

Union Calendar No. 263

116TH CONGRESS
1ST SESSION

H. R. 5038

[Report No. 116-328, Part I]

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. PANETTA, 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

DECEMBER 9, 2019

Additional sponsors: Mr. STEWART, Mr. GARAMENDI, Mr. KING of New York, Mr. SUOZZI, Mr. CUELLAR, Mr. DELGADO, Mr. KIND, Ms. PINGREE, Mr. THOMPSON of California, Mr. RUIZ, Ms. ESCOBAR, Ms. BASS, and Mr. O'HALLERAN

DECEMBER 9, 2019

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

DECEMBER 9, 2019

Committees on Ways and Means, Education and Labor, and Financial Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on November 12, 2019]

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 services*
15 *in the United States for at least 1,035 hours (or*
16 *180 work days) during the 2-year period pre-*
17 *ceding the date of the introduction of this Act;*

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

21 (C) *subject to section 104, has been continu-*
22 *ously present in the United States since the date*
23 *of the introduction of this Act and until the date*
24 *on which the alien is granted certified agricul-*
25 *tural worker status; and*

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

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

11 (b) *GROUND FOR INELIGIBILITY.*—

12 (1) *GROUND OF INADMISSIBILITY.*—Except as
13 provided in paragraph (3), an alien is ineligible for
14 certified agricultural worker or certified agricultural
15 dependent status if the Secretary determines that the
16 alien is inadmissible under section 212(a) of the Im-
17 migration and Nationality Act (8 U.S.C. 1182(a)),
18 except that in determining inadmissibility—

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

21 (B) subparagraphs (A), (C), (D), (F), and
22 (G) of such section 212(a)(6) and paragraphs
23 (9)(C) and (10)(B) of such section 212(a) shall
24 not apply unless based on the act of unlawfully

1 *entering the United States after the date of in-*
2 *troduction of this Act; and*

3 *(C) paragraphs (6)(B) and (9)(A) of such*
4 *section 212(a) shall not apply unless the relevant*
5 *conduct began on or after the date of filing of the*
6 *application for certified agricultural worker sta-*
7 *tus.*

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

16 *(A) any felony offense;*

17 *(B) an aggravated felony (as defined in sec-*
18 *tion 101(a)(43) of the Immigration and Nation-*
19 *ality Act (8 U.S.C. 1101(a)(43)) at the time of*
20 *the conviction);*

21 *(C) two misdemeanor offenses involving*
22 *moral turpitude, as described in section*
23 *212(a)(2)(A)(i)(I) of the Immigration and Na-*
24 *tionality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)), un-*

1 *less an offense is waived by the Secretary under*
2 *paragraph (3)(B); or*

3 *(D) three or more misdemeanor offenses not*
4 *occurring on the same date, and not arising out*
5 *of the same act, omission, or scheme of mis-*
6 *conduct.*

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

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

15 *(B) subparagraphs (A) and (D) of section*
16 *212(a)(2) of the Immigration and Nationality*
17 *Act (8 U.S.C. 1182(a)(2)), unless inadmissibility*
18 *is based on a conviction that would otherwise*
19 *render the alien ineligible under subparagraph*
20 *(A), (B), or (D) of paragraph (2).*

21 (c) *APPLICATION.—*

22 (1) *APPLICATION PERIOD.—Except as provided*
23 *in paragraph (2), the Secretary shall accept initial*
24 *applications for certified agricultural worker status*
25 *during the 18-month period beginning on the date on*

1 *which the interim final rule is published in the Fed-*
2 *eral Register pursuant to section 122(a).*

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

10 (3) *SUBMISSION OF APPLICATIONS.*—

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

21 (B) *FARM SERVICE AGENCY OFFICES.*—*The*
22 *Secretary, in consultation with the Secretary of*
23 *Agriculture, shall establish a process for the fil-*
24 *ing of applications under this section at Farm*

1 *Service Agency offices throughout the United*
2 *States.*

3 (4) *EVIDENCE OF APPLICATION FILING.*—*As soon*
4 *as practicable after receiving an application for cer-*
5 *tified agricultural worker status, the Secretary shall*
6 *provide the applicant with a document acknowledging*
7 *the receipt of such application. Such document shall*
8 *serve as interim proof of the alien’s authorization to*
9 *accept employment in the United States and shall be*
10 *accepted by an employer as evidence of employment*
11 *authorization under section 274A(b)(1)(C) of the Im-*
12 *migration and Nationality Act (8 U.S.C.*
13 *1324a(b)(1)(C)), pending a final administrative deci-*
14 *sion on the application.*

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

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

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

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

10 (D) may not be considered an unauthorized
11 alien (as defined in section 274A(h)(3) of the
12 *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 appli-
16 cant to withdraw an application for certified agricul-
17 tural worker status under this subtitle, cease proc-
18 essing of the application, and close the case. With-
19 drawal of the application shall not prejudice any fu-
20 ture application filed by the applicant for any immi-
21 gration benefit under this Act or under the *Immigra-*
22 *tion and Nationality Act* (8 U.S.C. 1101 *et seq.*).

23 (d) *ADJUDICATION AND DECISION.*—

24 (1) *IN GENERAL.*—Subject to section 123, the
25 Secretary shall render a decision on an application

1 *for certified agricultural worker status not later than*
2 *180 days after the date the application is filed.*

3 (2) *NOTICE.—Prior to denying an application*
4 *for certified agricultural worker status, the Secretary*
5 *shall provide the alien with—*

6 (A) *written notice that describes the basis*
7 *for ineligibility or the deficiencies in the evidence*
8 *submitted; and*

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

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

19 (e) *ALTERNATIVE H-2A STATUS.—An alien who has*
20 *not met the required period of agricultural labor or services*
21 *under subsection (a)(1)(A), but is otherwise eligible for cer-*
22 *tified agricultural worker status under such subsection,*
23 *shall be eligible for classification as a nonimmigrant de-*
24 *scribed in section 101(a)(15)(H)(ii)(a) of the Immigration*
25 *and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) upon*

1 approval of a petition submitted by a sponsoring employer,
2 if the alien has performed at least 575 hours (or 100 work
3 days) of agricultural labor or services during the 3-year pe-
4 riod preceding the date of the introduction of this Act. The
5 Secretary shall create a procedure to provide for such classi-
6 fication without requiring the alien to depart the United
7 States and obtain a visa abroad.

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

9 (a) *IN GENERAL.*—

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

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

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

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

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

25 (B) shall contain a digitized photograph;

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

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

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

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

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

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

22 (i) valid, unexpired documentary evi-
23 dence of certified agricultural worker or cer-
24 tified agricultural worker dependent status
25 as described in subsection (a); or

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

6 (b) *ABILITY TO CHANGE STATUS.*—

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

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

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

16 (2) *CLARIFICATION.*—Nothing in this title pro-
17 hibits an alien granted certified agricultural worker
18 or certified agricultural dependent status from chang-
19 ing status to any other nonimmigrant classification
20 for which the alien may be eligible.

21 (c) *PROHIBITION ON PUBLIC BENEFITS, TAX BENE-*
22 *FITS, AND HEALTH CARE SUBSIDIES.*—Aliens granted cer-
23 tified agricultural worker or certified agricultural depend-
24 ent status shall be considered lawfully present in the United

1 *States for all purposes for the duration of their status, ex-*
2 *cept that such aliens—*

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

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

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

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

22 *(d) REVOCATION OF STATUS.—*

23 *(1) IN GENERAL.—The Secretary may revoke cer-*
24 *tified agricultural worker or certified agricultural de-*
25 *pendent status if, after providing notice to the alien*

1 *and the opportunity to provide evidence to contest the*
2 *proposed revocation, the Secretary determines that the*
3 *alien no longer meets the eligibility requirements for*
4 *such status under section 101(b).*

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

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

13 (a) *REQUIREMENTS FOR EXTENSIONS OF STATUS.—*

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

22 (A) *except as provided in subsection (b), has*
23 *performed agricultural labor or services in the*
24 *United States for at least 575 hours (or 100*
25 *work days) for each of the prior five years in*

1 *which the alien held certified agricultural worker*
2 *status; and*

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

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

12 (3) *WAIVER FOR LATE FILINGS.—The Secretary*
13 *may waive an alien’s failure to timely file before the*
14 *expiration of the 120-day period described in para-*
15 *graph (1) if the alien demonstrates that the delay was*
16 *due to extraordinary circumstances beyond the alien’s*
17 *control or for other good cause.*

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

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

1 *makes a final administrative decision regarding such*
2 *application.*

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

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

17 (1) *written notice that describes the basis for in-*
18 *eligibility or the deficiencies of the evidence submitted;*
19 *and*

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

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

23 (a) *EFFECT OF NOTICE TO APPEAR.—The continuous*
24 *presence in the United States of an applicant for certified*
25 *agricultural worker status under section 101 shall not ter-*

1 *minate when the alien is served a notice to appear under*
2 *section 239(a) of the Immigration and Nationality Act (8*
3 *U.S.C. 1229(a)).*

4 *(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—*

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

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

21 *(3) TRAVEL AUTHORIZED BY THE SECRETARY.—*

22 *Any period of travel outside of the United States by*
23 *an alien that was authorized by the Secretary shall*
24 *not be counted toward any period of departure from*
25 *the United States under paragraph (1).*

1 **SEC. 105. EMPLOYER OBLIGATIONS.**

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

7 (b) *CIVIL PENALTIES.*—

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

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

22 (3) *DEPOSIT OF CIVIL PENALTIES.*—Civil pen-
23 alties collected under this paragraph shall be depos-
24 ited into the Immigration Examinations Fee Account
25 under section 286(m) of the Immigration and Nation-
26 ality Act (8 U.S.C. 1356(m)).

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

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

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

14 (c) *JUDICIAL REVIEW.*—*Notwithstanding any other*
 15 *provision of law, judicial review of the Secretary’s decision*
 16 *to deny an application for certified agricultural worker sta-*
 17 *tus, an application to extend such status, or the decision*
 18 *to revoke such status, shall be limited to the review of an*
 19 *order of removal under section 242 of the Immigration and*
 20 *Nationality Act (8 U.S.C. 1252).*

21 ***Subtitle B—Optional Earned***
 22 ***Residence for Long-term Workers***

23 **SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-**
 24 **TERM AGRICULTURAL WORKERS.**

25 (a) *REQUIREMENTS FOR ADJUSTMENT OF STATUS.*—

1 (1) *PRINCIPAL ALIENS.*—*The Secretary may ad-*
2 *just the status of an alien from that of a certified ag-*
3 *ricultural worker to that of a lawful permanent resi-*
4 *dent if the alien submits a completed application, in-*
5 *cluding the required processing and penalty fees, and*
6 *the Secretary determines that—*

7 (A) *except as provided in section 126(c), the*
8 *alien performed agricultural labor or services for*
9 *not less than 575 hours (or 100 work days) each*
10 *year—*

11 (i) *for at least 10 years prior to the*
12 *date of the enactment of this Act and for at*
13 *least 4 years in certified agricultural work-*
14 *er status; or*

15 (ii) *for fewer than 10 years prior to*
16 *the date of the enactment of this Act and for*
17 *at least 8 years in certified agricultural*
18 *worker status; and*

19 (B) *the alien has not become ineligible for*
20 *certified agricultural worker status under section*
21 *101(b).*

22 (2) *DEPENDENT ALIENS.*—

23 (A) *IN GENERAL.*—*The spouse and each*
24 *child of an alien described in paragraph (1)*
25 *whose status has been adjusted to that of a law-*

1 *ful permanent resident may be granted lawful*
2 *permanent residence under this subtitle if—*

3 *(i) the qualifying relationship to the*
4 *principal alien existed on the date on which*
5 *such alien was granted adjustment of status*
6 *under this subtitle; and*

7 *(ii) the spouse or child is not ineligible*
8 *for certified agricultural worker dependent*
9 *status under section 101(b).*

10 *(B) PROTECTIONS FOR SPOUSES AND CHIL-*
11 *DREN.—The Secretary of Homeland Security*
12 *shall establish procedures to allow the spouse or*
13 *child of a certified agricultural worker to self-pe-*
14 *tition for lawful permanent residence under this*
15 *subtitle in cases involving—*

16 *(i) the death of the certified agricul-*
17 *tural worker, so long as the spouse or child*
18 *submits a petition not later than 2 years*
19 *after the date of the worker's death; or*

20 *(ii) the spouse or a child being battered*
21 *or subjected to extreme cruelty by the cer-*
22 *tified agricultural worker.*

23 *(3) DOCUMENTATION OF WORK HISTORY.—An*
24 *applicant for adjustment of status under this section*
25 *shall not be required to resubmit evidence of work his-*

1 *tory that has been previously submitted to the Sec-*
2 *retary in connection with an approved extension of*
3 *certified agricultural worker status.*

4 *(b) PENALTY FEE.—In addition to any processing fee*
5 *that the Secretary may assess in accordance with section*
6 *122(b), a principal alien seeking adjustment of status under*
7 *this subtitle shall pay a \$1,000 penalty fee, which shall be*
8 *deposited into the Immigration Examinations Fee Account*
9 *pursuant to section 286(m) of the Immigration and Nation-*
10 *ality Act (8 U.S.C.1356(m)).*

11 *(c) EFFECT OF PENDING APPLICATION.—During the*
12 *period beginning on the date on which an alien applies for*
13 *adjustment of status under this subtitle, and ending on the*
14 *date on which the Secretary makes a final administrative*
15 *decision regarding such application, the alien and any de-*
16 *pendents included on the application—*

17 *(1) may apply for advance parole, which shall be*
18 *granted upon demonstrating a legitimate need to*
19 *travel outside the United States for a temporary pur-*
20 *pose;*

21 *(2) may not be detained by the Secretary or re-*
22 *moved from the United States unless the Secretary*
23 *makes a prima facie determination that such alien is,*
24 *or has become, ineligible for adjustment of status*
25 *under subsection (a);*

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

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

7 (d) *EVIDENCE OF APPLICATION FILING.*—As soon as
8 practicable after receiving an application for adjustment of
9 status under this subtitle, the Secretary shall provide the
10 applicant with a document acknowledging the receipt of
11 such application. Such document shall serve as interim
12 proof of the alien’s authorization to accept employment in
13 the United States and shall be accepted by an employer as
14 evidence of employment authorization under section
15 274A(b)(1)(C) of the Immigration and Nationality Act (8
16 U.S.C. 1324a(b)(1)(C)), pending a final administrative de-
17 cision on the application.

18 (e) *WITHDRAWAL OF APPLICATION.*—The Secretary
19 shall, upon receipt of a request to withdraw an application
20 for adjustment of status under this subtitle, cease processing
21 of the application, and close the case. Withdrawal of the
22 application shall not prejudice any future application filed
23 by the applicant for any immigration benefit under this
24 Act or under the Immigration and Nationality Act (8
25 U.S.C. 1101 et seq.).

1 **SEC. 112. PAYMENT OF TAXES.**

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

5 (b) *COMPLIANCE.*—An alien may demonstrate compli-
6 ance with subsection (a) by submitting such documentation
7 as the Secretary, in consultation with the Secretary of the
8 Treasury, may require by regulation.

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

10 (a) *IN GENERAL.*—Subject to the requirements of sec-
11 tion 123, the Secretary shall render a decision on an appli-
12 cation for adjustment of status under this subtitle not later
13 than 180 days after the date on which the application is
14 filed.

15 (b) *NOTICE.*—Prior to denying an application for ad-
16 justment of status under this subtitle, the Secretary shall
17 provide the alien with—

18 (1) *written notice that describes the basis for in-*
19 *eligibility or the deficiencies of the evidence submitted;*
20 *and*

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

23 (c) *ADMINISTRATIVE REVIEW.*—The Secretary shall es-
24 tablish a process by which an applicant may seek adminis-
25 trative review of a denial of an application for adjustment
26 of status under this subtitle.

1 (d) *JUDICIAL REVIEW*.—Notwithstanding any other
2 provision of law, an alien may seek judicial review of a
3 denial of an application for adjustment of status under this
4 title in an appropriate United States district court.

5 **Subtitle C—General Provisions**

6 **SEC. 121. DEFINITIONS.**

7 *In this title:*

8 (1) *IN GENERAL*.—Except as otherwise provided,
9 any term used in this title that is used in the immi-
10 gration laws shall have the meaning given such term
11 in the immigration laws (as such term is defined in
12 section 101 of the Immigration and Nationality Act
13 (8 U.S.C. 1101)).

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

16 (A) agricultural labor or services as such
17 term is used in section 101(a)(15)(H)(ii) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)(H)(ii)), without regard to whether
20 the labor or services are of a seasonal or tem-
21 porary nature; and

22 (B) agricultural employment as such term
23 is defined in section 3 of the Migrant and Sea-
24 sonal Agricultural Worker Protection Act (29

1 U.S.C. 1802), without regard to whether the spe-
2 cific service or activity is temporary or seasonal.

3 (3) *APPLICABLE FEDERAL TAX LIABILITY.*—The
4 term “applicable Federal tax liability” means all
5 Federal income taxes assessed in accordance with sec-
6 tion 6203 of the Internal Revenue Code of 1986 begin-
7 ning on the date on which the applicant was author-
8 ized to work in the United States as a certified agri-
9 cultural worker.

10 (4) *APPROPRIATE UNITED STATES DISTRICT*
11 *COURT.*—The term “appropriate United States dis-
12 trict court” means the United States District Court
13 for the District of Columbia or the United States dis-
14 trict court with jurisdiction over the alien’s principal
15 place of residence.

16 (5) *CHILD.*—The term “child” has the meaning
17 given such term in section 101(b)(1) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1101(b)(1)).

19 (6) *CONVICTED OR CONVICTION.*—The term “con-
20 victed” or “conviction” does not include a judgment
21 that has been expunged or set aside, that resulted in
22 a rehabilitative disposition, or the equivalent.

23 (7) *EMPLOYER.*—The term “employer” means
24 any person or entity, including any labor contractor

1 or any agricultural association, that employs workers
2 in agricultural labor or services.

3 (8) *QUALIFIED DESIGNATED ENTITY.*—The term
4 “qualified designated entity” means—

5 (A) a qualified farm labor organization or
6 an association of employers designated by the
7 Secretary; or

8 (B) any other entity that the Secretary des-
9 ignates as having substantial experience, dem-
10 onstrated competence, and a history of long-term
11 involvement in the preparation and submission
12 of application for adjustment of status under
13 title II of the Immigration and Nationality Act
14 (8 U.S.C. 1151 et seq.).

15 (9) *SECRETARY.*—The term “Secretary” means
16 the Secretary of Homeland Security.

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

20 **SEC. 122. RULEMAKING; FEES.**

21 (a) *RULEMAKING.*—Not later than 180 days after the
22 date of the enactment of this Act, the Secretary shall publish
23 in the Federal Register, an interim final rule implementing
24 this title. Notwithstanding section 553 of title 5, United
25 States Code, the rule shall be effective, on an interim basis,

1 *immediately upon publication, but may be subject to change*
2 *and revision after public notice and opportunity for com-*
3 *ment. The Secretary shall finalize such rule not later than*
4 *1 year after the date of the enactment of this Act.*

5 *(b) FEES.—*

6 *(1) IN GENERAL.—The Secretary may require an*
7 *alien applying for any benefit under this title to pay*
8 *a reasonable fee that is commensurate with the cost*
9 *of processing the application.*

10 *(2) FEE WAIVER; INSTALLMENTS.—*

11 *(A) IN GENERAL.—The Secretary shall es-*
12 *tablish procedures to allow an alien to—*

13 *(i) request a waiver of any fee that the*
14 *Secretary may assess under this title if the*
15 *alien demonstrates to the satisfaction of the*
16 *Secretary that the alien is unable to pay the*
17 *prescribed fee; or*

18 *(ii) pay any fee or penalty that the*
19 *Secretary may assess under this title in in-*
20 *stallments.*

21 *(B) CLARIFICATION.—Nothing in this sec-*
22 *tion shall be read to prohibit an employer from*
23 *paying any fee or penalty that the Secretary*
24 *may assess under this title on behalf of an alien*
25 *and the alien's spouse or children.*

1 **SEC. 123. BACKGROUND CHECKS.**

2 (a) *SUBMISSION OF BIOMETRIC AND BIOGRAPHIC*
3 *DATA.*—*The Secretary may not grant or extend certified*
4 *agricultural worker or certified agricultural dependent sta-*
5 *tus under subtitle A, or grant adjustment of status to that*
6 *of a lawful permanent resident under subtitle B, unless the*
7 *alien submits biometric and biographic data, in accordance*
8 *with procedures established by the Secretary. The Secretary*
9 *shall provide an alternative procedure for aliens who cannot*
10 *provide all required biometric or biographic data because*
11 *of a physical impairment.*

12 (b) *BACKGROUND CHECKS.*—*The Secretary shall use*
13 *biometric, biographic, and other data that the Secretary de-*
14 *termines appropriate to conduct security and law enforce-*
15 *ment background checks and to determine whether there is*
16 *any criminal, national security, or other factor that would*
17 *render the alien ineligible for status under this title. An*
18 *alien may not be granted any such status under this title*
19 *unless security and law enforcement background checks are*
20 *completed to the satisfaction of the Secretary.*

21 **SEC. 124. PROTECTION FOR CHILDREN.**

22 (a) *IN GENERAL.*—*Except as provided in subsection*
23 *(b), for purposes of eligibility for certified agricultural de-*
24 *pendent status or lawful permanent resident status under*
25 *this title, a determination of whether an alien is a child*
26 *shall be made using the age of the alien on the date on which*

1 *the initial application for certified agricultural worker sta-*
2 *tus is filed with the Secretary of Homeland Security.*

3 (b) *LIMITATION.*—Subsection (a) shall apply for no
4 *more than 10 years after the date on which the initial ap-*
5 *plication for certified agricultural worker status is filed*
6 *with the Secretary of Homeland Security.*

7 **SEC. 125. LIMITATION ON REMOVAL.**

8 (a) *IN GENERAL.*—An alien who appears to be *prima*
9 *facie* eligible for status under this title shall be given a rea-
10 *sonable opportunity to apply for such status and shall not*
11 *be placed in removal proceedings or removed from the*
12 *United States until a final administrative decision estab-*
13 *lishing ineligibility for such status is rendered.*

14 (b) *ALIENS IN REMOVAL PROCEEDINGS.*—Notwith-
15 *standing any other provision of the law, the Attorney Gen-*
16 *eral shall (upon motion by the Secretary with the consent*
17 *of the alien, or motion by the alien) terminate removal pro-*
18 *ceedings, without prejudice, against an alien who appears*
19 *to be prima facie eligible for status under this title, and*
20 *provide such alien a reasonable opportunity to apply for*
21 *such status.*

22 (c) *EFFECT OF FINAL ORDER.*—An alien present in
23 *the United States who has been ordered removed or has been*
24 *permitted to depart voluntarily from the United States*
25 *may, notwithstanding such order or permission to depart,*

1 *apply for status under this title. Such alien shall not be*
2 *required to file a separate motion to reopen, reconsider, or*
3 *vacate the order of removal. If the Secretary approves the*
4 *application, the Secretary shall notify the Attorney General*
5 *of such approval, and the Attorney General shall cancel the*
6 *order of removal. If the Secretary renders a final adminis-*
7 *trative decision to deny the application, the order of re-*
8 *moval or permission to depart shall be effective and enforce-*
9 *able to the same extent as if the application had not been*
10 *made, only after all available administrative and judicial*
11 *remedies have been exhausted.*

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

15 *(1) with advance permission to return to the*
16 *United States granted by the Secretary under this*
17 *title; or*

18 *(2) after having been granted certified agricul-*
19 *tural worker status or lawful permanent resident sta-*
20 *tus under this title.*

21 **SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HIS-**
22 **TORY.**

23 *(a) BURDEN OF PROOF.—An alien applying for cer-*
24 *tified agricultural worker status under subtitle A or adjust-*
25 *ment of status under subtitle B shall provide evidence that*

1 *the alien has worked the requisite number of hours or days*
2 *required under section 101, 103, or 111, as applicable. The*
3 *Secretary shall establish special procedures to properly*
4 *credit work in cases in which an alien was employed under*
5 *an assumed name.*

6 (b) *EVIDENCE.—An alien may meet the burden of*
7 *proof under subsection (a) by producing sufficient evidence*
8 *to show the extent of such employment as a matter of just*
9 *and reasonable inference. Such evidence may include—*

10 (1) *an annual record of certified agricultural*
11 *worker employment as described in section 105(a), or*
12 *other employment records from employers;*

13 (2) *employment records maintained by collective*
14 *bargaining associations;*

15 (3) *tax records or other government records;*

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

18 (5) *any other documentation designated by the*
19 *Secretary for such purpose.*

20 (c) *EXCEPTION FOR EXTRAORDINARY CIR-*
21 *CUMSTANCES.—*

22 (1) *IN GENERAL.—In determining whether an*
23 *alien has met the requirement under section*
24 *103(a)(1)(A) or 111(a)(1)(A), the Secretary may cred-*
25 *it the alien with not more than 575 hours (or 100*

1 *work days) of agricultural labor or services in the*
2 *United States if the alien was unable to perform the*
3 *required agricultural labor or services due to—*

4 *(A) pregnancy, illness, disease, disabling in-*
5 *jury, or physical limitation of the alien;*

6 *(B) injury, illness, disease, or other special*
7 *needs of the alien's child or spouse;*

8 *(C) severe weather conditions that prevented*
9 *the alien from engaging in agricultural labor or*
10 *services; or*

11 *(D) termination from agricultural employ-*
12 *ment, if the Secretary determines that—*

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

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

18 (2) *EFFECT OF DETERMINATION.—A determina-*
19 *tion under paragraph (1)(D) shall not be conclusive,*
20 *binding, or admissible in a separate or subsequent ju-*
21 *dicial or administrative action or proceeding between*
22 *the alien and a current or prior employer of the alien*
23 *or any other party.*

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

2 (a) *CONTINUING EMPLOYMENT.*—An employer that
3 continues to employ an alien knowing that the alien intends
4 to apply for certified agricultural worker status under sub-
5 title A shall not violate section 274A(a)(2) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1324a(a)(2)) by con-
7 tinuing to employ the alien for the duration of the applica-
8 tion period under section 101(c), and with respect to an
9 alien who applies for certified agricultural status, for the
10 duration of the period during which the alien’s application
11 is pending final determination.

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

22 (c) *ADDITIONAL PROTECTIONS.*—Employers that pro-
23 vide unauthorized aliens with copies of employment records
24 or other evidence of employment in support of an applica-
25 tion for certified agricultural worker status or adjustment
26 of status under this title shall not be subject to civil and

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

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

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

12 *(a) IN GENERAL.—Section 208(e)(1) of the Social Se-*
13 *curity Act (42 U.S.C. 408(e)(1)) is amended—*

14 *(1) in subparagraph (B)(ii), by striking “or” at*
15 *the end;*

16 *(2) in subparagraph (C), by inserting “or” at*
17 *the end;*

18 *(3) by inserting after subparagraph (C) the fol-*
19 *lowing:*

20 *“(D) who is granted certified agricultural worker*
21 *status, certified agricultural dependent status, or law-*
22 *ful permanent resident status under title I of the*
23 *Farm Work Modernization Act of 2019,”; and*

24 *(4) in the undesignated matter following sub-*
25 *paragraph (D), as added by paragraph (3), by strik-*

1 *ing “1990.” and inserting “1990, or in the case of an*
2 *alien described in subparagraph (D), if such conduct*
3 *is alleged to have occurred before the date on which*
4 *the alien was granted status under title I of the Farm*
5 *Work Modernization Act of 2019.”.*

6 *(b) EFFECTIVE DATE.—The amendments made by sub-*
7 *section (a) shall take effect on the first day of the seventh*
8 *month that begins after the date of the enactment of this*
9 *Act.*

10 **SEC. 129. DISCLOSURES AND PRIVACY.**

11 *(a) IN GENERAL.—The Secretary may not disclose or*
12 *use information provided in an application for certified ag-*
13 *ricultural worker status or adjustment of status under this*
14 *title (including information provided during administra-*
15 *tive or judicial review) for the purpose of immigration en-*
16 *forcement.*

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

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

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

8 (2) to identify or prevent fraudulent claims or
9 schemes;

10 (3) for national security purposes; or

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

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

16 (e) *PRIVACY.*—The Secretary shall ensure that appro-
17 priate administrative and physical safeguards are in place
18 to protect the security, confidentiality, and integrity of per-
19 sonally identifiable information collected, maintained, and
20 disseminated pursuant to this title.

21 **SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICA-**
22 **TIONS.**

23 (a) *CRIMINAL PENALTY.*—Any person who—

24 (1) files an application for certified agricultural
25 worker status or adjustment of status under this title

1 *and knowingly falsifies, conceals, or covers up a ma-*
2 *terial fact or makes any false, fictitious, or fraudulent*
3 *statements or representations, or makes or uses any*
4 *false writing or document knowing the same to con-*
5 *tain any false, fictitious, or fraudulent statement or*
6 *entry; or*

7 (2) *creates or supplies a false writing or docu-*
8 *ment for use in making such an application,*
9 *shall be fined in accordance with title 18, United States*
10 *Code, imprisoned not more than 5 years, or both.*

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

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

19 **SEC. 131. DISSEMINATION OF INFORMATION.**

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

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

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

6 (b) *INFORMATION DESCRIBED.—The information de-*
7 *scribed in this subsection shall include—*

8 (1) *the benefits that aliens may receive under*
9 *this title; and*

10 (2) *the requirements that an alien must meet to*
11 *receive such benefits.*

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

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

18 **SEC. 133. REPORTS TO CONGRESS.**

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

23 (1) *the number of principal aliens who applied*
24 *for certified agricultural worker status under subtitle*

1 *A, and the number of dependent spouses and children*
2 *included in such applications;*

3 *(2) the number of principal aliens who were*
4 *granted certified agricultural worker status under*
5 *subtitle A, and the number of dependent spouses and*
6 *children who were granted certified agricultural de-*
7 *pendent status;*

8 *(3) the number of principal aliens who applied*
9 *for an extension of their certified agricultural worker*
10 *status under subtitle A, and the number of dependent*
11 *spouses and children included in such applications;*

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

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 in*
20 *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 number*
3 *of dependent spouses and children included in such*
4 *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 a*
12 *program to award grants, on a competitive basis, to eligible*
13 *nonprofit organizations to assist eligible applicants under*
14 *this title by providing them with the services described in*
15 *subsection (c).*

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

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

4 (1) *information to the public regarding the eligi-*
5 *bility and benefits of certified agricultural worker sta-*
6 *tus 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 sta-*
10 *tus or adjustment of status under this title, includ-*
11 *ing—*

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 ap-
22 propriated to carry out this section, the Secretary may use
23 up to \$10,000,000 from the Immigration Examinations Fee
24 Account under section 286(m) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1356(m)) to carry out this section.

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

8 **SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

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

14 **TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR**
 15 **CULTURAL WORKFORCE FOR**
 16 **THE FUTURE**

17 **Subtitle A—Reforming the H-2A**
 18 **Temporary Worker Program**

19 **SEC. 201. COMPREHENSIVE AND STREAMLINED ELEC-**
 20 **TRONIC H-2A PLATFORM.**

21 (a) *STREAMLINED H-2A PLATFORM.*—

22 (1) *IN GENERAL.*—Not later than 12 months
 23 after the date of the enactment of this Act, the Sec-
 24 retary of Homeland Security, in consultation with
 25 the Secretary of Labor, the Secretary of Agriculture,

1 *the Secretary of State, and United States Digital*
2 *Service, shall ensure the establishment of an electronic*
3 *platform through which a petition for an H-2A work-*
4 *er may be filed. Such platform shall—*

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

11 *(B) serve as a single point of access for the*
12 *Secretary of Homeland Security, the Secretary of*
13 *Labor, and State workforce agencies to concur-*
14 *rently perform their respective review and adju-*
15 *dicatory responsibilities in the H-2A process;*

16 *(C) facilitate communication between em-*
17 *ployers and agency adjudicators, including by*
18 *allowing employers to—*

19 *(i) receive and respond to notices of de-*
20 *ficiency and requests for information;*

21 *(ii) submit requests for inspections and*
22 *licensing;*

23 *(iii) receive notices of approval and de-*
24 *nial; and*

1 (iv) request reconsideration or appeal
2 of agency decisions; and

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

7 (2) OBJECTIVES.—In developing the platform de-
8 scribed in paragraph (1), the Secretary of Homeland
9 Security, in consultation with the Secretary of Labor,
10 the Secretary of Agriculture, the Secretary of State,
11 and United States Digital Service, shall streamline
12 and improve the H-2A process, including by—

13 (A) eliminating the need for employers to
14 submit duplicate information and documenta-
15 tion to multiple agencies;

16 (B) eliminating redundant processes, where
17 a single matter in a petition is adjudicated by
18 more than one agency;

19 (C) reducing the occurrence of common peti-
20 tion errors, and otherwise improving and expe-
21 diting the processing of H-2A petitions; and

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

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

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

9 (2) *provide an interface for workers in English,*
10 *Spanish, and any other language that the Secretary*
11 *of Labor determines to be appropriate; and*

12 (3) *provide for public access of job orders ap-*
13 *proved under section 218(h)(2) of the Immigration*
14 *and Nationality Act.*

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

16 *Section 218 of the Immigration and Nationality Act*
17 *(8 U.S.C. 1188) is amended to read as follows:*

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

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

23 “(1) *there are not sufficient United States work-*
24 *ers who are able, willing and qualified, and who will*
25 *be available at the time and place needed, to perform*

1 *the agricultural labor or services described in the peti-*
2 *tion; and*

3 “(2) *the employment of the H–2A worker in such*
4 *labor or services will not adversely affect the wages*
5 *and working conditions of workers in the United*
6 *States who are similarly employed.*

7 “(b) *H–2A PETITION REQUIREMENTS.—An employer*
8 *filing a petition for an H–2A worker to perform agricul-*
9 *tural labor or services shall attest to and demonstrate com-*
10 *pliance, as and when appropriate, with all applicable re-*
11 *quirements under this section, including the following:*

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

20 “(2) *NONDISPLACEMENT OF UNITED STATES*
21 *WORKERS.—The employer has not and will not dis-*
22 *place United States workers employed by the em-*
23 *ployer during the period of employment of the H–2A*
24 *worker and during the 60-day period immediately*
25 *preceding such period of employment in the job for*

1 *which the employer seeks approval to employ the H-*
2 *2A worker.*

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

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

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

23 “(A) *shall offer such United States workers*
24 *not less than the same benefits, wages, and work-*

1 *ing conditions that the employer is offering or*
2 *will provide to the H-2A worker; and*

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

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

14 *“(7) COMPLIANCE WITH LABOR AND EMPLOY-*
15 *MENT LAWS.—The employer shall comply with all ap-*
16 *plicable Federal, State and local employment-related*
17 *laws and regulations.*

18 *“(c) RECRUITING REQUIREMENTS.—*

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

22 *“(A) JOB ORDER.—As provided in sub-*
23 *section (h)(1), the employer shall complete a job*
24 *order for posting on the electronic job registry*
25 *maintained by the Secretary of Labor and for*

1 *distribution by the appropriate State workforce*
2 *agency. Such posting shall remain on the job*
3 *registry as an active job order through the period*
4 *described in paragraph (2)(B).*

5 “(B) *FORMER WORKERS.*—*At least 45 days*
6 *before each start date identified in the petition,*
7 *the employer shall—*

8 “(i) *make reasonable efforts to contact*
9 *any United States worker the employer em-*
10 *ployed in the previous year in the same oc-*
11 *cupation and area of intended employment*
12 *for which an H-2A worker is sought (ex-*
13 *cluding workers who were terminated for*
14 *cause or abandoned the worksite); and*

15 “(ii) *post such job opportunity in a*
16 *conspicuous location or locations at the*
17 *place of employment.*

18 “(C) *POSITIVE RECRUITMENT.*—*During the*
19 *period of recruitment, the employer shall com-*
20 *plete any other positive recruitment steps within*
21 *a multi-State region of traditional or expected*
22 *labor supply where the Secretary of Labor finds*
23 *that there are a significant number of qualified*
24 *United States workers who, if recruited, would be*

1 willing to make themselves available for work at
2 the time and place needed.

3 “(2) *PERIOD OF RECRUITMENT.*—

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

14 “(B) *REQUIREMENT TO HIRE US WORK-*
15 *ERS.*—

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

22 “(I) the date that is 30 days after
23 the date on which work begins; or

24 “(II) the date on which—

1 “(aa) 33 percent of the work
2 contract for the job opportunity
3 has elapsed; or

4 “(bb) if the employer is a
5 labor contractor, 50 percent of the
6 work contract for the job oppor-
7 tunity has elapsed.

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

17 “(iii) *EXCEPTION*.—Notwithstanding
18 clause (i), the employer may offer a job op-
19 portunity to an H-2A worker instead of an
20 alien granted certified agricultural worker
21 status under title I of the Farm Workforce
22 Modernization Act of 2019 if the H-2A
23 worker was employed by the employer in
24 each of 3 years during the most recent 4-
25 year period.

1 “(3) *RECRUITMENT REPORT.*—

2 “(A) *IN GENERAL.*—*The employer shall*
3 *maintain a recruitment report through the ap-*
4 *licable period described in paragraph (2)(B)*
5 *and submit regular updates through the elec-*
6 *tronic platform on the results of recruitment. The*
7 *employer shall retain the recruitment report, and*
8 *all associated recruitment documentation, for a*
9 *period of 3 years from the date of certification.*

10 “(B) *BURDEN OF PROOF.*—*If the employer*
11 *asserts that any eligible individual who has ap-*
12 *plied or been referred is not able, willing or*
13 *qualified, the employer bears the burden of proof*
14 *to establish that the individual is not able, will-*
15 *ing or qualified because of a lawful, employment-*
16 *related reason.*

17 “(d) *WAGE REQUIREMENTS.*—

18 “(1) *IN GENERAL.*—*Each employer under this*
19 *section will offer the worker, during the period of au-*
20 *thorized employment, wages that are at least the*
21 *greatest of—*

22 “(A) *the agreed-upon collective bargaining*
23 *wage;*

24 “(B) *the adverse effect wage rate (or any*
25 *successor wage established under paragraph (7));*

1 “(C) *the prevailing wage (hourly wage or*
2 *piece rate); or*

3 “(D) *the Federal or State minimum wage.*

4 “(2) *ADVERSE EFFECT WAGE RATE DETERMINA-*
5 *TIONS.—*

6 “(A) *IN GENERAL.—Except as provided*
7 *under subparagraph (B), the applicable adverse*
8 *effect wage rate for each State and occupational*
9 *classification for a calendar year shall be as fol-*
10 *lows:*

11 “(i) *The annual average hourly wage*
12 *for the occupational classification in the*
13 *State or region as reported by the Secretary*
14 *of Agriculture based on a wage survey con-*
15 *ducted by such Secretary.*

16 “(ii) *If a wage described in clause (i)*
17 *is not reported, the national annual average*
18 *hourly wage for the occupational classifica-*
19 *tion as reported by the Secretary of Agri-*
20 *culture based on a wage survey conducted*
21 *by such Secretary.*

22 “(iii) *If a wage described in clause (i)*
23 *or (ii) is not reported, the Statewide annual*
24 *average hourly wage for the standard occu-*
25 *pational classification as reported by the*

1 *Secretary of Labor based on a wage survey*
2 *conducted by such Secretary.*

3 *“(iv) If a wage described in clause (i),*
4 *(ii), or (iii) is not reported, the national*
5 *average hourly wage for the occupational*
6 *classification as reported by the Secretary of*
7 *Labor based on a wage survey conducted by*
8 *such Secretary.*

9 *“(B) LIMITATIONS ON WAGE FLUCTUA-*
10 *TIONS.—*

11 *“(i) WAGE FREEZE FOR CALENDAR*
12 *YEAR 2020.—For calendar year 2020, the*
13 *adverse effect wage rate for each State and*
14 *occupational classification under this sub-*
15 *section shall be the adverse effect wage rate*
16 *that was in effect for H-2A workers in the*
17 *applicable State in calendar year 2019.*

18 *“(ii) CALENDAR YEARS 2021 THROUGH*
19 *2029.—For each of calendar years 2021*
20 *through 2029, the adverse effect wage rate*
21 *for each State and occupational classifica-*
22 *tion under this subsection shall be the wage*
23 *calculated under subparagraph (A), except*
24 *that such wage may not—*

1 “(I) be more than 1.5 percent
2 lower than the wage in effect for H-2A
3 workers in the applicable State and oc-
4 cupational classification in the imme-
5 diately preceding calendar year;

6 “(II) except as provided in clause
7 (III), be more than 3.25 percent higher
8 than the wage in effect for H-2A work-
9 ers in the applicable State and occupa-
10 tional classification in the immediately
11 preceding calendar year; and

12 “(III) if the application of clause
13 (II) results in a wage that is lower
14 than 110 percent of the applicable Fed-
15 eral or State minimum wage, be more
16 than 4.25 percent higher than the wage
17 in effect for H-2A workers in the ap-
18 plicable State and occupational classi-
19 fication in the immediately preceding
20 calendar year.

21 “(iii) CALENDAR YEARS AFTER 2029.—
22 For any calendar year after 2029, the ap-
23 plicable wage rate described in paragraph
24 (1)(B) shall be the wage rate established
25 pursuant to paragraph (7)(D). Until such

1 *wage rate is effective, the adverse effect wage*
2 *rate for each State and occupational classi-*
3 *fication under this subsection shall be the*
4 *wage calculated under subparagraph (A),*
5 *except that such wage may not be more*
6 *than 1.5 percent lower or 3.25 percent high-*
7 *er than the wage in effect for H-2A workers*
8 *in the applicable State and occupational*
9 *classification in the immediately preceding*
10 *calendar year.*

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

18 *“(4) PUBLICATION; WAGES IN EFFECT.—*

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

1 “(B) *JOB ORDERS IN EFFECT.*—*Except as*
2 *provided in subparagraph (C), publication by*
3 *the Secretary of Labor of an updated adverse ef-*
4 *fect wage rate or prevailing wage for a State and*
5 *occupational classification shall not affect the*
6 *wage rate guaranteed in any approved job order*
7 *for which recruitment efforts have commenced at*
8 *the time of publication.*

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

19 “(5) *WORKERS PAID ON A PIECE RATE OR*
20 *OTHER INCENTIVE BASIS.*—*If an employer pays by*
21 *the piece rate or other incentive method and requires*
22 *1 or more minimum productivity standards as a con-*
23 *dition of job retention, such standards shall be speci-*
24 *fied in the job order and shall be no more than those*
25 *normally required (at the time of the first petition for*

1 *H-2A workers) by other employers for the activity in*
2 *the area of intended employment, unless the Secretary*
3 *of Labor approves a higher minimum standard re-*
4 *sulting from material changes in production methods.*

5 *“(6) GUARANTEE OF EMPLOYMENT.—*

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

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

1 *opportunity to do so, and all hours of work actu-*
2 *ally performed (including voluntary work in ex-*
3 *cess of the number of hours specified in the job*
4 *offer in a work day, on the worker’s Sabbath, or*
5 *on Federal holidays) may be counted by the em-*
6 *ployer in calculating whether the period of guar-*
7 *anteed employment has been met.*

8 “(C) *ABANDONMENT OF EMPLOYMENT; TER-*
9 *MINATION FOR CAUSE.—If the worker voluntarily*
10 *abandons employment without good cause before*
11 *the end of the contract period, or is terminated*
12 *for cause, the worker is not entitled to the guar-*
13 *antee of employment described in subparagraph*
14 *(A).*

15 “(D) *CONTRACT IMPOSSIBILITY.—If, before*
16 *the expiration of the period of employment speci-*
17 *fied in the job offer, the services of the worker are*
18 *no longer required for reasons beyond the control*
19 *of the employer due to any form of natural dis-*
20 *aster before the guarantee in subparagraph (A)*
21 *is fulfilled, the employer may terminate the*
22 *worker’s employment. In the event of such termi-*
23 *nation, the employer shall fulfill the employment*
24 *guarantee in subparagraph (A) for the work*
25 *days that have elapsed from the first work day*

1 *after the arrival of the worker to the termination*
2 *of employment. The employer shall make efforts*
3 *to transfer a United States worker to other com-*
4 *parable employment acceptable to the worker. If*
5 *such transfer is not affected, the employer shall*
6 *provide the return transportation required in*
7 *subsection (f)(2).*

8 “(7) *WAGE STANDARDS AFTER 2029.*—

9 “(A) *STUDY OF ADVERSE EFFECT WAGE*
10 *RATE.*—*Beginning in fiscal year 2026, the Sec-*
11 *retary of Agriculture and Secretary of Labor*
12 *shall jointly conduct a study that addresses—*

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

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

20 “(iii) *whether alternative wage stand-*
21 *ards would be sufficient to prevent wages in*
22 *occupations in which H–2A workers are*
23 *employed from falling below the wage level*
24 *that would have prevailed in the absence of*
25 *H–2A employment;*

1 “(iv) whether any changes are war-
2 ranted in the current methodologies for cal-
3 culating the adverse effect wage rate and the
4 prevailing wage rate; and

5 “(v) recommendations for future wage
6 protection under this section.

7 “(B) FINAL REPORT.—Not later than Octo-
8 ber 1, 2027, the Secretary of Agriculture and
9 Secretary of Labor shall jointly prepare and sub-
10 mit a report to the Congress setting forth the
11 findings of the study conducted under subpara-
12 graph (A) and recommendations for future wage
13 protections under this section.

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

22 “(D) WAGE DETERMINATION AFTER 2029.—
23 Upon publication of the report described in sub-
24 paragraph (B), the Secretary of Labor, in con-
25 sultation with and the approval of the Secretary

1 *of Agriculture, shall make a rule to establish a*
2 *process for annually determining the wage rate*
3 *for purposes of paragraph (1)(B) for fiscal years*
4 *after 2029. Such process shall be designed to en-*
5 *sure that the employment of H-2A workers does*
6 *not undermine the wages and working conditions*
7 *of similarly employed United States workers.*

8 “(e) *HOUSING REQUIREMENTS.—Employers shall fur-*
9 *nish housing in accordance with regulations established by*
10 *the Secretary of Labor. Such regulations shall be consistent*
11 *with the following:*

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

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

7 “(3) *UNITED STATES WORKERS.*—*Notwith-*
8 *standing paragraphs (1) and (2), an employer is not*
9 *required to provide housing to United States workers*
10 *who are reasonably able to return to their residence*
11 *within the same day.*

12 “(4) *TIMING OF INSPECTION.*—

13 “(A) *IN GENERAL.*—*The Secretary of Labor*
14 *or designee shall make a determination as to*
15 *whether the housing furnished by an employer*
16 *for a worker meets the requirements imposed by*
17 *this subsection prior to the date on which the*
18 *Secretary of Labor is required to make a certifi-*
19 *cation with respect to a petition for the admis-*
20 *sion of such worker.*

21 “(B) *TIMELY INSPECTION.*—*The Secretary*
22 *of Labor shall provide a process for—*

23 “(i) *an employer to request inspection*
24 *of housing up to 60 days before the date on*

1 *which the employer will file a petition*
2 *under this section; and*

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

7 “(f) *TRANSPORTATION REQUIREMENTS.—*

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

16 “(2) *TRAVEL FROM PLACE OF EMPLOYMENT.—*
17 *For a worker who completes the period of employment*
18 *specified in the job order or who is terminated with-*
19 *out cause, the employer shall provide or pay for the*
20 *worker’s transportation and subsistence from the*
21 *place of employment to the place from which the*
22 *worker, disregarding intervening employment, came*
23 *to work for the employer, or to the place of next em-*
24 *ployment, if the worker has contracted with a subse-*
25 *quent employer who has not agreed to provide or pay*

1 *for the worker's transportation and subsistence to*
2 *such subsequent employer's place of employment.*

3 “(3) *LIMITATION.*—

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

9 “(i) *the actual cost to the worker of the*
10 *transportation and subsistence involved; or*

11 “(ii) *the most economical and reason-*
12 *able common carrier transportation charges*
13 *and subsistence costs for the distance in-*
14 *volved.*

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

21 “(g) *HEAT ILLNESS PREVENTION PLAN.*—*The em-*
22 *ployer shall maintain a reasonable plan that describes the*
23 *employer's procedures for the prevention of heat illness, in-*
24 *cluding appropriate training, access to water and shade,*

1 *the provision of breaks, and the protocols for emergency re-*
2 *sponse. Such plan shall—*

3 “(1) *be in writing in English and, to the extent*
4 *necessary, any language common to a significant por-*
5 *tion of the workers if they are not fluent in English;*
6 *and*

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

10 “(h) *H-2A PETITION PROCEDURES.—*

11 “(1) *SUBMISSION OF PETITION AND JOB*
12 *ORDER.—*

13 “(A) *IN GENERAL.—The employer shall sub-*
14 *mit information required for the adjudication of*
15 *the H-2A petition, including a job order,*
16 *through the electronic platform no more than 75*
17 *calendar days and no fewer than 60 calendar*
18 *days before the employer’s first date of need spec-*
19 *ified in the petition.*

20 “(B) *FILING BY AGRICULTURAL ASSOCIA-*
21 *TIONS.—An association of agricultural producers*
22 *that use agricultural services may file an H-2A*
23 *petition under subparagraph (A). If an associa-*
24 *tion is a joint or sole employer of workers who*
25 *perform agricultural labor or services, H-2A*

1 *workers may be used for the approved job oppor-*
2 *tunities of any of the association’s producer*
3 *members and such workers may be transferred*
4 *among its producer members to perform the agri-*
5 *cultural labor or services for which the petition*
6 *was approved.*

7 “(C) *PETITIONS INVOLVING STAGGERED*
8 *ENTRY.—*

9 “(i) *IN GENERAL.—Except as provided*
10 *in clause (ii), an employer may file a peti-*
11 *tion involving employment in the same oc-*
12 *cupational classification and same area of*
13 *intended employment with multiple start*
14 *dates if—*

15 “(I) *the petition involves tem-*
16 *porary or seasonal employment and no*
17 *more than 10 start dates;*

18 “(II) *the multiple start dates*
19 *share a common end date that is no*
20 *longer than 1 year after the first start*
21 *date;*

22 “(III) *no more than 120 days sep-*
23 *arate the first start date and the final*
24 *start date listed in the petition; and*

1 “(IV) *the need for multiple start*
2 *dates arises from variations in labor*
3 *needs associated with the job oppor-*
4 *tunity identified in the petition.*

5 “(ii) *LABOR CONTRACTORS.—A labor*
6 *contractor may not file a petition described*
7 *in clause (i) unless the labor contractor—*

8 “(I) *is filing as a joint employer*
9 *with its contractees, or is operating in*
10 *a State in which joint employment*
11 *and liability between the labor con-*
12 *tractor and its contractees is otherwise*
13 *established; or*

14 “(II) *has posted and is maintain-*
15 *ing a premium surety bond as de-*
16 *scribed in subsection (l)(1).*

17 “(2) *LABOR CERTIFICATION.—*

18 “(A) *REVIEW OF JOB ORDER.—*

19 “(i) *IN GENERAL.—The Secretary of*
20 *Labor, in consultation with the relevant*
21 *State workforce agency, shall review the job*
22 *order for compliance with this section and*
23 *notify the employer through the electronic*
24 *platform of any deficiencies not later than*
25 *7 business days from the date the employer*

1 *submits the necessary information required*
2 *under paragraph (1)(A). The employer shall*
3 *be provided 5 business days to respond to*
4 *any such notice of deficiency.*

5 *“(ii) STANDARD.—The job order must*
6 *include all material terms and conditions of*
7 *employment, including the requirements of*
8 *this section, and must be otherwise con-*
9 *sistent with the minimum standards pro-*
10 *vided under Federal, State or local law. In*
11 *considering the question of whether a spe-*
12 *cific qualification is appropriate in a job*
13 *order, the Secretary of Labor shall apply*
14 *the normal and accepted qualification re-*
15 *quired by non-H-2A employers in the same*
16 *or comparable occupations and crops.*

17 *“(iii) EMERGENCY PROCEDURES.—The*
18 *Secretary of Labor shall establish emergency*
19 *procedures for the curing of deficiencies that*
20 *cannot be resolved during the period de-*
21 *scribed in clause (i).*

22 *“(B) APPROVAL OF JOB ORDER.—*

23 *“(i) IN GENERAL.—Upon approval of*
24 *the job order, the Secretary of Labor shall*
25 *immediately place for public examination a*

1 *copy of the job order on the online job reg-*
2 *istry, and the State workforce agency serv-*
3 *ing the area of intended employment shall*
4 *commence the recruitment of United States*
5 *workers.*

6 “(ii) *REFERRAL OF UNITED STATES*
7 *WORKERS.—The Secretary of Labor and*
8 *State workforce agency shall keep the job*
9 *order active until the end of the period de-*
10 *scribed in subsection (c)(2) and shall refer*
11 *to the employer each United States worker*
12 *who applies for the job opportunity.*

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

23 “(D) *CERTIFICATION AND AUTHORIZATION*
24 *OF WORKERS.—Not later than 30 days before the*
25 *date that labor or services are first required to*

1 *be performed, the Secretary of Labor shall issue*
2 *the requested labor certification if the Secretary*
3 *determines that the requirements for certification*
4 *set forth in this section have been met.*

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

21 “(3) *PETITION DECISION.—*

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

1 *transmit a notice of action to the petitioner via*
2 *the electronic platform.*

3 “(B) *APPROVAL.*—*Upon approval of a peti-*
4 *tion under this section, the Secretary of Home-*
5 *land Security shall ensure that such approval is*
6 *noted in the electronic platform and is available*
7 *to the Secretary of State and U.S. Customs and*
8 *Border Protection, as necessary, to facilitate visa*
9 *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 AMENDMENTS.*—
16 *The Secretary of Labor shall provide a process*
17 *for amending a request for labor certification in*
18 *conjunction with an H-2A petition, subsequent*
19 *to certification by the Secretary of Labor, in*
20 *cases in which the requested amendment does not*
21 *materially change the petition (including the job*
22 *order).*

23 “(4) *ROLES OF AGRICULTURAL ASSOCIATIONS.*—

24 “(A) *MEMBER’S VIOLATION DOES NOT NEC-*
25 *ESSARILY DISQUALIFY ASSOCIATION OR OTHER*

1 MEMBERS.—*If an individual producer member*
2 *of a joint employer association is determined to*
3 *have committed an act that results in the denial*
4 *of a petition with respect to the member, the de-*
5 *denial shall apply only to that member of the asso-*
6 *ciation unless the Secretary of Labor determines*
7 *that the association or other member partici-*
8 *pated in, had knowledge of, or reason to know of,*
9 *the violation.*

10 “(B) ASSOCIATION’S VIOLATION DOES NOT
11 NECESSARILY DISQUALIFY MEMBERS.—

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

23 “(ii) *If an association of agricultural*
24 *producers certified as a sole employer is de-*
25 *termined to have committed an act that re-*

1 *sults in the denial of a petition with respect*
2 *to the association, no individual producer*
3 *member of such association may be the ben-*
4 *eficiary of the services of H-2A workers in*
5 *the commodity and occupation in which*
6 *such aliens were employed by the associa-*
7 *tion which was denied during the period*
8 *such denial is in force, unless such producer*
9 *member employs such aliens in the com-*
10 *modity and occupation in question directly*
11 *or through an association which is a joint*
12 *employer of such workers with the producer*
13 *member.*

14 “(5) *SPECIAL PROCEDURES.*—*The Secretary of*
15 *Labor, in consultation with the Secretary of Agri-*
16 *culture and Secretary of Homeland Security, may by*
17 *regulation establish alternate procedures that reason-*
18 *ably modify program requirements under this section,*
19 *when the Secretary determines that such modifica-*
20 *tions are required due to the unique nature of the*
21 *work involved.*

22 “(6) *CONSTRUCTION OCCUPATIONS.*—*An em-*
23 *ployer may not file a petition under this section on*
24 *behalf of a worker if the majority of the worker’s du-*

1 *ties will fall within a construction or extraction occu-*
2 *pational classification.*

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

4 *“(1) IN GENERAL.—Notwithstanding the require-*
5 *ment in section 101(a)(15)(H)(ii)(a) that the agricul-*
6 *tural labor or services performed by an H-2A worker*
7 *be of a temporary or seasonal nature, the Secretary*
8 *of Homeland Security may, consistent with the provi-*
9 *sions of this subsection, approve a petition for an H-*
10 *2A worker to perform agricultural services or labor*
11 *that is not of a temporary or seasonal nature.*

12 *“(2) NUMERICAL LIMITATIONS.—*

13 *“(A) FIRST 3 FISCAL YEARS.—The total*
14 *number of aliens who may be issued visas or oth-*
15 *erwise provided H-2A nonimmigrant status*
16 *under paragraph (1) for the first fiscal year dur-*
17 *ing which the first visa is issued under such*
18 *paragraph and for each of the following two fis-*
19 *cal years may not exceed 20,000.*

20 *“(B) FISCAL YEARS 4 THROUGH 10.—*

21 *“(i) IN GENERAL.—The total number*
22 *of aliens who may be issued visas or other-*
23 *wise provided H-2A nonimmigrant status*
24 *under paragraph (1) for the first fiscal year*
25 *following the fiscal years referred to in sub-*

1 *paragraph (A) and for each of the following*
2 *six fiscal years may not exceed a numerical*
3 *limitation jointly imposed by the Secretary*
4 *of Agriculture and Secretary of Labor in*
5 *accordance with clause (i).*

6 “(ii) *ANNUAL ADJUSTMENTS.—For*
7 *each fiscal year referred to in clause (i), the*
8 *Secretary of Agriculture and Secretary of*
9 *Labor, in consultation with the Secretary of*
10 *Homeland Security, shall establish a nu-*
11 *merical limitation for purposes of clause (i).*
12 *Such numerical limitation may not be*
13 *lower 20,000 and may not vary by more*
14 *than 12.5 percent compared to the numer-*
15 *ical limitation applicable to the imme-*
16 *diately preceding fiscal year. In establishing*
17 *such numerical limitation, the Secretaries*
18 *shall consider appropriate factors, includ-*
19 *ing—*

20 *“(I) a demonstrated shortage of*
21 *agricultural workers;*

22 *“(II) the level of unemployment*
23 *and underemployment of agricultural*
24 *workers during the preceding fiscal*
25 *year;*

1 “(III) the number of H-2A work-
2 ers sought by employers during the
3 preceding fiscal year to engage in agri-
4 cultural labor or services not of a tem-
5 porary or seasonal nature;

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

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

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

24 “(VII) any growth or contraction
25 of the United States agricultural in-

1 *dustry that has increased or decreased*
2 *the demand for agricultural workers;*
3 *and*

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

9 *“(C) SUBSEQUENT FISCAL YEARS.—For*
10 *each fiscal year following the fiscal years referred*
11 *to in subparagraph (B), the Secretary of Agri-*
12 *culture and Secretary of Labor shall jointly de-*
13 *termine, in consultation with the Secretary of*
14 *Homeland Security, and after considering ap-*
15 *propriate factors, including those factors listed*
16 *in subclauses (I) through (VIII) of subparagraph*
17 *(B)(ii), whether to establish a numerical limita-*
18 *tion for that fiscal year. If a numerical limita-*
19 *tion is so established—*

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

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

6 “(D) *EMERGENCY PROCEDURES.*—The Sec-
7 retary of Agriculture and Secretary of Labor, in
8 consultation with the Secretary of Homeland Se-
9 curity, shall jointly establish by regulation pro-
10 cedures for immediately adjusting a numerical
11 limitation imposed under subparagraph (B) or
12 (C) to account for significant labor shortages.

13 “(3) *ALLOCATION OF VISAS.*—

14 “(A) *BI-ANNUAL ALLOCATION.*—The annual
15 allocation of visas described in paragraph (2)
16 shall be evenly allocated between two halves of
17 the fiscal year unless the Secretary of Homeland
18 Security, in consultation with the Secretary of
19 Agriculture and Secretary of Labor, determines
20 that an alternative allocation would better ac-
21 commodate demand for visas. Any unused visas
22 in the first half of the fiscal year shall be added
23 to the allocation for the subsequent half of the
24 same fiscal year.

1 “(B) *RESERVE FOR DAIRY LABOR OR SERV-*
2 *ICES.—*

3 “(i) *IN GENERAL.—Of the visa num-*
4 *bers made available in each half of the fiscal*
5 *year pursuant to subparagraph (A), 50 per-*
6 *cent of such visas shall be reserved for em-*
7 *ployers filing petitions seeking H–2A work-*
8 *ers to engage in agricultural labor or serv-*
9 *ices in the dairy industry.*

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

18 “(4) *ANNUAL ROUND TRIP HOME.—*

19 “(A) *IN GENERAL.—In addition to the other*
20 *requirements of this section, an employer shall*
21 *provide H–2A workers employed under this sub-*
22 *section, at no cost to such workers, with annual*
23 *round trip travel, including transportation and*
24 *subsistence during travel, to their homes in their*
25 *communities of origin. The employer must pro-*

1 *vide such travel within 14 months of the initi-*
2 *ation of the worker’s employment, and no more*
3 *than 14 months can elapse between each required*
4 *period of travel.*

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

7 “(i) *the actual cost to the worker of the*
8 *transportation and subsistence involved; or*

9 “(ii) *the most economical and reason-*
10 *able common carrier transportation charges*
11 *and subsistence costs for the distance in-*
12 *volved.*

13 “(5) *FAMILY HOUSING.*—*An employer seeking to*
14 *employ an H-2A worker pursuant to this subsection*
15 *shall offer family housing to workers with families if*
16 *such workers are engaged in agricultural employment*
17 *that is not of a seasonal or temporary nature. The*
18 *worker may reject such an offer. The employer may*
19 *not charge the worker for the worker’s housing, except*
20 *that if the worker accepts family housing, a prorated*
21 *rent based on the fair market value for such housing*
22 *may be charged for the worker’s family members.*

23 “(6) *WORKPLACE SAFETY PLAN FOR DAIRY EM-*
24 *PLOYEES.*—

1 “(A) *IN GENERAL.*—*If an employer is seek-*
2 *ing to employ a worker in agricultural labor or*
3 *services in the dairy industry pursuant to this*
4 *subsection, the employer must report incidents*
5 *consistent with the requirements under section*
6 *1904.39 of title 29, Code of Federal Regulations,*
7 *and maintain an effective worksite safety and*
8 *compliance plan to prevent workplace accidents*
9 *and otherwise ensure safety. Such plan shall—*

10 “(i) *be in writing in English and, to*
11 *the extent necessary, any language common*
12 *to a significant portion of the workers if*
13 *they are not fluent in English; and*

14 “(ii) *be posted at a conspicuous loca-*
15 *tion at the worksite and provided to em-*
16 *ployees prior to the commencement of labor*
17 *or services.*

18 “(B) *CONTENTS OF PLAN.*—*The Secretary of*
19 *Labor, in consultation with the Secretary of Ag-*
20 *riculture, shall establish by regulation the min-*
21 *imum requirements for the plan described in*
22 *subparagraph (A). Such plan shall include meas-*
23 *ures to—*

24 “(i) *require workers (other than the*
25 *employer’s family members) whose positions*

1 *require contact with animals to complete*
2 *animal care training, including animal*
3 *handling and job-specific animal care;*

4 “(ii) *protect against sexual harassment*
5 *and violence, resolve complaints involving*
6 *harassment or violence, and protect against*
7 *retaliation against workers reporting har-*
8 *assment or violence; and*

9 “(iii) *contain other provisions nec-*
10 *essary for ensuring workplace safety, as de-*
11 *termined by the Secretary of Labor, in con-*
12 *sultation with the Secretary of Agriculture.*

13 “(j) *ELIGIBILITY FOR H-2A STATUS AND ADMISSION*
14 *TO THE UNITED STATES.—*

15 “(1) *DISQUALIFICATION.—An alien shall be in-*
16 *eligible for admission to the United States as an H-*
17 *2A worker pursuant to a petition filed under this sec-*
18 *tion if the alien was admitted to the United States*
19 *as an H-2A worker within the past 5 years of the*
20 *date the petition was filed and—*

21 “(A) *violated a material provision of this*
22 *section, including the requirement to promptly*
23 *depart the United States when the alien’s au-*
24 *thorized period of admission has expired, unless*

1 *the alien has good cause for such failure to de-*
2 *part; or*

3 “(B) *otherwise violated a term or condition*
4 *of admission into the United States as an H-2A*
5 *worker.*

6 “(2) *VISA VALIDITY.—A visa issued to an H-2A*
7 *worker shall be valid for three years and shall allow*
8 *for multiple entries during the approved period of ad-*
9 *mission.*

10 “(3) *PERIOD OF AUTHORIZED STAY; ADMIS-*
11 *SION.—*

12 “(A) *IN GENERAL.—An alien admissible as*
13 *an H-2A worker shall be authorized to stay in*
14 *the United States for the period of employment*
15 *specified in the petition approved by the Sec-*
16 *retary of Homeland Security under this section.*
17 *The maximum continuous period of authorized*
18 *stay for an H-2A worker is 36 months.*

19 “(B) *REQUIREMENT TO REMAIN OUTSIDE*
20 *THE UNITED STATES.—In the case of an H-2A*
21 *worker whose maximum continuous period of au-*
22 *thorized stay (including any extensions) has ex-*
23 *pired, the alien may not again be eligible for*
24 *such stay until the alien remains outside the*

1 *United States for a cumulative period of at least*
2 *45 days.*

3 “(C) *EXCEPTIONS.*—*The Secretary of*
4 *Homeland Security shall deduct absences from*
5 *the United States that take place during an H-*
6 *2A worker’s period of authorized stay from the*
7 *period that the alien is required to remain out-*
8 *side the United States under subparagraph (B),*
9 *if the alien or the alien’s employer requests such*
10 *a deduction, and provides clear and convincing*
11 *proof that the alien qualifies for such a deduc-*
12 *tion. Such proof shall consist of evidence includ-*
13 *ing, but not limited to, arrival and departure*
14 *records, copies of tax returns, and records of em-*
15 *ployment abroad.*

16 “(D) *ADMISSION.*—*In addition to the max-*
17 *imum continuous period of authorized stay, an*
18 *H-2A worker’s authorized period of admission*
19 *shall include an additional period of 10 days*
20 *prior to the beginning of the period of employ-*
21 *ment for the purpose of traveling to the place of*
22 *employment and 45 days at the end of the period*
23 *of employment for the purpose of traveling home*
24 *or seeking an extension of status based on a sub-*
25 *sequent offer of employment if the worker has not*

1 reached the maximum continuous period of au-
2 thorized stay under subparagraph (A) (subject to
3 the exceptions in subparagraph (C)).

4 “(4) CONTINUING H-2A WORKERS.—

5 “(A) SUCCESSIVE EMPLOYMENT.—An H-2A
6 worker is authorized to start new or concurrent
7 employment upon the filing of a nonfrivolous H-
8 2A petition, or as of the requested start date,
9 whichever is later if—

10 “(i) the petition to start new or con-
11 current employment was filed prior to the
12 expiration of the H-2A worker’s period of
13 admission as defined in paragraph (3)(D);
14 and

15 “(ii) the H-2A worker has not been
16 employed without authorization in the
17 United States from the time of last admis-
18 sion to the United States in H-2A status
19 through the filing of the petition for new
20 employment.

21 “(B) PROTECTION DUE TO IMMIGRANT VISA
22 BACKLOGS.—Notwithstanding the limitations on
23 the period of authorized stay described in para-
24 graph (3), any H-2A worker who—

1 “(i) is the beneficiary of an approved
2 petition, filed under section 204(a)(1)(E) or
3 (F) for preference status under section
4 203(b)(3)(A)(iii); and

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

8 may apply for, and the Secretary of Homeland
9 Security may grant, an extension of such non-
10 immigrant status until the Secretary of Home-
11 land Security issues a final administrative deci-
12 sion on the alien’s application for adjustment of
13 status or the Secretary of State issues a final de-
14 cision on the alien’s application for an immi-
15 grant visa.

16 “(5) ABANDONMENT OF EMPLOYMENT.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), an H-2A worker who aban-
19 dons the employment which was the basis for the
20 worker’s authorized stay, without good cause,
21 shall be considered to have failed to maintain
22 H-2A status and shall depart the United States
23 or be subject to removal under section
24 237(a)(1)(C)(i).

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

10 “(k) *REQUIRED DISCLOSURES.—*

11 “(1) *DISCLOSURE OF WORK CONTRACT.—Not*
12 *later than the time the H-2A worker applies for a*
13 *visa, the employer shall provide the worker with a*
14 *copy of the work contract that includes the disclosures*
15 *and rights under this section (or in the absence of*
16 *such a contract, a copy of the job order and proof of*
17 *the certification described in subparagraphs (B) and*
18 *(D) of subsection (h)(2)). An H-2A worker moving*
19 *from one H-2A employer to a subsequent H-2A em-*
20 *ployer shall be provided with a copy of the new em-*
21 *ployment contract no later than the time an offer of*
22 *employment is made by the subsequent employer.*

23 “(2) *HOURS AND EARNINGS STATEMENTS.—The*
24 *employer shall furnish to H-2A workers, on or before*
25 *each payday, in 1 or more written statements—*

1 “(A) *the worker’s total earnings for the pay*
2 *period;*

3 “(B) *the worker’s hourly rate of pay, piece*
4 *rate of pay, or both;*

5 “(C) *the hours of employment offered to the*
6 *worker and the hours of employment actually*
7 *worked;*

8 “(D) *if piece rates of pay are used, the*
9 *units produced daily;*

10 “(E) *an itemization of the deductions made*
11 *from the worker’s wages; and*

12 “(F) *any other information required by*
13 *Federal, State or local law.*

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

22 “(l) *LABOR CONTRACTORS; FOREIGN LABOR RECRUIT-*
23 *ERS; PROHIBITION ON FEES.—*

24 “(1) *LABOR CONTRACTORS.—*

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

13 “(B) *AMOUNT OF BOND.*—*The Secretary of*
14 *Labor shall annually publish in the Federal Reg-*
15 *ister a schedule of required bond amounts that*
16 *are determined by such Secretary to be sufficient*
17 *for labor contractors to discharge financial obli-*
18 *gations under this section based on the number*
19 *of workers the labor contractor seeks to employ*
20 *and the wages such workers are required to be*
21 *paid.*

22 “(C) *PREMIUM BOND.*—*A labor contractor*
23 *seeking to file a petition involving more than 1*
24 *start date under subsection (h)(1)(C) shall main-*
25 *tain a surety bond that is at least 15 percent*

1 *higher than the applicable bond amount deter-*
2 *mined by the Secretary under subparagraph (B).*

3 “(D) *USE OF FUNDS.*—*Any sums paid to*
4 *the Secretary under subparagraph (A) that are*
5 *not paid to a worker because of the inability to*
6 *do so within a period of 5 years following the*
7 *date of a violation giving rise to the obligation*
8 *to pay shall remain available to the Secretary*
9 *without further appropriation until expended to*
10 *support the enforcement of this section.*

11 “(2) *FOREIGN LABOR RECRUITING.*—*If the em-*
12 *ployer has retained the services of a foreign labor re-*
13 *cruiter, the employer shall use a foreign labor re-*
14 *cruiter registered under section 251 of the Farm*
15 *Workforce Modernization Act of 2019.*

16 “(3) *PROHIBITION AGAINST EMPLOYEES PAYING*
17 *FEES.*—*Neither the employer nor its agents shall seek*
18 *or receive payment of any kind from any worker for*
19 *any activity related to the H-2A process, including*
20 *payment of the employer’s attorneys’ fees, application*
21 *fees, or recruitment costs. An employer and its agents*
22 *may receive reimbursement for costs that are the re-*
23 *sponsibility and primarily for the benefit of the work-*
24 *er, such as government-required passport fees.*

1 “(4) *THIRD PARTY CONTRACTS.*—*The contract*
2 *between an employer and any labor contractor or any*
3 *foreign labor recruiter (or any agent of such labor*
4 *contractor or foreign labor recruiter) whom the em-*
5 *ployer engages shall include a term providing for the*
6 *termination of such contract for cause if the con-*
7 *tractor or recruiter, either directly or indirectly, in*
8 *the placement or recruitment of H-2A workers seeks*
9 *or receives payments or other compensation from pro-*
10 *spective employees. Upon learning that a labor con-*
11 *tractor or foreign labor recruiter has sought or col-*
12 *lected such payments, the employer shall so terminate*
13 *any contracts with such contractor or recruiter.*

14 “(m) *ENFORCEMENT AUTHORITY.*—

15 “(1) *IN GENERAL.*—*The Secretary of Labor is*
16 *authorized to take such actions against employers, in-*
17 *cluding imposing appropriate penalties and seeking*
18 *monetary and injunctive relief and specific perform-*
19 *ance of contractual obligations, as may be necessary*
20 *to ensure compliance with the requirements of this*
21 *section and with the applicable terms and conditions*
22 *of employment.*

23 “(2) *COMPLAINT PROCESS.*—

24 “(A) *PROCESS.*—*The Secretary of Labor*
25 *shall establish a process for the receipt, investiga-*

1 *tion, and disposition of complaints alleging fail-*
2 *ure of an employer to comply with the require-*
3 *ments under this section and with the applicable*
4 *terms and conditions of employment.*

5 *“(B) FILING.—A complaint referred to in*
6 *subparagraph (A) may be filed not later than 2*
7 *years after the date of the conduct that is the*
8 *subject of the complaint.*

9 *“(C) COMPLAINT NOT EXCLUSIVE.—A com-*
10 *plaint filed under this paragraph is not an ex-*
11 *clusive remedy and the filing of such a com-*
12 *plaint does not waive any rights or remedies of*
13 *the aggrieved party under this law or other laws.*

14 *“(D) DECISION AND REMEDIES.—If the Sec-*
15 *retary of Labor finds, after notice and oppor-*
16 *tunity for a hearing, that the employer failed to*
17 *comply with the requirements of this section or*
18 *the terms and conditions of employment, the Sec-*
19 *retary of Labor may require payment of unpaid*
20 *wages, unpaid benefits, fees assessed in violation*
21 *of this section, damages, and civil money pen-*
22 *alties. The Secretary is also authorized to impose*
23 *other administrative remedies, including dis-*
24 *qualification of the employer from utilizing the*
25 *H-2A program for a period of up to 5 years in*

1 *the event of willful or multiple material viola-*
2 *tions. The Secretary is authorized to perma-*
3 *nently disqualify an employer from utilizing the*
4 *H–2A program upon a subsequent finding in-*
5 *volving willful or multiple material violations.*

6 “(E) *DISPOSITION OF PENALTIES.—Civil*
7 *penalties collected under this paragraph shall be*
8 *deposited into the H–2A Labor Certification Fee*
9 *Account established under section 203 of the*
10 *Farm Workforce Modernization Act of 2019.*

11 “(3) *STATUTORY CONSTRUCTION.—Nothing in*
12 *this subsection may be construed as limiting the au-*
13 *thority of the Secretary of Labor to conduct an inves-*
14 *tigation—*

15 “(A) *under any other law, including any*
16 *law affecting migrant and seasonal agricultural*
17 *workers; or*

18 “(B) *in the absence of a complaint.*

19 “(4) *RETALIATION PROHIBITED.—It is a viola-*
20 *tion of this subsection for any person who has filed*
21 *a petition under this section to intimidate, threaten,*
22 *restrain, coerce, blacklist, discharge, or in any other*
23 *manner discriminate against, or to cause any person*
24 *to intimidate, threaten, restrain, coerce, blacklist, or*
25 *in any manner discriminate against, an employee,*

1 *including a former employee or an applicant for em-*
2 *ployment, because the employee—*

3 “(A) *has disclosed information to the em-*
4 *ployer, or to any other person, that the employee*
5 *reasonably believes evidences a violation under*
6 *this section, or any rule or regulation relating to*
7 *this section;*

8 “(B) *has filed a complaint concerning the*
9 *employer’s compliance with the requirements*
10 *under this section or any rule or regulation per-*
11 *taining to this section;*

12 “(C) *cooperates or seeks to cooperate in an*
13 *investigation or other proceeding concerning the*
14 *employer’s compliance with the requirements*
15 *under this section or any rule or regulation per-*
16 *taining to this section; or*

17 “(D) *has taken steps to exercise or assert*
18 *any right or protection under the provisions of*
19 *this section, or any rule or regulation pertaining*
20 *to this section, or any other relevant Federal,*
21 *State, or local law.*

22 “(5) *INTERAGENCY COMMUNICATION.—The Sec-*
23 *retary of Labor, in consultation with the Secretary of*
24 *Homeland Security, Secretary of State and the Equal*
25 *Employment Opportunity Commission, shall establish*

1 *mechanisms by which the agencies and their compo-*
2 *nents share information, including by public elec-*
3 *tronic means, regarding complaints, studies, inves-*
4 *tigations, findings and remedies regarding compli-*
5 *ance by employers with the requirements of the H-2A*
6 *program and other employment-related laws and reg-*
7 *ulations.*

8 “(n) *DEFINITIONS.—In this section:*

9 “(1) *DISPLACE.—The term ‘displace’ means to*
10 *lay off a similarly employed United States worker,*
11 *other than for lawful job-related reasons, in the occu-*
12 *pation and area of intended employment for the job*
13 *for which H-2A workers are sought.*

14 “(2) *H-2A WORKER.—The term ‘H-2A worker’*
15 *means a nonimmigrant described in section*
16 *101(a)(15)(H)(ii)(a).*

17 “(3) *JOB ORDER.—The term ‘job order’ means*
18 *the document containing the material terms and con-*
19 *ditions of employment, including obligations and as-*
20 *surances required under this section or any other law.*

21 “(4) *ONLINE JOB REGISTRY.—The term ‘online*
22 *job registry’ means the online job registry of the Sec-*
23 *retary of Labor required under section 201(b) of the*
24 *Farm Workforce Modernization Act of 2019 (or simi-*
25 *lar successor registry).*

1 “(5) *SIMILARLY EMPLOYED.*—*The term ‘simi-*
2 *larly employed’, in the case of a worker, means a*
3 *worker in the same occupational classification as the*
4 *classification or classifications for which the H–2A*
5 *worker is sought.*

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

8 “(A) *a citizen or national of the United*
9 *States;*

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

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

18 “(D) *an individual who is not an unau-*
19 *thorized alien (as defined in section 274A(h)(3))*
20 *with respect to the employment in which the*
21 *worker is engaging.*

22 “(o) *FEEES; AUTHORIZATION OF APPROPRIATIONS.*—

23 “(1) *FEEES.*—

24 “(A) *IN GENERAL.*—*The Secretary of Home-*
25 *land Security shall impose a fee to process peti-*

1 *tions under this section. Such fee shall be set at*
2 *a level that is sufficient to recover the reasonable*
3 *costs of processing the petition, including the*
4 *reasonable costs of providing labor certification*
5 *by the Secretary of Labor.*

6 *“(B) DISTRIBUTION.—Fees collected under*
7 *subparagraph (A) shall be deposited as offsetting*
8 *receipts into the immigration examinations fee*
9 *account in section 286(m), except that the por-*
10 *tion of fees assessed for the Secretary of Labor*
11 *shall be deposited into the H-2A Labor Certifi-*
12 *cation Fee Account established pursuant to sec-*
13 *tion 203(c) of the Farm Workforce Modernization*
14 *Act of 2019 .*

15 *“(2) APPROPRIATIONS.—There are authorized to*
16 *be appropriated for each fiscal year such sums as nec-*
17 *essary for the purposes of—*

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

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

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

8 “(D) enabling the Secretary of Agriculture
9 to carry out the Secretary of Agriculture’s duties
10 and responsibilities under this section.”.

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

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

15 (1) consulting with State workforce agencies to—

16 (A) review and process job orders;

17 (B) facilitate the recruitment and referral of
18 able, willing and qualified United States workers
19 who will be available at the time and place need-
20 ed;

21 (C) determine prevailing wages and prac-
22 tices; and

23 (D) conduct timely inspections to ensure
24 compliance with applicable Federal, State, or

1 *local housing standards and Federal regulations*
2 *for H-2A housing;*

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

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

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

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

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

20 (b) *RESPONSIBILITIES OF THE SECRETARY OF HOME-*
21 *LAND SECURITY.*—*With respect to the administration of the*
22 *H-2A program, the Secretary of Homeland Security shall*
23 *be responsible for—*

24 (1) *adjudicating petitions for the admission of*
25 *H-2A workers, which shall include an assessment as*

1 *to whether each beneficiary will be employed in ac-*
2 *cordance with the terms and conditions of the certifi-*
3 *cation and whether any named beneficiaries qualify*
4 *for such employment;*

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

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

17 *(c) ESTABLISHMENT OF ACCOUNT AND USE OF*
18 *FUNDS.—*

19 *(1) ESTABLISHMENT OF ACCOUNT.—There is es-*
20 *tablished in the general fund of the Treasury a sepa-*
21 *rate account, which shall be known as the “H-2A*
22 *Labor Certification Fee Account”. Notwithstanding*
23 *any other provisions of law, there shall be deposited*
24 *as offsetting receipts into the account all 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 avail-
9 able (except as otherwise provided in this paragraph)
10 without fiscal year limitation and without the re-
11 quirement for specification in appropriations Acts to
12 the Secretary of Labor for use, directly or through
13 grants, contracts, or other arrangements, in such
14 amounts as the Secretary of Labor determines are
15 necessary for the costs of Federal and State adminis-
16 tration in carrying out activities in connection with
17 labor certification under section 218 of the Immigra-
18 tion and Nationality Act. Such costs may include
19 personnel salaries and benefits, equipment and infra-
20 structure for adjudication and customer service proc-
21 esses, the operation and maintenance of an on-line job
22 registry, and program integrity activities. The Sec-
23 retary, in determining what amounts to transfer to
24 States for State administration in carrying out ac-
25 tivities in connection with labor certification under

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

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

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

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

21 (b) *APPLICABILITY OF OTHER LAWS.—*

22 (1) *MIGRANT AND SEASONAL AGRICULTURAL*
23 *WORKER PROTECTION ACT.—H-2A workers shall be*
24 *considered migrant agricultural workers for purposes*

1 *of the Migrant and Seasonal Agricultural Worker*
2 *Protection Act (29 U.S.C. 1801 et seq.).*

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

10 (3) *MEDIATION.*—

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

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

1 *quest with the Federal Mediation and Concilia-*
2 *tion Service to assist the parties in reaching a*
3 *satisfactory resolution of all issues involving all*
4 *parties to the dispute.*

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

12 (D) *90-DAY LIMIT.*—*The Federal Mediation*
13 *and Conciliation Service may conduct mediation*
14 *or other nonbinding dispute resolution activities*
15 *for a period not to exceed 90 days beginning on*
16 *the date on which the Federal Mediation and*
17 *Conciliation Service receives a request for assist-*
18 *ance under subparagraph (B) unless the parties*
19 *agree to an extension of such period.*

20 (E) *AUTHORIZATION OF APPROPRIA-*
21 *TIONS.*—

22 (i) *IN GENERAL.*—*Subject to clause*
23 *(ii), there is authorized to be appropriated*
24 *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) *FARM LABOR CONTRACTOR REQUIREMENTS.—*

19 (1) *SURETY BONDS.—*

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

24 “(e) *A farm labor contractor shall maintain a surety*
25 *bond in an amount determined by the Secretary to be suffi-*

1 *cient for ensuring the ability of the farm labor contractor*
2 *to discharge its financial obligations, including payment*
3 *of wages and benefits to employees. Such a bond shall be*
4 *available to satisfy any amounts ordered to be paid by the*
5 *Secretary or by court order for failure to comply with the*
6 *obligations of this Act. The Secretary of Labor shall annu-*
7 *ally publish in the Federal Register a schedule of required*
8 *bond amounts that are determined by such Secretary to be*
9 *sufficient for farm labor contractors to discharge financial*
10 *obligations based on the number of workers to be covered.”.*

11 *(B) REGISTRATION DETERMINATIONS.—Sec-*
12 *tion 103(a) of the Migrant and Seasonal Agri-*
13 *cultural Worker Protection Act (29 U.S.C.*
14 *1813(a)), is amended—*

15 *(i) in paragraph (4), by striking “or”*
16 *at the end;*

17 *(ii) in paragraph (5)(B), by striking*
18 *“or” at the end;*

19 *(iii) in paragraph (6), by striking the*
20 *period at the end and inserting “;” ; and*

21 *(iv) by adding at the end the following:*

22 *“(7) has failed to maintain a surety bond in*
23 *compliance with section 101(e); or*

24 *“(8) has been disqualified by the Secretary of*
25 *Labor from importing nonimmigrants described in*

1 *section 101(a)(15)(H)(ii) of the Immigration and Na-*
2 *tionality Act.”.*

3 (2) *SUCCESSORS IN INTEREST.*—

4 (A) *DECLARATION.*—*Section 102 of the Mi-*
5 *grant and Seasonal Agricultural Worker Protec-*
6 *tion Act (29 U.S.C. 1812), is amended—*

7 (i) *in paragraph (4), by striking*
8 *“and” at the end;*

9 (ii) *in paragraph (5), by striking the*
10 *period at the end and inserting “; and”;*
11 *and*

12 (iii) *by adding at the end the fol-*
13 *lowing:*

14 “(6) *a declaration, subscribed and sworn to by*
15 *the applicant, stating whether the applicant has a fa-*
16 *miliar, contractual, or employment relationship with,*
17 *or shares vehicles, facilities, property, or employees*
18 *with, a person who has been refused issuance or re-*
19 *newal of a certificate, or has had a certificate sus-*
20 *pended or revoked, pursuant to section 103.”.*

21 (B) *REBUTTABLE PRESUMPTION.*—*Section*
22 *103 of the Migrant and Seasonal Agricultural*
23 *Worker Protection Act (29 U.S.C. 1813), as*
24 *amended by this Act, is further amended by in-*
25 *serting after subsection (a) the following new*

1 *subsection (and by redesignating the subsequent*
2 *subsections accordingly):*

3 *“(b)(1) There shall be a rebuttable presumption that*
4 *an applicant for issuance or renewal of a certificate is not*
5 *the real party in interest in the application if the appli-*
6 *cant—*

7 *“(A) is the immediate family member of any*
8 *person who has been refused issuance or renewal of a*
9 *certificate, or has had a certificate suspended or re-*
10 *voked; and*

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

16 *“(2) An applicant described in paragraph (1) bears*
17 *the burden of demonstrating to the Secretary’s satisfaction*
18 *that the applicant is the real party in interest in the appli-*
19 *cation.”.*

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

21 *(a) Not later than 3 years after the date of the enact-*
22 *ment of this Act, and every 3 years thereafter, the Secretary*
23 *of Labor and Secretary of Agriculture shall prepare and*
24 *transmit to the Committees on the Judiciary of the House*
25 *of Representatives and Senate, a report that addresses—*

1 (1) *whether, and the manner in which, the em-*
2 *ployment of H-2A workers in the United States has*
3 *impacted the wages, working conditions, or job oppor-*
4 *tunities of United States farm workers;*

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

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

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

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

23 (6) *whether, and the manner in which, the H-*
24 *2A program affects the ability of United States farms*

1 *to compete with agricultural commodities imported*
2 *from outside the United States;*

3 *(7) the number and percentage of farmworkers in*
4 *the United States whose incomes are below the pov-*
5 *erty line;*

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

11 *(9) whether any changes are warranted in the*
12 *current methodologies for calculating the adverse effect*
13 *wage rate and the prevailing wage; and*

14 *(10) recommendations for future wage protection*
15 *under this section.*

16 *(b) In preparing the report described in subsection (a),*
17 *the Secretary of Labor and Secretary of Agriculture shall*
18 *engage with equal numbers of representatives of agricul-*
19 *tural employers and agricultural workers, both locally and*
20 *nationally.*

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

22 *(a) ESTABLISHMENT OF PILOT PROGRAM.—*

23 *(1) IN GENERAL.—Not later than 18 months*
24 *after the date of the enactment of this Act, the Sec-*
25 *retary of Homeland Security, in consultation with*

1 *the Secretary of Labor and Secretary of Agriculture,*
2 *shall establish through regulation a 6-year pilot pro-*
3 *gram to facilitate the free movement and employment*
4 *of temporary or seasonal H-2A workers to perform*
5 *agricultural labor or services for agricultural employ-*
6 *ers registered with the Secretary of Agriculture. Not-*
7 *withstanding the requirements of section 218 of the*
8 *Immigration and Nationality Act, such regulation*
9 *shall establish the requirements for the pilot program,*
10 *consistent with subsection (b). For purposes of this*
11 *section, such a worker shall be referred to as a port-*
12 *able H-2A worker, and status as such a worker shall*
13 *be referred to as portable H-2A status.*

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

1 *workers to search for available job opportunities using*
2 *relevant criteria, including the types of jobs needed to*
3 *be filled and the dates and locations of need.*

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

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

19 (1) *REGISTERED AGRICULTURAL EMPLOYERS.*—

20 (A) *DESIGNATION.*—*Agricultural employers*
21 *shall be provided the ability to seek designation*
22 *as registered agricultural employers. Reasonable*
23 *fees may be assessed commensurate with the cost*
24 *of processing applications for designation. A des-*
25 *ignation shall be valid for a period of up to 3*

1 *years unless revoked for failure to comply with*
2 *program requirements. Registered employers that*
3 *comply with program requirements may apply*
4 *to renew such designation for additional periods*
5 *of up to 3 years for the duration of the pilot pro-*
6 *gram.*

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

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

22 (2) *DESIGNATED WORKERS.*—

23 (A) *IN GENERAL.*—*Individuals who have*
24 *been previously admitted to the United States in*
25 *H-2A status, and maintained such status during*

1 *the period of admission, shall be provided the op-*
2 *portunity to apply for portable H-2A status.*
3 *Portable H-2A workers shall be subject to the*
4 *provisions on visa validity and periods of au-*
5 *thorized stay and admission for H-2A workers*
6 *described in paragraphs (2) and (3) of section*
7 *218(j) of the Immigration and Nationality Act*
8 *(8 U.S.C. 1188(j)(2) and (3)).*

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

11 *(i) INITIAL OFFER OF EMPLOYMENT*
12 *REQUIRED.—No alien may be granted port-*
13 *able H-2A status without an initial valid*
14 *offer of employment to perform temporary*
15 *or agricultural labor or services from a reg-*
16 *istered agricultural employer.*

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

1 *tural employers or job opportunities to sup-*
2 *port the employment of all such portable H-*
3 *2A workers.*

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

14 (D) *TRANSFER TO NEW EMPLOYMENT.*—*At*
15 *the cessation of employment with a registered ag-*
16 *ricultural employer, a portable H-2A worker*
17 *shall have 60 days to secure new employment*
18 *with a registered agricultural employer.*

19 (E) *MAINTENANCE OF STATUS.*—*A portable*
20 *H-2A worker who does not secure new employ-*
21 *ment with a registered agricultural employer*
22 *within 60 days shall be considered to have failed*
23 *to maintain such status and shall depart the*
24 *United States or be subject to removal under sec-*

1 *tion 237(a)(1)(C)(i) of the Immigration and Na-*
2 *tionality Act (8 U.S.C. 1188(a)(1)(C)(i)).*

3 (3) *ENFORCEMENT.*—*The Secretary of Labor*
4 *shall be responsible for conducting investigations and*
5 *random audits of employers to ensure compliance*
6 *with the employment-related requirements of this sec-*
7 *tion, consistent with section 218(m) of the Immigra-*
8 *tion and Nationality Act (8 U.S.C. 1188(m)). The*
9 *Secretary of Labor shall have the authority to collect*
10 *reasonable civil penalties for violations, which shall*
11 *be utilized by the Secretary for the administration*
12 *and enforcement of the provisions of this section.*

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

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

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

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

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

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

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

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

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

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

1 *technology to match workers with employers and en-*
2 *sure compliance with applicable labor and employ-*
3 *ment laws and regulations.*

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

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

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

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

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

15 (3) *in paragraph (3)—*

16 (A) *in subparagraph (A)—*

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

20 (ii) *by amending clause (iii) to read as*
21 *follows:*

22 “(iii) *OTHER WORKERS.*—*Other quali-*
23 *fied immigrants who, at the time of peti-*
24 *tioning for classification under this para-*
25 *graph—*

1 “(I) are capable of performing un-
2 skilled labor, not of a temporary or
3 seasonal nature, for which qualified
4 workers are not available in the United
5 States; or

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

10 (B) by amending subparagraph (B) to read
11 as follows:

12 “(B) VISAS ALLOCATED FOR OTHER WORK-
13 ERS.—

14 “(i) IN GENERAL.—Except as provided
15 in clauses (ii) and (iii), 50,000 of the visas
16 made available under this paragraph shall
17 be reserved for qualified immigrants de-
18 scribed in subparagraph (A)(iii).

19 “(ii) PREFERENCE FOR AGRICULTURAL
20 WORKERS.—Subject to clause (iii), not less
21 than four-fifths of the visas described in
22 clause (i) shall be reserved for—

23 “(I) qualified immigrants de-
24 scribed in subparagraph (A)(iii)(I)
25 who will be performing agricultural

1 *labor or services in the United States;*
2 *and*

3 “(II) *qualified immigrants de-*
4 *scribed in subparagraph (A)(iii)(II).*”

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

13 “(iv) *NO PER COUNTRY LIMITS.—Visas*
14 *described under clause (ii) shall be issued*
15 *without regard to the numerical limitation*
16 *under section 202(a)(2).”; and*

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

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

1 (5) in paragraph (5)(A), in the matter before
2 clause (i), by striking “7.1 percent of such worldwide
3 level” and inserting “9,940”.

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

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

13 ***Subtitle B—Preservation and Con-***
14 ***struction of Farmworker Hous-***
15 ***ing***

16 ***SEC. 220. SHORT TITLE.***

17 This subtitle may be cited as the “Strategy and Invest-
18 ment in Rural Housing Preservation Act of 2019”.

19 ***SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRES-***
20 ***ERVATION AND REVITALIZATION PROGRAM.***

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

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

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

7 “(b) *NOTICE OF MATURING LOANS.*—

8 “(1) *TO OWNERS.*—*On an annual basis, the Sec-*
9 *retary shall provide written notice to each owner of*
10 *a property financed under section 515 or both sec-*
11 *tions 514 and 516 that will mature within the 4-year*
12 *period beginning upon the provision of such notice,*
13 *setting forth the options and financial incentives that*
14 *are available to facilitate the extension of the loan*
15 *term or the option to decouple a rental assistance con-*
16 *tract pursuant to subsection (f).*

17 “(2) *TO TENANTS.*—

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

1 *their right to reside in Federally assisted housing*
2 *after such maturity.*

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

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

16 “(1) *reducing or eliminating interest;*

17 “(2) *deferring loan payments;*

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

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

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

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

8 *“(e) RESTRICTIVE USE AGREEMENTS.—*

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

14 *“(2) TERM.—*

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

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

1 *for a project, the term of the restrictive use agree-*
2 *ment for the project shall be for 20 years.*

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

9 “(f) *DECOUPLING OF RENTAL ASSISTANCE.*—

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

19 “(2) *RENTS.*—*Any agreement to extend the term*
20 *of the rental assistance contract under section 521 for*
21 *a project shall obligate the owner to continue to main-*
22 *tain the project as decent, safe and sanitary housing*
23 *and to operate the development in accordance with*
24 *this title, except that rents shall be based on the lesser*
25 *of—*

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

2 *or*

3 “(B) *the operating cost adjustment factor as*
4 *a payment standard as provided under section*
5 *524 of the Multifamily Assisted Housing Reform*
6 *and Affordability Act of 1997 (42 U.S.C. 1437*
7 *note).*

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

17 “(h) *TRANSFER OF RENTAL ASSISTANCE.—After the*
18 *loan or loans for a rental project originally financed under*
19 *section 515 or both sections 514 and 516 have matured or*
20 *have been prepaid and the owner has chosen not to restruc-*
21 *ture the loan pursuant to subsection (c), a tenant residing*
22 *in such project shall have 18 months prior to loan matura-*
23 *tion or prepayment to transfer the rental assistance as-*
24 *signed to the tenant’s unit to another rental project origi-*
25 *nally financed under section 515 or both sections 514 and*

1 516, and the owner of the initial project may rent the ten-
2 ant's previous unit to a new tenant without income restric-
3 tions.

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

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

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

13 Section 542 of the Housing Act of 1949 (42 U.S.C.
14 1490r) is amended by adding at the end the following new
15 subsection:

16 “(c) *ELIGIBILITY OF HOUSEHOLDS IN SECTIONS 514,*
17 *515, AND 516 PROJECTS.*—The Secretary may provide
18 rural housing vouchers under this section for any low-in-
19 come household (including those not receiving rental assist-
20 ance) residing, for a term longer than the remaining term
21 of their lease in effect just prior to prepayment, in a prop-
22 erty financed with a loan made or insured under section
23 514 or 515 (42 U.S.C. 1484, 1485) which has been prepaid
24 without restrictions imposed by the Secretary pursuant to
25 section 502(c)(5)(G)(ii)(I) (42 U.S.C. 1472(c)(5)(G)(ii)(I)),

1 *has been foreclosed, or has matured after September 30,*
2 *2005, or residing in a property assisted under section 514*
3 *or 516 that is owned by a nonprofit organization or public*
4 *agency.”.*

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

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

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

14 *Subsection (d) of section 521 of the Housing Act of*
15 *1949 (42 U.S.C. 1490a(d)) is amended—*

16 *(1) in paragraph (1), by inserting after subpara-*
17 *graph (A) the following new subparagraph (and by*
18 *redesignating the subsequent subparagraphs accord-*
19 *ingly):*

20 *“(B) upon request of an owner of a project fi-*
21 *nanced under section 514 or 515, the Secretary is au-*
22 *thorized to enter into renewal of such agreements for*
23 *a period of 20 years or the term of the loan, which-*
24 *ever is shorter, subject to amounts made available in*
25 *appropriations Acts;”;* and

1 (2) *by adding at the end the following new para-*
2 *graph:*

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

6 “(A) *at the option of the owner of the rental*
7 *project, the Secretary shall provide the owner a period*
8 *of 6 months before such assistance is made available*
9 *pursuant to subparagraph (B) during which the*
10 *owner may use such assistance authority to provide*
11 *assistance of behalf of an eligible unassisted family*
12 *that—*

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

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

18 “(B) *except for assistance used as provided in*
19 *subparagraph (A), the Secretary shall use such re-*
20 *maining authority to provide such assistance on be-*
21 *half of eligible families residing in other rental*
22 *projects originally financed under section 515 or both*
23 *sections 514 and 516 of this Act.”.*

1 **SEC. 225. FUNDING FOR MULTIFAMILY TECHNICAL IM-**
2 **PROVEMENTS.**

3 *There is authorized to be appropriated to the Secretary*
4 *of Agriculture \$50,000,000 for fiscal year 2020 for improv-*
5 *ing the technology of the Department of Agriculture used*
6 *to process loans for multifamily housing and otherwise*
7 *managing such housing. Such improvements shall be made*
8 *within the 5-year period beginning upon the appropriation*
9 *of such amounts and such amount shall remain available*
10 *until the expiration of such 5-year period.*

11 **SEC. 226. PLAN FOR PRESERVING AFFORDABILITY OF**
12 **RENTAL PROJECTS.**

13 *(a) PLAN.—The Secretary of Agriculture (in this sec-*
14 *tion referred to as the “Secretary”) shall submit a written*
15 *plan to the Congress, not later than the expiration of the*
16 *6-month period beginning on the date of the enactment of*
17 *this Act, for preserving the affordability for low-income*
18 *families of rental projects for which loans were made under*
19 *section 515 or made to nonprofit or public agencies under*
20 *section 514 and avoiding the displacement of tenant house-*
21 *holds, which shall—*

22 *(1) set forth specific performance goals and*
23 *measures;*

24 *(2) set forth the specific actions and mechanisms*
25 *by which such goals will be achieved;*

1 (3) *set forth specific measurements by which*
2 *progress towards achievement of each goal can be*
3 *measured;*

4 (4) *provide for detailed reporting on outcomes;*
5 *and*

6 (5) *include any legislative recommendations to*
7 *assist in achievement of the goals under the plan.*

8 (b) *ADVISORY COMMITTEE.—*

9 (1) *ESTABLISHMENT; PURPOSE.—The Secretary*
10 *shall establish an advisory committee whose purpose*
11 *shall be to assist the Secretary in preserving section*
12 *515 properties and section 514 properties owned by*
13 *nonprofit or public agencies through the multifamily*
14 *housing preservation and revitalization program*
15 *under section 545 and in implementing the plan re-*
16 *quired under subsection (a).*

17 (2) *MEMBER.—The advisory committee shall*
18 *consist of 16 members, appointed by the Secretary, as*
19 *follows:*

20 (A) *A State Director of Rural Development*
21 *for the Department of Agriculture.*

22 (B) *The Administrator for Rural Housing*
23 *Service of the Department of Agriculture.*

1 (C) *Two representatives of for-profit devel-*
2 *opers or owners of multifamily rural rental*
3 *housing.*

4 (D) *Two representatives of non-profit devel-*
5 *opers or owners of multifamily rural rental*
6 *housing.*

7 (E) *Two representatives of State housing fi-*
8 *nance agencies.*

9 (F) *Two representatives of tenants of multi-*
10 *family rural rental housing.*

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

16 (H) *One representative of a nonprofit orga-*
17 *nization that operates nationally and has ac-*
18 *tively participated in the preservation of housing*
19 *assisted by the Rural Housing Service by con-*
20 *ducting research regarding, and providing fi-*
21 *nancing and technical assistance for, preserving*
22 *the affordability of such housing.*

23 (I) *One representative of low-income hous-*
24 *ing tax credit investors.*

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

4 (K) *Two representatives from non-profit or-*
5 *ganizations representing farmworkers, including*
6 *one organization representing farmworker*
7 *women.*

8 (3) *MEETINGS.—The advisory committee shall*
9 *meet not less often than once each calendar quarter.*

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

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

19 (B) *Reviewing current policies and proce-*
20 *dures of the Rural Housing Service regarding*
21 *preservation of affordable rental housing fi-*
22 *nanced under sections 514, 515, 516, and 538 of*
23 *the Housing Act of 1949, the Multifamily Preser-*
24 *vation and Revitalization Demonstration pro-*
25 *gram (MPR), and the rental assistance program*

1 *and making recommendations regarding im-*
2 *provements and modifications to such policies*
3 *and procedures.*

4 *(C) Providing ongoing review of Rural*
5 *Housing Service program results.*

6 *(D) Providing reports to the Congress and*
7 *the public on meetings, recommendations, and*
8 *other findings of the advisory committee.*

9 (5) *TRAVEL COSTS.*—*Any amounts made avail-*
10 *able for administrative costs of the Department of Ag-*
11 *riculture may be used for costs of travel by members*
12 *of the advisory committee to meetings of the com-*
13 *mittee.*

14 **SEC. 227. COVERED HOUSING PROGRAMS.**

15 *Paragraph (3) of section 41411(a) of the Violence*
16 *Against Women Act of 1994 (34 U.S.C. 12491(a)(3)) is*
17 *amended—*

18 *(1) in subparagraph (I), by striking “and” at*
19 *the end;*

20 *(2) by redesignating subparagraph (J) as sub-*
21 *paragraph (K); and*

22 *(3) by inserting after subparagraph (I) the fol-*
23 *lowing new subparagraph:*

24 *“(J) rural development housing voucher as-*
25 *sistance provided by the Secretary of Agriculture*

1 *pursuant to section 542 of the Housing Act of*
2 *1949 (42 U.S.C. 1490r), without regard to sub-*
3 *section (b) of such section, and applicable appro-*
4 *priation Acts; and”.*

5 **SEC. 228. NEW FARMWORKER HOUSING.**

6 *Section 513 of the Housing Act of 1949 (42 U.S.C.*
7 *1483) is amended by adding at the end the following new*
8 *subsection:*

9 “(f) *FUNDING FOR FARMWORKER HOUSING.*—

10 “(1) *SECTION 514 FARMWORKER HOUSING*
11 *LOANS.*—

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

18 “(B) *AUTHORIZATION OF APPROPRIATIONS*
19 *FOR COSTS.*—*There is authorized to be appro-*
20 *priated \$75,000,000 for each of fiscal years 2020*
21 *through 2029 for costs (as such term is defined*
22 *in section 502 of the Congressional Budget Act*
23 *of 1974 (2 U.S.C. 661a)) of loans insured pursu-*
24 *ant the authority under subparagraph (A).*

1 “(2) *SECTION 516 GRANTS FOR FARMWORKER*
2 *HOUSING.—There is authorized to be appropriated*
3 *\$30,000,000 for each of fiscal years 2020 through*
4 *2029 for financial assistance under section 516 (42*
5 *U.S.C. 1486).*

6 “(3) *SECTION 521 HOUSING ASSISTANCE.—There*
7 *is authorized to be appropriated \$2,700,000,000 for*
8 *each of fiscal years 2020 through 2029 for rental as-*
9 *istance agreements entered into or renewed pursuant*
10 *to section 521(a)(2) (42 U.S.C. 1490a(a)(2)) or agree-*
11 *ments entered into in lieu of debt forgiveness or pay-*
12 *ments for eligible households as authorized by section*
13 *502(c)(5)(D).”.*

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

15 *Section 514 of the Housing Act of 1949 (42 U.S.C.*
16 *1484) is amended by adding at the end the following:*

17 “(j) *PER PROJECT LIMITATIONS ON ASSISTANCE.—If*
18 *the Secretary, in making available assistance in any area*
19 *under this section or section 516 (42 U.S.C. 1486), estab-*
20 *lishes a limitation on the amount of assistance available*
21 *per project, the limitation on a grant or loan award per*
22 *project shall not be less than \$5 million.”.*

23 **SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

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

1 (1) in subparagraph (A) by inserting “or domes-
2 tic farm labor legally admitted to the United States
3 and authorized to work in agriculture” after “mi-
4 grant farmworkers”;

5 (2) in subparagraph (B)—

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

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

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

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

13 “(ii) HOUSING FOR OTHER FARM
14 LABOR.—In any fiscal year, the assistance
15 provided under this paragraph for any
16 project providing housing for domestic farm
17 labor legally admitted to the United States
18 and authorized to work in agriculture shall
19 not exceed an amount equal to 50 percent of
20 the operating costs for the project for the
21 year, as determined by the Secretary. The
22 owner of such project shall not qualify for
23 operating assistance unless the Secretary
24 certifies that the project was unoccupied or
25 underutilized before making units available

1 to such farm labor, and that a grant under
2 this section will not displace any farm
3 worker who is a United States worker.”;
4 and

5 (3) in subparagraph (D), by adding at the end
6 the following:

7 “(iii) The term ‘domestic farm labor’ has
8 the same meaning given such term in section
9 514(f)(3) (42 U.S.C. 1484(f)(3)), except that sub-
10 paragraph (A) of such section shall not apply for
11 purposes this section.”.

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

13 Subsection (a) of section 214 of the Housing and Com-
14 munity Development Act of 1980 (42 U.S.C. 1436a) is
15 amended—

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

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

20 (3) by inserting after paragraph (6) the fol-
21 lowing:

22 “(7) an alien granted certified agricultural
23 worker or certified agricultural dependent status
24 under title I of the Farm Workforce Modernization
25 Act of 2019, but solely for financial assistance made

1 available pursuant to section 521 or 542 of the Hous-
2 ing Act of 1949 (42 U.S.C. 1490a, 1490r); or”.

3 **Subtitle C—Foreign Labor**
4 **Recruiter Accountability**

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

6 (a) *IN GENERAL.*—Not later than 1 year after the date
7 of the enactment of this Act, the Secretary of Labor, in con-
8 sultation with the Secretary of State and the Secretary of
9 Homeland Security, shall establish procedures for the elec-
10 tronic registration of foreign labor recruiters engaged in the
11 recruitment of nonimmigrant workers described in section
12 101(a)(15)(H)(ii)(a) of the Immigration and Nationality
13 Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) to perform agricul-
14 tural labor or services in the United States.

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

17 (1) require the applicant to submit a sworn dec-
18 laration—

19 (A) stating the applicant’s permanent place
20 of residence or principal place of business, as ap-
21 plicable;

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

1 (C) including such other relevant informa-
2 tion as the Secretary of Labor and the Secretary
3 of State may require;

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

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

13 (4) include procedures for the receipt and proc-
14 essing of complaints against foreign labor recruiters
15 and for remedies, including the revocation of a reg-
16 istration or the assessment of fines upon a determina-
17 tion by the Secretary of Labor that the foreign labor
18 recruiter has violated the requirements of this subtitle;

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

23 (6) allow the Secretary of Labor and the Sec-
24 retary of State to consult with other appropriate Fed-
25 eral agencies to determine whether any reason exists

1 to deny registration to a foreign labor recruiter or re-
2 voke such registration.

3 (c) *ATTESTATIONS.*—*Foreign labor recruiters reg-*
4 *istering under this subtitle shall attest and agree to abide*
5 *by the following requirements:*

6 (1) *PROHIBITED FEES.*—*The foreign labor re-*
7 *cruter, including any agent or employee of such for-*
8 *oreign labor recruiter, shall not assess any recruitment*
9 *fees on a worker for any foreign labor recruiting ac-*
10 *tivity.*

11 (2) *PROHIBITION ON FALSE AND MISLEADING IN-*
12 *FORMATION.*—*The foreign labor recruiter shall not*
13 *knowingly provide materially false or misleading in-*
14 *formation to any worker concerning any matter re-*
15 *quired to be disclosed under this subtitle.*

16 (3) *REQUIRED DISCLOSURES.*—*The foreign labor*
17 *recruiter shall ascertain and disclose to the worker in*
18 *writing in English and in the primary language of*
19 *the worker at the time of the worker's recruitment, the*
20 *following information:*

21 (A) *The identity and address of the em-*
22 *ployer and the identity and address of the person*
23 *conducting the recruiting on behalf of the em-*
24 *ployer, including each subcontractor or agent in-*
25 *volved in such recruiting.*

1 (B) *A copy of the approved job order or*
2 *work contract under section 218 of the Immigra-*
3 *tion and Nationality Act, including all assur-*
4 *ances and terms and conditions of employment.*

5 (C) *A statement, in a form specified by the*
6 *Secretary—*

7 (i) *describing the general terms and*
8 *conditions associated with obtaining an H–*
9 *2A visa and maintaining H–2A status;*

10 (ii) *affirming the prohibition on the*
11 *assessment of fees described in paragraph*
12 *(1), and explaining that such fees, if paid*
13 *by the employer, may not be passed on to*
14 *the worker;*

15 (iii) *describing the protections afforded*
16 *the worker under this subtitle, including*
17 *procedures for reporting violations to the*
18 *Secretary of State, filing a complaint with*
19 *the Secretary of Labor, or filing a civil ac-*
20 *tion; and*

21 (iv) *describing the protections afforded*
22 *the worker by section 202 of the William*
23 *Wilberforce Trafficking Victims Protection*
24 *Reauthorization Act of 2008 (8 U.S.C.*
25 *1375b), including the telephone number for*

1 *the national human trafficking resource*
2 *center hotline number.*

3 (4) *BOND.—The foreign labor recruiter shall*
4 *agree to maintain a bond sufficient to ensure the abil-*
5 *ity of the foreign labor recruiter to discharge its re-*
6 *sponsibilities and ensure protection of workers, and to*
7 *forfeit such bond in an amount determined by the*
8 *Secretary under subsections (b)(1)(C)(ii) or (c)(2)(C)*
9 *of section 252 for failure to comply with the provi-*
10 *sions of this subtitle.*

11 (5) *COOPERATION IN INVESTIGATION.—The for-*
12 *ign labor recruiter shall agree to cooperate in any*
13 *investigation under section 252 of this subtitle by the*
14 *Secretary or other appropriate authorities.*

15 (6) *NO RETALIATION.—The foreign labor re-*
16 *cruter shall agree to refrain from intimidating,*
17 *threatening, restraining, coercing, discharging, black-*
18 *listing or in any other manner discriminating or re-*
19 *taliating against any worker or their family members*
20 *(including a former worker or an applicant for em-*
21 *ployment) because such worker disclosed information*
22 *to any person based on a reason to believe that the*
23 *foreign labor recruiter, or any agent or subcontractee*
24 *of such foreign labor recruiter, is engaging or has en-*

1 *gaged in a foreign labor recruiting activity that does*
2 *not comply with this subtitle.*

3 (7) *EMPLOYEES, AGENTS, AND*
4 *SUBCONTRACTEES.—The foreign labor recruiter shall*
5 *consent to be liable for the conduct of any agents or*
6 *subcontractees of any level in relation to the foreign*
7 *labor recruiting activity of the agent or subcontractee*
8 *to the same extent as if the foreign labor recruiter had*
9 *engaged in such conduct.*

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

20 (d) *TERM OF REGISTRATION.—Unless suspended or re-*
21 *voked, a registration under this section shall be valid for*
22 *2 years.*

23 (e) *APPLICATION FEE.—The Secretary shall require a*
24 *foreign labor recruiter that submits an application for reg-*
25 *istration under this section to pay a reasonable fee, suffi-*

1 *cient to cover the full costs of carrying out the registration*
2 *activities under this subtitle.*

3 *(f) NOTIFICATION.—*

4 *(1) EMPLOYER NOTIFICATION.—*

5 *(A) IN GENERAL.—Not less frequently than*
6 *once every year, an employer of H-2A workers*
7 *shall provide the Secretary with the names and*
8 *addresses of all foreign labor recruiters engaged*
9 *to perform foreign labor recruiting activity on*
10 *behalf of the employer, whether the foreign labor*
11 *recruiter is to receive any economic compensa-*
12 *tion for such services, and, if so, the identity of*
13 *the person or entity who is paying for the serv-*
14 *ices.*

15 *(B) AGREEMENT TO COOPERATE.—In addi-*
16 *tion to the requirements of subparagraph (A), the*
17 *employer shall—*

18 *(i) provide to the Secretary the iden-*
19 *tity of any foreign labor recruiter whom the*
20 *employer has reason to believe is engaging*
21 *in foreign labor recruiting activities that do*
22 *not comply with this subtitle; and*

23 *(ii) promptly respond to any request*
24 *by the Secretary for information regarding*
25 *the identity of a foreign labor recruiter with*

1 whom the employer has a contract or other
2 agreement.

3 (2) *FOREIGN LABOR RECRUITER NOTIFICA-*
4 *TION.—A registered foreign labor recruiter shall no-*
5 *tify the Secretary, not less frequently than once every*
6 *year, of the identity of any subcontractee, agent, or*
7 *foreign labor recruiter employee involved in any for-*
8 *foreign labor recruiting activity for, or on behalf of, the*
9 *foreign labor recruiter.*

10 (g) *ADDITIONAL RESPONSIBILITIES OF THE SEC-*
11 *RETARY OF STATE.—*

12 (1) *LISTS.—The Secretary of State, in consulta-*
13 *tion with the Secretary of Labor shall maintain and*
14 *make publicly available in written form and on the*
15 *websites of United States embassies in the official lan-*
16 *guage of that country, and on websites maintained by*
17 *the Secretary of Labor, regularly updated lists—*

18 (A) *of foreign labor recruiters who hold*
19 *valid registrations under this section, includ-*
20 *ing—*

21 (i) *the name and address of the foreign*
22 *labor recruiter;*

23 (ii) *the countries in which such re-*
24 *cruiters conduct recruitment;*

1 (iii) the employers for whom recruiting
2 is conducted;

3 (iv) the occupations that are the subject
4 of recruitment;

5 (v) the States where recruited workers
6 are employed; and

7 (vi) the name and address of the reg-
8 istered agent in the United States who is
9 authorized to accept service of process on be-
10 half of the foreign labor recruiter; and

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

13 (2) *PERSONNEL.*—The Secretary of State shall
14 ensure that each United States diplomatic mission is
15 staffed with a person who shall be responsible for re-
16 ceiving information from members of the public re-
17 garding potential violations of the requirements ap-
18 plicable to registered foreign labor recruiters and en-
19 suring that such information is conveyed to the Sec-
20 retary of Labor for evaluation and initiation of an
21 enforcement action, if appropriate.

22 (3) *VISA APPLICATION PROCEDURES.*—The Sec-
23 retary shall ensure that consular officers issuing visas
24 to nonimmigrants under section 101(a)(1)(H)(i)(a)

1 *of the Immigration and Nationality Act (8 U.S.C.*
2 *11001(a)(1)(H)(ii)(a))—*

3 *(A) provide to and review with the appli-*
4 *cant, in the applicant’s language (or a language*
5 *the applicant understands), a copy of the infor-*
6 *mation and resources pamphlet required by sec-*
7 *tion 202 of the William Wilberforce Trafficking*
8 *Victims Protection Reauthorization Act of 2008*
9 *(8 U.S.C. 1375b);*

10 *(B) ensure that the applicant has a copy of*
11 *the approved job offer or work contract;*

12 *(C) note in the visa application file whether*
13 *the foreign labor recruiter has a valid registra-*
14 *tion under this section; and*

15 *(D) if the foreign labor recruiter holds a*
16 *valid registration, review and include in the visa*
17 *application file, the foreign labor recruiter’s dis-*
18 *closures required by subsection (c)(3).*

19 *(4) DATA.—The Secretary of State shall make*
20 *publicly available online, on an annual basis, data*
21 *disclosing the gender, country of origin (and State,*
22 *county, or province, if available), age, wage, level of*
23 *training, and occupational classification,*
24 *disaggregated by State, of nonimmigrant workers de-*

1 *scribed in section 101(a)(15)(H)(ii)(a) of the Immi-*
2 *gration and Nationality Act.*

3 **SEC. 252. ENFORCEMENT.**

4 *(a) DENIAL OR REVOCATION OF REGISTRATION.—*

5 *(1) GROUNDS FOR DENIAL OR REVOCATION.—*

6 *The Secretary shall deny an application for registra-*
7 *tion, or revoke a registration, if the Secretary deter-*
8 *mines that the foreign labor recruiter, or any agent*
9 *or subcontractee of such foreign labor recruiter—*

10 *(A) knowingly made a material misrepre-*
11 *sentation in the registration application;*

12 *(B) materially failed to comply with one or*
13 *more of the attestations provided under section*
14 *251(c); or*

15 *(C) is not the real party in interest.*

16 *(2) NOTICE.—Prior to denying an application*
17 *for registration or revoking a registration under this*
18 *subsection, the Secretary shall provide written notice*
19 *of the intent to deny or revoke the registration to the*
20 *foreign labor recruiter. Such notice shall—*

21 *(A) articulate with specificity all grounds*
22 *for denial or revocation; and*

23 *(B) provide the foreign labor recruiter with*
24 *not less than 60 days to respond.*

1 (3) *RE-REGISTRATION.*—*A foreign labor re-*
2 *recruiter whose registration was revoked under sub-*
3 *section (a) may re-register if the foreign labor re-*
4 *recruiter demonstrates to the Secretary's satisfaction*
5 *that the foreign labor recruiter has not violated this*
6 *subtitle in the 5 years preceding the date an applica-*
7 *tion for registration is filed and has taken sufficient*
8 *steps to prevent future violations of this subtitle.*

9 (b) *ADMINISTRATIVE ENFORCEMENT.*—

10 (1) *COMPLAINT PROCESS.*—

11 (A) *FILING.*—*A complaint may be filed*
12 *with the Secretary of Labor, in accordance with*
13 *the procedures established under section*
14 *251(b)(4) not later than 2 years after the earlier*
15 *of—*

16 (i) *the date of the last action which*
17 *constituted the conduct that is the subject of*
18 *the complaint took place; or*

19 (ii) *the date on which the aggrieved*
20 *party had actual knowledge of such conduct.*

21 (B) *DECISION AND PENALTIES.*—*If the Sec-*
22 *retary of Labor finds, after notice and an oppor-*
23 *tunity for a hearing, that a foreign labor re-*
24 *recruiter failed to comply with any of the require-*

1 *ments of this subtitle, the Secretary of Labor*
2 *may—*

3 *(i) levy a fine against the foreign labor*
4 *recruiter in an amount not more than—*

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

6 *(II) \$25,000 per violation, upon*
7 *the third violation;*

8 *(ii) order the forfeiture (or partial for-*
9 *feiture) of the bond and release of as much*
10 *of the bond as the Secretary determines is*
11 *necessary for the worker to recover prohib-*
12 *ited recruitment fees;*

13 *(iii) refuse to issue or renew a registra-*
14 *tion, or revoke a registration; or*

15 *(iv) disqualify the foreign labor re-*
16 *cruiter from registration for a period of up*
17 *to 5 years, or in the case of a subsequent*
18 *finding involving willful or multiple mate-*
19 *rial violations, permanently disqualify the*
20 *foreign labor recruiter from registration.*

21 *(2) AUTHORITY TO ENSURE COMPLIANCE.—The*
22 *Secretary of Labor is authorized to take other such*
23 *actions, including issuing subpoenas and seeking ap-*
24 *propriate injunctive relief, as may be necessary to as-*

1 *sure compliance with the terms and conditions of this*
2 *subtitle.*

3 (3) *STATUTORY CONSTRUCTION.—Nothing in this*
4 *subsection may be construed as limiting the authority*
5 *of the Secretary of Labor to conduct an investiga-*
6 *tion—*

7 (A) *under any other law, including any law*
8 *affecting migrant and seasonal agricultural*
9 *workers; or*

10 (B) *in the absence of a complaint.*

11 (c) *CIVIL ACTION.—*

12 (1) *IN GENERAL.—The Secretary of Labor or*
13 *any person aggrieved by a violation of this subtitle*
14 *may bring a civil action against any foreign labor re-*
15 *cruiter, or any employer that does not meet the re-*
16 *quirements under subsection (d)(1), in any court of*
17 *competent jurisdiction—*

18 (A) *to seek remedial action, including in-*
19 *junctionive relief; and*

20 (B) *for damages in accordance with the*
21 *provisions of this subsection.*

22 (2) *AWARD FOR CIVIL ACTION FILED BY AN INDI-*
23 *VIDUAL.—*

24 (A) *IN GENERAL.—If the court finds in a*
25 *civil action filed by an individual under this*

1 *section that the defendant has violated any pro-*
2 *vision of this subtitle, the court may award—*

3 *(i) damages, up to and including an*
4 *amount equal to the amount of actual dam-*
5 *ages, and statutory damages of up to \$1,000*
6 *per plaintiff per violation, or other equi-*
7 *table relief, except that with respect to stat-*
8 *utory damages—*

9 *(I) multiple infractions of a single*
10 *provision of this subtitle (or of a regu-*
11 *lation under this subtitle) shall con-*
12 *stitute only 1 violation for purposes of*
13 *this subsection to determine the*
14 *amount of statutory damages due a*
15 *plaintiff; and*

16 *(II) if such complaint is certified*
17 *as a class action the court may*
18 *award—*

19 *(aa) damages up to an*
20 *amount equal to the amount of*
21 *actual damages; and*

22 *(bb) statutory damages of not*
23 *more than the lesser of up to*
24 *\$1,000 per class member per vio-*

1 *lation, or up to \$500,000; and*
2 *other equitable relief;*

3 *(ii) reasonable attorneys' fees and*
4 *costs; and*

5 *(iii) such other and further relief as*
6 *necessary to effectuate the purposes of this*
7 *subtitle.*

8 *(B) CRITERIA.—In determining the amount*
9 *of statutory damages to be awarded under sub-*
10 *paragraph (A), the court is authorized to con-*
11 *sider whether an attempt was made to resolve the*
12 *issues in dispute before the resort to litigation.*

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

17 *(3) SUMS RECOVERED IN ACTIONS BY THE SEC-*
18 *RETARY OF LABOR.—*

19 *(A) ESTABLISHMENT OF ACCOUNT.—There*
20 *is established in the general fund of the Treasury*
21 *a separate account, which shall be known as the*
22 *“H–2A Foreign Labor Recruiter Compensation*
23 *Account”. Notwithstanding any other provisions*
24 *of law, there shall be deposited as offsetting re-*
25 *ceipts into the account, all sums recovered in an*

1 *action by the Secretary of Labor under this sub-*
2 *section.*

3 (B) *USE OF FUNDS.—Amounts deposited*
4 *into the H-2A Foreign Labor Recruiter Com-*
5 *ensation Account and shall be paid directly to*
6 *each worker affected. Any such sums not paid to*
7 *a worker because of inability to do so within a*
8 *period of 5 years following the date such funds*
9 *are deposited into the account shall remain*
10 *available to the Secretary until expended. The*
11 *Secretary may transfer all or a portion of such*
12 *remaining sums to appropriate agencies to sup-*
13 *port the enforcement of the laws prohibiting the*
14 *trafficking and exploitation of persons or pro-*
15 *grams that aid trafficking victims.*

16 (d) *EMPLOYER SAFE HARBOR.—*

17 (1) *IN GENERAL.—An employer that hires work-*
18 *ers referred by a foreign labor recruiter with a valid*
19 *registration at the time of hiring shall not be held*
20 *jointly liable for a violation committed solely by a*
21 *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 (i) *PAROLE TO PURSUE RELIEF.—If other immigra-*
15 *tion relief is not available, the Secretary of Homeland Secu-*
16 *rity 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 any*
19 *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 recruiters*
24 *shall be subject to the provisions of this section for violations*
25 *committed by the foreign labor recruiter's agents or*

1 *subcontractees of any level in relation to their foreign labor*
2 *recruiting activity to the same extent as if the foreign labor*
3 *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 for*
13 *money or other valuable consideration paid or prom-*
14 *ised to be paid, to recruit individuals to work as non-*
15 *immigrant 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 Gov-*
21 *ernment or an employer, or employee of an employer,*
22 *who engages in foreign labor recruiting activity solely*
23 *to find employees for that employer’s own use, and*
24 *without the participation of any other foreign labor*
25 *recruiter.*

1 **“SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC**
2 **VERIFICATION 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 ‘Secretary’)*
7 *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 (8*
12 *U.S.C. 1324a note) (as in effect on the day before the*
13 *effective date described in section 303(a)(4) of the*
14 *Farm Workforce Modernization Act of 2019), and*
15 *using the employment eligibility confirmation system*
16 *established under section 404 of such Act (8 U.S.C.*
17 *1324a note) (as so in effect) as a foundation, through*
18 *which the Secretary shall—*

19 *“(A) respond to inquiries made by persons*
20 *or entities seeking to verify the identity 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 System*
5 *shall provide confirmation or a tentative noncon-*
6 *firmation of an individual’s identity and employment*
7 *authorization as soon as practicable, but not later*
8 *than 3 calendar days after the initial inquiry.*

9 “(3) *GENERAL DESIGN AND OPERATION OF SYS-*
10 *TEM.—The Secretary shall design and operate the*
11 *System—*

12 “(A) *using responsive web design and other*
13 *technologies to maximize its ease of use and ac-*
14 *cessibility for users on a variety of electronic de-*
15 *vices and screen sizes, and in remote locations;*

16 “(B) *to maximize the accuracy of responses*
17 *to inquiries submitted by persons or entities;*

18 “(C) *to maximize the reliability of the Sys-*
19 *tem and to register each instance when the Sys-*
20 *tem is unable to receive inquiries;*

21 “(D) *to protect the privacy and security of*
22 *the personally identifiable information main-*
23 *tained by or submitted to the System;*

24 “(E) *to provide direct notification of an in-*
25 *quiry to an individual with respect to whom the*

1 *inquiry is made, including the results of such in-*
2 *quiry, and information related to the process for*
3 *challenging the results; and*

4 *“(F) to maintain appropriate administra-*
5 *tive, technical, and physical safeguards to pre-*
6 *vent misuse of the System and unfair immigra-*
7 *tion-related employment practices.*

8 *“(4) MEASURES TO PREVENT IDENTITY THEFT*
9 *AND OTHER FORMS OF FRAUD.—To prevent identity*
10 *theft and other forms of fraud, the Secretary shall de-*
11 *sign and operate the System with the following at-*
12 *tributes:*

13 *“(A) PHOTO MATCHING TOOL.—The System*
14 *shall display the digital photograph of the indi-*
15 *vidual, if any, that corresponds to the document*
16 *presented by an individual to establish identity*
17 *and employment authorization so that the person*
18 *or entity that makes an inquiry can compare the*
19 *photograph displayed by the System to the pho-*
20 *tograph on the document presented by the indi-*
21 *vidual.*

22 *“(B) INDIVIDUAL MONITORING AND SUSPEN-*
23 *SION OF IDENTIFYING INFORMATION.—The Sys-*
24 *tem shall enable individuals to establish user ac-*

1 counts, after authentication of an individual's
2 identity, that would allow an individual to—

3 “(i) confirm the individual's own em-
4 ployment authorization;

5 “(ii) receive electronic notification
6 when the individual's social security ac-
7 count number or other personally identi-
8 fying information has been submitted to the
9 System;

10 “(iii) monitor the use history of the in-
11 dividual's personally identifying informa-
12 tion in the System, including the identities
13 of all persons or entities that have sub-
14 mitted such identifying information to the
15 System, the date of each query run, and the
16 System response for each query run;

17 “(iv) suspend or limit the use of the
18 individual's social security account number
19 or other personally identifying information
20 for purposes of the System; and

21 “(v) provide notice to the Department
22 of Homeland Security of any suspected
23 identity fraud or other improper use of per-
24 sonally identifying information.

1 “(C) *BLOCKING MISUSED SOCIAL SECURITY*
2 *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 un-*
11 *usual multiple use in the System or that*
12 *are otherwise suspected or determined to*
13 *have been compromised by identity fraud or*
14 *other misuse, shall be blocked from use in*
15 *the System unless the individual using such*
16 *number is able to establish, through secure*
17 *and fair procedures, that the individual is*
18 *the legitimate holder of the number.*

19 “(ii) *NOTICE.*—*If the Secretary blocks*
20 *or suspends a social security account num-*
21 *ber under this subparagraph, the Secretary*
22 *shall provide notice to the persons or enti-*
23 *ties that have made inquiries to the System*
24 *using such account number that the identity*
25 *and employment authorization of the indi-*

1 *vidual who provided such account number*
2 *must be re-verified.*

3 “(D) *ADDITIONAL IDENTITY AUTHENTICA-*
4 *TION TOOL.—The Secretary shall develop, after*
5 *publication in the Federal Register and an op-*
6 *portunity for public comment, additional secu-*
7 *rity measures to adequately verify the identity of*
8 *an individual whose identity may not be verified*
9 *using the photo tool described in subparagraph*
10 *(A). Such additional security measures—*

11 “(i) *shall be kept up-to-date with tech-*
12 *nological advances; and*

13 “(ii) *shall be designed to provide a*
14 *high level of certainty with respect to iden-*
15 *tity authentication.*

16 “(E) *CHILD-LOCK PILOT PROGRAM.—The*
17 *Secretary, in consultation with the Commis-*
18 *sioner, shall establish a reliable, secure program*
19 *through which parents or legal guardians may*
20 *suspend or limit the use of the social security ac-*
21 *count number or other personally identifying in-*
22 *formation of a minor under their care for pur-*
23 *poses of the System. The Secretary may imple-*
24 *ment the program on a limited pilot basis before*
25 *making it fully available to all individuals.*

1 “(5) *RESPONSIBILITIES OF THE COMMISSIONER*
2 *OF SOCIAL SECURITY.*—*The Commissioner, in con-*
3 *sultation with the Secretary, shall establish a reliable,*
4 *secure method, which, within the time periods speci-*
5 *fied in paragraph (2) and subsection (b)(4)(D)(i)(II),*
6 *compares the name and social security account num-*
7 *ber provided in an inquiry against such information*
8 *maintained by the Commissioner in order to validate*
9 *(or not validate) the information provided by the per-*
10 *son or entity with respect to an individual whose*
11 *identity and employment authorization the person or*
12 *entity seeks to confirm, the correspondence of the*
13 *name and number, and whether the individual has*
14 *presented a social security account number that is not*
15 *valid for employment. The Commissioner shall not*
16 *disclose or release social security information (other*
17 *than such confirmation or nonconfirmation) under*
18 *the System except as provided under this section or*
19 *section 205(c)(2)(I) of the Social Security Act (42*
20 *U.S.C. 405).*

21 “(6) *RESPONSIBILITIES OF THE SECRETARY OF*
22 *HOMELAND SECURITY.*—

23 “(A) *IN GENERAL.*—*The Secretary of Home-*
24 *land Security shall establish a reliable, secure*
25 *method, which, within the time periods specified*

1 *in paragraph (2) and subsection (b)(4)(D)(i)(II),*
2 *compares the name and identification or other*
3 *authorization number (or any other information*
4 *determined relevant by the Secretary) which are*
5 *provided in an inquiry against such information*
6 *maintained or accessed by the Secretary in order*
7 *to validate (or not validate) the information pro-*
8 *vided, the correspondence of the name and num-*
9 *ber, and whether the individual is authorized to*
10 *be employed in the United States.*

11 “(B) *TRAINING.*—*The Secretary shall pro-*
12 *vide and regularly update training materials on*
13 *the use of the System for persons and entities*
14 *making inquiries.*

15 “(C) *AUDIT.*—*The Secretary shall provide*
16 *for periodic auditing of the System to detect and*
17 *prevent misuse, discrimination, fraud, and iden-*
18 *tity theft, to protect privacy and assess System*
19 *accuracy, and to preserve the integrity and secu-*
20 *rity of the information in the System.*

21 “(D) *NOTICE OF SYSTEM CHANGES.*—*The*
22 *Secretary shall provide appropriate notification*
23 *to persons and entities registered in the System*
24 *of any change made by the Secretary or the*

1 *Commissioner related to permitted and prohib-*
2 *ited documents, and use of the System.*

3 “(7) *RESPONSIBILITIES OF THE SECRETARY OF*
4 *STATE.—As part of the System, the Secretary of State*
5 *shall provide to the Secretary of Homeland Security*
6 *access to passport and visa information as needed to*
7 *confirm that a passport or passport card presented*
8 *under subsection (b)(3)(A)(i) confirms the employ-*
9 *ment authorization and identity of the individual*
10 *presenting such document, and that a passport, pass-*
11 *port card, or visa photograph matches the Secretary*
12 *of State’s records, and shall provide such assistance as*
13 *the Secretary of Homeland Security may request in*
14 *order to resolve tentative nonconfirmations or final*
15 *nonconfirmations relating to such information.*

16 “(8) *UPDATING INFORMATION.—The Commis-*
17 *sioner, the Secretary of Homeland Security, and the*
18 *Secretary of State shall update records in their cus-*
19 *tody in a manner that promotes maximum accuracy*
20 *of the System and shall provide a process for the*
21 *prompt correction of erroneous information, including*
22 *instances in which it is brought to their attention*
23 *through the secondary verification process under sub-*
24 *section (b)(4)(D).*

1 “(9) *MANDATORY AND VOLUNTARY SYSTEM*
2 *USES.*—

3 “(A) *MANDATORY USERS.*—*Except as other-*
4 *wise provided under Federal or State law, such*
5 *as sections 302 and 303 of the Farm Workforce*
6 *Modernization Act of 2019, nothing in this sec-*
7 *tion shall be construed as requiring the use of the*
8 *System by any person or entity hiring, recruit-*
9 *ing, or referring for a fee, an individual for em-*
10 *ployment in the United States.*

11 “(B) *VOLUNTARY USERS.*—*Beginning after*
12 *the date that is 30 days after the date on which*
13 *final rules are published under section 309(a) of*
14 *the Farm Workforce Modernization Act of 2019,*
15 *a person or entity may use the System on a vol-*
16 *untary basis to seek verification of the identity*
17 *and employment authorization of individuals the*
18 *person or entity is hiring, recruiting, or refer-*
19 *ring for a fee for employment in the United*
20 *States*

21 “(C) *PROCESS FOR NON-USERS.*—*The em-*
22 *ployment verification process for any person or*
23 *entity hiring, recruiting, or referring for a fee,*
24 *an individual for employment in the United*

1 *States shall be governed by section 274A(b) un-*
2 *less the person or entity—*

3 *“(i) is required by Federal or State*
4 *law to use the System; or*

5 *“(ii) has opted to use the System vol-*
6 *untarily in accordance with subparagraph*
7 *(B).*

8 *“(10) NO FEE FOR USE.—The Secretary may not*
9 *charge a fee to an individual, person, or entity re-*
10 *lated to the use of the System.*

11 *“(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—*
12 *Notwithstanding section 274A(b), the requirements referred*
13 *to in paragraphs (1)(B) and (3) of section 274A(a) are,*
14 *in the case of a person or entity that uses the System for*
15 *the hiring, recruiting, or referring for a fee, an individual*
16 *for employment in the United States, the following:*

17 *“(1) INDIVIDUAL ATTESTATION OF EMPLOYMENT*
18 *AUTHORIZATION.—During the period beginning on*
19 *the date on which an offer of employment is accepted*
20 *and ending on the date of hire, the individual shall*
21 *attest, under penalty of perjury on a form designated*
22 *by the Secretary, that the individual is authorized to*
23 *be employed in the United States by providing on*
24 *such form—*

1 “(A) *the individual’s name and date of*
2 *birth;*

3 “(B) *the individual’s social security account*
4 *number (unless the individual has applied for*
5 *and not yet been issued such a number);*

6 “(C) *whether the individual is—*

7 “(i) *a citizen or national of the United*
8 *States;*

9 “(ii) *an alien lawfully admitted for*
10 *permanent residence; or*

11 “(iii) *an alien who is otherwise au-*
12 *thorized by the Secretary to be hired, re-*
13 *cruted, or referred for employment in the*
14 *United States; and*

15 “(D) *if the individual does not attest to*
16 *United States citizenship or nationality, such*
17 *identification or other authorization number es-*
18 *tablished by the Department of Homeland Secu-*
19 *rity for the alien as the Secretary may specify.*

20 “(2) *EMPLOYER ATTESTATION AFTER EXAMINA-*
21 *TION OF DOCUMENTS.—Not later than 3 business days*
22 *after the date of hire, the person or entity shall attest,*
23 *under penalty of perjury on the form designated by*
24 *the Secretary for purposes of paragraph (1), that it*

1 *has verified that the individual is not an unauthor-*
2 *ized alien by—*

3 *“(A) obtaining from the individual the in-*
4 *formation described in paragraph (1) and re-*
5 *coding such information on the form;*

6 *“(B) examining—*

7 *“(i) a document described in para-*
8 *graph (3)(A); or*

9 *“(ii) a document described in para-*
10 *graph (3)(B) and a document described in*
11 *paragraph (3)(C); and*

12 *“(C) attesting that the information recorded*
13 *on the form is consistent with the documents ex-*
14 *amined.*

15 *“(3) ACCEPTABLE DOCUMENTS.—*

16 *“(A) DOCUMENTS ESTABLISHING EMPLOY-*
17 *MENT AUTHORIZATION AND IDENTITY.—A docu-*
18 *ment described in this subparagraph is an indi-*
19 *vidual’s—*

20 *“(i) United States passport or passport*
21 *card;*

22 *“(ii) permanent resident card that con-*
23 *tains a photograph;*

24 *“(iii) foreign passport containing tem-*
25 *porary evidence of lawful permanent resi-*

1 *dence in the form of an official I-551 (or*
2 *successor) stamp from the Department of*
3 *Homeland Security or a printed notation*
4 *on a machine-readable immigrant visa;*

5 *“(iv) unexpired employment authoriza-*
6 *tion card that contains a photograph;*

7 *“(v) in the case of a nonimmigrant*
8 *alien authorized to engage in employment*
9 *for a specific employer incident to status, a*
10 *foreign passport with Form I-94, Form I-*
11 *94A, or other documentation as designated*
12 *by the Secretary specifying the alien’s non-*
13 *immigrant status as long as such status has*
14 *not yet expired and the proposed employ-*
15 *ment is not in conflict with any restrictions*
16 *or limitations identified in the documenta-*
17 *tion;*

18 *“(vi) passport from the Federated*
19 *States of Micronesia or the Republic of the*
20 *Marshall Islands with Form I-94, Form I-*
21 *94A, or other documentation as designated*
22 *by the Secretary, indicating nonimmigrant*
23 *admission under the Compact of Free Asso-*
24 *ciation Between the United States and the*

1 *Federated States of Micronesia or the Re-*
2 *public of the Marshall Islands; or*

3 “(vii) other document designated by
4 the Secretary, by notice published in the
5 *Federal Register, if the document—*

6 “(I) contains a photograph of the
7 individual, biometric identification
8 data, and other personal identifying
9 information relating to the individual;

10 “(II) is evidence of authorization
11 for employment in the United States;
12 and

13 “(III) contains security features
14 to make it resistant to tampering,
15 counterfeiting, and fraudulent use.

16 “(B) DOCUMENTS ESTABLISHING EMPLOY-
17 MENT AUTHORIZATION.—A document described
18 in this subparagraph is—

19 “(i) an individual’s social security ac-
20 count number card (other than such a card
21 which specifies on the face that the issuance
22 of the card does not authorize employment
23 in the United States); or

24 “(ii) a document establishing employ-
25 ment authorization that the Secretary deter-

1 *mines, by notice published in the Federal*
2 *Register, to be acceptable for purposes of*
3 *this subparagraph, provided that such docu-*
4 *mentation contains security features to*
5 *make it resistant to tampering, counter-*
6 *feiting, and fraudulent use.*

7 “(C) *DOCUMENTS ESTABLISHING IDEN-*
8 *TITY.—A document described in this subpara-*
9 *graph is—*

10 *“(i) an individual’s driver’s license or*
11 *identification card if it was issued by a*
12 *State or one of the outlying possessions of*
13 *the United States and contains a photo-*
14 *graph and personal identifying information*
15 *relating to the individual;*

16 *“(ii) an individual’s unexpired United*
17 *States military identification card;*

18 *“(iii) an individual’s unexpired Native*
19 *American tribal identification document*
20 *issued by a tribal entity recognized by the*
21 *Bureau of Indian Affairs;*

22 *“(iv) in the case of an individual*
23 *under 18 years of age, a parent or legal*
24 *guardian’s attestation under penalty of law*

1 *as to the identity and age of the individual;*
2 *or*

3 “(v) *a document establishing identity*
4 *that the Secretary determines, by notice*
5 *published in the Federal Register, to be ac-*
6 *ceptable for purposes of this subparagraph,*
7 *if such documentation contains a photo-*
8 *graph of the individual, biometric identi-*
9 *fication data, and other personal identi-*
10 *fying information relating to the indi-*
11 *vidual, and security features to make it re-*
12 *sistant to tampering, counterfeiting, and*
13 *fraudulent use.*

14 “(D) *AUTHORITY TO PROHIBIT USE OF CER-*
15 *TAIN DOCUMENTS.—If the Secretary finds that*
16 *any document or class of documents described in*
17 *subparagraph (A), (B), or (C) does not reliably*
18 *establish identity or employment authorization*
19 *or is being used fraudulently to an unacceptable*
20 *degree, the Secretary may, by notice published in*
21 *the Federal Register, prohibit or place conditions*
22 *on the use of such document or class of docu-*
23 *ments for purposes of this section.*

24 “(4) *USE OF THE SYSTEM TO SCREEN IDENTITY*
25 *AND EMPLOYMENT AUTHORIZATION.—*

1 “(A) *IN GENERAL.*—*In the case of a person*
2 *or entity that uses the System for the hiring, re-*
3 *cruiting, or referring for a fee an individual for*
4 *employment in the United States, during the pe-*
5 *riod described in subparagraph (B), the person*
6 *or entity shall submit an inquiry through the*
7 *System described in subsection (a) to seek*
8 *verification of the identity and employment au-*
9 *thorization of the individual.*

10 “(B) *VERIFICATION PERIOD.*—

11 “(i) *IN GENERAL.*—*Except as provided*
12 *in clause (ii), and subject to subsection (d),*
13 *the verification period shall begin on the*
14 *date of hire and end on the date that is 3*
15 *business days after the date of hire, or such*
16 *other reasonable period as the Secretary*
17 *may prescribe.*

18 “(ii) *SPECIAL RULE.*—*In the case of*
19 *an alien who is authorized to be employed*
20 *in the United States and who provides evi-*
21 *dence from the Social Security Administra-*
22 *tion that the alien has applied for a social*
23 *security account number, the verification*
24 *period shall end 3 business days after the*

1 *alien receives the social security account*
2 *number.*

3 “(C) *CONFIRMATION.*—*If a person or entity*
4 *receives confirmation of an individual’s identity*
5 *and employment authorization, the person or en-*
6 *tity shall record such confirmation on the form*
7 *designated by the Secretary for purposes of para-*
8 *graph (1).*

9 “(D) *TENTATIVE NONCONFIRMATION.*—

10 “(i) *IN GENERAL.*—*In cases of ten-*
11 *tative nonconfirmation, the Secretary shall*
12 *provide, in consultation with the Commis-*
13 *sioner, a process for—*

14 “(I) *an individual to contest the*
15 *tentative nonconfirmation not later*
16 *than 10 business days after the date of*
17 *the receipt of the notice described in*
18 *clause (ii); and*

19 “(II) *the Secretary to issue a con-*
20 *firmation or final nonconfirmation of*
21 *an individual’s identity and employ-*
22 *ment authorization not later than 30*
23 *calendar days after the Secretary re-*
24 *ceives notice from the individual con-*
25 *testing a tentative nonconfirmation.*

1 “(ii) NOTICE.—If a person or entity
2 receives a tentative nonconfirmation of an
3 individual’s identity or employment author-
4 ization, the person or entity shall, not later
5 than 3 business days after receipt, notify
6 such individual in writing in a language
7 understood by the individual and on a form
8 designated by the Secretary, that shall in-
9 clude a description of the individual’s right
10 to contest the tentative nonconfirmation.
11 The person or entity shall attest, under pen-
12 alty of perjury, that the person or entity
13 provided (or attempted to provide) such no-
14 tice to the individual, and the individual
15 shall acknowledge receipt of such notice in
16 a manner specified by the Secretary.

17 “(iii) NO CONTEST.—

18 “(I) IN GENERAL.—A tentative
19 nonconfirmation shall become final if,
20 upon receiving the notice described in
21 clause (ii), the individual—

22 “(aa) refuses to acknowledge
23 receipt of such notice;

24 “(bb) acknowledges in writ-
25 ing, in a manner specified by the

1 *Secretary, that the individual will*
2 *not contest the tentative noncon-*
3 *firmation; or*

4 *“(cc) fails to contest the ten-*
5 *tative nonconfirmation within the*
6 *10-business-day period beginning*
7 *on the date the individual received*
8 *such notice.*

9 *“(II) RECORD OF NO CONTEST.—*
10 *The person or entity shall indicate in*
11 *the System that the individual did not*
12 *contest the tentative nonconfirmation*
13 *and shall specify the reason the ten-*
14 *tative nonconfirmation became final*
15 *under subclause (I).*

16 *“(III) EFFECT OF FAILURE TO*
17 *CONTEST.—An individual’s failure to*
18 *contest a tentative nonconfirmation*
19 *shall not be considered an admission of*
20 *any fact with respect to any violation*
21 *of this Act or any other provision of*
22 *law.*

23 *“(iv) CONTEST.—*

24 *“(I) IN GENERAL.—An individual*
25 *may contest a tentative nonconfirma-*

1 *tion by using the process for secondary*
2 *verification under clause (i), not later*
3 *than 10 business days after receiving*
4 *the notice described in clause (ii). Ex-*
5 *cept as provided in clause (iii), the*
6 *nonconfirmation shall remain tentative*
7 *until a confirmation or final noncon-*
8 *firmation is provided by the System.*

9 *“(II) PROHIBITION ON TERMI-*
10 *NATION.—In no case shall a person or*
11 *entity terminate employment or take*
12 *any adverse employment action*
13 *against an individual for failure to ob-*
14 *tain confirmation of the individual’s*
15 *identity and employment authorization*
16 *until the person or entity receives a*
17 *notice of final nonconfirmation from*
18 *the System. Nothing in this subclause*
19 *shall prohibit an employer from termi-*
20 *nating the employment of the indi-*
21 *vidual for any other lawful reason.*

22 *“(III) CONFIRMATION OR FINAL*
23 *NONCONFIRMATION.—The Secretary, in*
24 *consultation with the Commissioner,*
25 *shall issue notice of a confirmation or*

1 *final nonconfirmation of the individ-*
2 *ual's identity and employment author-*
3 *ization not later than 30 calendar days*
4 *after the date the Secretary receives no-*
5 *tice from the individual contesting the*
6 *tentative nonconfirmation.*

7 “(E) *FINAL NONCONFIRMATION.*—

8 “(i) *NOTICE.*—*If a person or entity re-*
9 *ceives a final nonconfirmation of an indi-*
10 *vidual's identity or employment authoriza-*
11 *tion, the person or entity shall, not later*
12 *than 3 business days after receipt, notify*
13 *such individual of the final nonconfirma-*
14 *tion in writing, on a form designated by the*
15 *Secretary, which shall include information*
16 *regarding the individual's right to appeal*
17 *the final nonconfirmation as provided*
18 *under subparagraph (F). The person or en-*
19 *tity shall attest, under penalty of perjury,*
20 *that the person or entity provided (or at-*
21 *tempted to provide) the notice to the indi-*
22 *vidual, and the individual shall acknowl-*
23 *edge receipt of such notice in a manner des-*
24 *ignated by the Secretary.*

1 “(ii) *TERMINATION OR NOTIFICATION*
2 *OF CONTINUED EMPLOYMENT.*—*If a person*
3 *or entity receives a final nonconfirmation*
4 *regarding an individual, the person or enti-*
5 *ty may terminate employment of the indi-*
6 *vidual. If the person or entity does not ter-*
7 *minate such employment pending appeal of*
8 *the final nonconfirmation, the person or en-*
9 *tity shall notify the Secretary of such fact*
10 *through the System. Failure to notify the*
11 *Secretary in accordance with this clause*
12 *shall be deemed a violation of section*
13 *274A(a)(1)(A).*

14 “(iii) *PRESUMPTION OF VIOLATION*
15 *FOR CONTINUED EMPLOYMENT.*—*If a person*
16 *or entity continues to employ an individual*
17 *after receipt of a final nonconfirmation,*
18 *there shall be a rebuttable presumption that*
19 *the person or entity has violated paragraphs*
20 *(1)(A) and (a)(2) of section 274A(a).*

21 “(F) *APPEAL OF FINAL NONCONFIRMA-*
22 *TION.*—

23 “(i) *ADMINISTRATIVE APPEAL.*—*The*
24 *Secretary, in consultation with the Commis-*
25 *sioner, shall develop a process by which an*

1 *individual may seek administrative review*
2 *of a final nonconfirmation. Such process*
3 *shall—*

4 “(I) *permit the individual to sub-*
5 *mit additional evidence establishing*
6 *identity or employment authorization;*

7 “(II) *ensure prompt resolution of*
8 *an appeal (but in no event shall there*
9 *be a failure to respond to an appeal*
10 *within 30 days); and*

11 “(III) *permit the Secretary to im-*
12 *pose a civil money penalty (not to ex-*
13 *ceed \$500) on an individual upon*
14 *finding that an appeal was frivolous or*
15 *filed for purposes of delay.*

16 “(ii) *COMPENSATION FOR LOST WAGES*
17 *RESULTING FROM GOVERNMENT ERROR OR*
18 *OMISSION.—*

19 “(I) *IN GENERAL.—If, upon con-*
20 *sideration of an appeal of a final non-*
21 *confirmation, the Secretary determines*
22 *that the final nonconfirmation was*
23 *issued in error, the Secretary shall fur-*
24 *ther determine whether the final non-*
25 *confirmation was the result of govern-*

1 *ment error or omission. If the Sec-*
2 *retary determines that the final non-*
3 *confirmation was solely the result of*
4 *government error or omission and the*
5 *individual was terminated from em-*
6 *ployment, the Secretary shall com-*
7 *pensate the individual for lost wages.*

8 *“(II) CALCULATION OF LOST*
9 *WAGES.—Lost wages shall be calculated*
10 *based on the wage rate and work sched-*
11 *ule that were in effect prior to the in-*
12 *dividual’s termination. The individual*
13 *shall be compensated for lost wages be-*
14 *ginning on the first scheduled work*
15 *day after employment was terminated*
16 *and ending 90 days after completion of*
17 *the administrative review process de-*
18 *scribed in this subparagraph or the*
19 *day the individual is reinstated or ob-*
20 *tains other employment, whichever oc-*
21 *curs first.*

22 *“(III) LIMITATION ON COMPENSA-*
23 *TION.—No compensation for lost wages*
24 *shall be awarded for any period during*
25 *which the individual was not author-*

1 *ized for employment in the United*
2 *States.*

3 “(IV) *SOURCE OF FUNDS.*—*There*
4 *is established in the general fund of the*
5 *Treasury, a separate account which*
6 *shall be known as the ‘Electronic*
7 *Verification Compensation Account’.*
8 *Fees collected under subsections (f) and*
9 *(g) shall be deposited in the Electronic*
10 *Verification Compensation Account*
11 *and shall remain available for pur-*
12 *poses of providing compensation for*
13 *lost wages under this subclause.*

14 “(iii) *JUDICIAL REVIEW.*—*Not later*
15 *than 30 days after the dismissal of an ap-*
16 *peal under this subparagraph, an indi-*
17 *vidual may seek judicial review of such dis-*
18 *missal in the United States District Court*
19 *in the jurisdiction in which the employer*
20 *resides or conducts business.*

21 “(5) *RETENTION OF VERIFICATION RECORDS.*—

22 “(A) *IN GENERAL.*—*After completing the*
23 *form designated by the Secretary in accordance*
24 *with paragraphs (1) and (2), the person or enti-*
25 *ty shall retain the form in paper, microfiche,*

1 *microfilm, electronic, or other format deemed ac-*
2 *ceptable by the Secretary, and make it available*
3 *for inspection by officers of the Department of*
4 *Homeland Security, the Department of Justice,*
5 *or the Department of Labor during the period*
6 *beginning on the date the verification is com-*
7 *pleted and ending on the later of—*

8 *“(i) the date that is 3 years after the*
9 *date of hire; or*

10 *“(ii) the date that is 1 year after the*
11 *date on which the individual’s employment*
12 *is terminated.*

13 *“(B) COPYING OF DOCUMENTATION PER-*
14 *MITTED.—Notwithstanding any other provision*
15 *of law, a person or entity may copy a document*
16 *presented by an individual pursuant to this sec-*
17 *tion and may retain the copy, but only for the*
18 *purpose of complying with the requirements of*
19 *this section.*

20 *“(c) REVERIFICATION OF PREVIOUSLY HIRED INDI-*
21 *VIDUALS.—*

22 *“(1) MANDATORY REVERIFICATION.—In the case*
23 *of a person or entity that uses the System for the hir-*
24 *ing, recruiting, or referring for a fee an individual*
25 *for employment in the United States, the person or*

1 entity shall submit an inquiry using the System to
2 verify the identity and employment authorization
3 of—

4 “(A) an individual with a limited period of
5 employment authorization, within 3 business
6 days before the date on which such employment
7 authorization expires; and

8 “(B) an individual, not later than 10 days
9 after receiving a notification from the Secretary
10 requiring the verification of such individual pur-
11 suant to subsection (a)(4)(C).

12 “(2) REVERIFICATION PROCEDURES.—The
13 verification procedures under subsection (b) shall
14 apply to reverifications under this subsection, except
15 that employers shall—

16 “(A) use a form designated by the Secretary
17 for purposes of this paragraph; and

18 “(B) retain the form in paper, microfiche,
19 microfilm, electronic, or other format deemed ac-
20 ceptable by the Secretary, and make it available
21 for inspection by officers of the Department of
22 Homeland Security, the Department of Justice,
23 or the Department of Labor during the period
24 beginning on the date the reverification com-
25 mences and ending on the later of—

1 “(i) the date that is 3 years after the
2 date of reverification; or

3 “(ii) the date that is 1 year after the
4 date on which the individual’s employment
5 is terminated.

6 “(3) *LIMITATION ON REVERIFICATION.*—*Except*
7 *as provided in paragraph (1), a person or entity may*
8 *not otherwise reverify the identity and employment*
9 *authorization of a current employee, including an*
10 *employee continuing in employment.*

11 “(d) *GOOD FAITH COMPLIANCE.*—

12 “(1) *IN GENERAL.*—*Except as otherwise provided*
13 *in this subsection, a person or entity that uses the*
14 *System is considered to have complied with the re-*
15 *quirements of this section notwithstanding a technical*
16 *failure of the System, or other technical or procedural*
17 *failure to meet such requirement if there was a good*
18 *faith attempt to comply with the requirement.*

19 “(2) *EXCEPTION FOR FAILURE TO CORRECT*
20 *AFTER NOTICE.*—*Paragraph (1) shall not apply if—*

21 “(A) *the failure is not de minimis;*

22 “(B) *the Secretary has provided notice to*
23 *the person or entity of the failure, including an*
24 *explanation as to why it is not de minimis;*

1 “(C) *the person or entity has been provided*
2 *a period of not less than 30 days (beginning*
3 *after the date of the notice) to correct the failure;*
4 *and*

5 “(D) *the person or entity has not corrected*
6 *the failure voluntarily within such period.*

7 “(3) *EXCEPTION FOR PATTERN OR PRACTICE*
8 *VIOLATORS.—Paragraph (1) shall not apply to a per-*
9 *son or entity that has engaged or is engaging in a*
10 *pattern or practice of violations of paragraph (1)(A)*
11 *or (2) of section 274A(a).*

12 “(4) *DEFENSE.—In the case of a person or enti-*
13 *ty that uses the System for the hiring, recruiting, or*
14 *referring for a fee an individual for employment in*
15 *the United States, the person or entity shall not be*
16 *liable to a job applicant, an employee, the Federal*
17 *Government, or a State or local government, under*
18 *Federal, State, or local criminal or civil law, for any*
19 *employment-related action taken with respect to an*
20 *employee in good-faith reliance on information pro-*
21 *vided by the System. Such person or entity shall be*
22 *deemed to have established compliance with its obliga-*
23 *tions under this section, absent a showing by the Sec-*
24 *retary, by clear and convincing evidence, that the em-*

1 *ployer had knowledge that an employee is an unau-*
2 *thorized alien.*

3 “(e) *LIMITATIONS.*—

4 “(1) *NO NATIONAL IDENTIFICATION CARD.*—
5 *Nothing in this section shall be construed to author-*
6 *ize, directly or indirectly, the issuance or use of na-*
7 *tional identification cards or the establishment of a*
8 *national identification card.*

9 “(2) *USE OF RECORDS.*—*Notwithstanding any*
10 *other provision of law, nothing in this section shall*
11 *be construed to permit or allow any department, bu-*
12 *reau, or other agency of the United States Govern-*
13 *ment to utilize any information, database, or other*
14 *records assembled under this section for any purpose*
15 *other than the verification of identity and employ-*
16 *ment authorization of an individual or to ensure the*
17 *secure, appropriate, and non-discriminatory use of*
18 *the System.*

19 “(f) *PENALTIES.*—

20 “(1) *IN GENERAL.*—*Except as provided in this*
21 *subsection, the provisions of subsections (e) through*
22 *(g) of section 274A shall apply with respect to com-*
23 *pliance with the provisions of this section and pen-*
24 *alties for non-compliance for persons or entities that*
25 *use the System.*

1 “(2) *CEASE AND DESIST ORDER WITH CIVIL*
2 *MONEY PENALTIES FOR HIRING, RECRUITING, AND RE-*
3 *FERRAL VIOLATIONS.*—*Notwithstanding the civil*
4 *money penalties set forth in section 274A(e)(4), with*
5 *respect to a violation of paragraph (1)(A) or (2) of*
6 *section 274A(a) by a person or entity that has hired,*
7 *recruited, or referred for a fee, an individual for em-*
8 *ployment in the United States, a cease and desist*
9 *order—*

10 “(A) *shall require the person or entity to*
11 *pay a civil penalty in an amount, subject to sub-*
12 *section (d), of—*

13 “(i) *not less than \$2,500 and not more*
14 *than \$5,000 for each unauthorized alien*
15 *with respect to whom a violation of either*
16 *such subsection occurred;*

17 “(ii) *not less than \$5,000 and not more*
18 *than \$10,000 for each such alien in the case*
19 *of a person or entity previously subject to*
20 *one order under this paragraph; or*

21 “(iii) *not less than \$10,000 and not*
22 *more than \$25,000 for each such alien in*
23 *the case of a person or entity previously*
24 *subject to more than one order under this*
25 *paragraph; and*

1 “(B) may require the person or entity to
2 take such other remedial action as appropriate.

3 “(3) ORDER FOR CIVIL MONEY PENALTY FOR VIO-
4 LATIONS.—With respect to a violation of section
5 274A(a)(1)(B), the order under this paragraph shall
6 require the person or entity to pay a civil penalty in
7 an amount, subject to paragraphs (4), (5), and (6),
8 of not less than \$1,000 and not more than \$25,000 for
9 each individual with respect to whom such violation
10 occurred. Failure by a person or entity to utilize the
11 System as required by law or providing information
12 to the System that the person or entity knows or rea-
13 sonably believes to be false, shall be treated as a viola-
14 tion of section 274A(a)(1)(A).

15 “(4) EXEMPTION FROM PENALTY FOR GOOD
16 FAITH VIOLATION.—

17 “(A) IN GENERAL.—A person or entity that
18 uses the System is presumed to have acted with
19 knowledge for purposes of paragraphs (1)(A) and
20 (2) of section 274A(a) if the person or entity
21 fails to make an inquiry to verify the identity
22 and employment authorization of the individual
23 through the System.

24 “(B) GOOD FAITH EXEMPTION.—In the case
25 of imposition of a civil penalty under paragraph

1 (2)(A) with respect to a violation of paragraph
2 (1)(A) or (2) of section 274A(a) for hiring or
3 continuation of employment or recruitment or
4 referral by a person or entity, and in the case
5 of imposition of a civil penalty under paragraph
6 (3) for a violation of section 274A(a)(1)(B) for
7 hiring or recruitment or referral by a person or
8 entity, the penalty otherwise imposed may be
9 waived or reduced if the person or entity estab-
10 lishes that the person or entity acted in good
11 faith.

12 “(5) *MITIGATION ELEMENTS.*—For purposes of
13 paragraphs (2)(A) and (3), when assessing the level
14 of civil money penalties, in addition to the good faith
15 of the person or entity being charged, due consider-
16 ation shall be given to the size of the business, the se-
17 riousness of the violation, whether or not the indi-
18 vidual was an unauthorized alien, and the history of
19 previous violations.

20 “(6) *CRIMINAL PENALTY.*—Notwithstanding sec-
21 tion 274A(f)(1) and the provisions of any other Fed-
22 eral law relating to fine levels, any person or entity
23 that is required to comply with the provisions of this
24 section and that engages in a pattern or practice of
25 violations of paragraph (1) or (2) of section 274A(a),

1 *shall be fined not more than \$5,000 for each unau-*
2 *thorized alien with respect to whom such a violation*
3 *occurs, imprisoned for not more than 18 months, or*
4 *both.*

5 “(7) *ELECTRONIC VERIFICATION COMPENSATION*
6 *ACCOUNT.—Civil money penalties collected under this*
7 *subsection shall be deposited in the Electronic*
8 *Verification Compensation Account for the purpose of*
9 *compensating individuals for lost wages as a result of*
10 *a final nonconfirmation issued by the System that*
11 *was based on government or employer error or omis-*
12 *sion, as set forth in subsection (b)(4)(F)(i)(IV).*

13 “(8) *DEBARMENT.—*

14 “(A) *IN GENERAL.—If a person or entity is*
15 *determined by the Secretary to be a repeat viola-*
16 *tor of paragraph (1)(A) or (2) of section 274A(a)*
17 *or is convicted of a crime under section 274A,*
18 *such person or entity may be considered for de-*
19 *barment from the receipt of Federal contracts,*
20 *grants, or cooperative agreements in accordance*
21 *with the debarment standards and pursuant to*
22 *the debarment procedures set forth in the Federal*
23 *Acquisition Regulation.*

24 “(B) *NO CONTRACT, GRANT, AGREEMENT.—*

25 *If the Secretary or the Attorney General wishes*

1 to have a person or entity considered for debarment
2 in accordance with this paragraph, and
3 such a person or entity does not hold a Federal
4 contract, grant or cooperative agreement, the
5 Secretary or Attorney General shall refer the
6 matter to the Administrator of General Services
7 to determine whether to list the person or entity
8 on the List of Parties Excluded from Federal
9 Procurement, and if so, for what duration and
10 under what scope.

11 “(C) CONTRACT, GRANT, AGREEMENT.—If
12 the Secretary or the Attorney General wishes to
13 have a person or entity considered for debarment
14 in accordance with this paragraph, and such
15 person or entity holds a Federal contract, grant,
16 or cooperative agreement, the Secretary or Attor-
17 ney General shall advise all agencies or depart-
18 ments holding a contract, grant, or cooperative
19 agreement with the person or entity of the Gov-
20 ernment’s interest in having the person or entity
21 considered for debarment, and after soliciting
22 and considering the views of all such agencies
23 and departments, the Secretary or Attorney Gen-
24 eral may refer the matter to the appropriate lead
25 agency to determine whether to list the person or

1 *entity on the List of Parties Excluded from Fed-*
2 *eral Procurement, and if so, for what duration*
3 *and under what scope.*

4 “(D) *REVIEW.*—*Any decision to debar a*
5 *person or entity in accordance with this sub-*
6 *section shall be reviewable pursuant to part 9.4*
7 *of the Federal Acquisition Regulation.*

8 “(9) *PREEMPTION.*—*The provisions of this sec-*
9 *tion preempt any State or local law, ordinance, pol-*
10 *icy, or rule, including any criminal or civil fine or*
11 *penalty structure, relating to the hiring, continued*
12 *employment, or status verification for employment*
13 *eligibility purposes, of unauthorized aliens, except*
14 *that a State, locality, municipality, or political sub-*
15 *division may exercise its authority over business li-*
16 *censing and similar laws as a penalty for failure to*
17 *use the System as required under this section.*

18 “(g) *UNFAIR IMMIGRATION-RELATED EMPLOYMENT*
19 *PRACTICES AND THE SYSTEM.*—

20 “(1) *IN GENERAL.*—*In addition to the prohibi-*
21 *tions on discrimination set forth in section 274B, it*
22 *is an unfair immigration-related employment prac-*
23 *tice for a person or entity, in the course of utilizing*
24 *the System—*

1 “(A) to use the System for screening an ap-
2 plicant prior to the date of hire;

3 “(B) to terminate the employment of an in-
4 dividual or take any adverse employment action
5 with respect to that individual due to a tentative
6 nonconfirmation issued by the System;

7 “(C) to use the System to screen any indi-
8 vidual for any purpose other than confirmation
9 of identity and employment authorization as
10 provided in this section;

11 “(D) to use the System to verify the identity
12 and employment authorization of a current em-
13 ployee, including an employee continuing in em-
14 ployment, other than reverification authorized
15 under subsection (c);

16 “(E) to use the System to discriminate
17 based on national origin or citizenship status;

18 “(F) to willfully fail to provide an indi-
19 vidual with any notice required under this title;

20 “(G) to require an individual to make an
21 inquiry under the self-verification procedures de-
22 scribed in subsection (a)(4)(B) or to provide the
23 results of such an inquiry as a condition of em-
24 ployment, or hiring, recruiting, or referring; or

1 “(H) to terminate the employment of an in-
2 dividual or take any adverse employment action
3 with respect to that individual based upon the
4 need to verify the identity and employment au-
5 thorization of the individual as required by sub-
6 section (b).

7 “(2) *PREEMPLOYMENT SCREENING AND BACK-*
8 *GROUND CHECK.*—Nothing in paragraph (1)(A) shall
9 be construed to preclude a preemployment screening
10 or background check that is required or permitted
11 under any other provision of law.

12 “(3) *CIVIL MONEY PENALTIES FOR DISCRIMINA-*
13 *TORY CONDUCT.*—Notwithstanding section
14 274B(g)(2)(B)(iv), the penalties that may be imposed
15 by an administrative law judge with respect to a
16 finding that a person or entity has engaged in an un-
17 fair immigration-related employment practice de-
18 scribed in paragraph (1) are—

19 “(A) not less than \$1,000 and not more
20 than \$4,000 for each individual discriminated
21 against;

22 “(B) in the case of a person or entity pre-
23 viously subject to a single order under this para-
24 graph, not less than \$4,000 and not more than

1 \$10,000 for each individual discriminated
2 against; and

3 “(C) in the case of a person or entity pre-
4 viously subject to more than one order under this
5 paragraph, not less than \$6,000 and not more
6 than \$20,000 for each individual discriminated
7 against.

8 “(4) *ELECTRONIC VERIFICATION COMPENSATION*
9 *ACCOUNT.*—Civil money penalties collected under this
10 subsection shall be deposited in the *Electronic*
11 *Verification Compensation Account* for the purpose of
12 compensating individuals for lost wages as a result of
13 a final nonconfirmation issued by the System that
14 was based on government error or omission, as set
15 forth in subsection (b)(4)(F)(ii)(IV).

16 “(h) *CLARIFICATION.*—All rights and remedies pro-
17 vided under any Federal, State, or local law relating to
18 workplace rights, including but not limited to back pay,
19 are available to an employee despite—

20 “(1) the employee’s status as an unauthorized
21 alien during or after the period of employment; or

22 “(2) the employer’s or employee’s failure to com-
23 ply with the requirements of this section.

1 “(i) *DEFINITION.*—*In this section, the term ‘date of*
2 *hire’ means the date on which employment for pay or other*
3 *remuneration commences.*”.

4 (b) *CONFORMING AMENDMENT.*—*The table of contents*
5 *for the Immigration and Nationality Act is amended by*
6 *inserting after the item relating to section 274D the fol-*
7 *lowing:*

“*Sec. 274E. Requirements for the electronic verification of employment eligi-*
bility.”.

8 **SEC. 302. MANDATORY ELECTRONIC VERIFICATION FOR**
9 **THE AGRICULTURAL INDUSTRY.**

10 (a) *IN GENERAL.*—*The requirements for the electronic*
11 *verification of identity and employment authorization de-*
12 *scribed in section 274E of the Immigration and Nationality*
13 *Act, as inserted by section 301 of this Act, shall apply to*
14 *a person or entity hiring, recruiting, or referring for a fee*
15 *an individual for agricultural employment in the United*
16 *States in accordance with the effective dates set forth in*
17 *subsection (b).*

18 (b) *EFFECTIVE DATES.*—

19 (1) *HIRING.*—*Subsection (a) shall apply to a*
20 *person or entity hiring an individual for agricultural*
21 *employment in the United States as follows:*

22 (A) *With respect to employers having 500 or*
23 *more employees in the United States on the date*
24 *of the enactment of this Act, on the date that is*

1 6 months after completion of the application pe-
2 riod described in section 101(c).

3 (B) With respect to employers having 100
4 or more employees in the United States (but less
5 than 500 such employees) on the date of the en-
6 actment of this Act, on the date that is 9 months
7 after completion of the application period de-
8 scribed in section 101(c).

9 (C) With respect to employers having 20 or
10 more employees in the United States (but less
11 than 100 such employees) on the date of the en-
12 actment of this Act, on the date that is 12
13 months after completion of the application pe-
14 riod described in section 101(c).

15 (D) With respect to employers having 1 or
16 more employees in the United States, (but less
17 than 20 such employees) on the date of the enact-
18 ment of this Act, on the date that is 15 months
19 after completion of the application period de-
20 scribed in section 101(c).

21 (2) *RECRUITING AND REFERRING.*—Subsection
22 (a) shall apply to a person or entity recruiting or re-
23 ferring an individual for agricultural employment in
24 the United States on the date that is 12 months after

1 completion of the application period described in sec-
2 tion 101(c).

3 (3) *TRANSITION RULE.*—*Except as required*
4 *under subtitle A of title IV of the Illegal Immigration*
5 *Reform and Immigrant Responsibility Act of 1996 (8*
6 *U.S.C. 1324a note) (as in effect on the day before the*
7 *effective date described in section 303(a)(4)), Execu-*
8 *tive Order 13465 (8 U.S.C. 1324a note; relating to*
9 *Government procurement), or any State law requir-*
10 *ing persons or entities to use the E-Verify Program*
11 *described in section 403(a) of the Illegal Immigration*
12 *Reform and Immigrant Responsibility Act of 1996 (8*
13 *U.S.C. 1324a note) (as in effect on the day before the*
14 *effective date described in section 303(a)(4)), sections*
15 *274A and 274B of the Immigration and Nationality*
16 *Act (8 U.S.C. 1324a and 1324b) shall apply to a per-*
17 *son or entity hiring, recruiting, or referring an indi-*
18 *vidual for employment in the United States until the*
19 *applicable effective date under this subsection.*

20 (4) *E-VERIFY VOLUNTARY USERS AND OTHERS*
21 *DESIRING EARLY COMPLIANCE.*—*Nothing in this sub-*
22 *section shall be construed to prohibit persons or enti-*
23 *ties, including persons or entities that have volun-*
24 *tarily elected to participate in the E-Verify Program*
25 *described in section 403(a) of the Illegal Immigration*

1 *Reform and Immigrant Responsibility Act of 1996 (8*
2 *U.S.C. 1324a note) (as in effect on the day before the*
3 *effective date described in section 303(a)(4)), from*
4 *seeking early compliance on a voluntary basis.*

5 *(c) RURAL ACCESS TO SECONDARY REVIEW PROC-*
6 *ESS.—*

7 *(1) IN GENERAL.—The Secretary of Homeland*
8 *Security and the Commissioner of Social Security*
9 *shall coordinate with the Secretary of Agriculture to*
10 *create an alternate process for an individual to con-*
11 *test a tentative nonconfirmation as described in sec-*
12 *tion 274E(b)(4)(D) of the Immigration and Nation-*
13 *ality Act, as inserted by section 301 of this Act, by*
14 *appearing in-person at a local office or service center*
15 *of the U.S. Department of Agriculture or at a local*
16 *office of the U.S. Social Security Administration.*

17 *(2) STAFFING AND RESOURCES.—The Secretary*
18 *of Agriculture and Commissioner of Social Security*
19 *shall ensure that local offices and service centers of the*
20 *U.S. Department of Agriculture and local offices of*
21 *the U.S. Social Security Administration are staffed*
22 *appropriately and have the resources necessary to re-*
23 *ceive in-person requests for secondary review of a ten-*
24 *tative nonconfirmation under paragraph (1) from in-*
25 *dividuals and to facilitate the secondary review proc-*

1 *ess by serving as a single point of contact between the*
2 *individual and the Department of Homeland Security*
3 *and the Social Security Administration.*

4 *(d) DOCUMENT ESTABLISHING EMPLOYMENT AU-*
5 *THORIZATION AND IDENTITY.—In accordance with section*
6 *274E(b)(3)(A)(vii) of the Immigration and Nationality*
7 *Act, as inserted by section 301 of this Act, and not later*
8 *than 12 months after the completion of the application pe-*
9 *riod described in section 101(c) of this Act, the Secretary*
10 *of Homeland Security shall recognize documentary evidence*
11 *of certified agricultural worker status described in section*
12 *102(a)(2) of this Act as valid proof of employment author-*
13 *ization and identity for purposes of section 274E(b)(3)(A)*
14 *of the Immigration and Nationality Act, as inserted by sec-*
15 *tion 301 of this Act.*

16 *(e) AGRICULTURAL EMPLOYMENT.—For purposes of*
17 *this section, the term “agricultural employment” means ag-*
18 *ricultural labor or services, as defined by section*
19 *101(a)(15)(H)(ii) of the Immigration and Nationality Act*
20 *(8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.*

21 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

22 *(a) REPEAL.—*

23 *(1) IN GENERAL.—Subtitle A of title IV of the Il-*
24 *legal Immigration Reform and Immigrant Responsi-*
25 *bility Act of 1996 (8 U.S.C. 1324a note) is repealed.*

1 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
2 *tions, in section 1(d) of the Illegal Immigration Re-*
3 *form and Immigrant Responsibility Act of 1996, is*
4 *amended by striking the items relating to subtitle A*
5 *of title IV.*

6 (3) *REFERENCES.*—*Any reference in any Fed-*
7 *eral, State, or local law, Executive order, rule, regula-*
8 *tion, or delegation of authority, or any document of,*
9 *or pertaining to, the Department of Homeland Secu-*
10 *rity, Department of Justice, or the Social Security*
11 *Administration, to the E-Verify Program described*
12 *in section 403(a) of the Illegal Immigration Reform*
13 *and Immigrant Responsibility Act of 1996 (8 U.S.C.*
14 *1324a note), or to the employment eligibility con-*
15 *firmation system established under section 404 of the*
16 *Illegal Immigration Reform and Immigrant Respon-*
17 *sibility Act of 1996 (8 U.S.C. 1324a note), is deemed*
18 *to refer to the employment eligibility confirmation*
19 *system established under section 274E of the Immi-*
20 *gration and Nationality Act, as inserted by section*
21 *301 of this Act.*

22 (4) *EFFECTIVE DATE.*—*This subsection, and the*
23 *amendments made by this subsection, shall take effect*
24 *on the date that is 30 days after the date on which*
25 *final rules are published under section 309(a).*

1 (b) *FORMER E-VERIFY MANDATORY USERS, INCLUD-*
2 *ING FEDERAL CONTRACTORS.*—*Beginning on the effective*
3 *date in subsection (a)(4), the Secretary of Homeland Secu-*
4 *rity shall require employers required to participate in the*
5 *E-Verify Program described in section 403(a) of the Illegal*
6 *Immigration Reform and Immigrant Responsibility Act of*
7 *1996 (8 U.S.C. 1324a note) by reason of any Federal, State,*
8 *or local law, Executive order, rule, regulation, or delegation*
9 *of authority, including employers required to participate*
10 *in such program by reason of Federal acquisition laws (and*
11 *regulations promulgated under those laws, including the*
12 *Federal Acquisition Regulation), to comply with the re-*
13 *quirements of section 274E of the Immigration and Nation-*
14 *ality Act, as inserted by section 301 of this Act (and any*
15 *additional requirements of such Federal acquisition laws*
16 *and regulation) in lieu of any requirement to participate*
17 *in the E-Verify Program.*

18 (c) *FORMER E-VERIFY VOLUNTARY USERS.*—*Begin-*
19 *ning on the effective date in subsection (a)(4), the Secretary*
20 *of Homeland Security shall provide for the voluntary com-*
21 *pliance with the requirements of section 274E of the Immi-*
22 *gration and Nationality Act, as inserted by section 301 of*
23 *this Act, by employers voluntarily electing to participate*
24 *in the E-Verify Program described in section 403(a) of the*

1 *Illegal Immigration Reform and Immigrant Responsibility*
2 *Act of 1996 (8 U.S.C. 1324a note) before such date.*

3 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

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

6 *(1) in paragraph (1), by striking “identification*
7 *document,” and inserting “identification document or*
8 *document meant to establish employment authoriza-*
9 *tion,”;*

10 *(2) in paragraph (2), by striking “identification*
11 *document” and inserting “identification document or*
12 *document meant to establish employment authoriza-*
13 *tion,”; and*

14 *(3) in the matter following paragraph (3) by in-*
15 *serting “or section 274E(b)” after “section 274A(b)”.*

16 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

17 *(a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section*
18 *274A of the Immigration and Nationality Act (8 U.S.C.*
19 *1324a) is amended—*

20 *(1) in paragraph (1)(B)(ii) of subsection (a), by*
21 *striking “subsection (b).” and inserting “section*
22 *274B.”; and*

23 *(2) in the matter preceding paragraph (1) of*
24 *subsection (b), by striking “The requirements re-*

1 ferred” and inserting “Except as provided in section
2 274E, the requirements referred”.

3 (b) *UNFAIR IMMIGRATION-RELATED EMPLOYMENT*
4 *PRACTICES.*—Section 274B(a)(1) of the Immigration and
5 Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the
6 matter preceding subparagraph (A), by inserting “includ-
7 ing misuse of the verification system as described in section
8 274E(g)” after “referral for a fee,”.

9 **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
10 **TION PROGRAMS.**

11 (a) *FUNDING UNDER AGREEMENT.*—Effective for fis-
12 cal years beginning on or after October 1, 2020, the Com-
13 missioner and the Secretary shall enter into and maintain
14 an agreement which shall—

15 (1) provide funds to the Commissioner for the
16 full costs of the responsibilities of the Commissioner
17 under section 274E(a)(5) of the Immigration and Na-
18 tionality Act, as inserted by section 301 of this Act,
19 including—

20 (A) acquiring, installing, and maintaining
21 technological equipment and systems necessary
22 for the fulfillment of the responsibilities of the
23 Commissioner under such section, but only that
24 portion of such costs that are attributable exclu-
25 sively to such responsibilities; and

1 (B) responding to individuals who contest a
2 tentative nonconfirmation or administratively
3 appeal a final nonconfirmation provided by the
4 electronic employment eligibility verification sys-
5 tem established under such section;

6 (2) provide such funds annually in advance of
7 the applicable quarter based on an estimating meth-
8 odology agreed to by the Commissioner and the Sec-
9 retary (except in such instances where the delayed en-
10 actment of an annual appropriation may preclude
11 such quarterly payments); and

12 (3) require an annual accounting and reconcili-
13 ation of the actual costs incurred and the funds pro-
14 vided under the agreement, which shall be reviewed by
15 the Inspectors General of the Social Security Admin-
16 istration and the Department of Homeland Security.

17 (b) CONTINUATION OF EMPLOYMENT VERIFICATION IN
18 ABSENCE OF TIMELY AGREEMENT.—In any case in which
19 the agreement required under subsection (a) for any fiscal
20 year beginning on or after October 1, 2020, has not been
21 reached as of October 1 of such fiscal year, the latest agree-
22 ment between the Commissioner and the Secretary pro-
23 viding for funding to cover the costs of the responsibilities
24 of the Commissioner under section 274E(a)(5) of the Immi-
25 gration and Nationality Act, as inserted by section 301 of

1 *this Act, shall be deemed in effect on an interim basis for*
2 *such fiscal year until such time as an agreement required*
3 *under subsection (a) is subsequently reached, except that the*
4 *terms of such interim agreement shall be modified by the*
5 *Director of the Office of Management and Budget to adjust*
6 *for inflation and any increase or decrease in the volume*
7 *of requests under the employment eligibility verification*
8 *system. In any case in which an interim agreement applies*
9 *for any fiscal year under this subsection, the Commissioner*
10 *and the Secretary shall, not later than October 1 of such*
11 *fiscal year, notify the Committee on Ways and Means, the*
12 *Committee on the Judiciary, and the Committee on Appro-*
13 *priations of the House of Representatives and the Com-*
14 *mittee on Finance, the Committee on the Judiciary, and*
15 *the Committee on Appropriations of the Senate of the fail-*
16 *ure to reach the agreement required under subsection (a)*
17 *for such fiscal year. Until such time as the agreement re-*
18 *quired under subsection (a) has been reached for such fiscal*
19 *year, the Commissioner and the Secretary shall, not later*
20 *than the end of each 90-day period after October 1 of such*
21 *fiscal year, notify such Committees of the status of negotia-*
22 *tions between the Commissioner and the Secretary in order*
23 *to reach such an agreement.*

1 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE ELEC-**
2 **TRONIC EMPLOYMENT VERIFICATION SYS-**
3 **TEM.**

4 *Not later than 24 months after the date on which final*
5 *rules are published under section 309(a), and annually*
6 *thereafter, the Secretary shall submit to Congress a report*
7 *that includes the following:*

8 *(1) An assessment of the accuracy rates of the re-*
9 *sponses of the electronic employment verification sys-*
10 *tem established under section 274E of the Immigra-*
11 *tion and Nationality Act, as inserted by section 301*
12 *of this Act (referred to in this section as the “Sys-*
13 *tem”), including tentative and final nonconfirmation*
14 *notices issued to employment-authorized individuals*
15 *and confirmation notices issued to individuals who*
16 *are not employment-authorized.*

17 *(2) An assessment of any challenges faced by per-*
18 *sons or entities (including small employers) in uti-*
19 *lizing the System.*

20 *(3) An assessment of any challenges faced by em-*
21 *ployment-authorized individuals who are issued ten-*
22 *tative or final nonconfirmation notices.*

23 *(4) An assessment of the incidence of unfair im-*
24 *migration-related employment practices, as described*
25 *in section 274E(g) of the Immigration and Nation-*

1 *ality Act, as inserted by section 301 of this Act, re-*
2 *lated to the use of the System.*

3 *(5) An assessment of the photo matching and*
4 *other identity authentication tools, as described in*
5 *section 274E(a)(4) of the Immigration and Nation-*
6 *ality Act, as inserted by section 301 of this Act, in-*
7 *cluding—*

8 *(A) an assessment of the accuracy rates of*
9 *such tools;*

10 *(B) an assessment of the effectiveness of such*
11 *tools at preventing identity fraud and other mis-*
12 *use of identifying information;*

13 *(C) an assessment of any challenges faced*
14 *by persons, entities, or individuals utilizing such*
15 *tools; and*

16 *(D) an assessment of operation and mainte-*
17 *nance costs associated with such tools.*

18 *(6) A summary of the activities and findings of*
19 *the U.S. Citizenship and Immigrations Services E-*
20 *Verify Monitoring and Compliance Branch, or any*
21 *successor office, including—*

22 *(A) the number, types and outcomes of au-*
23 *dits, investigations, and other compliance activi-*
24 *ties initiated by the Branch in the previous year;*

1 (B) the capacity of the Branch to detect and
2 prevent violations of section 274E(g) of the Im-
3 migration and Nationality Act, as inserted by
4 this Act; and

5 (C) an assessment of the degree to which
6 persons and entities misuse the System, includ-
7 ing—

8 (i) use of the System before an individ-
9 ual's date of hire;

10 (ii) failure to provide required notifi-
11 cations to individuals;

12 (iii) use of the System to interfere with
13 or otherwise impede individuals' assertions
14 of their rights under other laws; and

15 (iv) use of the System for unauthorized
16 purposes; and

17 (7) An assessment of the impact of implementa-
18 tion of the System in the agricultural industry and
19 the use of the verification system in agricultural in-
20 dustry hiring and business practices.

21 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**
22 **MENT ELIGIBILITY VERIFICATION PROCESS.**

23 Not later than 12 months after the date of the enact-
24 ment of this Act, the Secretary, in consultation with the
25 Commissioner, shall submit to Congress a plan to mod-

1 *ernize and streamline the employment eligibility*
2 *verification process that shall include—*

3 *(1) procedures to allow persons and entities to*
4 *verify the identity and employment authorization of*
5 *newly hired individuals where the in-person, physical*
6 *examination of identity and employment authoriza-*
7 *tion documents is not practicable;*

8 *(2) a proposal to create a simplified employment*
9 *verification process that allows employers that utilize*
10 *the employment eligibility verification system estab-*
11 *lished under section 274E of the Immigration and*
12 *Nationality Act, as inserted by section 301 of this*
13 *Act, to verify the identity and employment authoriza-*
14 *tion of individuals without also having to complete*
15 *and retain Form I-9, Employment Eligibility*
16 *Verification, or any subsequent replacement form; and*

17 *(3) any other proposal that the Secretary deter-*
18 *mines would simplify the employment eligibility*
19 *verification process without compromising the integ-*
20 *egrity or security of the system.*

21 **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

22 *(a) IN GENERAL.—Not later than 180 days prior to*
23 *the end of the application period defined in section 101(c)*
24 *of this Act, the Secretary shall publish in the Federal Reg-*
25 *ister proposed rules implementing this title and the amend-*

1 *ments made by this title. The Secretary shall finalize such*
2 *rules not later than 180 days after the date of publication.*

3 *(b) PAPERWORK REDUCTION ACT.—*

4 *(1) IN GENERAL.—The requirements under chap-*
5 *ter 35 of title 44, United States Code, (commonly*
6 *known as the “Paperwork Reduction Act”) shall*
7 *apply to any action to implement this title or the*
8 *amendments made by this title.*

9 *(2) ELECTRONIC FORMS.—All forms designated*
10 *or established by the Secretary that are necessary to*
11 *implement this title and the amendments made by*
12 *this title shall be made available in paper and elec-*
13 *tronic formats, and shall be designed in such a man-*
14 *ner to facilitate electronic completion, storage, and*
15 *transmittal.*

16 *(3) LIMITATION ON USE OF FORMS.—All forms*
17 *designated or established by the Secretary that are*
18 *necessary to implement this title, and the amend-*
19 *ments made by this title, and any information con-*
20 *tained in or appended to such forms, may not be used*
21 *for purposes other than for enforcement of this Act*
22 *and any other provision of Federal criminal law.*

Union Calendar No. 263

116TH CONGRESS
1ST Session

H. R. 5038

[Report No. 116-328, Part I]

A BILL

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

DECEMBER 9, 2019

Reported from the Committee on the Judiciary with an amendment

DECEMBER 9, 2019

Committees on Ways and Means, Education and Labor, and Financial Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed