a period not to exceed 90 days be-
17 ginning on the date on which the Federal Medi-
18 ation and Conciliation Service receives a request
19 for assistance under subparagraph (B) unless
20 the parties agree to an extension of such period.

21 (E) AUTHORIZATION OF APPROPRIA-
22 TIONS.—

23 (i) IN GENERAL.—Subject to clause
24 (ii), there is authorized to be appropriated
25 to the Federal Mediation and Conciliation

1 Service, \$500,000 for each fiscal year to
2 carry out this subparagraph.

3 (ii) MEDIATION.—Notwithstanding
4 any other provision of law, the Director of
5 the Federal Mediation and Conciliation
6 Service is authorized—

7 (I) to conduct the mediation or
8 other dispute resolution activities from
9 any other account containing amounts
10 available to the Director; and

11 (II) to reimburse such account
12 with amounts appropriated pursuant
13 to clause (i).

14 (F) PRIVATE MEDIATION.—If all parties
15 agree, a private mediator may be employed as
16 an alternative to the Federal Mediation and
17 Conciliation Service.

18 (c) LABOR CONTRACTOR REQUIREMENTS.—

19 (1) SURETY BONDS.—

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

24 “(e) A farm labor contractor shall post and at all
25 times maintain a surety bond in an amount determined

1 by the Secretary to be sufficient for ensuring the ability
2 of the farm labor contractor to discharge its financial obli-
3 gations, including payment of wages and benefits to em-
4 ployees. Such a bond shall be available to satisfy any
5 amounts ordered to be paid by the Secretary or by court
6 order for failure to comply with the obligations of this Act.
7 The Secretary of Labor shall annually publish in the Fed-
8 eral Register a schedule of required bond amounts that
9 are determined by such Secretary to be sufficient for farm
10 labor contractors to discharge financial obligations based
11 on the number of workers the farm labor contractor seeks
12 to employ and the wages such workers are required to be
13 paid.”.

14 (B) REGISTRATION DETERMINATIONS.—

15 Section 103(a) of the Migrant and Seasonal Ag-
16 ricultural Worker Protection Act (29 U.S.C.
17 1813(a)), is amended—

18 (i) in paragraph (4), by striking “or”

19 at the end;

20 (ii) in paragraph (5)(B), by striking

21 the period at the end and inserting “;”;

22 and

23 (iii) by adding at the end the fol-

24 lowing:

1 “(6) has failed to post or maintain a surety
2 bond in compliance with section 101(e); or

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

7 (2) SUCCESSORS IN INTEREST.—

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

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

13 (ii) in paragraph (5), by striking the
14 period at the end and inserting “; and”;
15 and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(6) a declaration, subscribed and sworn to by
19 the applicant, stating whether the applicant has a
20 familial, contractual, or employment relationship
21 with, or shares vehicles, facilities, property, or em-
22 ployees with, a person who has been refused
23 issuance or renewal of a certificate, or has had a
24 certificate suspended or revoked, pursuant to section
25 103.”.

1 (B) REBUTTABLE PRESUMPTION.—Section
2 103 of the Migrant and Seasonal Agricultural
3 Worker Protection Act (29 U.S.C. 1813), as
4 amended by this Act, is further amended by in-
5 serting after subsection (a) the following new
6 subsection (and renumbering the remaining
7 subsections accordingly):

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

12 “(A) is the immediate family member of any
13 person who has been refused issuance or renewal of
14 a certificate, or has had a certificate suspended or
15 revoked; and

16 “(B) identifies a vehicle, facility, or real prop-
17 erty under paragraph (2) or (3) of section 102 that
18 has been previously listed by a person who has been
19 refused issuance or renewal of a certificate, or has
20 had a certificate suspended or revoked.

21 “(2) An applicant described in paragraph (1) bears
22 the burden of demonstrating to the Secretary’s satisfac-
23 tion that the applicant is the real party in interest in the
24 application.”.

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

2 (a) Not later than 3 years after the date of the enact-
3 ment of this Act, and every 3 years thereafter, the Sec-
4 retary of Labor and Secretary of Agriculture shall prepare
5 and transmit to the Committees on the Judiciary of the
6 House of Representatives and Senate, a report that ad-
7 dresses—

8 (1) whether, and the manner in which, the em-
9 ployment of H-2A workers in the United States has
10 impacted the wages, working conditions, or job op-
11 portunities of United States farm workers;

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

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

20 (4) the degree to which the adverse effect wage
21 rate is affected by the inclusion in wage surveys of
22 piece rate compensation, bonus payments, and other
23 pay incentives, and whether such forms of incentive
24 compensation should be surveyed and reported sepa-
25 rately from hourly base rates;

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

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

9 (7) the number and percentage of farmworkers
10 in the United States whose incomes are below the
11 poverty line;

12 (8) whether alternative wage standards would
13 be sufficient to prevent wages in occupations in
14 which H-2A workers are employed from falling
15 below the wage level that would have prevailed in the
16 absence of the H-2A program;

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

20 (10) recommendations for future wage protec-
21 tion under this section.

22 (b) In preparing the report described in subsection
23 (a), the Secretary of Labor and Secretary of Agriculture
24 shall engage with equal numbers of representatives of ag-

1 agricultural employers and agricultural workers, both locally
2 and nationally.

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

4 (a) ESTABLISHMENT OF PILOT PROGRAM.—

5 (1) IN GENERAL.—Not later than 18 months
6 after the date of the enactment of this Act, the Sec-
7 retary of Homeland Security, in consultation with
8 the Secretary of Labor and Secretary of Agriculture,
9 shall establish through regulation a 6-year pilot pro-
10 program to facilitate the free movement and employ-
11 ment of temporary or seasonal H-2A workers to
12 perform agricultural labor or services for agricul-
13 tural employers registered with the Secretary of Ag-
14 riculture. Notwithstanding the requirements of sec-
15 tion 218 of the Immigration and Nationality Act,
16 such regulation shall establish the requirements for
17 the pilot program, consistent with subsection (b).
18 For purposes of this section, such a worker shall be
19 referred to as a portable H-2A worker, and status
20 as such a worker shall be referred to as portable H-
21 2A status.

22 (2) ONLINE PLATFORM.—The Secretary of
23 Homeland Security, in consultation with the Sec-
24 retary of Labor and the Secretary of Agriculture,
25 shall maintain an online electronic platform to con-

1 nect portable H–2A workers with registered agricul-
2 tural employers seeking workers to perform tem-
3 porary or seasonal agricultural labor or services.
4 Employers shall post on the platform available job
5 opportunities, including a description of the nature
6 and location of the work to be performed, the antici-
7 pated period or periods of need, and the terms and
8 conditions of employment. Such platform shall allow
9 portable H–2A workers to search for available job
10 opportunities using relevant criteria, including the
11 types of jobs needed to be filled and the dates and
12 locations of need.

13 (3) LIMITATION.—Notwithstanding the issu-
14 ance of the regulation described in paragraph (1),
15 the Secretary of State may not issue a visa to a
16 portable H–2A and the Secretary of Homeland Se-
17 curity may not confer portable H–2A status on any
18 alien until the Secretary of Homeland Security, in
19 consultation with the Secretary of Labor and Sec-
20 retary of Agriculture, has determined that a suffi-
21 cient number of employers have been designated as
22 registered agricultural employers under subsection
23 (b)(1) and that such employers have sufficient job
24 opportunities to employ a reasonable number of
25 portable H–2A workers to initiate the pilot program.

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

3 (1) REGISTERED AGRICULTURAL EMPLOY-
4 ERS.—

5 (A) DESIGNATION.—Agricultural employ-
6 ers shall be provided the ability to seek designa-
7 tion as registered agricultural employers. Rea-
8 sonable fees may be assessed commensurate
9 with the cost of processing applications for des-
10 ignation. A designation shall be valid for a pe-
11 riod of up to 3 years unless revoked for failure
12 to comply with program requirements. Reg-
13 istered employers that comply with program re-
14 quirements may apply to renew such designa-
15 tion for additional periods of up to 3 years for
16 the duration of the pilot program.

17 (B) LIMITATIONS.—Registered agricultural
18 employers may employ aliens with portable H-
19 2A status without filing a petition. Such em-
20 ployers shall pay such aliens at least the wage
21 required under section 218(d) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1188(d)).

23 (C) WORKERS' COMPENSATION.—If a job
24 opportunity is not covered by or is exempt from
25 the State workers' compensation law, a reg-

1 istered agricultural employer shall provide, at
2 no cost to the worker, insurance covering injury
3 and disease arising out of, and in the course of,
4 the worker's employment, which will provide
5 benefits at least equal to those provided under
6 the State workers' compensation law.

7 (2) DESIGNATED WORKERS.—

8 (A) IN GENERAL.—Individuals who have
9 been previously admitted to the United States
10 in H-2A status, and maintained such status
11 during the period of admission, shall be pro-
12 vided the opportunity to apply for portable H-
13 2A status. Portable H-2A workers shall be sub-
14 ject to the provisions on visa validity and peri-
15 ods of authorized stay and admission for H-2A
16 workers described in section 218(j)(2) and (3)
17 of the Immigration and Nationality Act (8
18 U.S.C. 1188(j)(2) and (3)).

19 (B) LIMITATIONS ON AVAILABILITY OF
20 PORTABLE H-2A STATUS.—

21 (i) INITIAL OFFER OF EMPLOYMENT
22 REQUIRED.—No alien may be granted
23 portable H-2A status without an initial
24 valid offer of employment to perform tem-

porary or agricultural labor or services from a registered agricultural employer.

(ii) NUMERICAL LIMITATIONS.—The total number of aliens who may hold valid portable H–2A status at any one time may not exceed 10,000. Notwithstanding such limitation, the Secretary of Homeland Security may further limit the number of aliens with valid portable H–2A status if the Secretary determines that there are an insufficient number of registered agricultural employers or job opportunities to support the employment of all such portable H–2A workers.

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

1 (D) TRANSFER TO NEW EMPLOYMENT.—

2 At the cessation of employment with a reg-
3 istered agricultural employer, a portable H-2A
4 worker shall have 60 days to secure new em-
5 ployment with a registered agricultural em-
6 ployer.

7 (E) MAINTENANCE OF STATUS.—A port-
8 able H-2A worker who does not secure new em-
9 ployment with a registered agricultural em-
10 ployer within 60 days shall be considered to
11 have failed to maintain such status and shall
12 depart the United States or be subject to re-
13 moval under section 237(a)(1)(C)(i) of the Im-
14 migration and Nationality Act (8 U.S.C.
15 1188(a)(1)(C)(i)).

16 (3) ENFORCEMENT.—The Secretary of Labor
17 shall be responsible for conducting investigations
18 and random audits of employers to ensure compli-
19 ance with the requirements of this section, con-
20 sistent with section 218(m) of the Immigration and
21 Nationality Act (8 U.S.C. 1188(m)). The Secretary
22 of Labor shall have the authority to collect reason-
23 able civil penalties for violations, which shall be uti-
24 lized by the Secretary for the administration and en-
25 forcement of the provisions of this section.

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

7 (c) REPORT.—Not later than 6 months before the
8 end of the third fiscal year of the pilot program, the Sec-
9 retary of Homeland Security, in consultation with the Sec-
10 retary of Labor and the Secretary of Agriculture, shall
11 prepare and submit to the Committees on the Judiciary
12 of the House of Representatives and the Senate, a report
13 that provides—

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

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

20 (3) the number of individuals granted portable
21 H–2A status in each fiscal year, along with the
22 number of such individuals who maintained portable
23 H–2A status during all or a portion of the 3-year
24 period of the pilot program;

1 (4) an assessment of the impact of the pilot
2 program on the wages and working conditions of
3 United States farm workers;

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

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

10 (7) an assessment as to whether the program
11 should be continued and if so, any recommendations
12 for improving the program; and

13 (8) findings and recommendations regarding ef-
14 fective recruitment mechanisms, including use of
15 new technology to match workers with employers
16 and ensure compliance with applicable labor and em-
17 ployment laws and regulations.

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

19 (a) **WORLDWIDE LEVEL.**—Section 201(d)(1)(A) of
20 the Immigration and Nationality Act (8 U.S.C.
21 1151(d)(1)(A)) is amended by striking “140,000” and in-
22 serting “180,000”.

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

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

3 (2) in paragraph (2)(A) by striking “28.6 per-
4 cent of such worldwide level” and inserting
5 “40,040”;

6 (3) in paragraph (3)—

7 (A) in subparagraph (A)—

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

11 (ii) by amending clause (iii) to read as
12 follows:

13 “(iii) OTHER WORKERS.—Other quali-
14 fied immigrants who, at the time of peti-
15 tioning for classification under this para-
16 graph—

17 “(I) are capable of performing
18 unskilled labor, not of a temporary or
19 seasonal nature, for which qualified
20 workers are not available in the
21 United States; or

22 “(II) can demonstrate employ-
23 ment in the United States as an H-
24 2A nonimmigrant worker for at least

1 100 days in each of at least 10
2 years.”;

3 (B) by amending subparagraph (B) to read
4 as follows:

5 “(B) VISAS ALLOCATED FOR OTHER
6 WORKERS.—

7 “(i) IN GENERAL.—Except as pro-
8 vided in clauses (ii) and (iii), 50,000 of the
9 visas made available under this paragraph
10 shall be reserved for qualified immigrants
11 described in subparagraph (A)(iii).

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

16 “(I) qualified immigrants de-
17 scribed in subparagraph (A)(iii)(I)
18 who will be performing agricultural
19 labor or services in the United States;
20 and

21 “(II) qualified immigrants de-
22 scribed in subparagraph (A)(iii)(II).

23 “(iii) EXCEPTION.—If because of the
24 application of clause (ii), the total number
25 of visas available under this paragraph for

1 a calendar quarter exceeds the number of
 2 qualified immigrants who otherwise may be
 3 issued such a visa, clause (ii) shall not
 4 apply to visas under this paragraph during
 5 the remainder of such calendar quarter.

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

10 (C) by amending subparagraph (C) by
 11 striking “An immigrant visa” and inserting
 12 “Except for qualified immigrants petitioning for
 13 classification under subparagraph (A)(iii)(II),
 14 an immigrant visa”;

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

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

20 (c) PETITIONING PROCEDURE.—Section
 21 204(a)(1)(E) of the Immigration and Nationality Act (8
 22 U.S.C. 1154(a)(1)(E)) is amended by inserting “or
 23 203(b)(3)(A)(iii)(II)” after “203(b)(1)(A)”.

24 (d) DUAL INTENT.—Section 214(b) of the Immigra-
 25 tion and Nationality Act (8 U.S.C. 1184(b)) is amended

1 by striking “section 101(a)(15)(H)(i) except subclause
 2 (b1) of such section” and inserting “clause (i), except sub-
 3 clause (b1), or (ii)(a) of section 101(a)(15)(H)”.

4 **Subtitle B—Preservation and Con-**
 5 **struction of Farmworker Hous-**
 6 **ing**

7 **SEC. 220. SHORT TITLE.**

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

10 **SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRES-**
 11 **ERVATION AND REVITALIZATION PROGRAM.**

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

15 **“SEC. 545. HOUSING PRESERVATION AND REVITALIZATION**
 16 **PROGRAM.**

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

21 “(b) NOTICE OF MATURING LOANS.—

22 “(1) TO OWNERS.—On an annual basis, the
 23 Secretary shall provide written notice to each owner
 24 of a property financed under section 515 or both
 25 sections 514 and 516 that will mature within the 4-

1 year period beginning upon the provision of such no-
2 tice, setting forth the options and financial incen-
3 tives that are available to facilitate the extension of
4 the loan term or the option to decouple a rental as-
5 sistance contract pursuant to subsection (f).

6 “(2) TO TENANTS.—

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

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

24 “(c) LOAN RESTRUCTURING.—Under the program
25 under this section, the Secretary may restructure such ex-

1 isting housing loans, as the Secretary considers appro-
2 priate, for the purpose of ensuring that such projects have
3 sufficient resources to preserve the projects to provide safe
4 and affordable housing for low-income residents and farm
5 laborers, by—

6 “(1) reducing or eliminating interest;

7 “(2) deferring loan payments;

8 “(3) subordinating, reducing, or reamortizing
9 loan debt; and

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

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

23 “(e) RESTRICTIVE USE AGREEMENTS.—

24 “(1) REQUIREMENT.—As part of the preserva-
25 tion and revitalization agreement for a project, the

1 Secretary shall obtain a restrictive use agreement
2 that obligates the owner to operate the project in ac-
3 cordance with this title.

4 “(2) TERM.—

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

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

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

23 “(f) DECOUPLING OF RENTAL ASSISTANCE.—

24 “(1) RENEWAL OF RENTAL ASSISTANCE CON-
25 TRACT.—If the Secretary determines that a matur-

1 ing loan for a project cannot reasonably be restruc-
 2 tured in accordance with subsection (c) and the
 3 project was operating with rental assistance under
 4 section 521, the Secretary may renew the rental as-
 5 sistance contract, notwithstanding any provision of
 6 section 521, for a term, subject to annual appropria-
 7 tions, of at least 10 years but not more than 20
 8 years.

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

16 “(A) the budget-based needs of the project;
 17 or

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

23 “(g) MULTIFAMILY HOUSING TRANSFER TECHNICAL
 24 ASSISTANCE.—Under the program under this section, the
 25 Secretary may provide grants to qualified nonprofit orga-

1 nizations and public housing agencies to provide technical
2 assistance, including financial and legal services, to bor-
3 rowers under loans under this title for multifamily housing
4 to facilitate the acquisition of such multifamily housing
5 properties in areas where the Secretary determines there
6 is a risk of loss of affordable housing.

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

19 “(i) ADMINISTRATIVE EXPENSES.—Of any amounts
20 made available for the program under this section for any
21 fiscal year, the Secretary may use not more than
22 \$1,000,000 for administrative expenses for carrying out
23 such program.

24 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
25 is authorized to be appropriated for the program under

1 this section \$200,000,000 for each of fiscal years 2020
2 through 2024.”.

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

4 Section 542 of the Housing Act of 1949 (42 U.S.C.
5 1490r) is amended by adding at the end the following new
6 subsection:

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

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

22 Notwithstanding any other provision of law, in the
23 case of any rural housing voucher provided pursuant to
24 section 542 of the Housing Act of 1949 (42 U.S.C.
25 1490r), the amount of the monthly assistance payment for

1 the household on whose behalf such assistance is provided
2 shall be determined as provided in subsection (a) of such
3 section 542.

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

5 Subsection (d) of section 521 of the Housing Act of
6 1949 (42 U.S.C. 1490a(d)) is amended—

7 (1) in paragraph (1), by inserting after sub-
8 paragraph (A) the following new subparagraph (and
9 renumbering the remaining subparagraphs accord-
10 ingly):

11 “(B) upon request of an owner of a project
12 financed under section 514 or 515, the Sec-
13 retary is authorized to enter into renewal of
14 such agreements for a period of 20 years or the
15 term of the loan, whichever is shorter, subject
16 to amounts made available in appropriations
17 Acts;” and

18 (2) by adding at the end the following new
19 paragraph:

20 “(3) In the case of any rental assistance con-
21 tract authority that becomes available because of the
22 termination of assistance on behalf of an assisted
23 family—

24 “(A) at the option of the owner of the
25 rental project, the Secretary shall provide the

owner a period of 6 months before such assistance is made available pursuant to subparagraph (B) during which the owner may use such assistance authority to provide assistance of behalf of an eligible unassisted family that—

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

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

“(B) except for assistance used as provided in subparagraph (A), the Secretary shall use such remaining authority to provide such assistance on behalf of eligible families residing in other rental projects originally financed under section 515 or both sections 514 and 516 of this Act.”.

SEC. 225. FUNDING FOR MULTIFAMILY TECHNICAL IMPROVEMENTS.

There is authorized to be appropriated to the Secretary of Agriculture \$50,000,000 for fiscal year 2020 for improving the technology of the Department of Agriculture used to process loans for multifamily housing and otherwise managing such housing. Such improvements shall be made within the 5-year period beginning upon the

1 appropriation of such amounts and such amount shall re-
2 main available until the expiration of such 5-year period.

3 **SEC. 226. PLAN FOR PRESERVING AFFORDABILITY OF**
4 **RENTAL PROJECTS.**

5 (a) PLAN.—The Secretary of Agriculture (in this sec-
6 tion referred to as the “Secretary”) shall submit a written
7 plan to the Congress, not later than the expiration of the
8 6-month period beginning on the date of the enactment
9 of this Act, for preserving the affordability for low-income
10 families of rental projects for which loans were made
11 under section 515 or made to nonprofit or public agencies
12 under section 514 and avoiding the displacement of tenant
13 households, which shall—

14 (1) set forth specific performance goals and
15 measures;

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

18 (3) set forth specific measurements by which
19 progress towards achievement of each goal can be
20 measured;

21 (4) provide for detailed reporting on outcomes;
22 and

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

25 (b) ADVISORY COMMITTEE.—

1 (1) ESTABLISHMENT; PURPOSE.—The Sec-
2 retary shall establish an advisory committee whose
3 purpose shall be to assist the Secretary in preserving
4 section 515 properties and section 514 properties
5 owned by nonprofit or public agencies through the
6 multifamily housing preservation and revitalization
7 program under section 545 and in implementing the
8 plan required under subsection (a).

9 (2) MEMBER.—The advisory committee shall
10 consist of 16 members, appointed by the Secretary,
11 as follows:

12 (A) A State Director of Rural Develop-
13 ment for the Department of Agriculture.

14 (B) The Administrator for Rural Housing
15 Service of the Department of Agriculture.

16 (C) Two representatives of for-profit devel-
17 opers or owners of multifamily rural rental
18 housing.

19 (D) Two representatives of nonprofit devel-
20 opers or owners of multifamily rural rental
21 housing.

22 (E) Two representatives of State housing
23 finance agencies.

24 (F) Two representatives of tenants of mul-
25 tifamily rural rental housing.

1 (G) One representative of a community de-
2 velopment financial institution that is involved
3 in preserving the affordability of housing as-
4 sisted under sections 514, 515, and 516 of the
5 Housing Act of 1949.

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

13 (I) One representative of low-income hous-
14 ing tax credit investors.

15 (J) One representative of regulated finan-
16 cial institutions that finance affordable multi-
17 family rural rental housing developments.

18 (K) Two representatives from nonprofit or-
19 ganizations representing farmworkers, including
20 one organization representing farmworker
21 women.

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

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

4 (A) Assisting the Rural Housing Service of
5 the Department of Agriculture to improve esti-
6 mates of the size, scope, and condition of rental
7 housing portfolio of the Service, including the
8 time frames for maturity of mortgages and
9 costs for preserving the portfolio as affordable
10 housing.

11 (B) Reviewing current policies and proce-
12 dures of the Rural Housing Service regarding
13 preservation of affordable rental housing fi-
14 nanced under sections 514, 515, 516, and 538
15 of the Housing Act of 1949, the Multifamily
16 Preservation and Revitalization Demonstration
17 program (MPR), and the rental assistance pro-
18 gram and making recommendations regarding
19 improvements and modifications to such policies
20 and procedures.

21 (C) Providing ongoing review of Rural
22 Housing Service program results.

23 (D) Providing reports to the Congress and
24 the public on meetings, recommendations, and
25 other findings of the advisory committee.

1 (5) TRAVEL COSTS.—Any amounts made avail-
2 able for administrative costs of the Department of
3 Agriculture may be used for costs of travel by mem-
4 bers of the advisory committee to meetings of the
5 committee.

6 **SEC. 227. COVERED HOUSING PROGRAMS.**

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

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

12 (2) by redesignating subparagraph (J) as sub-
13 paragraph (K); and

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

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

22 **SEC. 228. NEW FARMWORKER HOUSING.**

23 Section 513 of the Housing Act of 1949 (42 U.S.C.
24 1483) is amended by adding at the end the following new
25 subsection:

1 “(f) FUNDING FOR FARMWORKER HOUSING.—

2 “(1) SECTION 514 FARMWORKER HOUSING
3 LOANS.—

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

10 “(B) AUTHORIZATION OF APPROPRIATIONS
11 FOR COSTS.—There is authorized to be appro-
12 priated \$75,000,000 for each of fiscal years
13 2020 through 2029 for costs (as such term is
14 defined in section 502 of the Congressional
15 Budget Act of 1974 (2 U.S.C. 661a)) of loans
16 insured pursuant the authority under subpara-
17 graph (A).

18 “(2) SECTION 516 GRANTS FOR FARMWORKER
19 HOUSING.—There is authorized to be appropriated
20 \$30,000,000 for each of fiscal years 2020 through
21 2029 for financial assistance under section 516 (42
22 U.S.C. 1486).

23 “(3) SECTION 521 HOUSING ASSISTANCE.—
24 There is authorized to be appropriated
25 \$2,700,000,000 for each of fiscal years 2020

1 through 2029 for rental assistance agreements en-
 2 tered into or renewed pursuant to section 521(a)(2)
 3 (42 U.S.C. 1490a(a)(2)) or agreements entered into
 4 in lieu of debt forgiveness or payments for eligible
 5 households as authorized by section 502(c)(5)(D).”.

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

7 Subsection (j) of section 514 of the Housing Act of
 8 1949 (42 U.S.C. 1484(j)) shall be amended to read as
 9 follows:

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

16 **SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

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

19 (1) in subparagraph (A) by inserting “or do-
 20 mestic farm labor legally admitted to the United
 21 States and authorized to work in agriculture” after
 22 “migrant farmworkers”;

23 (2) in subparagraph (B)—

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

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

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

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

6 “(ii) HOUSING FOR OTHER FARM
7 LABOR.—In any fiscal year, the assistance
8 provided under this paragraph for any
9 project providing housing for domestic
10 farm labor legally admitted to the United
11 States and authorized to work in agri-
12 culture shall not exceed an amount equal
13 to 50 percent of the operating costs for the
14 project for the year, as determined by the
15 Secretary. The owner of such project shall
16 not qualify for operating assistance unless
17 the Secretary certifies that the project was
18 unoccupied or underutilized before making
19 units available to such farm labor, and
20 that a grant under this section will not dis-
21 place any farm worker who is a United
22 States worker.”; and

23 (3) in subparagraph (D), by adding at the end
24 the following:

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

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

8 Subsection (a) of section 214 of the Housing and
9 Community Development Act of 1980 (42 U.S.C. 1436a)
10 is amended—

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

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

15 (3) by inserting after paragraph (6) the fol-
16 lowing:

17 “(7) an alien granted certified agricultural
18 worker or certified agricultural dependent status
19 under title I of the Farm Workforce Modernization
20 Act of 2019, but solely for financial assistance made
21 available pursuant to section 521 or 542 of the
22 Housing Act of 1949 (42 U.S.C. 1490a, 1490r);
23 or”.

Subtitle C—Foreign Labor Recruiter Accountability

SEC. 251. REGISTRATION OF FOREIGN LABOR RECRUITERS.

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

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

(1) require the applicant to submit a sworn declaration—

(A) stating the applicant’s permanent place of residence or principal place of business, as applicable;

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

(C) including such other relevant information as the Secretary of Labor and the Secretary of State may require;

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

3 (3) include a process, which shall include the
4 placement of personnel at each United States diplo-
5 matic mission in accordance with subsection (g)(2),
6 to receive information from the public regarding for-
7 eign labor recruiters who have allegedly engaged in
8 a foreign labor recruiting activity that is prohibited
9 under this subtitle;

10 (4) include procedures for the receipt and proc-
11 essing of complaints against foreign labor recruiters
12 and for remedies, including the revocation of a reg-
13 istration or the assessment of fines upon a deter-
14 mination by the Secretary of Labor that the foreign
15 labor recruiter has violated the requirements of this
16 subtitle;

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

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

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

4 (1) PROHIBITED FEES.—The foreign labor re-
5 cruiter, including any agent or employee of such for-
6 eign labor recruiter, shall not assess any recruitment
7 fees on a worker for any foreign labor recruiting ac-
8 tivity.

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

14 (3) REQUIRED DISCLOSURES.—The foreign
15 labor recruiter shall ascertain and disclose to the
16 worker in writing in English and in the primary lan-
17 guage of the worker at the time of the worker's re-
18 cruitment, the following information:

19 (A) The identity and address of the em-
20 ployer and the identity and address of the per-
21 son conducting the recruiting on behalf of the
22 employer, including each subcontractor or agent
23 involved in such recruiting.

24 (B) A copy of the approved job order or
25 work contract under section 218 of the Immi-

1 gration and Nationality Act, including all assur-
2 ances and terms and conditions of employment.

3 (C) A statement, in a form specified by the
4 Secretary—

5 (i) describing the general terms and
6 conditions associated with obtaining an H-
7 2A visa and maintaining H-2A status;

8 (ii) affirming the prohibition on the
9 assessment of fees described in paragraph
10 (1), and explaining that such fees, if paid
11 by the employer, may not be passed on to
12 the worker;

13 (iii) describing the protections af-
14 forded the worker under this subtitle, in-
15 cluding procedures for reporting violations
16 to the Secretary of State, filing a com-
17 plaint with the Secretary of Labor, or fil-
18 ing a civil action; and

19 (iv) describing the protections af-
20 forded the worker by section 202 of the
21 William Wilberforce Trafficking Victims
22 Protection Reauthorization Act of 2008 (8
23 U.S.C. 1375b), including the telephone
24 number for the national human trafficking
25 resource center hotline number.

1 (4) BOND.—The foreign labor recruiter shall
2 agree to post a bond sufficient to ensure the ability
3 of the foreign labor recruiter to discharge its respon-
4 sibilities and ensure protection of workers, and to
5 forfeit such bond in an amount determined by the
6 Secretary under subsections (b)(1)(C)(ii) or
7 (c)(2)(C) of section 252 for failure to comply with
8 the provisions of this subtitle.

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

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

1 (7) EMPLOYEES, AGENTS, AND
2 SUBCONTRACTEES.—The foreign labor recruiter
3 shall consent to be liable for the conduct of any
4 agents or subcontractees of any level in relation to
5 the foreign labor recruiting activity of the agent or
6 subcontractee to the same extent as if the foreign
7 labor recruiter had engaged in such conduct.

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

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

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

1 (f) NOTIFICATION.—

2 (1) EMPLOYER NOTIFICATION.—

3 (A) IN GENERAL.—Not less frequently
4 than once every year, an employer of H-2A
5 workers shall provide the Secretary with the
6 names and addresses of all foreign labor re-
7 cruiterers engaged to perform foreign labor re-
8 cruiting activity on behalf of the employer,
9 whether the foreign labor recruiter is to receive
10 any economic compensation for such services,
11 and, if so, the identity of the person or entity
12 who is paying for the services.

13 (B) AGREEMENT TO COOPERATE.—In ad-
14 dition to the requirements of subparagraph (A),
15 the employer shall—

16 (i) provide to the Secretary the iden-
17 tity of any foreign labor recruiter whom
18 the employer has reason to believe is en-
19 gaging in foreign labor recruiting activities
20 that do not comply with this subtitle; and

21 (ii) promptly respond to any request
22 by the Secretary for information regarding
23 the identity of a foreign labor recruiter
24 with whom the employer has a contract or
25 other agreement.

1 (2) FOREIGN LABOR RECRUITER NOTIFICA-
2 TION.—A registered foreign labor recruiter shall no-
3 tify the Secretary, not less frequently than once
4 every year, of the identity of any subcontractee,
5 agent, or foreign labor recruiter employee involved in
6 any foreign labor recruiting activity for, or on behalf
7 of, the foreign labor recruiter.

8 (g) ADDITIONAL RESPONSIBILITIES OF THE SEC-
9 RETARY OF STATE.—

10 (1) LISTS.—The Secretary of State, in con-
11 sultation with the Secretary of Labor shall maintain
12 and make publicly available in written form and on
13 the websites of United States embassies in the offi-
14 cial language of that country, and on websites main-
15 tained by the Secretary of Labor, regularly updated
16 lists—

17 (A) of foreign labor recruiters who hold
18 valid registrations under this section, includ-
19 ing—

20 (i) the name and address of the for-
21 eign labor recruiter;

22 (ii) the countries in which such re-
23 cruiters conduct recruitment;

24 (iii) the employers for whom recruit-
25 ing is conducted;

1 (iv) the occupations that are the sub-
2 ject of recruitment;

3 (v) the States where recruited workers
4 are employed; and

5 (vi) the name and address of the reg-
6 istered agent in the United States who is
7 authorized to accept service of process on
8 behalf of the foreign labor recruiter; and

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

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

20 (3) VISA APPLICATION PROCEDURES.—The Sec-
21 retary shall ensure that consular officers issuing
22 visas to nonimmigrants under section
23 101(a)(1)(H)(ii)(a) of the Immigration and Nation-
24 ality Act (8 U.S.C. 11001(a)(1)(H)(ii)(a))—

1 (A) provide to and review with the appli-
2 cant, in the applicant's language (or a language
3 the applicant understands), a copy of the infor-
4 mation and resources pamphlet required by sec-
5 tion 202 of the William Wilberforce Trafficking
6 Victims Protection Reauthorization Act of 2008
7 (8 U.S.C. 1375b);

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

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

13 (D) if the foreign labor recruiter holds a
14 valid registration, review and include in the visa
15 application file, the foreign labor recruiter's dis-
16 closures required by subsection (c)(3).

17 (4) DATA.—The Secretary of State shall make
18 publicly available online, on an annual basis, data
19 disclosing the gender, country of origin (and State,
20 county, or province, if available), age, wage, level of
21 training, and occupational classification, disaggre-
22 gated by State, of nonimmigrant workers described
23 in section 101(a)(15)(H)(ii)(a) of the Immigration
24 and Nationality Act.

1 **SEC. 252. ENFORCEMENT.**

2 (a) DENIAL OR REVOCATION OF REGISTRATION.—

3 (1) GROUNDS FOR DENIAL OR REVOCATION.—

4 The Secretary shall deny an application for registra-
5 tion, or revoke a registration, if the Secretary deter-
6 mines that the foreign labor recruiter, or any agent
7 or subcontractee of such foreign labor recruiter—

8 (A) knowingly made a material misrepresen-
9 tation in the registration application;

10 (B) materially failed to comply with one or
11 more of the attestations provided under section
12 251(c); or

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

14 (2) NOTICE.—Prior to denying an application
15 for registration or revoking a registration under this
16 subsection, the Secretary shall provide written notice
17 of the intent to deny or revoke the registration to
18 the foreign labor recruiter. Such notice shall—

19 (A) articulate with specificity all grounds
20 for denial or revocation; and

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

23 (3) RE-REGISTRATION.—A foreign labor re-
24 cruitor whose registration was revoked under sub-
25 section (a) may re-register if the foreign labor re-
26 cruitor demonstrates to the Secretary's satisfaction

1 that the foreign labor recruiter has not violated this
2 subtitle in the 5 years preceding the date an applica-
3 tion for registration is filed and has taken sufficient
4 steps to prevent future violations of this subtitle.

5 (b) ADMINISTRATIVE ENFORCEMENT.—

6 (1) COMPLAINT PROCESS.—

7 (A) FILING.—A complaint may be filed
8 with the Secretary of Labor, in accordance with
9 the procedures established under section
10 251(b)(4) not later than 2 years after the ear-
11 lier of—

12 (i) the date of the last action which
13 constituted the conduct that is the subject
14 of the complaint took place; or

15 (ii) the date on which the aggrieved
16 party had actual knowledge of such con-
17 duct.

18 (B) DECISION AND PENALTIES.—If the
19 Secretary of Labor finds, after notice and an
20 opportunity for a hearing, that a foreign labor
21 recruiter failed to comply with any of the re-
22 quirements of this subtitle, the Secretary of
23 Labor may—

1 (i) levy a fine against the foreign
2 labor recruiter in an amount not more
3 than—

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

5 (II) \$25,000 per violation, upon
6 the third violation;

7 (ii) order the forfeiture of bond and
8 release of as much of the bond as the Sec-
9 retary determines is necessary for the
10 worker to recover prohibited recruitment
11 fees;

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

14 (iv) disqualify the foreign labor re-
15 cruiter from registration for a period of up
16 to 5 years, or in the case of a subsequent
17 finding involving willful or multiple mate-
18 rial violations, permanently disqualify the
19 foreign labor recruiter from registration.

20 (2) AUTHORITY TO ENSURE COMPLIANCE.—The
21 Secretary of Labor is authorized to take other such
22 actions, including issuing subpoenas and seeking ap-
23 propriate injunctive relief, as may be necessary to
24 assure compliance with the terms and conditions of
25 this subtitle.

1 (3) STATUTORY CONSTRUCTION.—Nothing in
2 this subsection may be construed as limiting the au-
3 thority of the Secretary of Labor to conduct an in-
4 vestigation—

5 (A) under any other law, including any law
6 affecting migrant and seasonal agricultural
7 workers; or

8 (B) in the absence of a complaint.

9 (c) CIVIL ACTION.—

10 (1) IN GENERAL.—The Secretary of Labor or
11 any person aggrieved by a violation of this subtitle
12 may bring a civil action against any foreign labor re-
13 cruiter, or any employer that does not meet the re-
14 quirements under subsection (d)(1), in any court of
15 competent jurisdiction—

16 (A) to seek remedial action, including in-
17 junctive relief; and

18 (B) for damages in accordance with the
19 provisions of this subsection.

20 (2) AWARD FOR CIVIL ACTION FILED BY AN IN-
21 DIVIDUAL.—

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

1 (i) damages, up to and including an
2 amount equal to the amount of actual
3 damages, and statutory damages of up to
4 \$1,000 per plaintiff per violation, or other
5 equitable relief, except that with respect to
6 statutory damages—

7 (I) multiple infractions of a sin-
8 gle provision of this subtitle (or of a
9 regulation under this subtitle) shall
10 constitute only 1 violation for pur-
11 poses of this subsection to determine
12 the amount of statutory damages due
13 a plaintiff; and

14 (II) if such complaint is certified
15 as a class action the court may
16 award—

17 (aa) damages up to an
18 amount equal to the amount of
19 actual damages; and

20 (bb) statutory damages of
21 not more than the lesser of up to
22 \$1,000 per class member per vio-
23 lation, or up to \$500,000; and
24 other equitable relief;

1 (ii) reasonable attorneys' fees and
2 costs; and

3 (iii) such other and further relief as
4 necessary to effectuate the purposes of this
5 subtitle.

6 (B) CRITERIA.—In determining the
7 amount of statutory damages to be awarded
8 under subparagraph (A), the court is author-
9 ized to consider whether an attempt was made
10 to resolve the issues in dispute before the resort
11 to litigation.

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

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

18 (A) ESTABLISHMENT OF ACCOUNT.—
19 There is established in the general fund of the
20 Treasury a separate account, which shall be
21 known as the “H-2A Foreign Labor Recruiter
22 Compensation Account”. Notwithstanding any
23 other provisions of law, there shall be deposited
24 as offsetting receipts into the account, all sums

1 recovered in an action by the Secretary of
2 Labor under this subsection.

3 (B) USE OF FUNDS.—Amounts deposited
4 into the H-2A Foreign Labor Recruiter Com-
5 pensation Account and shall be paid directly to
6 each worker affected. Any such sums not paid
7 to a worker because of inability to do so within
8 a period of 5 years following the date such
9 funds are deposited into the account shall re-
10 main available to the Secretary until expended.
11 The Secretary may transfer all or a portion of
12 such remaining sums to appropriate agencies to
13 support the enforcement of the laws prohibiting
14 the trafficking and exploitation of persons or
15 programs that aid trafficking victims.

16 (d) EMPLOYER SAFE HARBOR.—

17 (1) IN GENERAL.—An employer that hires
18 workers referred by a foreign labor recruiter with a
19 valid registration at the time of hiring shall not be
20 held jointly liable for a violation committed solely by
21 a foreign labor recruiter under this subtitle—

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

24 (B) in any Federal or State civil court ac-
25 tion filed against the foreign labor recruiter by

1 or on behalf of such workers or other aggrieved
2 party under this subtitle.

3 (2) CLARIFICATION.—Nothing in this subtitle
4 shall be construed to prohibit an aggrieved party or
5 parties from bringing a civil action for violations of
6 this subtitle or any other Federal or State law
7 against any employer who hired workers referred by
8 a foreign labor recruiter—

9 (A) without a valid registration at the time
10 of hire; or

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

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

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

23 (g) LIABILITY FOR AGENTS.—Foreign labor recruit-
24 ers shall be subject to the provisions of this section for
25 violations committed by the foreign labor recruiter's

1 agents or subcontractees of any level in relation to their
2 foreign labor recruiting activity to the same extent as if
3 the foreign labor recruiter had committed the violation.

4 **SEC. 253. APPROPRIATIONS.**

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

8 **SEC. 254. DEFINITIONS.**

9 For purposes of this subtitle:

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

1 (2) FOREIGN LABOR RECRUITING ACTIVITY.—

2 The term “foreign labor recruiting activity” means
3 recruiting, soliciting, or related activities with re-
4 spect to an individual who resides outside of the
5 United States in furtherance of employment in the
6 United States, including when such activity occurs
7 wholly outside of the United States.

8 (3) RECRUITMENT FEES.—The term “recruit-
9 ment fees” has the meaning given to such term
10 under section 22.1702 of title 22 of the Code of
11 Federal Regulations, as in effect on the date of en-
12 actment of this Act.

13 (4) PERSON.—The term “person” means any
14 natural person or any corporation, company, firm,
15 partnership, joint stock company or association or
16 other organization or entity (whether organized
17 under law or not), including municipal corporations.

18 **TITLE III—ELECTRONIC VERIFI-**
19 **CATION OF EMPLOYMENT**
20 **ELIGIBILITY**

21 **SEC. 301. ELECTRONIC EMPLOYMENT ELIGIBILITY VERIFI-**
22 **CATION SYSTEM.**

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

1 **“SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC VERIFI-**
2 **CATION OF EMPLOYMENT ELIGIBILITY.**

3 “(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
4 TEM.—

5 “(1) IN GENERAL.—The Secretary of Homeland
6 Security (referred to in this section as the ‘Sec-
7 retary’) shall establish and administer an electronic
8 verification system (referred to in this section as the
9 ‘System’), patterned on the E-Verify Program de-
10 scribed in section 403(a) of the Illegal Immigration
11 Reform and Immigrant Responsibility Act of 1996
12 (8 U.S.C. 1324a note) (as in effect on the day be-
13 fore the effective date described in section 303(a)(4)
14 of the Farm Workforce Modernization Act of 2019),
15 and using the employment eligibility confirmation
16 system established under section 404 of such Act (8
17 U.S.C. 1324a note) (as so in effect) as a foundation,
18 through which the Secretary shall—

19 “(A) respond to inquiries made by persons
20 or entities seeking to verify the identify and em-
21 ployment authorization of individuals that such
22 persons or entities seek to hire, or to recruit or
23 refer for a fee, for employment in the United
24 States; and

25 “(B) maintain records of the inquiries that
26 were made, and of verifications provided (or not

1 provided) to such persons or entities as evidence
2 of compliance with the requirements of this sec-
3 tion.

4 “(2) INITIAL RESPONSE DEADLINE.—The Sys-
5 tem shall provide confirmation or a tentative non-
6 confirmation of an individual’s identity and employ-
7 ment authorization as soon as practicable, but not
8 later than 3 calendar days after the initial inquiry.

9 “(3) GENERAL DESIGN AND OPERATION OF
10 SYSTEM.—The Secretary shall design and operate
11 the System—

12 “(A) using responsive web design and
13 other technologies to maximize its ease of use
14 and accessibility for users on a variety of elec-
15 tronic devices and screen sizes, and in remote
16 locations;

17 “(B) to maximize the accuracy of re-
18 sponses to inquiries submitted by persons or en-
19 tities;

20 “(C) to maximize the reliability of the Sys-
21 tem and to register each instance when the Sys-
22 tem is unable to receive inquiries;

23 “(D) to protect the privacy and security of
24 the personally identifiable information main-
25 tained by or submitted to the System;

1 “(E) to provide direct notification of an in-
2 quiry to an individual with respect to whom the
3 inquiry is made, including the results of such
4 inquiry, and information related to the process
5 for challenging the results; and

6 “(F) to maintain appropriate administra-
7 tive, technical, and physical safeguards to pre-
8 vent misuse of the System and unfair immigra-
9 tion-related employment practices.

10 “(4) MEASURES TO PREVENT IDENTITY THEFT
11 AND OTHER FORMS OF FRAUD.—To prevent identity
12 theft and other forms of fraud, the Secretary shall
13 design and operate the System with the following at-
14 tributes:

15 “(A) PHOTO MATCHING TOOL.—The Sys-
16 tem shall display the digital photograph of the
17 individual, if any, that corresponds to the docu-
18 ment presented by an individual to establish
19 identity and employment authorization so that
20 the person or entity that makes an inquiry can
21 compare the photograph displayed by the Sys-
22 tem to the photograph on the document pre-
23 sented by the individual.

24 “(B) INDIVIDUAL MONITORING AND SUS-
25 PENSION OF IDENTIFYING INFORMATION.—The

1 System shall enable individuals to establish user
2 accounts, after authentication of an individual's
3 identity, that would allow an individual to—

4 “(i) confirm the individual's own em-
5 ployment authorization;

6 “(ii) receive electronic notification
7 when the individual's social security ac-
8 count number or other personally identi-
9 fying information has been submitted to
10 the System;

11 “(iii) monitor the use history of the
12 individual's personally identifying informa-
13 tion in the System, including the identities
14 of all persons or entities that have sub-
15 mitted such identifying information to the
16 System, the date of each query run, and
17 the System response for each query run;

18 “(iv) suspend or limit the use of the
19 individual's social security account number
20 or other personally identifying information
21 for purposes of the System; and

22 “(v) provide notice to the Department
23 of Homeland Security of any suspected
24 identity fraud or other improper use of
25 personally identifying information.

1 “(C) BLOCKING MISUSED SOCIAL SECUR-
2 RITY ACCOUNT NUMBERS.—

3 “(i) IN GENERAL.—The Secretary, in
4 consultation with the Commissioner of So-
5 cial Security (referred to in this section as
6 the ‘Commissioner’), shall develop, after
7 publication in the Federal Register and an
8 opportunity for public comment, a process
9 in which social security account numbers
10 that have been identified to be subject to
11 unusual multiple use in the System or that
12 are otherwise suspected or determined to
13 have been compromised by identity fraud
14 or other misuse, shall be blocked from use
15 in the System unless the individual using
16 such number is able to establish, through
17 secure and fair procedures, that the indi-
18 vidual is the legitimate holder of the num-
19 ber.

20 “(ii) NOTICE.—If the Secretary blocks
21 or suspends a social security account num-
22 ber under this subparagraph, the Secretary
23 shall provide notice to the persons or enti-
24 ties that have made inquiries to the Sys-
25 tem using such account number that the

1 identity and employment authorization of
2 the individual who provided such account
3 number must be re-verified.

4 “(D) ADDITIONAL IDENTITY AUTHENTICA-
5 TION TOOL.—The Secretary shall develop, after
6 publication in the Federal Register and an op-
7 portunity for public comment, additional secu-
8 rity measures to adequately verify the identity
9 of an individual whose identity may not be
10 verified using the photo tool described in sub-
11 paragraph (A). Such additional security meas-
12 ures—

13 “(i) shall be kept up-to-date with
14 technological advances; and

15 “(ii) shall be designed to provide a
16 high level of certainty with respect to iden-
17 tity authentication.

18 “(E) CHILD-LOCK PILOT PROGRAM.—The
19 Secretary, in consultation with the Commis-
20 sioner, shall establish a reliable, secure program
21 through which parents or legal guardians may
22 suspend or limit the use of the social security
23 account number or other personally identifying
24 information of a minor under their care for
25 purposes of the System. The Secretary may im-

1 plement the program on a limited pilot basis be-
2 fore making it fully available to all individuals.

3 “(5) RESPONSIBILITIES OF THE COMMISSIONER
4 OF SOCIAL SECURITY.—The Commissioner, in con-
5 sultation with the Secretary, shall establish a reli-
6 able, secure method, which, within the time periods
7 specified in paragraph (2) and subsection
8 (b)(4)(D)(i)(II), compares the name and social secu-
9 rity account number provided in an inquiry against
10 such information maintained by the Commissioner in
11 order to validate (or not validate) the information
12 provided by the person or entity with respect to an
13 individual whose identity and employment authoriza-
14 tion the person or entity seeks to confirm, the cor-
15 respondence of the name and number, and whether
16 the individual has presented a social security ac-
17 count number that is not valid for employment. The
18 Commissioner shall not disclose or release social se-
19 curity information (other than such confirmation or
20 nonconfirmation) under the System except as pro-
21 vided under this section or section 205(c)(2)(I) of
22 the Social Security Act (42 U.S.C. 405).

23 “(6) RESPONSIBILITIES OF THE SECRETARY OF
24 HOMELAND SECURITY.—

1 “(A) IN GENERAL.—The Secretary of
2 Homeland Security shall establish a reliable, se-
3 cure method, which, within the time periods
4 specified in paragraph (2) and subsection
5 (b)(4)(D)(i)(II), compares the name and identi-
6 fication or other authorization number (or any
7 other information determined relevant by the
8 Secretary) which are provided in an inquiry
9 against such information maintained or
10 accessed by the Secretary in order to validate
11 (or not validate) the information provided, the
12 correspondence of the name and number, and
13 whether the individual is authorized to be em-
14 ployed in the United States.

15 “(B) TRAINING.—The Secretary shall pro-
16 vide and regularly update training materials on
17 the use of the System for persons and entities
18 making inquiries.

19 “(C) AUDIT.—The Secretary shall provide
20 for periodic auditing of the System to detect
21 and prevent misuse, discrimination, fraud, and
22 identity theft, to protect privacy and assess
23 System accuracy, and to preserve the integrity
24 and security of the information in the System.

1 “(D) NOTICE OF SYSTEM CHANGES.—The
2 Secretary shall provide appropriate notification
3 to persons and entities registered in the System
4 of any change made by the Secretary or the
5 Commissioner related to permitted and prohib-
6 ited documents, and use of the System.

7 “(7) RESPONSIBILITIES OF THE SECRETARY OF
8 STATE.—As part of the System, the Secretary of
9 State shall provide to the Secretary of Homeland Se-
10 curity access to passport and visa information as
11 needed to confirm that a passport or passport card
12 presented under subsection (b)(3)(A)(i) confirms the
13 employment authorization and identity of the indi-
14 vidual presenting such document, and that a pass-
15 port, passport card, or visa photograph matches the
16 Secretary of State’s records, and shall provide such
17 assistance as the Secretary of Homeland Security
18 may request in order to resolve tentative noncon-
19 firmations or final nonconfirmations relating to such
20 information.

21 “(8) UPDATING INFORMATION.—The Commis-
22 sioner, the Secretary of Homeland Security, and the
23 Secretary of State shall update records in their cus-
24 tody in a manner that promotes maximum accuracy
25 of the System and shall provide a process for the

1 prompt correction of erroneous information, includ-
2 ing instances in which it is brought to their atten-
3 tion through the secondary verification process
4 under subsection (b)(4)(D).

5 “(9) MANDATORY AND VOLUNTARY SYSTEM
6 USES.—

7 “(A) MANDATORY USERS.—Except as oth-
8 erwise provided under Federal or State law,
9 such as sections 302 and 303 of the Farm
10 Workforce Modernization Act of 2019, nothing
11 in this section shall be construed as requiring
12 the use of the System by any person or entity
13 hiring, recruiting, or referring for a fee, an in-
14 dividual for employment in the United States.

15 “(B) VOLUNTARY USERS.—Beginning
16 after the date that is 30 days after the date on
17 which final rules are published under section
18 309(a) of the Farm Workforce Modernization
19 Act of 2019, a person or entity may use the
20 System on a voluntary basis to seek verification
21 of the identity and employment authorization of
22 individuals the person or entity is hiring, re-
23 cruiting, or referring for a fee for employment
24 in the United States

1 “(C) PROCESS FOR NON-USERS.—The em-
2 ployment verification process for any person or
3 entity hiring, recruiting, or referring for a fee,
4 an individual for employment in the United
5 States shall be governed by section 274A(b) un-
6 less the person or entity—

7 “(i) is required by Federal or State
8 law to use the System; or

9 “(ii) has opted to use the System vol-
10 untarily in accordance with subparagraph
11 (B).

12 “(10) NO FEE FOR USE.—The Secretary may
13 not charge a fee to an individual, person, or entity
14 related to the use of the System.

15 “(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—
16 Notwithstanding section 274A(b), the requirements re-
17 ferred to in paragraphs (1)(B) and (3) of section 274A(a)
18 are, in the case of a person or entity that uses the System
19 for the hiring, recruiting, or referring for a fee, an indi-
20 vidual for employment in the United States, the following:

21 “(1) INDIVIDUAL ATTESTATION OF EMPLOY-
22 MENT AUTHORIZATION.—During the period begin-
23 ning on the date on which an offer of employment
24 is accepted and ending on the date of hire, the indi-
25 vidual shall attest, under penalty of perjury on a

1 form designated by the Secretary, that the individual
2 is authorized to be employed in the United States by
3 providing on such form—

4 “(A) the individual’s name and date of
5 birth;

6 “(B) the individual’s social security ac-
7 count number (unless the individual has applied
8 for and not yet been issued such a number);

9 “(C) whether the individual is—

10 “(i) a citizen or national of the United
11 States;

12 “(ii) an alien lawfully admitted for
13 permanent residence; or

14 “(iii) an alien who is otherwise au-
15 thorized by the Secretary to be hired, re-
16 cruited, or referred for employment in the
17 United States; and

18 “(D) if the individual does not attest to
19 United States citizenship or nationality, such
20 identification or other authorization number es-
21 tablished by the Department of Homeland Se-
22 curity for the alien as the Secretary may speci-
23 fy.

24 “(2) EMPLOYER ATTESTATION AFTER EXAM-
25 INATION OF DOCUMENTS.—

1 “(A) ATTESTATION.—Not later than 3
2 business days after the date of hire, the person
3 or entity shall attest, under penalty of perjury
4 on the form designated by the Secretary for
5 purposes of paragraph (1), that it has verified
6 that the individual is not an unauthorized alien
7 by—

8 “(i) obtaining from the individual the
9 information described in paragraph (1)
10 and recording such information on the
11 form;

12 “(ii) examining—

13 “(I) a document described in
14 paragraph (3)(A); or

15 “(II) a document described in
16 paragraph (3)(B) and a document de-
17 scribed in paragraph (3)(C); and

18 “(iii) attesting that the information
19 recorded on the form is consistent with the
20 documents examined.

21 “(3) ACCEPTABLE DOCUMENTS.—

22 “(A) DOCUMENTS ESTABLISHING EMPLOY-
23 MENT AUTHORIZATION AND IDENTITY.—A doc-
24 ument described in this subparagraph is an in-
25 dividual’s—

1 “(i) United States passport or pass-
2 port card;

3 “(ii) permanent resident card that
4 contains a photograph;

5 “(iii) foreign passport containing tem-
6 porary evidence of lawful permanent resi-
7 dence in the form of an official I–551 (or
8 successor) stamp from the Department of
9 Homeland Security or a printed notation
10 on a machine-readable immigrant visa;

11 “(iv) unexpired employment author-
12 ization card that contains a photograph;

13 “(v) in the case of a nonimmigrant
14 alien authorized to engage in employment
15 for a specific employer incident to status,
16 a foreign passport with Form I–94, Form
17 I–94A, or other documentation as des-
18 ignated by the Secretary specifying the
19 alien’s nonimmigrant status as long as
20 such status has not yet expired and the
21 proposed employment is not in conflict
22 with any restrictions or limitations identi-
23 fied in the documentation;

24 “(vi) passport from the Federated
25 States of Micronesia or the Republic of the

1 Marshall Islands with Form I–94, Form I–
2 94A, or other documentation as designated
3 by the Secretary, indicating nonimmigrant
4 admission under the Compact of Free As-
5 sociation Between the United States and
6 the Federated States of Micronesia or the
7 Republic of the Marshall Islands; or

8 “(vii) other document designated by
9 the Secretary, by notice published in the
10 Federal Register, if the document—

11 “(I) contains a photograph of the
12 individual, biometric identification
13 data, and other personal identifying
14 information relating to the individual;

15 “(II) is evidence of authorization
16 for employment in the United States;
17 and

18 “(III) contains security features
19 to make it resistant to tampering,
20 counterfeiting, and fraudulent use.

21 “(B) DOCUMENTS ESTABLISHING EMPLOY-
22 MENT AUTHORIZATION.—A document described
23 in this subparagraph is—

24 “(i) an individual’s social security ac-
25 count number card (other than such a card

1 which specifies on the face that the
2 issuance of the card does not authorize em-
3 ployment in the United States); or

4 “(ii) a document establishing employ-
5 ment authorization that the Secretary de-
6 termines, by notice published in the Fed-
7 eral Register, to be acceptable for purposes
8 of this subparagraph, provided that such
9 documentation contains security features
10 to make it resistant to tampering, counter-
11 feiting, and fraudulent use.

12 “(C) DOCUMENTS ESTABLISHING IDEN-
13 TITY.—A document described in this subpara-
14 graph is—

15 “(i) an individual’s driver’s license or
16 identification card if it was issued by a
17 State or one of the outlying possessions of
18 the United States and contains a photo-
19 graph and personal identifying information
20 relating to the individual;

21 “(ii) an individual’s unexpired United
22 States military identification card;

23 “(iii) an individual’s unexpired Native
24 American tribal identification document

1 issued by a tribal entity recognized by the
2 Bureau of Indian Affairs;

3 “(iv) in the case of an individual
4 under 18 years of age, a parent or legal
5 guardian’s attestation under penalty of law
6 as to the identity and age of the individual;
7 or

8 “(v) a document establishing identity
9 that the Secretary determines, by notice
10 published in the Federal Register, to be ac-
11 ceptable for purposes of this subparagraph,
12 if such documentation contains a photo-
13 graph of the individual, biometric identi-
14 fication data, and other personal identi-
15 fying information relating to the indi-
16 vidual, and security features to make it re-
17 sistant to tampering, counterfeiting, and
18 fraudulent use.

19 “(D) AUTHORITY TO PROHIBIT USE OF
20 CERTAIN DOCUMENTS.—If the Secretary finds
21 that any document or class of documents de-
22 scribed in subparagraph (A), (B), or (C) does
23 not reliably establish identity or employment
24 authorization or is being used fraudulently to
25 an unacceptable degree, the Secretary may, by

1 notice published in the Federal Register, pro-
2 hibit or place conditions on the use of such doc-
3 ument or class of documents for purposes of
4 this section.

5 “(4) USE OF THE SYSTEM TO SCREEN IDEN-
6 TITY AND EMPLOYMENT AUTHORIZATION.—

7 “(A) IN GENERAL.—In the case of a per-
8 son or entity that uses the System for the hir-
9 ing, recruiting, or referring for a fee an indi-
10 vidual for employment in the United States,
11 during the period described in subparagraph
12 (B), the person or entity shall submit an in-
13 quiry through the System described in sub-
14 section (a) to seek verification of the identity
15 and employment authorization of the individual.

16 “(B) VERIFICATION PERIOD.—

17 “(i) IN GENERAL.—Except as pro-
18 vided in clause (ii), and subject to sub-
19 section (d), the verification period shall
20 begin on the date of hire and end on the
21 date that is 3 business days after the date
22 of hire, or such other reasonable period as
23 the Secretary may prescribe.

24 “(ii) SPECIAL RULE.—In the case of
25 an alien who is authorized to be employed

1 in the United States and who provides evi-
2 dence from the Social Security Administra-
3 tion that the alien has applied for a social
4 security account number, the verification
5 period shall end 3 business days after the
6 alien receives the social security account
7 number.

8 “(C) CONFIRMATION.—If a person or enti-
9 ty receives confirmation of an individual’s iden-
10 tity and employment authorization, the person
11 or entity shall record such confirmation on the
12 form designated by the Secretary for purposes
13 of paragraph (1).

14 “(D) TENTATIVE NONCONFIRMATION.—

15 “(i) IN GENERAL.—In cases of ten-
16 tative nonconfirmation, the Secretary shall
17 provide, in consultation with the Commis-
18 sioner, a process for—

19 “(I) an individual to contest the
20 tentative nonconfirmation not later
21 than 10 business days after the date
22 of the receipt of the notice described
23 in clause (ii); and

24 “(II) the Secretary to issue a
25 confirmation or final nonconfirmation

1 of an individual's identity and employ-
2 ment authorization not later than 30
3 calendar days after the Secretary re-
4 ceives notice from the individual con-
5 testing a tentative nonconfirmation.

6 “(ii) NOTICE.—If a person or entity
7 receives a tentative nonconfirmation of an
8 individual's identity or employment author-
9 ization, the person or entity shall, not later
10 than 3 business days after receipt, notify
11 such individual in writing in a language
12 understood by the individual and on a form
13 designated by the Secretary, that shall in-
14 clude a description of the individual's right
15 to contest the tentative nonconfirmation.
16 The person or entity shall attest, under
17 penalty of perjury, that the person or enti-
18 ty provided (or attempted to provide) such
19 notice to the individual, and the individual
20 shall acknowledge receipt of such notice in
21 a manner specified by the Secretary.

22 “(iii) NO CONTEST.—

23 “(I) IN GENERAL.—A tentative
24 nonconfirmation shall become final if,

1 upon receiving the notice described in
2 clause (ii), the individual—

3 “(aa) refuses to acknowledge
4 receipt of such notice;

5 “(bb) acknowledges in writ-
6 ing, in a manner specified by the
7 Secretary, that the individual will
8 not contest the tentative noncon-
9 firmation; or

10 “(cc) fails to contest the
11 tentative nonconfirmation within
12 the 10-business-day period begin-
13 ning on the date the individual
14 received such notice.

15 “(II) RECORD OF NO CON-
16 TEST.—The person or entity shall in-
17 dicate in the System that the indi-
18 vidual did not contest the tentative
19 nonconfirmation and shall specify the
20 reason the tentative nonconfirmation
21 became final under subclause (I).

22 “(III) EFFECT OF FAILURE TO
23 CONTEST.—An individual’s failure to
24 contest a tentative nonconfirmation
25 shall not be considered an admission

1 of any fact with respect to any viola-
2 tion of this Act or any other provision
3 of law.

4 “(iv) CONTEST.—

5 “(I) IN GENERAL.—An individual
6 may contest a tentative nonconfirma-
7 tion by using the process for sec-
8 ondary verification under clause (i),
9 not later than 10 business days after
10 receiving the notice described in
11 clause (ii). Except as provided in
12 clause (iii), the nonconfirmation shall
13 remain tentative until a confirmation
14 or final nonconfirmation is provided
15 by the System.

16 “(II) PROHIBITION ON TERMI-
17 NATION.—In no case shall a person or
18 entity terminate employment or take
19 any adverse employment action
20 against an individual for failure to ob-
21 tain confirmation of the individual’s
22 identity and employment authoriza-
23 tion until the person or entity receives
24 a notice of final nonconfirmation from
25 the System. Nothing in this subclause

1 shall prohibit an employer from termi-
2 nating the employment of the indi-
3 vidual for any other lawful reason.

4 “(III) CONFIRMATION OR FINAL
5 NONCONFIRMATION.—The Secretary,
6 in consultation with the Commis-
7 sioner, shall issue notice of a con-
8 firmation or final nonconfirmation of
9 the individual’s identity and employ-
10 ment authorization not later than 30
11 calendar days after the date the Sec-
12 retary receives notice from the indi-
13 vidual contesting the tentative non-
14 confirmation.

15 “(E) FINAL NONCONFIRMATION.—

16 “(i) NOTICE.—If a person or entity
17 receives a final nonconfirmation of an indi-
18 vidual’s identity or employment authoriza-
19 tion, the person or entity shall, not later
20 than 3 business days after receipt, notify
21 such individual of the final nonconfirma-
22 tion in writing, on a form designated by
23 the Secretary, which shall include informa-
24 tion regarding the individual’s right to ap-
25 peal the final nonconfirmation as provided

1 under subparagraph (F). The person or
2 entity shall attest, under penalty of per-
3 jury, that the person or entity provided (or
4 attempted to provide) the notice to the in-
5 dividual, and the individual shall acknowl-
6 edge receipt of such notice in a manner
7 designated by the Secretary.

8 “(ii) TERMINATION OR NOTIFICATION
9 OF CONTINUED EMPLOYMENT.—If a per-
10 son or entity receives a final nonconfirma-
11 tion regarding an individual, the person or
12 entity may terminate employment of the
13 individual. If the person or entity does not
14 terminate such employment pending appeal
15 of the final nonconfirmation, the person or
16 entity shall notify the Secretary of such
17 fact through the System. Failure to notify
18 the Secretary in accordance with this
19 clause shall be deemed a violation of sec-
20 tion 274A(a)(1)(A).

21 “(iii) PRESUMPTION OF VIOLATION
22 FOR CONTINUED EMPLOYMENT.—If a per-
23 son or entity continues to employ an indi-
24 vidual after receipt of a final nonconfirma-
25 tion, there shall be a rebuttable presump-

tion that the person or entity has violated paragraphs (1)(A) and (a)(2) of section 274A(a).

“(F) APPEAL OF FINAL NONCONFIRMATION.—

“(i) ADMINISTRATIVE APPEAL.—The Secretary, in consultation with the Commissioner, shall develop a process by which an individual may seek administrative review of a final nonconfirmation. Such process shall—

“(I) permit the individual to submit additional evidence establishing identity or employment authorization;

“(II) ensure prompt resolution of an appeal (but in no event shall there be a failure to respond to an appeal within 30 days); and

“(III) permit the Secretary to impose a civil money penalty (not to exceed \$500) on an individual upon finding that an appeal was frivolous or filed for purposes of delay.

1 “(ii) COMPENSATION FOR LOST
2 WAGES RESULTING FROM GOVERNMENT
3 ERROR OR OMISSION.—

4 “(I) IN GENERAL.—If, upon con-
5 sideration of an appeal of a final non-
6 confirmation, the Secretary deter-
7 mines that the final nonconfirmation
8 was issued in error, the Secretary
9 shall further determine whether the
10 final nonconfirmation was the result
11 of government error or omission. If
12 the Secretary determines that the
13 final nonconfirmation was solely the
14 result of government error or omission
15 and the individual was terminated
16 from employment, the Secretary shall
17 compensate the individual for lost
18 wages.

19 “(II) CALCULATION OF LOST
20 WAGES.—Lost wages shall be cal-
21 culated based on the wage rate and
22 work schedule that were in effect
23 prior to the individual’s termination.
24 The individual shall be compensated
25 for lost wages beginning on the first

1 scheduled work day after employment
2 was terminated and ending 90 days
3 after completion of the administrative
4 review process described in this sub-
5 paragraph or the day the individual is
6 reinstated or obtains other employ-
7 ment, whichever occurs first.

8 “(III) LIMITATION ON COM-
9 PENSATION.—No compensation for
10 lost wages shall be awarded for any
11 period during which the individual
12 was not authorized for employment in
13 the United States.

14 “(IV) SOURCE OF FUNDS.—
15 There is established in the general
16 fund of the Treasury, a separate ac-
17 count which shall be known as the
18 ‘Electronic Verification Compensation
19 Account’. Fees collected under sub-
20 sections (f) and (g) shall be deposited
21 in the Electronic Verification Com-
22 pensation Account and shall remain
23 available for purposes of providing
24 compensation for lost wages under
25 this subclause.

1 “(iii) JUDICIAL REVIEW.—Not later
2 than 30 days after the dismissal of an ap-
3 peal under this subparagraph, an indi-
4 vidual may seek judicial review of such dis-
5 missal in the United States District Court
6 in the jurisdiction in which the employer
7 resides or conducts business.

8 “(5) RETENTION OF VERIFICATION RECORDS.—

9 “(A) IN GENERAL.—After completing the
10 form designated by the Secretary in accordance
11 with paragraphs (1) and (2), the person or enti-
12 ty shall retain the form in paper, microfiche,
13 microfilm, electronic, or other format deemed
14 acceptable by the Secretary, and make it avail-
15 able for inspection by officers of the Depart-
16 ment of Homeland Security, the Department of
17 Justice, or the Department of Labor during the
18 period beginning on the date the verification is
19 completed and ending on the later of—

20 “(i) the date that is 3 years after the
21 date of hire; or

22 “(ii) the date that is 1 year after the
23 date on which the individual’s employment
24 is terminated.

1 “(B) COPYING OF DOCUMENTATION PER-
2 MITTED.—Notwithstanding any other provision
3 of law, a person or entity may copy a document
4 presented by an individual pursuant to this sec-
5 tion and may retain the copy, but only for the
6 purpose of complying with the requirements of
7 this section.

8 “(c) REVERIFICATION OF PREVIOUSLY HIRED INDIVIDUALS.—

10 “(1) MANDATORY REVERIFICATION.—In the
11 case of a person or entity that uses the System for
12 the hiring, recruiting, or referring for a fee an indi-
13 vidual for employment in the United States, the per-
14 son or entity shall submit an inquiry using the Sys-
15 tem to verify the identity and employment authoriza-
16 tion of—

17 “(A) an individual with a limited period of
18 employment authorization, within 3 business
19 days before the date on which such employment
20 authorization expires; and

21 “(B) an individual, not later than 10 days
22 after receiving a notification from the Secretary
23 requiring the verification of such individual pur-
24 suant to subsection (a)(4)(C).

1 “(2) REVERIFICATION PROCEDURES.—The
2 verification procedures under subsection (b) shall
3 apply to reverifications under this subsection, except
4 that employers shall—

5 “(A) use a form designated by the Sec-
6 retary for purposes of this paragraph; and

7 “(B) retain the form in paper, microfiche,
8 microfilm, electronic, or other format deemed
9 acceptable by the Secretary, and make it avail-
10 able for inspection by officers of the Depart-
11 ment of Homeland Security, the Department of
12 Justice, or the Department of Labor during the
13 period beginning on the date the reverification
14 commences and ending on the later of—

15 “(i) the date that is 3 years after the
16 date of reverification; or

17 “(ii) the date that is 1 year after the
18 date on which the individual’s employment
19 is terminated.

20 “(3) LIMITATION ON REVERIFICATION.—Except
21 as provided in paragraph (1), a person or entity may
22 not otherwise reverify the identity and employment
23 authorization of a current employee, including an
24 employee continuing in employment.

25 “(d) GOOD FAITH COMPLIANCE.—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, a person or entity that uses
3 the System is considered to have complied with the
4 requirements of this section notwithstanding a tech-
5 nical failure of the System, or other technical or pro-
6 cedural failure to meet such requirement if there
7 was a good faith attempt to comply with the require-
8 ment.

9 “(2) EXCEPTION FOR FAILURE TO CORRECT
10 AFTER NOTICE.—Paragraph (1) shall not apply if—

11 “(A) the failure is not de minimis;

12 “(B) the Secretary has provided notice to
13 the person or entity of the failure, including an
14 explanation as to why it is not de minimis;

15 “(C) the person or entity has been pro-
16 vided a period of not less than 30 days (begin-
17 ning after the date of the notice) to correct the
18 failure; and

19 “(D) the person or entity has not corrected
20 the failure voluntarily within such period.

21 “(3) EXCEPTION FOR PATTERN OR PRACTICE
22 VIOLATORS.—Paragraph (1) shall not apply to a
23 person or entity that has engaged or is engaging in
24 a pattern or practice of violations of paragraph
25 (1)(A) or (2) of section 274A(a).

1 “(4) DEFENSE.—In the case of a person or en-
2 tity that uses the System for the hiring, recruiting,
3 or referring for a fee an individual for employment
4 in the United States, the person or entity shall not
5 be liable to a job applicant, an employee, the Federal
6 Government, or a State or local government, under
7 Federal, State, or local criminal or civil law, for any
8 employment-related action taken with respect to an
9 employee in good-faith reliance on information pro-
10 vided by the System. Such person or entity shall be
11 deemed to have established compliance with its obli-
12 gations under this section, absent a showing by the
13 Secretary, by clear and convincing evidence, that the
14 employer had knowledge that an employee is an un-
15 authorized alien.

16 “(e) LIMITATIONS.—

17 “(1) NO NATIONAL IDENTIFICATION CARD.—
18 Nothing in this section shall be construed to author-
19 ize, directly or indirectly, the issuance or use of na-
20 tional identification cards or the establishment of a
21 national identification card.

22 “(2) USE OF RECORDS.—Notwithstanding any
23 other provision of law, nothing in this section shall
24 be construed to permit or allow any department, bu-
25 reau, or other agency of the United States Govern-

1 ment to utilize any information, database, or other
2 records assembled under this section for any purpose
3 other than the verification of identity and employ-
4 ment authorization of an individual or to ensure the
5 secure, appropriate, and non-discriminatory use of
6 the System.

7 “(f) PENALTIES.—

8 “(1) IN GENERAL.—Except as provided in this
9 subsection, the provisions of subsections (e) through
10 (g) of section 274A shall apply with respect to com-
11 pliance with the provisions of this section and pen-
12 alties for non-compliance for persons or entities that
13 use the System.

14 “(2) CEASE AND DESIST ORDER WITH CIVIL
15 MONEY PENALTIES FOR HIRING, RECRUITING, AND
16 REFERRAL VIOLATIONS.—Notwithstanding the civil
17 money penalties set forth in section 274A(e)(4), with
18 respect to a violation of paragraph (1)(A) or (2) of
19 section 274A(a) by a person or entity that has hired,
20 recruited, or referred for a fee, an individual for em-
21 ployment in the United States, a cease and desist
22 order—

23 “(A) shall require the person or entity to
24 pay a civil penalty in an amount, subject to
25 subsection (d), of—

1 “(i) not less than \$2,500 and not
2 more than \$5,000 for each unauthorized
3 alien with respect to whom a violation of
4 either such subsection occurred;

5 “(ii) not less than \$5,000 and not
6 more than \$10,000 for each such alien in
7 the case of a person or entity previously
8 subject to one order under this paragraph;
9 or

10 “(iii) not less than \$10,000 and not
11 more than \$25,000 for each such alien in
12 the case of a person or entity previously
13 subject to more than one order under this
14 paragraph; and

15 “(B) may require the person or entity to
16 take such other remedial action as appropriate.

17 “(3) ORDER FOR CIVIL MONEY PENALTY FOR
18 VIOLATIONS.—With respect to a violation of section
19 274A(a)(1)(B), the order under this paragraph shall
20 require the person or entity to pay a civil penalty in
21 an amount, subject to paragraphs (4), (5), and (6),
22 of not less than \$1,000 and not more than \$25,000
23 for each individual with respect to whom such viola-
24 tion occurred. Failure by a person or entity to utilize
25 the System as required by law or providing informa-

tion to the System that the person or entity knows or reasonably believes to be false, shall be treated as a violation of section 274A(a)(1)(A).

“(4) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—

“(A) IN GENERAL.—A person or entity that uses the System is presumed to have acted with knowledge for purposes of paragraphs (1)(A) and (2) of section 274A(a) if the person or entity fails to make an inquiry to verify the identity and employment authorization of the individual through the System.

“(B) GOOD FAITH EXEMPTION.—In the case of imposition of a civil penalty under paragraph (2)(A) with respect to a violation of paragraph (1)(A) or (2) of section 274A(a) for hiring or continuation of employment or recruitment or referral by a person or entity, and in the case of imposition of a civil penalty under paragraph (3) for a violation of section 274A(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 person or entity establishes that the person or entity acted in good faith.

1 “(5) MITIGATION ELEMENTS.—For purposes of
2 paragraphs (2)(A) and (3), when assessing the level
3 of civil money penalties, in addition to the good faith
4 of the person or entity being charged, due consider-
5 ation shall be given to the size of the business, the
6 seriousness of the violation, whether or not the indi-
7 vidual was an unauthorized alien, and the history of
8 previous violations.

9 “(6) CRIMINAL PENALTY.—Notwithstanding
10 section 274A(f)(1) and the provisions of any other
11 Federal law relating to fine levels, any person or en-
12 tity that is required to comply with the provisions of
13 this section and that engages in a pattern or prac-
14 tice of violations of paragraph (1) or (2) of section
15 274A(a), shall be fined not more than \$5,000 for
16 each unauthorized alien with respect to whom such
17 a violation occurs, imprisoned for not more than 18
18 months, or both.

19 “(7) ELECTRONIC VERIFICATION COMPENSA-
20 TION ACCOUNT.—Civil money penalties collected
21 under this subsection shall be deposited in the Elec-
22 tronic Verification Compensation Account for the
23 purpose of compensating individuals for lost wages
24 as a result of a final nonconfirmation issued by the
25 System that was based on government or employer

1 error or omission, as set forth in subsection
2 (b)(4)(F)(ii)(IV).

3 “(8) DEBARMENT.—

4 “(A) IN GENERAL.—If a person or entity
5 is determined by the Secretary to be a repeat
6 violator of paragraph (1)(A) or (2) of section
7 274A(a) or is convicted of a crime under sec-
8 tion 274A, such person or entity may be consid-
9 ered for debarment from the receipt of Federal
10 contracts, grants, or cooperative agreements in
11 accordance with the debarment standards and
12 pursuant to the debarment procedures set forth
13 in the Federal Acquisition Regulation.

14 “(B) NO CONTRACT, GRANT, AGREE-
15 MENT.—If the Secretary or the Attorney Gen-
16 eral wishes to have a person or entity consid-
17 ered for debarment in accordance with this
18 paragraph, and such a person or entity does not
19 hold a Federal contract, grant or cooperative
20 agreement, the Secretary or Attorney General
21 shall refer the matter to the Administrator of
22 General Services to determine whether to list
23 the person or entity on the List of Parties Ex-
24 cluded from Federal Procurement, and if so, for
25 what duration and under what scope.

1 “(C) CONTRACT, GRANT, AGREEMENT.—If
2 the Secretary or the Attorney General wishes to
3 have a person or entity considered for debar-
4 ment in accordance with this paragraph, and
5 such person or entity holds a Federal contract,
6 grant, or cooperative agreement, the Secretary
7 or Attorney General shall advise all agencies or
8 departments holding a contract, grant, or coop-
9 erative agreement with the person or entity of
10 the Government’s interest in having the person
11 or entity considered for debarment, and after
12 soliciting and considering the views of all such
13 agencies and departments, the Secretary or At-
14 torney General may refer the matter to the ap-
15 propriate lead agency to determine whether to
16 list the person or entity on the List of Parties
17 Excluded from Federal Procurement, and if so,
18 for what duration and under what scope.

19 “(D) REVIEW.—Any decision to debar a
20 person or entity in accordance with this sub-
21 section shall be reviewable pursuant to part 9.4
22 of the Federal Acquisition Regulation.

23 “(9) PREEMPTION.—The provisions of this sec-
24 tion preempt any State or local law, ordinance, pol-
25 icy, or rule, including any criminal or civil fine or

1 penalty structure, relating to the hiring, continued
2 employment, or status verification for employment
3 eligibility purposes, of unauthorized aliens, except
4 that a State, locality, municipality, or political sub-
5 division may exercise its authority over business li-
6 censing and similar laws as a penalty for failure to
7 use the System as required under this section.

8 “(g) UNFAIR IMMIGRATION-RELATED EMPLOYMENT
9 PRACTICES AND THE SYSTEM.—

10 “(1) IN GENERAL.—In addition to the prohibi-
11 tions on discrimination set forth in section 274B, it
12 is an unfair immigration-related employment prac-
13 tice for a person or entity, in the course of utilizing
14 the System—

15 “(A) to use the System for screening an
16 applicant prior to the date of hire;

17 “(B) to terminate the employment of an
18 individual or take any adverse employment ac-
19 tion with respect to that individual due to a
20 tentative nonconfirmation issued by the System;

21 “(C) to use the System to screen any indi-
22 vidual for any purpose other than confirmation
23 of identity and employment authorization as
24 provided in this section;

1 “(D) to use the System to verify the iden-
2 tity and employment authorization of a current
3 employee, including an employee continuing in
4 employment, other than reverification author-
5 ized under subsection (c);

6 “(E) to use the System to discriminate
7 based on national origin or citizenship status;

8 “(F) to willfully fail to provide an indi-
9 vidual with any notice required under this title;

10 “(G) to require an individual to make an
11 inquiry under the self-verification procedures
12 described in subsection (a)(4)(B) or to provide
13 the results of such an inquiry as a condition of
14 employment, or hiring, recruiting, or referring;
15 or

16 “(H) to terminate the employment of an
17 individual or take any adverse employment ac-
18 tion with respect to that individual based upon
19 the need to verify the identity and employment
20 authorization of the individual as required by
21 subsection (b).

22 “(2) PREEMPLOYMENT SCREENING AND BACK-
23 GROUND CHECK.—Nothing in paragraph (1)(A)
24 shall be construed to preclude a preemployment

1 screening or background check that is required or
2 permitted under any other provision of law.

3 “(3) CIVIL MONEY PENALTIES FOR DISCRIMINA-
4 TORY CONDUCT.—Notwithstanding section
5 274B(g)(2)(B)(iv), the penalties that may be im-
6 posed by an administrative law judge with respect to
7 a finding that a person or entity has engaged in an
8 unfair immigration-related employment practice de-
9 scribed in paragraph (1) are—

10 “(A) not less than \$1,000 and not more
11 than \$4,000 for each individual discriminated
12 against;

13 “(B) in the case of a person or entity pre-
14 viously subject to a single order under this
15 paragraph, not less than \$4,000 and not more
16 than \$10,000 for each individual discriminated
17 against; and

18 “(C) in the case of a person or entity pre-
19 viously subject to more than one order under
20 this paragraph, not less than \$6,000 and not
21 more than \$20,000 for each individual discrimi-
22 nated against.

23 “(4) ELECTRONIC VERIFICATION COMPENSA-
24 TION ACCOUNT.—Civil money penalties collected
25 under this subsection shall be deposited in the Elec-

1 tronic Verification Compensation Account for the
2 purpose of compensating individuals for lost wages
3 as a result of a final nonconfirmation issued by the
4 System that was based on government error or omis-
5 sion, as set forth in subsection (b)(4)(F)(ii)(IV).

6 “(h) CLARIFICATION.—All rights and remedies pro-
7 vided under any Federal, State, or local law relating to
8 workplace rights, including but not limited to back pay,
9 are available to an employee despite—

10 “(1) the employee’s status as an unauthorized
11 alien during or after the period of employment; or

12 “(2) the employer’s or employee’s failure to
13 comply with the requirements of this section.

14 “(i) DEFINITION.—In this section, the term ‘date of
15 hire’ means the date on which employment for pay or
16 other remuneration commences.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 274D the following:

“Sec. 274E. Requirements for the electronic verification of employment eligibility.”.

21 SEC. 302. MANDATORY ELECTRONIC VERIFICATION FOR
22 THE AGRICULTURAL INDUSTRY.

(a) IN GENERAL.—The requirements for the electronic verification of identity and employment authoriza-

1 tion described in section 274E of the Immigration and Na-
2 tionality Act, as inserted by section 301 of this Act, shall
3 apply to a person or entity hiring, recruiting, or referring
4 for a fee an individual for agricultural employment in the
5 United States in accordance with the effective dates set
6 forth in subsection (b).

7 (b) EFFECTIVE DATES.—

8 (1) HIRING.—Subsection (a) shall apply to a
9 person or entity hiring an individual for agricultural
10 employment in the United States as follows:

11 (A) With respect to employers having 500
12 or more employees in the United States on the
13 date of the enactment of this Act, on the date
14 that is 6 months after completion of the appli-
15 cation period described in section 101(c).

16 (B) With respect to employers having 100
17 or more employees in the United States (but
18 less than 500 such employees) on the date of
19 the enactment of this Act, on the date that is
20 9 months after completion of the application pe-
21 riod described in section 101(c).

22 (C) With respect to employers having 20
23 or more employees in the United States (but
24 less than 100 such employees) on the date of
25 the enactment of this Act, on the date that is

1 12 months after completion of the application
2 period described in section 101(c).

3 (D) With respect to employers having 1 or
4 more employees in the United States (but less
5 than 20 such employees) on the date of the en-
6 actment of this Act, on the date that is 15
7 months after completion of the application pe-
8 riod described in section 101(c).

9 (2) RECRUITING AND REFERRING.—Subsection
10 (a) shall apply to a person or entity recruiting or re-
11 ferring an individual for agricultural employment in
12 the United States on the date that is 12 months
13 after completion of the application period described
14 in section 101(c).

15 (3) TRANSITION RULE.—Except as required
16 under subtitle A of title IV of the Illegal Immigra-
17 tion Reform and Immigrant Responsibility Act of
18 1996 (8 U.S.C. 1324a note) (as in effect on the day
19 before the effective date described in section
20 303(a)(4)), Executive Order 13465 (8 U.S.C. 1324a
21 note; relating to Government procurement), or any
22 State law requiring persons or entities to use the E-
23 Verify Program described in section 403(a) of the Il-
24 legal Immigration Reform and Immigrant Responsi-
25 bility Act of 1996 (8 U.S.C. 1324a note) (as in ef-

1 fect on the day before the effective date described in
2 section 303(a)(4)), sections 274A and 274B of the
3 Immigration and Nationality Act (8 U.S.C. 1324a
4 and 1324b) shall apply to a person or entity hiring,
5 recruiting, or referring an individual for employment
6 in the United States until the applicable effective
7 date under this subsection.

8 (4) E-VERIFY VOLUNTARY USERS AND OTHERS
9 DESIRING EARLY COMPLIANCE.—Nothing in this
10 subsection shall be construed to prohibit persons or
11 entities, including persons or entities that have vol-
12 untarily elected to participate in the E-Verify Pro-
13 gram described in section 403(a) of the Illegal Im-
14 migration Reform and Immigrant Responsibility Act
15 of 1996 (8 U.S.C. 1324a note) (as in effect on the
16 day before the effective date described in section
17 303(a)(4)), from seeking early compliance on a vol-
18 untary basis.

19 (c) RURAL ACCESS TO SECONDARY REVIEW PROC-
20 ESS.—

21 (1) IN GENERAL.—The Secretary of Homeland
22 Security and the Commissioner of Social Security
23 shall coordinate with the Secretary of Agriculture to
24 create an alternate process for an individual to con-
25 test a tentative nonconfirmation as described in sec-

1 tion 274E(b)(4)(D) of the Immigration and Nation-
2 ality Act, as inserted by section 301 of this Act, by
3 appearing in-person at a local office or service center
4 of the U.S. Department of Agriculture or at a local
5 office of the U.S. Social Security Administration.

6 (2) STAFFING AND RESOURCES.—The Sec-
7 retary of Agriculture and Commissioner of Social
8 Security shall ensure that local offices and service
9 centers of the U.S. Department of Agriculture and
10 local offices of the U.S. Social Security Administra-
11 tion are staffed appropriately and have the resources
12 necessary to receive in-person requests for secondary
13 review of a tentative nonconfirmation under para-
14 graph (1) from individuals and to facilitate the sec-
15 ondary review process by serving as a single point of
16 contact between the individual and the Department
17 of Homeland Security and the Social Security Ad-
18 ministration.

19 (d) DOCUMENT ESTABLISHING EMPLOYMENT AU-
20 THORIZATION AND IDENTITY.—In accordance with section
21 274E(b)(3)(A)(vii) of the Immigration and Nationality
22 Act, as inserted by section 301 of this Act, and not later
23 than 12 months after the completion of the application
24 period described in section 101(c) of this Act, the Sec-
25 retary of Homeland Security shall recognize documentary

1 evidence of certified agricultural worker status described
2 in section 102(a)(2) of this Act as valid proof of employ-
3 ment authorization and identity for purposes of section
4 274E(b)(3)(A) of the Immigration and Nationality Act,
5 as inserted by section 301 of this Act.

6 (e) AGRICULTURAL EMPLOYMENT.—For purposes of
7 this section, the term “agricultural employment” means
8 agricultural labor or services, as defined by section
9 101(a)(15)(H)(ii) of the Immigration and Nationality Act
10 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.

11 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

12 (a) REPEAL.—

13 (1) IN GENERAL.—Subtitle A of title IV of the
14 Illegal Immigration Reform and Immigrant Respon-
15 sibility Act of 1996 (8 U.S.C. 1324a note) is re-
16 pealed.

17 (2) CLERICAL AMENDMENT.—The table of sec-
18 tions, in section 1(d) of the Illegal Immigration Re-
19 form and Immigrant Responsibility Act of 1996, is
20 amended by striking the items relating to subtitle A
21 of title IV.

22 (3) REFERENCES.—Any reference in any Fed-
23 eral, State, or local law, Executive order, rule, regu-
24 lation, or delegation of authority, or any document
25 of, or pertaining to, the Department of Homeland

1 Security, Department of Justice, or the Social Secu-
2 rity Administration, to the E-Verify Program de-
3 scribed in section 403(a) of the Illegal Immigration
4 Reform and Immigrant Responsibility Act of 1996
5 (8 U.S.C. 1324a note), or to the employment eligi-
6 bility confirmation system established under section
7 404 of the Illegal Immigration Reform and Immi-
8 grant Responsibility Act of 1996 (8 U.S.C. 1324a
9 note), is deemed to refer to the employment eligi-
10 bility confirmation system established under section
11 274E of the Immigration and Nationality Act, as in-
12 serted by section 301 of this Act.

13 (4) EFFECTIVE DATE.—This subsection, and
14 the amendments made by this subsection, shall take
15 effect on the date that is 30 days after the date on
16 which final rules are published under section 309(a).

17 (b) FORMER E-VERIFY MANDATORY USERS, IN-
18 CLUDING FEDERAL CONTRACTORS.—Beginning on the ef-
19 fective date in subsection (a)(4), the Secretary of Home-
20 land Security shall require employers required to partici-
21 pate in the E-Verify Program described in section 403(a)
22 of the Illegal Immigration Reform and Immigrant Respon-
23 sibility Act of 1996 (8 U.S.C. 1324a note) by reason of
24 any Federal, State, or local law, Executive order, rule, reg-
25 ulation, or delegation of authority, including employers re-

1 quired to participate in such program by reason of Federal
2 acquisition laws (and regulations promulgated under those
3 laws, including the Federal Acquisition Regulation), to
4 comply with the requirements of section 274E of the Im-
5 migration and Nationality Act, as inserted by section 301
6 of this Act (and any additional requirements of such Fed-
7 eral acquisition laws and regulation) in lieu of any require-
8 ment to participate in the E-Verify Program.

9 (c) FORMER E-VERIFY VOLUNTARY USERS.—Begin-
10 ning on the effective date in subsection (a)(4), the Sec-
11 retary of Homeland Security shall provide for the vol-
12 untary compliance with the requirements of section 274E
13 of the Immigration and Nationality Act, as inserted by
14 section 301 of this Act, by employers voluntarily electing
15 to participate in the E-Verify Program described in sec-
16 tion 403(a) of the Illegal Immigration Reform and Immi-
17 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)
18 before such date.

19 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

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

22 (1) in paragraph (1), by striking “identification
23 document,” and inserting “identification document
24 or document meant to establish employment author-
25 ization,”;

1 (2) in paragraph (2), by striking “identification
2 document” and inserting “identification document or
3 document meant to establish employment authoriza-
4 tion,”; and

5 (3) in the matter following paragraph (3) by in-
6 serting “or section 274E(b)” after “section
7 274A(b)”.

8 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

9 (a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
10 274A of the Immigration and Nationality Act (8 U.S.C.
11 1324a) is amended—

12 (1) in paragraph (1)(B)(ii) of subsection (a), by
13 striking “subsection (b).” and inserting “section
14 274B”; and

15 (2) in the matter preceding paragraph (1) of
16 subsection (b), by striking “The requirements re-
17 ferred” and inserting “Except as provided in section
18 274E, the requirements referred”.

19 (b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT
20 PRACTICES.—Section 274B(a)(1) of the Immigration and
21 Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the
22 matter preceding subparagraph (A), by inserting “includ-
23 ing misuse of the verification system as described in sec-
24 tion 274E(g)” after “referral for a fee,”.

1 **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
2 **TION PROGRAMS.**

3 (a) FUNDING UNDER AGREEMENT.—Effective for
4 fiscal years beginning on or after October 1, 2020, the
5 Commissioner and the Secretary shall enter into and
6 maintain an agreement which shall—

7 (1) provide funds to the Commissioner for the
8 full costs of the responsibilities of the Commissioner
9 under section 274E(a)(5) of the Immigration and
10 Nationality Act, as inserted by section 301 of this
11 Act, including—

12 (A) acquiring, installing, and maintaining
13 technological equipment and systems necessary
14 for the fulfillment of the responsibilities of the
15 Commissioner under such section, but only that
16 portion of such costs that are attributable ex-
17 clusively to such responsibilities; and

18 (B) responding to individuals who contest
19 a tentative nonconfirmation or administratively
20 appeal a final nonconfirmation provided by the
21 electronic employment eligibility verification
22 system established under such section;

23 (2) provide such funds annually in advance of
24 the applicable quarter based on an estimating meth-
25 odology agreed to by the Commissioner and the Sec-
26 retary (except in such instances where the delayed

1 enactment of an annual appropriation may preclude
2 such quarterly payments); and

3 (3) require an annual accounting and reconcili-
4 ation of the actual costs incurred and the funds pro-
5 vided under the agreement, which shall be reviewed
6 by the Inspectors General of the Social Security Ad-
7 ministration and the Department of Homeland Secu-
8 rity.

9 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
10 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
11 which the agreement required under subsection (a) for any
12 fiscal year beginning on or after October 1, 2020, has not
13 been reached as of October 1 of such fiscal year, the latest
14 agreement between the Commissioner and the Secretary
15 providing for funding to cover the costs of the responsibil-
16 ities of the Commissioner under section 274E(a)(5) of the
17 Immigration and Nationality Act, as inserted by section
18 301 of this Act, shall be deemed in effect on an interim
19 basis for such fiscal year until such time as an agreement
20 required under subsection (a) is subsequently reached, ex-
21 cept that the terms of such interim agreement shall be
22 modified by the Director of the Office of Management and
23 Budget to adjust for inflation and any increase or decrease
24 in the volume of requests under the employment eligibility
25 verification system. In any case in which an interim agree-

1 ment applies for any fiscal year under this subsection, the
2 Commissioner and the Secretary shall, not later than Oc-
3 tober 1 of such fiscal year, notify the Committee on Ways
4 and Means, the Committee on the Judiciary, and the Com-
5 mittee on Appropriations of the House of Representatives
6 and the Committee on Finance, the Committee on the Ju-
7 diciary, and the Committee on Appropriations of the Sen-
8 ate of the failure to reach the agreement required under
9 subsection (a) for such fiscal year. Until such time as the
10 agreement required under subsection (a) has been reached
11 for such fiscal year, the Commissioner and the Secretary
12 shall, not later than the end of each 90-day period after
13 October 1 of such fiscal year, notify such Committees of
14 the status of negotiations between the Commissioner and
15 the Secretary in order to reach such an agreement.

16 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE**
17 **ELECTRONIC EMPLOYMENT VERIFICATION**
18 **SYSTEM.**

19 Not later than 24 months after the date on which
20 final rules are published under section 309(a), and annu-
21 ally thereafter, the Secretary shall submit to Congress a
22 report that includes:

- 23 (1) An assessment of the accuracy rates of the
24 responses of the electronic employment verification
25 system established under section 274E of the Immi-

1 gration and Nationality Act, as inserted by section
2 301 of this Act (referred to in this section as the
3 “System”), including tentative and final noncon-
4 firmation notices issued to employment-authorized
5 individuals and confirmation notices issued to indi-
6 viduals who are not employment-authorized.

7 (2) An assessment of any challenges faced by
8 persons or entities (including small employers) in
9 utilizing the System.

10 (3) An assessment of any challenges faced by
11 employment-authorized individuals who are issued
12 tentative or final nonconfirmation notices.

13 (4) An assessment of the incidence of unfair
14 immigration-related employment practices, as de-
15 scribed in section 274E(g) of the Immigration and
16 Nationality Act, as inserted by section 301 of this
17 Act, related to the use of the System.

18 (5) An assessment of the photo matching and
19 other identity authentication tools, as described in
20 section 274E(a)(4) of the Immigration and Nation-
21 ality Act, as inserted by section 301 of this Act, in-
22 cluding—

23 (A) an assessment of the accuracy rates of
24 such tools;

1 (B) an assessment of the effectiveness of
2 such tools at preventing identity fraud and
3 other misuse of identifying information;

4 (C) an assessment of any challenges faced
5 by persons, entities, or individuals utilizing such
6 tools; and

7 (D) an assessment of operation and main-
8 tenance costs associated with such tools.

9 (6) A summary of the activities and findings of
10 the U.S. Citizenship and Immigrations Services E-
11 Verify Monitoring and Compliance Branch, or any
12 successor office, including—

13 (A) the number, types and outcomes of au-
14 dits, investigations, and other compliance activi-
15 ties initiated by the Branch in the previous
16 year;

17 (B) the capacity of the Branch to detect
18 and prevent violations of section 274E(g) of the
19 Immigration and Nationality Act, as inserted by
20 this Act; and

21 (C) an assessment of the degree to which
22 persons and entities misuse the System, includ-
23 ing—

24 (i) use of the System before an indi-
25 vidual's date of hire;

1 (ii) failure to provide required notifi-
2 cations to individuals;

3 (iii) use of the System to interfere
4 with or otherwise impede individuals' as-
5 sertions of their rights under other laws;
6 and

7 (iv) use of the System for unauthor-
8 ized purposes.

9 (7) An assessment of the impact of implementa-
10 tion of the System in the agricultural industry and
11 the use of the verification system in agricultural in-
12 dustry hiring and business practices.

13 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**
14 **MENT ELIGIBILITY VERIFICATION PROCESS.**

15 Not later than 12 months after the date of the enact-
16 ment of this Act, the Secretary, in consultation with the
17 Commissioner, shall submit to Congress a plan to mod-
18 ernize and streamline the employment eligibility verifica-
19 tion process that shall include—

20 (1) procedures to allow persons and entities to
21 verify the identity and employment authorization of
22 newly hired individuals where the in-person, physical
23 examination of identity and employment authoriza-
24 tion documents is not practicable;

1 (2) a proposal to create a simplified employ-
2 ment verification process that allows employers that
3 utilize the employment eligibility verification system
4 established under section 274E of the Immigration
5 and Nationality Act, as inserted by section 301 of
6 this Act, to verify the identity and employment au-
7 thorization of individuals without also having to
8 complete and retain Form I-9, Employment Eligi-
9 bility Verification, or any subsequent replacement
10 form; and

11 (3) any other proposal that the Secretary deter-
12 mines would simplify the employment eligibility
13 verification process without compromising the integ-
14 rity or security of the system.

15 **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

16 (a) IN GENERAL.—Not later than 180 days prior to
17 the end of the application period defined in section 101(c)
18 of this Act, the Secretary shall publish in the Federal Reg-
19 ister proposed rules implementing this title and the
20 amendments made by this title. The Secretary shall final-
21 ize such rules not later than 180 days after the date of
22 publication.

23 (b) PAPERWORK REDUCTION ACT.—

24 (1) IN GENERAL.—The requirements under
25 chapter 35 of title 44, United States Code (com-

1 monly known as the “Paperwork Reduction Act”),
2 shall apply to any action to implement this title or
3 the amendments made by this title.

4 (2) ELECTRONIC FORMS.—All forms designated
5 or established by the Secretary that are necessary to
6 implement this title and the amendments made by
7 this title shall be made available in paper and elec-
8 tronic formats, and shall be designed in such a man-
9 ner to facilitate electronic completion, storage, and
10 transmittal.

11 (3) LIMITATION ON USE OF FORMS.—All forms
12 designated or established by the Secretary that are
13 necessary to implement this title, and the amend-
14 ments made by this title, and any information con-
15 tained in or appended to such forms, may not be
16 used for purposes other than for enforcement of this
17 Act and any other provision of Federal criminal law.

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