

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1603

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## AN ACT

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,*

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

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

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

Sec. 1. Short title; table of contents.

**TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE**

Subtitle A—Temporary Status for Certified Agricultural Workers

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

Subtitle B—Optional Earned Residence for Long-Term Workers

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

Subtitle C—General Provisions

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

**TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE  
FUTURE**

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

Sec. 201. Comprehensive and streamlined electronic H-2A platform.  
Sec. 202. H-2A program requirements.  
Sec. 203. Agency roles and responsibilities.  
Sec. 204. Worker protection and compliance.  
Sec. 205. Report on wage protections.

- Sec. 206. Portable H–2A visa pilot program.
- Sec. 207. Improving access to permanent residence.

#### Subtitle B—Preservation and Construction of Farmworker Housing

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

#### Subtitle C—Foreign Labor Recruiter Accountability

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

### TITLE III—ELECTRONIC VERIFICATION OF EMPLOYMENT ELIGIBILITY

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

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

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

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

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

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

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

19 (B) on the date of the introduction of this  
20 Act—

21 (i) is inadmissible or deportable from  
22 the United States; or

23 (ii) is under a grant of deferred en-  
24 forced departure or has temporary pro-

1                   tected status under section 244 of the Im-  
2                   migration and Nationality Act;

3                   (C) subject to section 104, has been con-  
4                   tinuously present in the United States since the  
5                   date of the introduction of this Act and until  
6                   the date on which the alien is granted certified  
7                   agricultural worker status; and

8                   (D) is not otherwise ineligible for certified  
9                   agricultural worker status as provided in sub-  
10                  section (b).

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

18                 (b) GROUNDS FOR INELIGIBILITY.—

19                 (1) GROUNDS OF INADMISSIBILITY.—Except as  
20                 provided in paragraph (3), an alien is ineligible for  
21                 certified agricultural worker or certified agricultural  
22                 dependent status if the Secretary determines that  
23                 the alien is inadmissible under section 212(a) of the  
24                 Immigration and Nationality Act (8 U.S.C.

1 1182(a)), except that in determining inadmis-  
2 sibility—

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

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

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

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

24 (A) any felony offense;

1 (B) an aggravated felony (as defined in  
2 section 101(a)(43) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1101(a)(43)) at the  
4 time of the conviction);

5 (C) two misdemeanor offenses involving  
6 moral turpitude, as described in section  
7 212(a)(2)(A)(i)(I) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)),  
9 unless an offense is waived by the Secretary  
10 under paragraph (3)(B); or

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

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

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

23 (B) subparagraphs (A) and (D) of section  
24 212(a)(2) of the Immigration and Nationality  
25 Act (8 U.S.C. 1182(a)(2)), unless inadmis-

1           sibility is based on a conviction that would oth-  
2           erwise render the alien ineligible under subpara-  
3           graph (A), (B), or (D) of paragraph (2).

4           (c) APPLICATION.—

5           (1) APPLICATION PERIOD.—Except as provided  
6           in paragraph (2), the Secretary shall accept initial  
7           applications for certified agricultural worker status  
8           during the 18-month period beginning on the date  
9           on which the interim final rule is published in the  
10          Federal Register pursuant to section 122(a).

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

18          (3) SUBMISSION OF APPLICATIONS.—

19           (A) IN GENERAL.—An alien may file an  
20           application with the Secretary under this sec-  
21           tion with the assistance of an attorney or a  
22           nonprofit religious, charitable, social service, or  
23           similar organization recognized by the Board of  
24           Immigration Appeals under section 292.2 of  
25           title 8, Code of Federal Regulations. The Sec-



1           retary shall also create a procedure for accept-  
2           ing applications filed by qualified designated en-  
3           tities with the consent of the applicant.

4           (B) FARM SERVICE AGENCY OFFICES.—  
5           The Secretary, in consultation with the Sec-  
6           retary of Agriculture, shall establish a process  
7           for the filing of applications under this section  
8           at Farm Service Agency offices throughout the  
9           United States.

10          (4) EVIDENCE OF APPLICATION FILING.—As  
11          soon as practicable after receiving an application for  
12          certified agricultural worker status, the Secretary  
13          shall provide the applicant with a document acknowl-  
14          edging the receipt of such application. Such docu-  
15          ment shall serve as interim proof of the alien's au-  
16          thorization to accept employment in the United  
17          States and shall be accepted by an employer as evi-  
18          dence of employment authorization under section  
19          274A(b)(1)(C) of the Immigration and Nationality  
20          Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is  
21          employing the holder of such document to perform  
22          agricultural labor or services, pending a final admin-  
23          istrative decision on the application.

24          (5) EFFECT OF PENDING APPLICATION.—Dur-  
25          ing the period beginning on the date on which an

1 alien applies for certified agricultural worker status  
2 under this subtitle, and ending on the date on which  
3 the Secretary makes a final administrative decision  
4 regarding such application, the alien and any de-  
5 pendents included in the application—

6 (A) may apply for advance parole, which  
7 shall be granted upon demonstrating a legiti-  
8 mate need to travel outside the United States  
9 for a temporary purpose;

10 (B) may not be detained by the Secretary  
11 or removed from the United States unless the  
12 Secretary makes a prima facie determination  
13 that such alien is, or has become, ineligible for  
14 certified agricultural worker status;

15 (C) may not be considered unlawfully  
16 present under section 212(a)(9)(B) of the Im-  
17 migration and Nationality Act (8 U.S.C.  
18 1182(a)(9)(B)); and

19 (D) may not be considered an unauthor-  
20 ized alien (as defined in section 274A(h)(3) of  
21 the Immigration and Nationality Act (8 U.S.C.  
22 1324a(h)(3))).

23 (6) WITHDRAWAL OF APPLICATION.—The Sec-  
24 retary shall, upon receipt of a request from the ap-  
25 plicant to withdraw an application for certified agri-

1 cultural worker status under this subtitle, cease  
2 processing of the application, and close the case.  
3 Withdrawal of the application shall not prejudice  
4 any future application filed by the applicant for any  
5 immigration benefit under this Act or under the Im-  
6 migration and Nationality Act (8 U.S.C. 1101 et  
7 seq.).

8 (d) ADJUDICATION AND DECISION.—

9 (1) IN GENERAL.—Subject to section 123, the  
10 Secretary shall render a decision on an application  
11 for certified agricultural worker status not later than  
12 180 days after the date the application is filed.

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

16 (A) written notice that describes the basis  
17 for ineligibility or the deficiencies in the evi-  
18 dence submitted; and

19 (B) at least 90 days to contest ineligibility  
20 or submit additional evidence.

21 (3) AMENDED APPLICATION.—An alien whose  
22 application for certified agricultural worker status is  
23 denied under this section may submit an amended  
24 application for such status to the Secretary if the  
25 amended application is submitted within the applica-

1       tion period described in subsection (c) and contains  
2       all the required information and fees that were miss-  
3       ing from the initial application.

4       (e) **ALTERNATIVE H-2A STATUS.**—An alien who has  
5       not met the required period of agricultural labor or serv-  
6       ices under subsection (a)(1)(A), but is otherwise eligible  
7       for certified agricultural worker status under such sub-  
8       section, shall be eligible for classification as a non-  
9       immigrant described in section 101(a)(15)(H)(ii)(a) of the  
10      Immigration and Nationality Act (8 U.S.C.  
11      1101(a)(15)(H)(ii)(a)) upon approval of a petition sub-  
12      mitted by a sponsoring employer, if the alien has per-  
13      formed at least 575 hours (or 100 work days) of agricul-  
14      tural labor or services during the 3-year period preceding  
15      the date of the introduction of this Act. The Secretary  
16      shall create a procedure to provide for such classification  
17      without requiring the alien to depart the United States  
18      and obtain a visa abroad.

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

20      (a) **IN GENERAL.**—

21              (1) **APPROVAL.**—Upon approval of an applica-  
22      tion for certified agricultural worker status, or an  
23      extension of such status pursuant to section 103, the  
24      Secretary shall issue—

1 (A) documentary evidence of such status to  
2 the applicant; and

3 (B) documentary evidence of certified agri-  
4 cultural dependent status to any qualified de-  
5 pendent included on such application.

6 (2) DOCUMENTARY EVIDENCE.—In addition to  
7 any other features and information as the Secretary  
8 may prescribe, the documentary evidence described  
9 in paragraph (1)—

10 (A) shall be machine-readable and tamper-  
11 resistant;

12 (B) shall contain a digitized photograph;

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

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

21 (3) VALIDITY PERIOD.—Certified agricultural  
22 worker and certified agricultural dependent status  
23 shall be valid for 5½ years beginning on the date of  
24 approval.

1           (4) TRAVEL AUTHORIZATION.—An alien with  
2 certified agricultural worker or certified agricultural  
3 dependent status may—

4           (A) travel within and outside of the United  
5 States, including commuting to the United  
6 States from a residence in a foreign country;  
7 and

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

11           (i) valid, unexpired documentary evi-  
12 dence of certified agricultural worker or  
13 certified agricultural worker dependent sta-  
14 tus as described in subsection (a); or

15           (ii) a travel document that has been  
16 approved by the Secretary and was issued  
17 to the alien after the alien’s original docu-  
18 mentary evidence was lost, stolen, or de-  
19 stroyed.

20 (b) ABILITY TO CHANGE STATUS.—

21           (1) CHANGE TO CERTIFIED AGRICULTURAL  
22 WORKER STATUS.—Notwithstanding section 101(a),  
23 an alien with valid certified agricultural dependent  
24 status may apply to change to certified agricultural  
25 worker status, at any time, if the alien—

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

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

5 (2) CLARIFICATION.—Nothing in this title pro-  
6 hibits an alien granted certified agricultural worker  
7 or certified agricultural dependent status from  
8 changing status to any other nonimmigrant classi-  
9 fication for which the alien may be eligible.

10 (c) PROHIBITION ON PUBLIC BENEFITS, TAX BENE-  
11 FITS, AND HEALTH CARE SUBSIDIES.—Aliens granted  
12 certified agricultural worker or certified agricultural de-  
13 pendent status shall be considered lawfully present in the  
14 United States for all purposes for the duration of their  
15 status, except that such aliens—

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

21 (2) are not entitled to the premium assistance  
22 tax credit authorized under section 36B of the Inter-  
23 nal Revenue Code of 1986 (26 U.S.C. 36B), and  
24 shall be subject to the rules applicable to individuals

1 who are not lawfully present set forth in subsection  
2 (e) of such section;

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

7 (4) shall be subject to the rules applicable to in-  
8 dividuals not lawfully present set forth in section  
9 5000A(d)(3) of the Internal Revenue Code of 1986  
10 (26 U.S.C. 5000A(d)(3)).

11 (d) REVOCATION OF STATUS.—

12 (1) IN GENERAL.—The Secretary may revoke  
13 certified agricultural worker or certified agricultural  
14 dependent status if, after providing notice to the  
15 alien and the opportunity to provide evidence to con-  
16 test the proposed revocation, the Secretary deter-  
17 mines that the alien no longer meets the eligibility  
18 requirements for such status under section 101(b).

19 (2) INVALIDATION OF DOCUMENTATION.—Upon  
20 the Secretary's final determination to revoke an  
21 alien's certified agricultural worker or certified agri-  
22 cultural dependent status, any documentation issued  
23 by the Secretary to such alien under subsection (a)  
24 shall automatically be rendered invalid for any pur-  
25 pose except for departure from the United States.



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

2 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

3 (1) PRINCIPAL ALIENS.—The Secretary may  
4 extend certified agricultural worker status for addi-  
5 tional periods of 5½ years to an alien who submits  
6 a completed application, including the required proc-  
7 essing fees, within the 120-day period beginning 60  
8 days before the expiration of the fifth year of the  
9 immediately preceding grant of certified agricultural  
10 worker status, if the alien—

11 (A) except as provided in section 126(e),  
12 has performed agricultural labor or services in  
13 the United States for at least 575 hours (or  
14 100 work days) for each of the prior 5 years in  
15 which the alien held certified agricultural work-  
16 er status; and

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

19 (2) DEPENDENT SPOUSE AND CHILDREN.—The  
20 Secretary may grant or extend certified agricultural  
21 dependent status to the spouse or child of an alien  
22 granted an extension of certified agricultural worker  
23 status under paragraph (1) if the spouse or child is  
24 not ineligible for certified agricultural dependent sta-  
25 tus under section 101(b).

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

7           (b) STATUS FOR WORKERS WITH PENDING APPLICA-  
8           TIONS.—

9           (1) IN GENERAL.—Certified agricultural worker  
10          status of an alien who timely files an application to  
11          extend such status under subsection (a) (and the  
12          status of the alien’s dependents) shall be automati-  
13          cally extended through the date on which the Sec-  
14          retary makes a final administrative decision regard-  
15          ing such application.

16          (2) DOCUMENTATION OF EMPLOYMENT AU-  
17          THORIZATION.—As soon as practicable after receipt  
18          of an application to extend certified agricultural  
19          worker status under subsection (a), the Secretary  
20          shall issue a document to the alien acknowledging  
21          the receipt of such application. An employer of the  
22          worker may not refuse to accept such document as  
23          evidence of employment authorization under section  
24          274A(b)(1)(C) of the Immigration and Nationality

1 Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-  
2 ministrative decision on the application.

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

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

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

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

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

18 (b) TREATMENT OF CERTAIN BREAKS IN PRES-  
19 ENCE.—

20 (1) IN GENERAL.—Except as provided in para-  
21 graphs (2) and (3), an alien shall be considered to  
22 have failed to maintain continuous presence in the  
23 United States under this subtitle if the alien de-  
24 parted the United States for any period exceeding

1 90 days, or for any periods, in the aggregate, ex-  
2 ceeding 180 days.

3 (2) EXTENSIONS FOR EXTENUATING CIR-  
4 CUMSTANCES.—The Secretary may extend the time  
5 periods described in paragraph (1) for an alien who  
6 demonstrates that the failure to timely return to the  
7 United States was due to extenuating circumstances  
8 beyond the alien’s control, including the serious ill-  
9 ness of the alien, or death or serious illness of a  
10 spouse, parent, son or daughter, grandparent, or sib-  
11 ling of the alien.

12 (3) TRAVEL AUTHORIZED BY THE SEC-  
13 RETARY.—Any period of travel outside of the United  
14 States by an alien that was authorized by the Sec-  
15 retary shall not be counted toward any period of de-  
16 parture from the United States under paragraph  
17 (1).

18 **SEC. 105. EMPLOYER OBLIGATIONS.**

19 (a) RECORD OF EMPLOYMENT.—An employer of an  
20 alien in certified agricultural worker status shall provide  
21 such alien with a written record of employment each year  
22 during which the alien provides agricultural labor or serv-  
23 ices to such employer as a certified agricultural worker.

24 (b) CIVIL PENALTIES.—

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

10           (2) LIMITATION.—The penalty under paragraph  
11           (1) for failure to provide employment records shall  
12           not apply unless the alien has provided the employer  
13           with evidence of employment authorization described  
14           in section 102 or 103.

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

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

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

1 (b) ADMISSIBILITY IN IMMIGRATION COURT.—Each  
 2 record of an alien’s application for certified agricultural  
 3 worker status under this subtitle, application to extend  
 4 such status, revocation of such status, and each record  
 5 created pursuant to the administrative review process  
 6 under subsection (a) is admissible in immigration court,  
 7 and shall be included in the administrative record.

8 (c) JUDICIAL REVIEW.—Notwithstanding any other  
 9 provision of law, judicial review of the Secretary’s decision  
 10 to deny an application for certified agricultural worker  
 11 status, an application to extend such status, or the deci-  
 12 sion to revoke such status, shall be limited to the review  
 13 of an order of removal under section 242 of the Immigra-  
 14 tion and Nationality Act (8 U.S.C. 1252).

15 **Subtitle B—Optional Earned**  
 16 **Residence for Long-Term Workers**

17 **SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-**  
 18 **TERM AGRICULTURAL WORKERS.**

19 (a) REQUIREMENTS FOR ADJUSTMENT OF STA-  
 20 TUS.—

21 (1) PRINCIPAL ALIENS.—The Secretary may  
 22 adjust the status of an alien from that of a certified  
 23 agricultural worker to that of a lawful permanent  
 24 resident if the alien submits a completed application,

1 including the required processing and penalty fees,  
2 and the Secretary determines that—

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

7 (i) for at least 10 years prior to the  
8 date of the enactment of this Act and for  
9 at least 4 years in certified agricultural  
10 worker status; or

11 (ii) for fewer than 10 years prior to  
12 the date of the enactment of this Act and  
13 for at least 8 years in certified agricultural  
14 worker status; and

15 (B) the alien has not become ineligible for  
16 certified agricultural worker status under sec-  
17 tion 101(b).

18 (2) DEPENDENT ALIENS.—

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

24 (i) the qualifying relationship to the  
25 principal alien existed on the date on which

1           such alien was granted adjustment of sta-  
2           tus under this subtitle; and

3           (ii) the spouse or child is not ineligible  
4           for certified agricultural worker dependent  
5           status under section 101(b).

6           (B) PROTECTIONS FOR SPOUSES AND  
7           CHILDREN.—The Secretary of Homeland Secu-  
8           rity shall establish procedures to allow the  
9           spouse or child of a certified agricultural work-  
10          er to self-petition for lawful permanent resi-  
11          dence under this subtitle in cases involving—

12          (i) the death of the certified agricul-  
13          tural worker, so long as the spouse or child  
14          submits a petition not later than 2 years  
15          after the date of the worker’s death; or

16          (ii) the spouse or a child being bat-  
17          tered or subjected to extreme cruelty by  
18          the certified agricultural worker.

19          (3) DOCUMENTATION OF WORK HISTORY.—An  
20          applicant for adjustment of status under this section  
21          shall not be required to resubmit evidence of work  
22          history that has been previously submitted to the  
23          Secretary in connection with an approved extension  
24          of certified agricultural worker status.



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

8 (c) EFFECT OF PENDING APPLICATION.—During the  
9 period beginning on the date on which an alien applies  
10 for adjustment of status under this subtitle, and ending  
11 on the date on which the Secretary makes a final adminis-  
12 trative decision regarding such application, the alien and  
13 any dependents included on the application—

14 (1) may apply for advance parole, which shall  
15 be granted upon demonstrating a legitimate need to  
16 travel outside the United States for a temporary  
17 purpose;

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

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

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

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

16          (e) WITHDRAWAL OF APPLICATION.—The Secretary  
17          shall, upon receipt of a request to withdraw an application  
18          for adjustment of status under this subtitle, cease proc-  
19          essing of the application, and close the case. Withdrawal  
20          of the application shall not prejudice any future applica-  
21          tion filed by the applicant for any immigration benefit  
22          under this Act or under the Immigration and Nationality  
23          Act (8 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 com-  
6 pliance with subsection (a) by submitting such documenta-  
7 tion as the Secretary, in consultation with the Secretary  
8 of the Treasury, may require by regulation.

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

10 (a) IN GENERAL.—Subject to the requirements of  
11 section 123, the Secretary shall render a decision on an  
12 application for adjustment of status under this subtitle not  
13 later than 180 days after the date on which the application  
14 is 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  
19 ineligibility or the deficiencies of the evidence sub-  
20 mitted; and

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

23 (c) ADMINISTRATIVE REVIEW.—The Secretary shall  
24 establish a process by which an applicant may seek admin-  
25 istrative review of a denial of an application for adjust-  
26 ment 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  
4 this 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 pro-  
9 vided, any term used in this title that is used in the  
10 immigration laws shall have the meaning given such  
11 term in the immigration laws (as such term is de-  
12 fined in section 101 of the Immigration and Nation-  
13 ality Act (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  
25 U.S.C. 1802), without regard to whether the

1           specific service or activity is temporary or sea-  
2           sonal.

3           (3) APPLICABLE FEDERAL TAX LIABILITY.—

4           The term “applicable Federal tax liability” means all  
5           Federal income taxes assessed in accordance with  
6           section 6203 of the Internal Revenue Code of 1986  
7           beginning on the date on which the applicant was  
8           authorized to work in the United States as a cer-  
9           tified agricultural 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  
14          district court with jurisdiction over the alien’s prin-  
15          cipal place of residence.

16          (5) CHILD.—The term “child” has the meaning

17          given such term in section 101(b)(1) of the Immi-  
18          gration and Nationality Act (8 U.S.C. 1101(b)(1)).

19          (6) CONVICTED OR CONVICTION.—The term

20          “convicted” or “conviction” does not include a judg-  
21          ment that has been expunged or set aside, that re-  
22         >sulted in a rehabilitative disposition, or the equiva-  
23          lent.

24          (7) EMPLOYER.—The term “employer” means

25          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  
4 term “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  
9 designates as having substantial experience,  
10 demonstrated competence, and a history of  
11 long-term involvement in the preparation and  
12 submission of application for adjustment of sta-  
13 tus under title II of the Immigration and Na-  
14 tionality Act (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 pub-  
23 lish in the Federal Register, an interim final rule imple-  
24 menting this title. Notwithstanding section 553 of title 5,  
25 United States Code, the rule shall be effective, on an in-

1 terim basis, immediately upon publication, but may be  
2 subject to change and revision after public notice and op-  
3 portunity for comment. The Secretary shall finalize such  
4 rule not later than 1 year after the date of the enactment  
5 of this Act.

6 (b) FEES.—

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

11 (2) FEE WAIVER; INSTALLMENTS.—

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

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

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

22 (B) CLARIFICATION.—Nothing in this sec-  
23 tion shall be read to prohibit an employer from  
24 paying any fee or penalty that the Secretary

1           may assess under this title on behalf of an alien  
2           and the alien’s spouse or children.

3 **SEC. 123. BACKGROUND CHECKS.**

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

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

23 **SEC. 124. PROTECTION FOR CHILDREN.**

24           (a) IN GENERAL.—Except as provided in subsection  
25 (b), for purposes of eligibility for certified agricultural de-



1 pendent status or lawful permanent resident status under  
2 this title, a determination of whether an alien is a child  
3 shall be made using the age of the alien on the date on  
4 which the initial application for certified agricultural  
5 worker status is filed with the Secretary of Homeland Se-  
6 curity.

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

11 **SEC. 125. LIMITATION ON REMOVAL.**

12 (a) IN GENERAL.—An alien who appears to be prima  
13 facie eligible for status under this title shall be given a  
14 reasonable opportunity to apply for such status. Such an  
15 alien may not be placed in removal proceedings or removed  
16 from the United States until a final administrative deci-  
17 sion establishing ineligibility for such status is rendered.

18 (b) ALIENS IN REMOVAL PROCEEDINGS.—Notwith-  
19 standing any other provision of the law, the Attorney Gen-  
20 eral shall (upon motion by the Secretary with the consent  
21 of the alien, or motion by the alien) terminate removal  
22 proceedings, without prejudice, against an alien who ap-  
23 pears to be prima facie eligible for status under this title,  
24 and provide such alien a reasonable opportunity to apply  
25 for such status.

1           (c) EFFECT OF FINAL ORDER.—An alien present in  
2 the United States who has been ordered removed or has  
3 been permitted to depart voluntarily from the United  
4 States may, notwithstanding such order or permission to  
5 depart, apply for status under this title. Such alien shall  
6 not be required to file a separate motion to reopen, recon-  
7 sider, or vacate the order of removal. If the Secretary ap-  
8 proves the application, the Secretary shall notify the At-  
9 torney General of such approval, and the Attorney General  
10 shall cancel the order of removal. If the Secretary renders  
11 a final administrative decision to deny the application, the  
12 order of removal or permission to depart shall be effective  
13 and enforceable to the same extent as if the application  
14 had not been made, only after all available administrative  
15 and judicial remedies have been exhausted.

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

19                 (1) with advance permission to return to the  
20 United States granted by the Secretary under this  
21 title; or

22                 (2) after having been granted certified agricul-  
23 tural worker status or lawful permanent resident  
24 status under this title.

1 **SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HIS-**  
2 **TORY.**

3 (a) BURDEN OF PROOF.—An alien applying for cer-  
4 tified agricultural worker status under subtitle A or ad-  
5 justment of status under subtitle B has the burden of  
6 proving by a preponderance of the evidence that the alien  
7 has worked the requisite number of hours or days required  
8 under section 101, 103, or 111, as applicable. The Sec-  
9 retary shall establish special procedures to properly credit  
10 work in cases in which an alien was employed under an  
11 assumed name.

12 (b) EVIDENCE.—An alien may meet the burden of  
13 proof under subsection (a) by producing sufficient evi-  
14 dence to show the extent of such employment as a matter  
15 of just and reasonable inference. Such evidence may in-  
16 clude—

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

20 (2) employment records maintained by collective  
21 bargaining associations;

22 (3) tax records or other government records;

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

25 (5) any other documentation designated by the  
26 Secretary for such purpose.

1 (c) EXCEPTIONS FOR EXTRAORDINARY CIR-  
2 CUMSTANCES.—

3 (1) IMPACT OF COVID–19.—

4 (A) IN GENERAL.—The Secretary may  
5 grant certified agricultural worker status to an  
6 alien who is otherwise eligible for such status if  
7 such alien is able to only partially satisfy the  
8 requirement under section 101(a)(1)(A) as a re-  
9 sult of reduced hours of employment or other  
10 restrictions associated with the public health  
11 emergency declared by the Secretary of Health  
12 and Human Services under section 319 of the  
13 Public Health Service Act (42 U.S.C. 247d)  
14 with respect to COVID–19.

15 (B) LIMITATION.—The exception described  
16 in subparagraph (A) shall apply only to agricul-  
17 tural labor or services required to be performed  
18 during the period that—

19 (i) begins on the first day of the pub-  
20 lic health emergency described in subpara-  
21 graph (A); and

22 (ii) ends 90 days after the date on  
23 which such public health emergency termi-  
24 nates.

1           (2) EXTRAORDINARY CIRCUMSTANCES.—In de-  
2           termining whether an alien has met the requirement  
3           under section 103(a)(1)(A) or 111(a)(1)(A), the Sec-  
4           retary may credit the alien with not more than 575  
5           hours (or 100 work days) of agricultural labor or  
6           services in the United States if the alien was unable  
7           to perform the required agricultural labor or services  
8           due to—

9                   (A) pregnancy, parental leave, illness, dis-  
10                  ease, disabling injury, or physical limitation of  
11                  the alien;

12                  (B) injury, illness, disease, or other special  
13                  needs of the alien’s child or spouse;

14                  (C) severe weather conditions that pre-  
15                  vented the alien from engaging in agricultural  
16                  labor or services;

17                  (D) reduced hours of employment or other  
18                  restrictions associated with the public health  
19                  emergency declared by the Secretary of Health  
20                  and Human Services under section 319 of the  
21                  Public Health Service Act (42 U.S.C. 247d)  
22                  with respect to COVID–19; or

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

1 (i) the termination was without just  
2 cause; and

3 (ii) the alien was unable to find alter-  
4 native agricultural employment after a rea-  
5 sonable job search.

6 (3) EFFECT OF DETERMINATION.—A deter-  
7 mination under paragraph (1)(E) shall not be con-  
8 clusive, binding, or admissible in a separate or sub-  
9 sequent judicial or administrative action or pro-  
10 ceeding between the alien and a current or prior em-  
11 ployer of the alien or any other party.

12 (4) HARDSHIP WAIVER.—

13 (A) IN GENERAL.—As part of the rule-  
14 making described in section 122(a), the Sec-  
15 retary shall establish procedures allowing for a  
16 partial waiver of the requirement under section  
17 111(a)(1)(A) for a certified agricultural worker  
18 if such worker—

19 (i) has continuously maintained cer-  
20 tified agricultural worker status since the  
21 date such status was initially granted;

22 (ii) has partially completed the re-  
23 quirement under section 111(a)(1)(A); and

1 (iii) is no longer able to engage in ag-  
2 ricultural labor or services safely and effec-  
3 tively because of—

4 (I) a permanent disability suf-  
5 fered while engaging in agricultural  
6 labor or services; or

7 (II) deteriorating health or phys-  
8 ical ability combined with advanced  
9 age.

10 (B) DISABILITY.—In establishing the pro-  
11 cedures described in subparagraph (A), the Sec-  
12 retary shall consult with the Secretary of  
13 Health and Human Services and the Commis-  
14 sioner of Social Security to define “permanent  
15 disability” for purposes of a waiver under sub-  
16 paragraph (A)(iii)(I).

17 **SEC. 127. EMPLOYER PROTECTIONS.**

18 (a) CONTINUING EMPLOYMENT.—An employer that  
19 continues to employ an alien knowing that the alien in-  
20 tends to apply for certified agricultural worker status  
21 under subtitle A shall not violate section 274A(a)(2) of  
22 the Immigration and Nationality Act (8 U.S.C.  
23 1324a(a)(2)) by continuing to employ the alien for the du-  
24 ration of the application period under section 101(c), and  
25 with respect to an alien who applies for certified agricul-

1 tural status, for the duration of the period during which  
2 the alien's application is pending final determination.

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

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



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

5 **SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS;**  
6 **CONFORMING AMENDMENTS.**

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

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

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

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

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

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

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

5 (c) CONFORMING AMENDMENTS.—

6 (1) SOCIAL SECURITY ACT.—Section 210(a)(1)  
7 of the Social Security Act (42 U.S.C. 410(a)(1)) is  
8 amended by inserting before the semicolon the fol-  
9 lowing: “(other than aliens granted certified agricul-  
10 tural worker status or certified agricultural depend-  
11 ent status under title I of the Farm Work Mod-  
12 ernization Act of 2021”.

13 (2) INTERNAL REVENUE CODE OF 1986.—Sec-  
14 tion 3121(b)(1) of the Internal Revenue Code of  
15 1986 is amended by inserting before the semicolon  
16 the following: “(other than aliens granted certified  
17 agricultural worker status or certified agricultural  
18 dependent status under title I of the Farm Work  
19 Modernization Act of 2021”.

20 (3) EFFECTIVE DATE.—The amendments made  
21 by this subsection shall apply with respect to service  
22 performed after the date of the enactment of this  
23 Act.

24 (d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECU-  
25 RITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the

1 Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended  
2 by adding at the end the following:

3           “(iv) The Commissioner of Social Se-  
4           curity shall, to the extent practicable, co-  
5           ordinate with the Secretary of the Depart-  
6           ment of Homeland Security to implement  
7           an automated system for the Commissioner  
8           to assign social security account numbers  
9           to aliens granted certified agricultural  
10          worker status or certified agricultural de-  
11          pendent status under title I of the Farm  
12          Work Modernization Act of 2021. An alien  
13          who is granted such status, and who was  
14          not previously assigned a social security  
15          account number, shall request assignment  
16          of a social security account number and a  
17          social security card from the Commissioner  
18          through such system. The Secretary shall  
19          collect and provide to the Commissioner  
20          such information as the Commissioner  
21          deems necessary for the Commissioner to  
22          assign a social security account number,  
23          which information may be used by the  
24          Commissioner for any purpose for which  
25          the Commissioner is otherwise authorized

1                   under Federal law. The Commissioner may  
2                   maintain, use, and disclose such informa-  
3                   tion only as permitted by the Privacy Act  
4                   and other Federal law.”.

5 **SEC. 129. DISCLOSURES AND PRIVACY.**

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

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

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

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

3           (2) to identify or prevent fraudulent claims or  
4           schemes;

5           (3) for national security purposes; or

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

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

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

16 **SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICA-**  
17 **TIONS.**

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

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

1 same to contain any false, fictitious, or fraudulent  
2 statement or entry; or

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

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

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

15 **SEC. 131. DISSEMINATION OF INFORMATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (a) STREAMLINED H-2A PLATFORM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           “(5) WAGES, BENEFITS, AND WORKING CONDI-  
24 TIONS.—The employer shall offer and provide, at a  
25 minimum, the wages, benefits, and working condi-



1 tions required by this section to the H-2A worker  
2 and all workers who are similarly employed. The em-  
3 ployer—

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

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

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

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

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

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

5           “(c) RECRUITING REQUIREMENTS.—

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

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

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

20                           “(i) make reasonable efforts to con-  
21                           tact any United States worker the em-  
22                           ployer employed in the previous year in the  
23                           same occupation and area of intended em-  
24                           ployment for which an H-2A worker is  
25                           sought (excluding workers who were termi-

1           nated for cause or abandoned the work-  
2           site); and

3           “(ii) post such job opportunity in a  
4           conspicuous location or locations at the  
5           place of employment.

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

15          “(2) PERIOD OF RECRUITMENT.—

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

1 workers for the final start date identified in the  
2 petition.

3 “(B) REQUIREMENT TO HIRE US WORK-  
4 ERS.—

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

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

14 “(II) the date on which—

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

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

22 “(ii) STAGGERED ENTRY.—For a peti-  
23 tion involving more than one start date  
24 under subsection (h)(1)(C), each start date  
25 designated in the petition shall establish a

1 separate job opportunity. An employer may  
2 not reject a United States worker because  
3 the worker is unable or unwilling to fill  
4 more than one job opportunity included in  
5 the petition.

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

15 “(3) RECRUITMENT REPORT.—

16 “(A) IN GENERAL.—The employer shall  
17 maintain a recruitment report through the ap-  
18 plicable period described in paragraph (2)(B)  
19 and submit regular updates through the elec-  
20 tronic platform on the results of recruitment.  
21 The employer shall retain the recruitment re-  
22 port, and all associated recruitment documenta-  
23 tion, for a period of 3 years from the date of  
24 certification.

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

8           “(d) WAGE REQUIREMENTS.—

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

13                 “(A) the agreed-upon collective bargaining  
14                 wage;

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

18                 “(C) the prevailing wage (hourly wage or  
19                 piece rate); or

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

21          “(2) ADVERSE EFFECT WAGE RATE DETER-  
22          MINATIONS.—

23                 “(A) IN GENERAL.—Except as provided  
24                 under subparagraph (B), the applicable adverse  
25                 effect wage rate for each State and occupational

1 classification for a calendar year shall be as fol-  
2 lows:

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

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

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

20 “(iv) If a wage described in clause (i),  
21 (ii), or (iii) is not reported, the national av-  
22 erage hourly wage for the occupational  
23 classification as reported by the Secretary  
24 of Labor based on a wage survey con-  
25 ducted by such Secretary.

1           “(B) LIMITATIONS ON WAGE FLUCTUA-  
2           TIONS.—

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

12          “(ii) CALENDAR YEARS 2023 THROUGH  
13          2031.—For each of calendar years 2023  
14          through 2031, the adverse effect wage rate  
15          for each State and occupational classifica-  
16          tion under this subsection shall be the  
17          wage calculated under subparagraph (A),  
18          except that such wage may not—

19                  “(I) be more than 1.5 percent  
20                  lower than the wage in effect for H-  
21                  2A workers in the applicable State  
22                  and occupational classification in the  
23                  immediately preceding calendar year;

24                  “(II) except as provided in clause  
25                  (III), be more than 3.25 percent high-



1 er than the wage in effect for H-2A  
2 workers in the applicable State and  
3 occupational classification in the im-  
4 mediately preceding calendar year;  
5 and

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

15 “(iii) CALENDAR YEARS AFTER  
16 2031.—For any calendar year after 2031,  
17 the applicable wage rate described in para-  
18 graph (1)(B) shall be the wage rate estab-  
19 lished pursuant to paragraph (7)(D). Until  
20 such wage rate is effective, the adverse ef-  
21 fect wage rate for each State and occupa-  
22 tional classification under this subsection  
23 shall be the wage calculated under sub-  
24 paragraph (A), except that such wage may  
25 not be more than 1.5 percent lower or 3.25

1           percent higher than the wage in effect for  
2           H-2A workers in the applicable State and  
3           occupational classification in the imme-  
4           diately preceding calendar year.

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

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

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

20                 “(B) JOB ORDERS IN EFFECT.—Except as  
21                 provided in subparagraph (C), publication by  
22                 the Secretary of Labor of an updated adverse  
23                 effect wage rate or prevailing wage for a State  
24                 and occupational classification shall not affect  
25                 the wage rate guaranteed in any approved job

1 order for which recruitment efforts have com-  
2 menced at the time of publication.

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

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

25 “(6) GUARANTEE OF EMPLOYMENT.—

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

18           “(B) FAILURE TO WORK.—Any hours  
19 which the worker fails to work, up to a max-  
20 imum of the number of hours specified in the  
21 job offer for a work day, when the worker has  
22 been offered an opportunity to do so, and all  
23 hours of work actually performed (including vol-  
24 untary work in excess of the number of hours  
25 specified in the job offer in a work day, on the

1 worker's Sabbath, or on Federal holidays) may  
2 be counted by the employer in calculating  
3 whether the period of guaranteed employment  
4 has been met.

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

12 “(D) CONTRACT IMPOSSIBILITY.—If, be-  
13 fore the expiration of the period of employment  
14 specified in the job offer, the services of the  
15 worker are no longer required for reasons be-  
16 yond the control of the employer due to any  
17 form of natural disaster before the guarantee in  
18 subparagraph (A) is fulfilled, the employer may  
19 terminate the worker's employment. In the  
20 event of such termination, the employer shall  
21 fulfill the employment guarantee in subpara-  
22 graph (A) for the work days that have elapsed  
23 from the first work day after the arrival of the  
24 worker to the termination of employment. The  
25 employer shall make efforts to transfer a work-

1 er to other comparable employment acceptable  
2 to the worker. If such transfer is not affected,  
3 the employer shall provide the return transpor-  
4 tation required in subsection (f)(2).

5 “(7) WAGE STANDARDS AFTER 2031.—

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

10 “(i) whether the employment of H–2A  
11 workers has depressed the wages of United  
12 States farm workers;

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

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

23 “(iv) whether any changes are war-  
24 ranted in the current methodologies for

1 calculating the adverse effect wage rate  
2 and the prevailing wage rate; and

3 “(v) recommendations for future wage  
4 protection under this section.

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

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

20 “(D) WAGE DETERMINATION AFTER  
21 2031.—Upon publication of the report described  
22 in subparagraph (B), the Secretary of Labor, in  
23 consultation with and the approval of the Sec-  
24 retary of Agriculture, shall make a rule to es-  
25 tablish a process for annually determining the

1 wage rate for purposes of paragraph (1)(B) for  
2 fiscal years after 2031. Such process shall be  
3 designed to ensure that the employment of H-  
4 2A workers does not undermine the wages and  
5 working conditions of similarly employed United  
6 States workers.

7 “(e) HOUSING REQUIREMENTS.—Employers shall  
8 furnish housing in accordance with regulations established  
9 by the Secretary of Labor. Such regulations shall be con-  
10 sistent with the following:

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

24 “(2) FAMILY HOUSING.—Except as otherwise  
25 provided in subsection (i)(5), the employer shall pro-



1       vide family housing to workers with families who re-  
2       quest it when it is the prevailing practice in the area  
3       and occupation of intended employment to provide  
4       family housing.

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

10          “(4) TIMING OF INSPECTION.—

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

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

21           “(i) an employer to request inspection  
22       of housing up to 60 days before the date  
23       on which the employer will file a petition  
24       under this section; and

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

5                   “(f) TRANSPORTATION REQUIREMENTS.—

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

14                  “(2) TRAVEL FROM PLACE OF EMPLOYMENT.—  
15                  For a worker who completes the period of employ-  
16                  ment specified in the job order or who is terminated  
17                  without cause, the employer shall provide or pay for  
18                  the worker’s transportation and subsistence from the  
19                  place of employment to the place from which the  
20                  worker, disregarding intervening employment, came  
21                  to work for the employer, or to the place of next em-  
22                  ployment, if the worker has contracted with a subse-  
23                  quent employer who has not agreed to provide or  
24                  pay for the worker’s transportation and subsistence  
25                  to such subsequent employer’s place of employment.

1 “(3) LIMITATION.—

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

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

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

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

21 “(g) HEAT ILLNESS PREVENTION PLAN.—

22 “(1) IN GENERAL.—The employer shall main-  
23 tain a reasonable plan that describes the employer’s  
24 procedures for the prevention of heat illness, includ-  
25 ing appropriate training, access to water and shade,

1 the provision of breaks, and the protocols for emer-  
2 gency response. Such plan shall—

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

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

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

15 “(h) H-2A PETITION PROCEDURES.—

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

18 “(A) IN GENERAL.—The employer shall  
19 submit information required for the adjudica-  
20 tion of the H-2A petition, including a job  
21 order, through the electronic platform no more  
22 than 75 calendar days and no fewer than 60  
23 calendar days before the employer’s first date of  
24 need specified in the petition.

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

13           “(C) PETITIONS INVOLVING STAGGERED  
14          ENTRY.—

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

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

24                   “(II) the multiple start dates  
25                   share a common end date;

1                   “(III) no more than 120 days  
2                   separate the first start date and the  
3                   final start date listed in the petition;  
4                   and

5                   “(IV) the need for multiple start  
6                   dates arises from variations in labor  
7                   needs associated with the job oppor-  
8                   tunity identified in the petition.

9                   “(ii) LABOR CONTRACTORS.—A labor  
10                  contractor may not file a petition described  
11                  in clause (i) unless the labor contractor—

12                  “(I) is filing as a joint employer  
13                  with its contractees, or is operating in  
14                  a State in which joint employment  
15                  and liability between the labor con-  
16                  tractor and its contractees is other-  
17                  wise established; or

18                  “(II) has posted and is maintain-  
19                  ing a premium surety bond as de-  
20                  scribed in subsection (1)(1).

21                  “(2) LABOR CERTIFICATION.—

22                  “(A) REVIEW OF JOB ORDER.—

23                  “(i) IN GENERAL.—The Secretary of  
24                  Labor, in consultation with the relevant  
25                  State workforce agency, shall review the

1 job order for compliance with this section  
2 and notify the employer through the elec-  
3 tronic platform of any deficiencies not later  
4 than 7 business days from the date the  
5 employer submits the necessary informa-  
6 tion required under paragraph (1)(A). The  
7 employer shall be provided 5 business days  
8 to respond to any such notice of deficiency.

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

21 “(iii) EMERGENCY PROCEDURES.—  
22 The Secretary of Labor shall establish  
23 emergency procedures for the curing of de-  
24 ficiencies that cannot be resolved during  
25 the period described in clause (i).

1                   “(B) APPROVAL OF JOB ORDER.—

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

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

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



1 any deficiency, and the employer shall be pro-  
2 vided 5 business days to cure such deficiency.

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

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

1 the time or place such labor or services are re-  
2 quired.

3 “(3) PETITION DECISION.—

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

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

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

22 “(D) POST-CERTIFICATION AMEND-  
23 MENTS.—The Secretary of Labor shall provide  
24 a process for amending a request for labor cer-  
25 tification in conjunction with an H-2A petition,

1 subsequent to certification by the Secretary of  
2 Labor, in cases in which the requested amend-  
3 ment does not materially change the petition  
4 (including the job order).

5 “(4) ROLES OF AGRICULTURAL ASSOCIA-  
6 TIONS.—

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

18 “(B) ASSOCIATION’S VIOLATION DOES NOT  
19 NECESSARILY DISQUALIFY MEMBERS.—

20 “(i) If an association representing ag-  
21 ricultural producers as a joint employer is  
22 determined to have committed an act that  
23 results in the denial of a petition with re-  
24 spect to the association, the denial shall  
25 apply only to the association and does not

1 apply to any individual producer member  
2 of the association unless the Secretary of  
3 Labor determines that the member partici-  
4 pated in, had knowledge of, or reason to  
5 know of, the violation.

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

22 “(5) SPECIAL PROCEDURES.—The Secretary of  
23 Labor, in consultation with the Secretary of Agri-  
24 culture and Secretary of Homeland Security, may by  
25 regulation establish alternate procedures that rea-

1 sonably modify program requirements under this  
2 section, when the Secretary determines that such  
3 modifications are required due to the unique nature  
4 of the work involved.

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

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

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

20 “(2) NUMERICAL LIMITATIONS.—

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

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

3 “(B) FISCAL YEARS 4 THROUGH 10.—

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

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

1           retaries shall consider appropriate factors,  
2           including—

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

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

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

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

19                  “(V) the estimated number of  
20                  United States workers, including  
21                  workers who obtained certified agri-  
22                  cultural worker status under title I of  
23                  the Farm Workforce Modernization  
24                  Act of 2021, who worked during the  
25                  preceding fiscal year in agricultural

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

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

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

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

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



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

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

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

15 “(D) EMERGENCY PROCEDURES.—The  
16 Secretary of Agriculture and Secretary of  
17 Labor, in consultation with the Secretary of  
18 Homeland Security, shall jointly establish by  
19 regulation procedures for immediately adjusting  
20 a numerical limitation imposed under subpara-  
21 graph (B) or (C) to account for significant  
22 labor shortages.

23 “(3) ALLOCATION OF VISAS.—

24 “(A) BI-ANNUAL ALLOCATION.—The an-  
25 nual allocation of visas described in paragraph

1 (2) shall be evenly allocated between two halves  
2 of the fiscal year unless the Secretary of Home-  
3 land Security, in consultation with the Sec-  
4 retary of Agriculture and Secretary of Labor,  
5 determines that an alternative allocation would  
6 better accommodate demand for visas. Any un-  
7 used visas in the first half of the fiscal year  
8 shall be added to the allocation for the subse-  
9 quent half of the same fiscal year.

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

12 “(i) IN GENERAL.—Of the visa num-  
13 bers made available in each half of the fis-  
14 cal year pursuant to subparagraph (A), 50  
15 percent of such visas shall be reserved for  
16 employers filing petitions seeking H-2A  
17 workers to engage in agricultural labor or  
18 services in the dairy industry.

19 “(ii) EXCEPTION.—If, after 4 months  
20 have elapsed in one half of the fiscal year,  
21 the Secretary of Homeland Security deter-  
22 mines that application of clause (i) will re-  
23 sult in visas going unused during that half  
24 of the fiscal year, clause (i) shall not apply

1 to visas under this paragraph during the  
2 remainder of such calendar half.

3 “(C) LIMITED ALLOCATION FOR CERTAIN  
4 SPECIAL PROCEDURES INDUSTRIES.—

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

11 “(ii) LIMITATION.—The total number  
12 of aliens in the United States in valid H–  
13 2A status under clause (i) at any one time  
14 may not exceed 500.

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

20 “(4) ANNUAL ROUND TRIP HOME.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(C) CLARIFICATION.—Nothing in this  
20 paragraph is intended to apply to persons or  
21 entities that are not seeking to employ workers  
22 under this section. Nothing in this paragraph is  
23 intended to limit any other Federal or State au-  
24 thority to promulgate, enforce, or maintain

1 health and safety standards related to the dairy  
2 industry.

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

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

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

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

20 “(2) VISA VALIDITY.—A visa issued to an H-  
21 2A worker shall be valid for 3 years and shall allow  
22 for multiple entries during the approved period of  
23 admission.

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

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

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

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



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

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

18 “(4) CONTINUING H–2A WORKERS.—

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

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

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

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

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

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

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

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

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

4 “(5) ABANDONMENT OF EMPLOYMENT.—

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

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

22 “(k) REQUIRED DISCLOSURES.—

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

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

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

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

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

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

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

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

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

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

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

13           “(1) LABOR CONTRACTORS.—

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

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

10           “(C) PREMIUM BOND.—A labor contractor  
11 seeking to file a petition involving more than  
12 one start date under subsection (h)(1)(C) shall  
13 maintain a surety bond that is at least 15 per-  
14 cent higher than the applicable bond amount  
15 determined by the Secretary under subpara-  
16 graph (B).

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

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

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

24          “(m) ENFORCEMENT AUTHORITY.—

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

9           “(2) COMPLAINT PROCESS.—

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

16           “(B) FILING.—A complaint referred to in  
17 subparagraph (A) may be filed not later than 2  
18 years after the date of the conduct that is the  
19 subject of the complaint.

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



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

19           “(E) DISPOSITION OF PENALTIES.—Civil  
20 penalties collected under this paragraph shall be  
21 deposited into the H-2A Labor Certification  
22 Fee Account established under section 203 of  
23 the Farm Workforce Modernization Act of  
24 2021.

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

5           “(A) under any other law, including any  
6 law affecting migrant and seasonal agricultural  
7 workers; or

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

9           “(4) RETALIATION PROHIBITED.—It is a viola-  
10 tion of this subsection for any person to intimidate,  
11 threaten, restrain, coerce, blacklist, discharge, or in  
12 any other manner discriminate against, or to cause  
13 any person to intimidate, threaten, restrain, coerce,  
14 blacklist, or in any manner discriminate against, an  
15 employee, including a former employee or an appli-  
16 cant for employment, because the employee—

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

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

1           “(C) cooperates or seeks to cooperate in an  
2           investigation or other proceeding concerning the  
3           employer’s compliance with the requirements  
4           under this section or any rule or regulation per-  
5           taining to this section; or

6           “(D) has taken steps to exercise or assert  
7           any right or protection under the provisions of  
8           this section, or any rule or regulation pertaining  
9           to this section, or any other relevant Federal,  
10          State, or local law.

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

22          “(n) DEFINITIONS.—In this section:

23                 “(1) DISPLACE.—The term ‘displace’ means to  
24                 lay off a similarly employed United States worker,  
25                 other than for lawful job-related reasons, in the oc-

1       cupation and area of intended employment for the  
2       job for which H-2A workers are sought.

3           “(2) H-2A WORKER.—The term ‘H-2A worker’  
4       means a nonimmigrant described in section  
5       101(a)(15)(H)(ii)(a).

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

11          “(4) ONLINE JOB REGISTRY.—The term ‘online  
12      job registry’ means the online job registry of the  
13      Secretary of Labor required under section 201(b) of  
14      the Farm Workforce Modernization Act of 2021 (or  
15      similar successor registry).

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

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

23           “(A) a citizen or national of the United  
24      States;

1           “(B) an alien who is lawfully admitted for  
2 permanent residence, is admitted as a refugee  
3 under section 207, is granted asylum under sec-  
4 tion 208, or is an immigrant otherwise author-  
5 ized to be employed in the United States;

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

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

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

14       “(1) FEES.—

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

22       “(B) DISTRIBUTION.—Fees collected  
23 under subparagraph (A) shall be deposited as  
24 offsetting receipts into the immigration exami-  
25 nations fee account in section 286(m), except

1 that the portion of fees assessed for the Sec-  
2 retary of Labor shall be deposited into the H-  
3 2A Labor Certification Fee Account established  
4 pursuant to section 203(c) of the Farm Work-  
5 force Modernization Act of 2021.

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

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

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

18 “(C) monitoring the terms and conditions  
19 under which H-2A workers (and United States  
20 workers employed by the same employers) are  
21 employed in the United States; and

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

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

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

5 (1) consulting with State workforce agencies  
6 to—

7 (A) review and process job orders;

8 (B) facilitate the recruitment and referral  
9 of able, willing and qualified United States  
10 workers who will be available at the time and  
11 place needed;

12 (C) determine prevailing wages and prac-  
13 tices; and

14 (D) conduct timely inspections to ensure  
15 compliance with applicable Federal, State, or  
16 local housing standards and Federal regulations  
17 for H–2A housing;

18 (2) determining whether the employer has met  
19 the conditions for approval of the H–2A petition de-  
20 scribed in section 218 of the Immigration and Na-  
21 tionality Act (8 U.S.C. 1188);

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

25 (4) determining whether the employer has com-  
26 plied or will comply with the H–2A program require-

1       ments set forth in section 218 of the Immigration  
2       and Nationality Act (8 U.S.C. 1188);

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

6             (6) referring any matter as appropriate to the  
7       Inspector General of the Department of Labor for  
8       investigation;

9             (7) ensuring that guidance to State workforce  
10      agencies to conduct wage surveys is regularly up-  
11      dated; and

12            (8) issuing such rules and regulations as are  
13      necessary to carry out the Secretary of Labor's re-  
14      sponsibilities under this Act and the amendments  
15      made by this Act.

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

20            (1) adjudicating petitions for the admission of  
21      H-2A workers, which shall include an assessment as  
22      to whether each beneficiary will be employed in ac-  
23      cordance with the terms and conditions of the cer-  
24      tification and whether any named beneficiaries qual-  
25      ify for such employment;



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

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

13          (4) investigating and preventing fraud in the  
14          program, including the utilization of H-2A workers  
15          for other than allowable agricultural labor or serv-  
16          ices; and

17          (5) issuing such rules and regulations as are  
18          necessary to carry out the Secretary of Homeland  
19          Security's responsibilities under this Act and the  
20          amendments made by this Act.

21          (c) ESTABLISHMENT OF ACCOUNT AND USE OF  
22          FUNDS.—

23                 (1) ESTABLISHMENT OF ACCOUNT.—There is  
24                 established in the general fund of the Treasury a  
25                 separate account, which shall be known as the “H-

1 2A Labor Certification Fee Account”. Notwith-  
2 standing any other provisions of law, there shall be  
3 deposited as offsetting receipts into the account all  
4 amounts—

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

8 (B) collected as a fee under section  
9 218(o)(1)(B) of the Immigration and Nation-  
10 ality Act.

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

1 line job registry, and program integrity activities.  
2 The Secretary, in determining what amounts to  
3 transfer to States for State administration in car-  
4 rying out activities in connection with labor certifi-  
5 cation under section 218 of the Immigration and  
6 Nationality Act shall consider the number of H-2A  
7 workers employed in that State and shall adjust the  
8 amount transferred to that State accordingly. In ad-  
9 dition, 10 percent of the amounts deposited into the  
10 H-2A Labor Certification Fee Account shall be  
11 available to the Office of Inspector General of the  
12 Department of Labor to conduct audits and criminal  
13 investigations relating to such foreign labor certifi-  
14 cation programs.

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

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

22 (a) **EQUALITY OF TREATMENT.**—H-2A workers shall  
23 not be denied any right or remedy under any Federal,  
24 State, or local labor or employment law applicable to

1 United States workers engaged in agricultural employ-  
2 ment.

3 (b) APPLICABILITY OF OTHER LAWS.—

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

9 (2) WAIVER OF RIGHTS PROHIBITED.—Agree-  
10 ments by H-2A workers to waive or modify any  
11 rights or protections under this Act or section 218  
12 of the Immigration and Nationality Act (8 U.S.C.  
13 1188) shall be considered void or contrary to public  
14 policy except as provided in a collective bargaining  
15 agreement with a bona fide labor organization.

16 (3) MEDIATION.—

17 (A) FREE MEDIATION SERVICES.—The  
18 Federal Mediation and Conciliation Service  
19 shall be available to assist in resolving disputes  
20 arising under this section between H-2A work-  
21 ers and agricultural employers without charge  
22 to the parties.

23 (B) COMPLAINT.—If an H-2A worker files  
24 a civil lawsuit alleging one or more violations of  
25 section 218 of the Immigration and Nationality

1 Act (8 U.S.C. 1188), the Fair Labor Standards  
2 Act of 1938 (29 U.S.C. 201 et seq.), or the Mi-  
3 grant and Seasonal Agricultural Worker Protec-  
4 tion Act (29 U.S.C. 1801 et seq.), not later  
5 than 60 days after the filing of proof of service  
6 of the complaint, a party to the lawsuit may file  
7 a request with the Federal Mediation and Con-  
8 ciliation Service to assist the parties in reaching  
9 a satisfactory resolution of all issues involving  
10 all parties to the dispute.

11 (C) NOTICE.—Upon filing a request under  
12 subparagraph (B) and giving of notice to the  
13 parties, the parties shall attempt mediation  
14 within the period specified in subparagraph  
15 (D), except that nothing in this paragraph shall  
16 limit the ability of a court to order preliminary  
17 injunctive relief to protect health and safety or  
18 to otherwise prevent irreparable harm.

19 (D) 90-DAY LIMIT.—The Federal Medi-  
20 ation and Conciliation Service may conduct me-  
21 diation or other nonbinding dispute resolution  
22 activities for a period not to exceed 90 days be-  
23 ginning on the date on which the Federal Medi-  
24 ation and Conciliation Service receives a request

1 for assistance under subparagraph (B) unless  
2 the parties agree to an extension of such period.

3 (E) AUTHORIZATION OF APPROPRIA-  
4 TIONS.—

5 (i) IN GENERAL.—Subject to clause  
6 (ii), there is authorized to be appropriated  
7 to the Federal Mediation and Conciliation  
8 Service, such sums as may be necessary for  
9 each fiscal year to carry out this subpara-  
10 graph.

11 (ii) MEDIATION.—Notwithstanding  
12 any other provision of law, the Director of  
13 the Federal Mediation and Conciliation  
14 Service is authorized—

15 (I) to conduct the mediation or  
16 other dispute resolution activities from  
17 any other account containing amounts  
18 available to the Director; and

19 (II) to reimburse such account  
20 with amounts appropriated pursuant  
21 to clause (i).

22 (F) PRIVATE MEDIATION.—If all parties  
23 agree, a private mediator may be employed as  
24 an alternative to the Federal Mediation and  
25 Conciliation Service.

1 (c) FARM LABOR CONTRACTOR REQUIREMENTS.—

2 (1) SURETY BONDS.—

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

7 “(e) A farm labor contractor shall maintain a surety  
8 bond in an amount determined by the Secretary to be suf-  
9 ficient for ensuring the ability of the farm labor contractor  
10 to discharge its financial obligations, including payment  
11 of wages and benefits to employees. Such a bond shall be  
12 available to satisfy any amounts ordered to be paid by the  
13 Secretary or by court order for failure to comply with the  
14 obligations of this Act. The Secretary of Labor shall annu-  
15 ally publish in the Federal Register a schedule of required  
16 bond amounts that are determined by such Secretary to  
17 be sufficient for farm labor contractors to discharge finan-  
18 cial obligations based on the number of workers to be cov-  
19 ered.”.

20 (B) REGISTRATION DETERMINATIONS.—

21 Section 103(a) of the Migrant and Seasonal Ag-  
22 ricultural Worker Protection Act (29 U.S.C.  
23 1813(a)), is amended—

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

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

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

5 (iv) by adding at the end the fol-  
6 lowing:

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

9 “(8) has been disqualified by the Secretary of  
10 Labor from importing nonimmigrants described in  
11 section 101(a)(15)(H)(ii) of the Immigration and  
12 Nationality Act.”.

13 (2) SUCCESSORS IN INTEREST.—

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

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

19 (ii) in paragraph (5), by striking the  
20 period at the end and inserting “; and”;  
21 and

22 (iii) by adding at the end the fol-  
23 lowing:

24 “(6) a declaration, subscribed and sworn to by  
25 the applicant, stating whether the applicant has a



1 familial, contractual, or employment relationship  
2 with, or shares vehicles, facilities, property, or em-  
3 ployees with, a person who has been refused  
4 issuance or renewal of a certificate, or has had a  
5 certificate suspended or revoked, pursuant to section  
6 103.”.

7 (B) REBUTTABLE PRESUMPTION.—Section  
8 103 of the Migrant and Seasonal Agricultural  
9 Worker Protection Act (29 U.S.C. 1813), as  
10 amended by this Act, is further amended by in-  
11 sserting after subsection (a) the following new  
12 subsection (and by redesignating the subse-  
13 quent subsections accordingly):

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

18 “(A) is the immediate family member of any  
19 person who has been refused issuance or renewal of  
20 a certificate, or has had a certificate suspended or  
21 revoked; and

22 “(B) identifies a vehicle, facility, or real prop-  
23 erty under paragraph (2) or (3) of section 102 that  
24 has been previously listed by a person who has been

1 refused issuance or renewal of a certificate, or has  
2 had a certificate suspended or revoked.

3 “(2) An applicant described in paragraph (1) bears  
4 the burden of demonstrating to the Secretary’s satisfac-  
5 tion that the applicant is the real party in interest in the  
6 application.”.

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

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

14 (1) whether, and the manner in which, the em-  
15 ployment of H-2A workers in the United States has  
16 impacted the wages, working conditions, or job op-  
17 portunities of United States farm workers;

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

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

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

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

11           (6) whether, and the manner in which, the H-  
12 2A program affects the ability of United States  
13 farms to compete with agricultural commodities im-  
14 ported from outside the United States;

15           (7) the number and percentage of farmworkers  
16 in the United States whose incomes are below the  
17 poverty line;

18           (8) whether alternative wage standards would  
19 be sufficient to prevent wages in occupations in  
20 which H-2A workers are employed from falling  
21 below the wage level that would have prevailed in the  
22 absence of the H-2A program;

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

1           (10) recommendations for future wage protec-  
2           tion under this section.

3           (b) In preparing the report described in subsection  
4 (a), the Secretary of Labor and Secretary of Agriculture  
5 shall engage with equal numbers of representatives of ag-  
6 ricultural employers and agricultural workers, both locally  
7 and nationally.

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

9           (a) ESTABLISHMENT OF PILOT PROGRAM.—

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

1 as such a worker shall be referred to as portable H-  
2 2A status.

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

19 (3) LIMITATION.—Notwithstanding the  
20 issuance of the regulation described in paragraph  
21 (1), the Secretary of State may not issue a portable  
22 H-2A visa and the Secretary of Homeland Security  
23 may not confer portable H-2A status on any alien  
24 until the Secretary of Homeland Security, in con-  
25 sultation with the Secretary of Labor and Secretary

1 of Agriculture, has determined that a sufficient  
2 number of employers have been designated as reg-  
3 istered agricultural employers under subsection  
4 (b)(1) and that such employers have sufficient job  
5 opportunities to employ a reasonable number of  
6 portable H-2A workers to initiate the pilot program.

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

9 (1) REGISTERED AGRICULTURAL EMPLOY-  
10 ERS.—

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

23 (B) LIMITATIONS.—Registered agricultural  
24 employers may employ aliens with portable H-  
25 2A status without filing a petition. Such em-

1           employers shall pay such aliens at least the wage  
2           required under section 218(d) of the Immigra-  
3           tion and Nationality Act (8 U.S.C. 1188(d)).

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

13          (2) DESIGNATED WORKERS.—

14           (A) IN GENERAL.—Individuals who have  
15           been previously admitted to the United States  
16           in H-2A status, and maintained such status  
17           during the period of admission, shall be pro-  
18           vided the opportunity to apply for portable H-  
19           2A status. Portable H-2A workers shall be sub-  
20           ject to the provisions on visa validity and peri-  
21           ods of authorized stay and admission for H-2A  
22           workers described in paragraphs (2) and (3) of  
23           section 218(j) of the Immigration and Nation-  
24           ality Act (8 U.S.C. 1188(j)(2) and (3)).

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

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

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

21 (C) SCOPE OF EMPLOYMENT.—During the  
22 period of admission, a portable H-2A worker  
23 may perform temporary or seasonal agricultural  
24 labor or services for any employer in the United  
25 States that is designated as a registered agri-



1 cultural employer pursuant to paragraph (1).  
2 An employment arrangement under this section  
3 may be terminated by either the portable H-2A  
4 worker or the registered agricultural employer  
5 at any time.

6 (D) TRANSFER TO NEW EMPLOYMENT.—  
7 At the cessation of employment with a reg-  
8 istered agricultural employer, a portable H-2A  
9 worker shall have 60 days to secure new em-  
10 ployment with a registered agricultural em-  
11 ployer.

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

21 (3) ENFORCEMENT.—The Secretary of Labor  
22 shall be responsible for conducting investigations  
23 and random audits of employers to ensure compli-  
24 ance with the employment-related requirements of  
25 this section, consistent with section 218(m) of the

1 Immigration and Nationality Act (8 U.S.C.  
2 1188(m)). The Secretary of Labor shall have the au-  
3 thority to collect reasonable civil penalties for viola-  
4 tions, which shall be utilized by the Secretary for the  
5 administration and enforcement of the provisions of  
6 this section.

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

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

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

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

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

6           (4) an assessment of the impact of the pilot  
7 program on the wages and working conditions of  
8 United States farm workers;

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

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

15           (7) an assessment as to whether the program  
16 should be continued and if so, any recommendations  
17 for improving the program; and

18           (8) findings and recommendations regarding ef-  
19 fective recruitment mechanisms, including use of  
20 new technology to match workers with employers  
21 and ensure compliance with applicable labor and em-  
22 ployment laws and regulations.

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

24           (a) **WORLDWIDE LEVEL.**—Section 201(d)(1)(A) of  
25 the Immigration and Nationality Act (8 U.S.C.

1 1151(d)(1)(A)) is amended by striking “140,000” and in-  
2 serting “180,000”.

3 (b) VISAS FOR FARMWORKERS.—Section 203(b) of  
4 the Immigration and Nationality Act (8 U.S.C. 1153(b))  
5 is amended—

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

8 (2) in paragraph (2)(A) by striking “28.6 per-  
9 cent of such worldwide level” and inserting  
10 “40,040”;

11 (3) in paragraph (3)—

12 (A) in subparagraph (A)—

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

16 (ii) by amending clause (iii) to read as  
17 follows:

18 “(iii) OTHER WORKERS.—Other quali-  
19 fied immigrants who, at the time of peti-  
20 tioning for classification under this para-  
21 graph—

22 “(I) are capable of performing  
23 unskilled labor, not of a temporary or  
24 seasonal nature, for which qualified

1 workers are not available in the  
2 United States; or

3 “(II) can demonstrate employ-  
4 ment in the United States as an H-  
5 2A nonimmigrant worker for at least  
6 100 days in each of at least 10  
7 years.”;

8 (B) by amending subparagraph (B) to read  
9 as follows:

10 “(B) VISAS ALLOCATED FOR OTHER  
11 WORKERS.—

12 “(i) IN GENERAL.—Except as pro-  
13 vided in clauses (ii) and (iii), 50,000 of the  
14 visas made available under this paragraph  
15 shall be reserved for qualified immigrants  
16 described in subparagraph (A)(iii).

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

21 “(I) qualified immigrants de-  
22 scribed in subparagraph (A)(iii)(I)  
23 who will be performing agricultural  
24 labor or services in the United States;  
25 and

1                   “(II) qualified immigrants de-  
2                   scribed in subparagraph (A)(iii)(II).

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

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

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

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

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

1 (c) PETITIONING PROCEDURE.—Section  
 2 204(a)(1)(E) of the Immigration and Nationality Act (8  
 3 U.S.C. 1154(a)(1)(E)) is amended by inserting “or  
 4 203(b)(3)(A)(iii)(II)” after “203(b)(1)(A)”.

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

10 **Subtitle B—Preservation and Con-**  
 11 **struction of Farmworker Hous-**  
 12 **ing**

13 **SEC. 220. SHORT TITLE.**

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

16 **SEC. 221. PERMANENT ESTABLISHMENT OF HOUSING PRES-**  
 17 **ERVATION AND REVITALIZATION PROGRAM.**

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

21 **“SEC. 545. HOUSING PRESERVATION AND REVITALIZATION**  
 22 **PROGRAM.**

23 “(a) ESTABLISHMENT.—The Secretary shall carry  
 24 out a program under this section for the preservation and

1 revitalization of multifamily rental housing projects fi-  
2 nanced under section 515 or both sections 514 and 516.

3 “(b) NOTICE OF MATURING LOANS.—

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

13 “(2) TO TENANTS.—

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



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

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

14                 “(1) reducing or eliminating interest;

15                 “(2) deferring loan payments;

16                 “(3) subordinating, reducing, or reamortizing  
17          loan debt; and

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

22          “(d) RENEWAL OF RENTAL ASSISTANCE.—When the  
23          Secretary offers to restructure a loan pursuant to sub-  
24          section (c), the Secretary shall offer to renew the rental  
25          assistance contract under section 521(a)(2) for a 20-year

1 term that is subject to annual appropriations, provided  
2 that the owner agrees to bring the property up to such  
3 standards that will ensure its maintenance as decent, safe,  
4 and sanitary housing for the full term of the rental assist-  
5 ance contract.

6 “(e) RESTRICTIVE USE AGREEMENTS.—

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

12 “(2) TERM.—

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

20 “(B) EXTENSION OF RENTAL ASSISTANCE  
21 CONTRACT.—If the Secretary enters into a 20-  
22 year extension of the rental assistance contract  
23 for a project, the term of the restrictive use  
24 agreement for the project shall be for 20 years.

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

7           “(f) DECOUPLING OF RENTAL ASSISTANCE.—

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

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

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

2           or

3           “(B) the operating cost adjustment factor  
4           as a payment standard as provided under sec-  
5           tion 524 of the Multifamily Assisted Housing  
6           Reform and Affordability Act of 1997 (42  
7           U.S.C. 1437 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  
16 is 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  
20 or have been prepaid and the owner has chosen not to  
21 restructure the loan pursuant to subsection (c), a tenant  
22 residing in such project shall have 18 months prior to loan  
23 maturation or prepayment to transfer the rental assist-  
24 ance assigned to the tenant’s unit to another rental project  
25 originally financed under section 515 or both sections 514

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

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  
7 \$1,000,000 for administrative expenses for carrying out  
8 such program.

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

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

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

17 “(c) ELIGIBILITY OF HOUSEHOLDS IN SECTIONS  
18 514, 515, AND 516 PROJECTS.—The Secretary may pro-  
19 vide rural housing vouchers under this section for any low-  
20 income household (including those not receiving rental as-  
21 sistance) residing, for a term longer than the remaining  
22 term of their lease in effect just prior to prepayment, in  
23 a property financed with a loan made or insured under  
24 section 514 or 515 (42 U.S.C. 1484, 1485) which has  
25 been prepaid without restrictions imposed by the Secretary

1 pursuant to section 502(c)(5)(G)(ii)(I) (42 U.S.C.  
2 1472(c)(5)(G)(ii)(I)), has been foreclosed, or has matured  
3 after September 30, 2005, or residing in a property as-  
4 sisted under section 514 or 516 that is owned by a non-  
5 profit organization or public agency.”.

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

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

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

15 Subsection (d) of section 521 of the Housing Act of  
16 1949 (42 U.S.C. 1490a(d)) is amended—

17 (1) in paragraph (1), by inserting after sub-  
18 paragraph (A) the following new subparagraph (and  
19 by redesignating the subsequent subparagraphs ac-  
20 cordingly):

21 “(B) upon request of an owner of a project fi-  
22 nanced under section 514 or 515, the Secretary is  
23 authorized to enter into renewal of such agreements  
24 for a period of 20 years or the term of the loan,

1       whichever is shorter, subject to amounts made avail-  
2       able in appropriations Acts;” and

3               (2) by adding at the end the following new  
4       paragraph:

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

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

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

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

20              “(B) except for assistance used as provided in  
21      subparagraph (A), the Secretary shall use such re-  
22      maining authority to provide such assistance on be-  
23      half of eligible families residing in other rental  
24      projects originally financed under section 515 or  
25      both 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 Sec-  
4 retary of Agriculture \$50,000,000 for fiscal year 2022 for  
5 improving the technology of the Department of Agri-  
6 culture used to process loans for multifamily housing and  
7 otherwise managing such housing. Such improvements  
8 shall be made within the 5-year period beginning upon the  
9 appropriation of such amounts and such amount shall re-  
10 main available 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  
17 of this Act, for preserving the affordability for low-income  
18 families of rental projects for which loans were made  
19 under section 515 or made to nonprofit or public agencies  
20 under section 514 and avoiding the displacement of tenant  
21 households, which shall—

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

24               (2) set forth the specific actions and mecha-  
25               nisms 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 Sec-  
10 retary shall establish an advisory committee whose  
11 purpose shall be to assist the Secretary in preserving  
12 section 515 properties and section 514 properties  
13 owned by nonprofit or public agencies through the  
14 multifamily housing preservation and revitalization  
15 program under section 545 and in implementing the  
16 plan required under subsection (a).

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

20                   (A) A State Director of Rural Develop-  
21                   ment 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 de-  
5           velopers or owners of multifamily rural rental  
6           housing.

7           (E) Two representatives of State housing  
8           finance agencies.

9           (F) Two representatives of tenants of mul-  
10          tifamily 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          sisted under sections 514, 515, and 516 of the  
15          Housing Act of 1949.

16          (H) One representative of a nonprofit or-  
17          ganization that operates nationally and has ac-  
18         >tively participated in the preservation of hous-  
19          ing assisted by the Rural Housing Service by  
20          conducting 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  
5           organizations representing farmworkers, includ-  
6           ing 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  
18               costs for preserving the portfolio as affordable  
19               housing.

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

1 program (MPR), and the rental assistance pro-  
2 gram and making recommendations regarding  
3 improvements and modifications to such policies  
4 and procedures.

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

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

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

15 **SEC. 227. COVERED HOUSING PROGRAMS.**

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

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

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

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

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

7 **SEC. 228. NEW FARMWORKER HOUSING.**

8           Section 513 of the Housing Act of 1949 (42 U.S.C.  
9 1483) is amended by adding at the end the following new  
10 subsection:

11           “(f) FUNDING FOR FARMWORKER HOUSING.—

12           “(1) SECTION 514 FARMWORKER HOUSING  
13 LOANS.—

14           “(A) INSURANCE AUTHORITY.—The Sec-  
15 retary of Agriculture may, to the extent ap-  
16 proved in appropriation Acts, insure loans  
17 under section 514 (42 U.S.C. 1484) during  
18 each of fiscal years 2022 through 2031 in an  
19 aggregate amount not to exceed \$200,000,000.

20           “(B) AUTHORIZATION OF APPROPRIATIONS  
21 FOR COSTS.—There is authorized to be appro-  
22 priated \$75,000,000 for each of fiscal years  
23 2022 through 2031 for costs (as such term is  
24 defined in section 502 of the Congressional  
25 Budget Act of 1974 (2 U.S.C. 661a)) of loans

1           insured pursuant the authority under subpara-  
2           graph (A).

3           “(2) SECTION 516 GRANTS FOR FARMWORKER  
4           HOUSING.—There is authorized to be appropriated  
5           \$30,000,000 for each of fiscal years 2022 through  
6           2031 for financial assistance under section 516 (42  
7           U.S.C. 1486).

8           “(3) SECTION 521 HOUSING ASSISTANCE.—  
9           There is authorized to be appropriated  
10          \$2,700,000,000 for each of fiscal years 2022  
11          through 2031 for rental assistance agreements en-  
12          tered into or renewed pursuant to section 521(a)(2)  
13          (42 U.S.C. 1490a(a)(2)) or agreements entered into  
14          in lieu of debt forgiveness or payments for eligible  
15          households as authorized by section 502(c)(5)(D).”.

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

17          Section 514 of the Housing Act of 1949 (42 U.S.C.  
18          1484) is amended by adding at the end the following:

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

1 **SEC. 230. OPERATING ASSISTANCE SUBSIDIES.**

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

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

8 (2) in subparagraph (B)—

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

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

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

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

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

1           the Secretary certifies that the project was  
2           unoccupied or underutilized before making  
3           units available to such farm labor, and  
4           that a grant under this section will not dis-  
5           place any farm worker who is a United  
6           States worker.”; and

7           (3) in subparagraph (D), by adding at the end  
8           the following:

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

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

15          Subsection (a) of section 214 of the Housing and  
16          Community Development Act of 1980 (42 U.S.C. 1436a)  
17          is amended—

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

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

22               (3) by inserting after paragraph (6) the fol-  
23               lowing:

24               “(7) an alien granted certified agricultural  
25               worker or certified agricultural dependent status



1 under title I of the Farm Workforce Modernization  
2 Act of 2021, but solely for financial assistance made  
3 available pursuant to section 521 or 542 of the  
4 Housing Act of 1949 (42 U.S.C. 1490a, 1490r);  
5 or”.

6 **Subtitle C—Foreign Labor**  
7 **Recruiter Accountability**

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

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

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

20 (1) require the applicant to submit a sworn dec-  
21 laration—

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

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

3 (C) including such other relevant informa-  
4 tion as the Secretary of Labor and the Sec-  
5 retary of State may require;

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

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

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

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

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

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

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

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

19          (3) REQUIRED DISCLOSURES.—The foreign  
20          labor recruiter shall ascertain and disclose to the  
21          worker in writing in English and in the primary lan-  
22          guage of the worker at the time of the worker's re-  
23          cruitment, the following information:

24                  (A) The identity and address of the em-  
25                  ployer and the identity and address of the per-

1 son conducting the recruiting on behalf of the  
2 employer, including each subcontractor or agent  
3 involved in such recruiting.

4 (B) A copy of the approved job order or  
5 work contract under section 218 of the Immi-  
6 gration and Nationality Act, including all assur-  
7 ances and terms and conditions of employment.

8 (C) A statement, in a form specified by the  
9 Secretary—

10 (i) describing the general terms and  
11 conditions associated with obtaining an H-  
12 2A visa and maintaining H-2A status;

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

18 (iii) describing the protections af-  
19 farded the worker under this subtitle, in-  
20 cluding procedures for reporting violations  
21 to the Secretary of State, filing a com-  
22 plaint with the Secretary of Labor, or fil-  
23 ing a civil action; and

24 (iv) describing the protections af-  
25 farded the worker by section 202 of the

1 William Wilberforce Trafficking Victims  
2 Protection Reauthorization Act of 2008 (8  
3 U.S.C. 1375b), including the telephone  
4 number for the national human trafficking  
5 resource center hotline number.

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

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

18 (6) NO RETALIATION.—The foreign labor re-  
19 cruter shall agree to refrain from intimidating,  
20 threatening, restraining, coercing, discharging,  
21 blacklisting or in any other manner discriminating  
22 or retaliating against any worker or their family  
23 members (including a former worker or an applicant  
24 for employment) because such worker disclosed in-  
25 formation to any person based on a reason to believe

1 that the foreign labor recruiter, or any agent or sub-  
2 contractee of such foreign labor recruiter, is engag-  
3 ing or has engaged in a foreign labor recruiting ac-  
4 tivity that does not comply with this subtitle.

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

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

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

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

6           (f) NOTIFICATION.—

7               (1) EMPLOYER NOTIFICATION.—

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

18                   (B) AGREEMENT TO COOPERATE.—In ad-  
19 dition to the requirements of subparagraph (A),  
20 the employer shall—

21                       (i) provide to the Secretary the iden-  
22 tity of any foreign labor recruiter whom  
23 the employer has reason to believe is en-  
24 gaging in foreign labor recruiting activities  
25 that do not comply with this subtitle; and

1 (ii) promptly respond to any request  
2 by the Secretary for information regarding  
3 the identity of a foreign labor recruiter  
4 with whom the employer has a contract or  
5 other agreement.

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

13 (g) ADDITIONAL RESPONSIBILITIES OF THE SEC-  
14 RETARY OF STATE.—

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

22 (A) of foreign labor recruiters who hold  
23 valid registrations under this section, includ-  
24 ing—



1 (i) the name and address of the for-  
2 eign labor recruiter;

3 (ii) the countries in which such re-  
4 cruiters conduct recruitment;

5 (iii) the employers for whom recruit-  
6 ing is conducted;

7 (iv) the occupations that are the sub-  
8 ject of recruitment;

9 (v) the States where recruited workers  
10 are employed; and

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

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

17 (2) PERSONNEL.—The Secretary of State shall  
18 ensure that each United States diplomatic mission is  
19 staffed with a person who shall be responsible for re-  
20 ceiving information from members of the public re-  
21 garding potential violations of the requirements ap-  
22 plicable to registered foreign labor recruiters and en-  
23 suring that such information is conveyed to the Sec-  
24 retary of Labor for evaluation and initiation of an  
25 enforcement action, if appropriate.

1           (3) VISA APPLICATION PROCEDURES.—The Sec-  
2           retary shall ensure that consular officers issuing  
3           visas to nonimmigrants under section  
4           101(a)(1)(H)(ii)(a) of the Immigration and Nation-  
5           ality Act (8 U.S.C. 11001(a)(1)(H)(ii)(a))—

6           (A) provide to and review with the appli-  
7           cant, in the applicant’s language (or a language  
8           the applicant understands), a copy of the infor-  
9           mation and resources pamphlet required by sec-  
10          tion 202 of the William Wilberforce Trafficking  
11          Victims Protection Reauthorization Act of 2008  
12          (8 U.S.C. 1375b);

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

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

18          (D) if the foreign labor recruiter holds a  
19          valid registration, review and include in the visa  
20          application file, the foreign labor recruiter’s dis-  
21          closures required by subsection (c)(3).

22          (4) DATA.—The Secretary of State shall make  
23          publicly available online, on an annual basis, data  
24          disclosing the gender, country of origin (and State,  
25          county, or province, if available), age, wage, level of

1 training, and occupational classification,  
2 disaggregated by State, of nonimmigrant workers  
3 described in section 101(a)(15)(H)(ii)(a) of the Im-  
4 migration and Nationality Act.

5 **SEC. 252. ENFORCEMENT.**

6 (a) DENIAL OR REVOCATION OF REGISTRATION.—

7 (1) GROUNDS FOR DENIAL OR REVOCATION.—

8 The Secretary shall deny an application for registra-  
9 tion, or revoke a registration, if the Secretary deter-  
10 mines that the foreign labor recruiter, or any agent  
11 or subcontractee of such foreign labor recruiter—

12 (A) knowingly made a material misrepre-  
13 sentation in the registration application;

14 (B) materially failed to comply with one or  
15 more of the attestations provided under section  
16 251(c); or

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

18 (2) NOTICE.—Prior to denying an application  
19 for registration or revoking a registration under this  
20 subsection, the Secretary shall provide written notice  
21 of the intent to deny or revoke the registration to  
22 the foreign labor recruiter. Such notice shall—

23 (A) articulate with specificity all grounds  
24 for denial or revocation; and

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

3 (3) RE-REGISTRATION.—A foreign labor re-  
4 cruiter whose registration was revoked under sub-  
5 section (a) may re-register if the foreign labor re-  
6 cruiter demonstrates to the Secretary's satisfaction  
7 that the foreign labor recruiter has not violated this  
8 subtitle in the 5 years preceding the date an applica-  
9 tion for registration is filed and has taken sufficient  
10 steps to prevent future violations of this subtitle.

11 (b) ADMINISTRATIVE ENFORCEMENT.—

12 (1) COMPLAINT PROCESS.—

13 (A) FILING.—A complaint may be filed  
14 with the Secretary of Labor, in accordance with  
15 the procedures established under section  
16 251(b)(4) not later than 2 years after the ear-  
17 lier of—

18 (i) the date of the last action which  
19 constituted the conduct that is the subject  
20 of the complaint took place; or

21 (ii) the date on which the aggrieved  
22 party had actual knowledge of such con-  
23 duct.

24 (B) DECISION AND PENALTIES.—If the  
25 Secretary of Labor finds, after notice and an

1 opportunity for a hearing, that a foreign labor  
2 recruiter failed to comply with any of the re-  
3 quirements of this subtitle, the Secretary of  
4 Labor may—

5 (i) levy a fine against the foreign  
6 labor recruiter in an amount not more  
7 than—

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

9 (II) \$25,000 per violation, upon  
10 the third violation;

11 (ii) order the forfeiture (or partial for-  
12 feiture) of the bond and release of as much  
13 of the bond as the Secretary determines is  
14 necessary for the worker to recover prohib-  
15 ited recruitment fees;

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

18 (iv) disqualify the foreign labor re-  
19 cruiter from registration for a period of up  
20 to 5 years, or in the case of a subsequent  
21 finding involving willful or multiple mate-  
22 rial violations, permanently disqualify the  
23 foreign labor recruiter from registration.

24 (2) AUTHORITY TO ENSURE COMPLIANCE.—The  
25 Secretary of Labor is authorized to take other such

1 actions, including issuing subpoenas and seeking ap-  
2 propriate injunctive relief, as may be necessary to  
3 assure compliance with the terms and conditions of  
4 this subtitle.

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

9 (A) under any other law, including any law  
10 affecting migrant and seasonal agricultural  
11 workers; or

12 (B) in the absence of a complaint.

13 (c) CIVIL ACTION.—

14 (1) IN GENERAL.—The Secretary of Labor or  
15 any person aggrieved by a violation of this subtitle  
16 may bring a civil action against any foreign labor re-  
17 cruiter, or any employer that does not meet the re-  
18 quirements under subsection (d)(1), in any court of  
19 competent jurisdiction—

20 (A) to seek remedial action, including in-  
21 junctive relief; and

22 (B) for damages in accordance with the  
23 provisions of this subsection.

24 (2) AWARD FOR CIVIL ACTION FILED BY AN IN-  
25 DIVIDUAL.—

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

5 (i) damages, up to and including an  
6 amount equal to the amount of actual  
7 damages, and statutory damages of up to  
8 \$1,000 per plaintiff per violation, or other  
9 equitable relief, except that with respect to  
10 statutory damages—

11 (I) multiple infractions of a sin-  
12 gle provision of this subtitle (or of a  
13 regulation under this subtitle) shall  
14 constitute only one violation for pur-  
15 poses of this subsection to determine  
16 the amount of statutory damages due  
17 a plaintiff; and

18 (II) if such complaint is certified  
19 as a class action the court may  
20 award—

21 (aa) damages up to an  
22 amount equal to the amount of  
23 actual damages; and

24 (bb) statutory damages of  
25 not more than the lesser of up to

1                   \$1,000 per class member per vio-  
2                   lation, or up to \$500,000; and  
3                   other equitable relief;

4                   (ii) reasonable attorneys' fees and  
5                   costs; and

6                   (iii) such other and further relief as  
7                   necessary to effectuate the purposes of this  
8                   subtitle.

9                   (B) CRITERIA.—In determining the  
10                  amount of statutory damages to be awarded  
11                  under subparagraph (A), the court is author-  
12                  ized to consider whether an attempt was made  
13                  to resolve the issues in dispute before the resort  
14                  to litigation.

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

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

21                  (A) ESTABLISHMENT OF ACCOUNT.—

22                  There is established in the general fund of the  
23                  Treasury a separate account, which shall be  
24                  known as the "H-2A Foreign Labor Recruiter  
25                  Compensation Account". Notwithstanding any



1 other provisions of law, there shall be deposited  
2 as offsetting receipts into the account, all sums  
3 recovered in an action by the Secretary of  
4 Labor under this subsection.

5 (B) USE OF FUNDS.—Amounts deposited  
6 into the H-2A Foreign Labor Recruiter Com-  
7 pensation Account and shall be paid directly to  
8 each worker affected. Any such sums not paid  
9 to a worker because of inability to do so within  
10 a period of 5 years following the date such  
11 funds are deposited into the account shall re-  
12 main available to the Secretary until expended.  
13 The Secretary may transfer all or a portion of  
14 such remaining sums to appropriate agencies to  
15 support the enforcement of the laws prohibiting  
16 the trafficking and exploitation of persons or  
17 programs that aid trafficking victims.

18 (d) EMPLOYER SAFE HARBOR.—

19 (1) IN GENERAL.—An employer that hires  
20 workers referred by a foreign labor recruiter with a  
21 valid registration at the time of hiring shall not be  
22 held jointly liable for a violation committed solely by  
23 a foreign labor recruiter under this subtitle—

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

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

5 (2) CLARIFICATION.—Nothing in this subtitle  
6 shall be construed to prohibit an aggrieved party or  
7 parties from bringing a civil action for violations of  
8 this subtitle or any other Federal or State law  
9 against any employer who hired workers referred by  
10 a foreign labor recruiter—

11 (A) without a valid registration at the time  
12 of hire; or

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

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

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

1 (g) LIABILITY FOR AGENTS.—Foreign labor recruit-  
2 ers shall be subject to the provisions of this section for  
3 violations committed by the foreign labor recruiter’s  
4 agents or subcontractees of any level in relation to their  
5 foreign labor recruiting activity to the same extent as if  
6 the foreign labor recruiter had committed the violation.

7 **SEC. 253. APPROPRIATIONS.**

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

11 **SEC. 254. DEFINITIONS.**

12 For purposes of this subtitle:

13 (1) FOREIGN LABOR RECRUITER.—The term  
14 “foreign labor recruiter” means any person who per-  
15 forms foreign labor recruiting activity in exchange  
16 for money or other valuable consideration paid or  
17 promised to be paid, to recruit individuals to work  
18 as nonimmigrant workers described in section  
19 101(a)(15)(H)(ii)(a) of the Immigration and Nation-  
20 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), including  
21 any person who performs foreign labor recruiting ac-  
22 tivity wholly outside of the United States. Such term  
23 does not include any entity of the United States  
24 Government or an employer, or employee of an em-  
25 ployer, who engages in foreign labor recruiting activ-

1       ity solely to find employees for that employer’s own  
2       use, and without the participation of any other for-  
3       eign labor recruiter.

4               (2) FOREIGN LABOR RECRUITING ACTIVITY.—  
5       The term “foreign labor recruiting activity” means  
6       recruiting, soliciting, or related activities with re-  
7       spect to an individual who resides outside of the  
8       United States in furtherance of employment in the  
9       United States, including when such activity occurs  
10      wholly outside of the United States.

11              (3) RECRUITMENT FEES.—The term “recruit-  
12      ment fees” has the meaning given to such term  
13      under section 22.1702 of title 22 of the Code of  
14      Federal Regulations, as in effect on the date of en-  
15      actment of this Act.

16              (4) PERSON.—The term “person” means any  
17      natural person or any corporation, company, firm,  
18      partnership, joint stock company or association or  
19      other organization or entity (whether organized  
20      under law or not), including municipal corporations.

1 **TITLE III—ELECTRONIC VERIFI-**  
2 **CATION OF EMPLOYMENT**  
3 **ELIGIBILITY**

4 **SEC. 301. ELECTRONIC EMPLOYMENT ELIGIBILITY**  
5 **VERIFICATION SYSTEM.**

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

9 **“SEC. 274E. REQUIREMENTS FOR THE ELECTRONIC**  
10 **VERIFICATION OF EMPLOYMENT ELIGI-**  
11 **BILITY.**

12 “(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-  
13 TEM.—

14 “(1) IN GENERAL.—The Secretary of Homeland  
15 Security (referred to in this section as the ‘Sec-  
16 retary’) shall establish and administer an electronic  
17 verification system (referred to in this section as the  
18 ‘System’), patterned on the E-Verify Program de-  
19 scribed in section 403(a) of the Illegal Immigration  
20 Reform and Immigrant Responsibility Act of 1996  
21 (8 U.S.C. 1324a note) (as in effect on the day be-  
22 fore the effective date described in section 303(a)(4)  
23 of the Farm Workforce Modernization Act of 2021),  
24 and using the employment eligibility confirmation  
25 system established under section 404 of such Act (8

1 U.S.C. 1324a note) (as so in effect) as a foundation,  
2 through which the Secretary shall—

3 “(A) respond to inquiries made by persons  
4 or entities seeking to verify the identity and em-  
5 ployment authorization of individuals that such  
6 persons or entities seek to hire, or to recruit or  
7 refer for a fee, for employment in the United  
8 States; and

9 “(B) maintain records of the inquiries that  
10 were made, and of verifications provided (or not  
11 provided) to such persons or entities as evidence  
12 of compliance with the requirements of this sec-  
13 tion.

14 “(2) INITIAL RESPONSE DEADLINE.—The Sys-  
15 tem shall provide confirmation or a tentative non-  
16 confirmation of an individual’s identity and employ-  
17 ment authorization as soon as practicable, but not  
18 later than 3 calendar days after the initial inquiry.

19 “(3) GENERAL DESIGN AND OPERATION OF  
20 SYSTEM.—The Secretary shall design and operate  
21 the System—

22 “(A) using responsive web design and  
23 other technologies to maximize its ease of use  
24 and accessibility for users on a variety of elec-

1           tronic devices and screen sizes, and in remote  
2           locations;

3           “(B) to maximize the accuracy of re-  
4           sponses to inquiries submitted by persons or en-  
5           tities;

6           “(C) to maximize the reliability of the Sys-  
7           tem and to register each instance when the Sys-  
8           tem is unable to receive inquiries;

9           “(D) to protect the privacy and security of  
10          the personally identifiable information main-  
11          tained by or submitted to the System;

12          “(E) to provide direct notification of an in-  
13          quiry to an individual with respect to whom the  
14          inquiry is made, including the results of such  
15          inquiry, and information related to the process  
16          for challenging the results, in cases in which the  
17          individual has established a user account as de-  
18          scribed in paragraph (4)(B) or an electronic  
19          mail address for the individual is submitted by  
20          the person or entity at the time the inquiry is  
21          made; and

22          “(F) to maintain appropriate administra-  
23          tive, technical, and physical safeguards to pre-  
24          vent misuse of the System and unfair immigra-  
25          tion-related employment practices.

1           “(4) MEASURES TO PREVENT IDENTITY THEFT  
2           AND OTHER FORMS OF FRAUD.—To prevent identity  
3           theft and other forms of fraud, the Secretary shall  
4           design and operate the System with the following at-  
5           tributes:

6                   “(A) PHOTO MATCHING TOOL.—The Sys-  
7                   tem shall display the digital photograph of the  
8                   individual, if any, that corresponds to the docu-  
9                   ment presented by an individual to establish  
10                  identity and employment authorization so that  
11                  the person or entity that makes an inquiry can  
12                  compare the photograph displayed by the Sys-  
13                  tem to the photograph on the document pre-  
14                  sented by the individual.

15                  “(B) INDIVIDUAL MONITORING AND SUS-  
16                  PENSION OF IDENTIFYING INFORMATION.—The  
17                  System shall enable individuals to establish user  
18                  accounts, after authentication of an individual’s  
19                  identity, that would allow an individual to—

20                          “(i) confirm the individual’s own em-  
21                          ployment authorization;

22                          “(ii) receive electronic notification  
23                          when the individual’s social security ac-  
24                          count number or other personally identi-



1           fying information has been submitted to  
2           the System;

3           “(iii) monitor the use history of the  
4           individual’s personally identifying informa-  
5           tion in the System, including the identities  
6           of all persons or entities that have sub-  
7           mitted such identifying information to the  
8           System, the date of each query run, and  
9           the System response for each query run;

10          “(iv) suspend or limit the use of the  
11          individual’s social security account number  
12          or other personally identifying information  
13          for purposes of the System; and

14          “(v) provide notice to the Department  
15          of Homeland Security of any suspected  
16          identity fraud or other improper use of  
17          personally identifying information.

18          “(C) BLOCKING MISUSED SOCIAL SECU-  
19          RITY ACCOUNT NUMBERS.—

20          “(i) IN GENERAL.—The Secretary, in  
21          consultation with the Commissioner of So-  
22          cial Security (referred to in this section as  
23          the ‘Commissioner’), shall develop, after  
24          publication in the Federal Register and an  
25          opportunity for public comment, a process

1 in which social security account numbers  
2 that have been identified to be subject to  
3 unusual multiple use in the System or that  
4 are otherwise suspected or determined to  
5 have been compromised by identity fraud  
6 or other misuse, shall be blocked from use  
7 in the System unless the individual using  
8 such number is able to establish, through  
9 secure and fair procedures, that the indi-  
10 vidual is the legitimate holder of the num-  
11 ber.

12 “(ii) NOTICE.—If the Secretary blocks  
13 or suspends a social security account num-  
14 ber under this subparagraph, the Secretary  
15 shall provide notice to the persons or enti-  
16 ties that have made inquiries to the Sys-  
17 tem using such account number that the  
18 identity and employment authorization of  
19 the individual who provided such account  
20 number must be re-verified.

21 “(D) ADDITIONAL IDENTITY AUTHENTICA-  
22 TION TOOL.—The Secretary shall develop, after  
23 publication in the Federal Register and an op-  
24 portunity for public comment, additional secu-  
25 rity measures to adequately verify the identity

1 of an individual whose identity may not be  
2 verified using the photo tool described in sub-  
3 paragraph (A). Such additional security meas-  
4 ures—

5 “(i) shall be kept up-to-date with  
6 technological advances; and

7 “(ii) shall be designed to provide a  
8 high level of certainty with respect to iden-  
9 tity authentication.

10 “(E) CHILD-LOCK PILOT PROGRAM.—The  
11 Secretary, in consultation with the Commis-  
12 sioner, shall establish a reliable, secure program  
13 through which parents or legal guardians may  
14 suspend or limit the use of the social security  
15 account number or other personally identifying  
16 information of a minor under their care for  
17 purposes of the System. The Secretary may im-  
18 plement the program on a limited pilot basis be-  
19 fore making it fully available to all individuals.

20 “(5) RESPONSIBILITIES OF THE COMMISSIONER  
21 OF SOCIAL SECURITY.—The Commissioner, in con-  
22 sultation with the Secretary, shall establish a reli-  
23 able, secure method, which, within the time periods  
24 specified in paragraph (2) and subsection  
25 (b)(4)(D)(i)(II), compares the name and social secu-

1 rity account number provided in an inquiry against  
2 such information maintained by the Commissioner in  
3 order to validate (or not validate) the information  
4 provided by the person or entity with respect to an  
5 individual whose identity and employment authoriza-  
6 tion the person or entity seeks to confirm, the cor-  
7 respondence of the name and number, and whether  
8 the individual has presented a social security ac-  
9 count number that is not valid for employment. The  
10 Commissioner shall not disclose or release social se-  
11 curity information (other than such confirmation or  
12 nonconfirmation) under the System except as pro-  
13 vided under this section.

14 “(6) RESPONSIBILITIES OF THE SECRETARY OF  
15 HOMELAND SECURITY.—

16 “(A) IN GENERAL.—The Secretary of  
17 Homeland Security shall establish a reliable, se-  
18 cure method, which, within the time periods  
19 specified in paragraph (2) and subsection  
20 (b)(4)(D)(i)(II), compares the name and identi-  
21 fication or other authorization number (or any  
22 other information determined relevant by the  
23 Secretary) which are provided in an inquiry  
24 against such information maintained or  
25 accessed by the Secretary in order to validate

1 (or not validate) the information provided, the  
2 correspondence of the name and number, and  
3 whether the individual is authorized to be em-  
4 ployed in the United States.

5 “(B) TRAINING.—The Secretary shall pro-  
6 vide and regularly update training materials on  
7 the use of the System for persons and entities  
8 making inquiries.

9 “(C) AUDIT.—The Secretary shall provide  
10 for periodic auditing of the System to detect  
11 and prevent misuse, discrimination, fraud, and  
12 identity theft, to protect privacy and assess  
13 System accuracy, and to preserve the integrity  
14 and security of the information in the System.

15 “(D) NOTICE OF SYSTEM CHANGES.—The  
16 Secretary shall provide appropriate notification  
17 to persons and entities registered in the System  
18 of any change made by the Secretary or the  
19 Commissioner related to permitted and prohib-  
20 ited documents, and use of the System.

21 “(7) RESPONSIBILITIES OF THE SECRETARY OF  
22 STATE.—As part of the System, the Secretary of  
23 State shall provide to the Secretary of Homeland Se-  
24 curity access to passport and visa information as  
25 needed to confirm that a passport or passport card

1 presented under subsection (b)(3)(A)(i) confirms the  
2 employment authorization and identity of the indi-  
3 vidual presenting such document, and that a pass-  
4 port, passport card, or visa photograph matches the  
5 Secretary of State’s records, and shall provide such  
6 assistance as the Secretary of Homeland Security  
7 may request in order to resolve tentative noncon-  
8 firmations or final nonconfirmations relating to such  
9 information.

10 “(8) UPDATING INFORMATION.—The Commis-  
11 sioner, the Secretary of Homeland Security, and the  
12 Secretary of State shall update records in their cus-  
13 tody in a manner that promotes maximum accuracy  
14 of the System and shall provide a process for the  
15 prompt correction of erroneous information, includ-  
16 ing instances in which it is brought to their atten-  
17 tion through the tentative nonconfirmation review  
18 process under subsection (b)(4)(D).

19 “(9) MANDATORY AND VOLUNTARY SYSTEM  
20 USES.—

21 “(A) MANDATORY USERS.—Except as oth-  
22 erwise provided under Federal or State law,  
23 such as sections 302 and 303 of the Farm  
24 Workforce Modernization Act of 2021, nothing  
25 in this section shall be construed as requiring

1 the use of the System by any person or entity  
2 hiring, recruiting, or referring for a fee, an in-  
3 dividual for employment in the United States.

4 “(B) VOLUNTARY USERS.—Beginning  
5 after the date that is 30 days after the date on  
6 which final rules are published under section  
7 309(a) of the Farm Workforce Modernization  
8 Act of 2021, a person or entity may use the  
9 System on a voluntary basis to seek verification  
10 of the identity and employment authorization of  
11 individuals the person or entity is hiring, re-  
12 cruiting, or referring for a fee for employment  
13 in the United States.

14 “(C) PROCESS FOR NON-USERS.—The em-  
15 ployment verification process for any person or  
16 entity hiring, recruiting, or referring for a fee,  
17 an individual for employment in the United  
18 States shall be governed by section 274A(b) un-  
19 less the person or entity—

20 “(i) is required by Federal or State  
21 law to use the System; or

22 “(ii) has opted to use the System vol-  
23 untarily in accordance with subparagraph  
24 (B).

1           “(10) NO FEE FOR USE.—The Secretary may  
2           not charge a fee to an individual, person, or entity  
3           related to the use of the System.

4           “(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—  
5           Notwithstanding section 274A(b), the requirements re-  
6           ferred to in paragraphs (1)(B) and (3) of section 274A(a)  
7           are, in the case of a person or entity that uses the System  
8           for the hiring, recruiting, or referring for a fee, an indi-  
9           vidual for employment in the United States, the following:

10           “(1) INDIVIDUAL ATTESTATION OF EMPLOY-  
11           MENT AUTHORIZATION.—During the period begin-  
12           ning on the date on which an offer of employment  
13           is accepted and ending on the date of hire, the indi-  
14           vidual shall attest, under penalty of perjury on a  
15           form designated by the Secretary, that the individual  
16           is authorized to be employed in the United States by  
17           providing on such form—

18           “(A) the individual’s name and date of  
19           birth;

20           “(B) the individual’s social security ac-  
21           count number (unless the individual has applied  
22           for and not yet been issued such a number);

23           “(C) whether the individual is—

24           “(i) a citizen or national of the United  
25           States;



1           “(ii) an alien lawfully admitted for  
2 permanent residence; or

3           “(iii) an alien who is otherwise au-  
4 thorized by the Secretary to be hired, re-  
5 cruited, or referred for employment in the  
6 United States; and

7           “(D) if the individual does not attest to  
8 United States citizenship or nationality, such  
9 identification or other authorization number es-  
10 tablished by the Department of Homeland Se-  
11 curity for the alien as the Secretary may speci-  
12 fy.

13           “(2) EMPLOYER ATTESTATION AFTER EXAM-  
14 INATION OF DOCUMENTS.—Not later than 3 busi-  
15 ness days after the date of hire, the person or entity  
16 shall attest, under penalty of perjury on the form  
17 designated by the Secretary for purposes of para-  
18 graph (1), that it has verified that the individual is  
19 not an unauthorized alien by—

20           “(A) obtaining from the individual the in-  
21 formation described in paragraph (1) and re-  
22 cording such information on the form;

23           “(B) examining—

24           “(i) a document described in para-  
25 graph (3)(A); or

1           “(ii) a document described in para-  
2           graph (3)(B) and a document described in  
3           paragraph (3)(C); and

4           “(C) attesting that the information re-  
5           corded on the form is consistent with the docu-  
6           ments examined.

7           “(3) ACCEPTABLE DOCUMENTS.—

8           “(A) DOCUMENTS ESTABLISHING EMPLOY-  
9           MENT AUTHORIZATION AND IDENTITY.—A doc-  
10          ument described in this subparagraph is an in-  
11          dividual’s—

12           “(i) United States passport or pass-  
13           port card;

14           “(ii) permanent resident card that  
15           contains a photograph;

16           “(iii) foreign passport containing tem-  
17           porary evidence of lawful permanent resi-  
18           dence in the form of an official I-551 (or  
19           successor) stamp from the Department of  
20           Homeland Security or a printed notation  
21           on a machine-readable immigrant visa;

22           “(iv) unexpired employment author-  
23           ization card that contains a photograph;

24           “(v) in the case of a nonimmigrant  
25           alien authorized to engage in employment

1 for a specific employer incident to status,  
2 a foreign passport with Form I-94, Form  
3 I-94A, or other documentation as des-  
4 ignated by the Secretary specifying the  
5 alien's nonimmigrant status as long as  
6 such status has not yet expired and the  
7 proposed employment is not in conflict  
8 with any restrictions or limitations identi-  
9 fied in the documentation;

10 “(vi) passport from the Federated  
11 States of Micronesia or the Republic of the  
12 Marshall Islands with Form I-94, Form I-  
13 94A, or other documentation as designated  
14 by the Secretary, indicating nonimmigrant  
15 admission under the Compact of Free As-  
16 sociation Between the United States and  
17 the Federated States of Micronesia or the  
18 Republic of the Marshall Islands; or

19 “(vii) other document designated by  
20 the Secretary, by notice published in the  
21 Federal Register, if the document—

22 “(I) contains a photograph of the  
23 individual, biometric identification  
24 data, and other personal identifying  
25 information relating to the individual;

1                   “(II) is evidence of authorization  
2                   for employment in the United States;  
3                   and

4                   “(III) contains security features  
5                   to make it resistant to tampering,  
6                   counterfeiting, and fraudulent use.

7                   “(B) DOCUMENTS ESTABLISHING EMPLOY-  
8                   MENT AUTHORIZATION.—A document described  
9                   in this subparagraph is—

10                   “(i) an individual’s social security ac-  
11                   count number card (other than such a card  
12                   which specifies on the face that the  
13                   issuance of the card does not authorize em-  
14                   ployment in the United States); or

15                   “(ii) a document establishing employ-  
16                   ment authorization that the Secretary de-  
17                   termines, by notice published in the Fed-  
18                   eral Register, to be acceptable for purposes  
19                   of this subparagraph, provided that such  
20                   documentation contains security features  
21                   to make it resistant to tampering, counter-  
22                   feiting, and fraudulent use.

23                   “(C) DOCUMENTS ESTABLISHING IDEN-  
24                   TITY.—A document described in this subpara-  
25                   graph is—

1           “(i) an individual’s driver’s license or  
2           identification card if it was issued by a  
3           State or one of the outlying possessions of  
4           the United States and contains a photo-  
5           graph and personal identifying information  
6           relating to the individual;

7           “(ii) an individual’s unexpired United  
8           States military identification card;

9           “(iii) an individual’s unexpired Native  
10          American tribal identification document  
11          issued by a tribal entity recognized by the  
12          Bureau of Indian Affairs;

13          “(iv) in the case of an individual  
14          under 18 years of age, a parent or legal  
15          guardian’s attestation under penalty of law  
16          as to the identity and age of the individual;  
17          or

18          “(v) a document establishing identity  
19          that the Secretary determines, by notice  
20          published in the Federal Register, to be ac-  
21          ceptable for purposes of this subparagraph,  
22          if such documentation contains a photo-  
23          graph of the individual, biometric identi-  
24          fication data, and other personal identi-  
25          fying information relating to the indi-

1           vidual, and security features to make it re-  
2           sistant to tampering, counterfeiting, and  
3           fraudulent use.

4           “(D) AUTHORITY TO PROHIBIT USE OF  
5           CERTAIN DOCUMENTS.—If the Secretary finds  
6           that any document or class of documents de-  
7           scribed in subparagraph (A), (B), or (C) does  
8           not reliably establish identity or employment  
9           authorization or is being used fraudulently to  
10          an unacceptable degree, the Secretary may, by  
11          notice published in the Federal Register, pro-  
12          hibit or place conditions on the use of such doc-  
13          ument or class of documents for purposes of  
14          this section.

15          “(4) USE OF THE SYSTEM TO SCREEN IDEN-  
16          TITY AND EMPLOYMENT AUTHORIZATION.—

17          “(A) IN GENERAL.—In the case of a per-  
18          son or entity that uses the System for the hir-  
19          ing, recruiting, or referring for a fee an indi-  
20          vidual for employment in the United States,  
21          during the period described in subparagraph  
22          (B), the person or entity shall submit an in-  
23          quiry through the System described in sub-  
24          section (a) to seek verification of the identity  
25          and employment authorization of the individual.

1           “(B) VERIFICATION PERIOD.—

2                   “(i) IN GENERAL.—Except as pro-  
3                   vided in clause (ii), and subject to sub-  
4                   section (d), the verification period shall  
5                   begin on the date of hire and end on the  
6                   date that is 3 business days after the date  
7                   of hire, or such other reasonable period as  
8                   the Secretary may prescribe.

9                   “(ii) SPECIAL RULE.—In the case of  
10                  an alien who is authorized to be employed  
11                  in the United States and who provides evi-  
12                  dence from the Social Security Administra-  
13                  tion that the alien has applied for a social  
14                  security account number, the verification  
15                  period shall end 3 business days after the  
16                  alien receives the social security account  
17                  number.

18               “(C) CONFIRMATION.—If a person or enti-  
19               ty receives confirmation of an individual’s iden-  
20               tity and employment authorization, the person  
21               or entity shall record such confirmation on the  
22               form designated by the Secretary for purposes  
23               of paragraph (1).

24               “(D) TENTATIVE NONCONFIRMATION.—

1           “(i) IN GENERAL.—In cases of ten-  
2           tative nonconfirmation, the Secretary shall  
3           provide, in consultation with the Commis-  
4           sioner, a process for—

5                   “(I) an individual to contest the  
6                   tentative nonconfirmation not later  
7                   than 10 business days after the date  
8                   of the receipt of the notice described  
9                   in clause (ii); and

10                   “(II) the Secretary to issue a  
11                   confirmation or final nonconfirmation  
12                   of an individual’s identity and employ-  
13                   ment authorization not later than 30  
14                   calendar days after the Secretary re-  
15                   ceives notice from the individual con-  
16                   testing a tentative nonconfirmation.

17           “(ii) NOTICE.—If a person or entity  
18           receives a tentative nonconfirmation of an  
19           individual’s identity or employment author-  
20           ization, the person or entity shall, not later  
21           than 3 business days after receipt, notify  
22           such individual in writing in a language  
23           understood by the individual and on a form  
24           designated by the Secretary, that shall in-  
25           clude a description of the individual’s right



1 to contest the tentative nonconfirmation.  
2 The person or entity shall attest, under  
3 penalty of perjury, that the person or enti-  
4 ty provided (or attempted to provide) such  
5 notice to the individual, and the individual  
6 shall acknowledge receipt of such notice in  
7 a manner specified by the Secretary.

8 “(iii) NO CONTEST.—

9 “(I) IN GENERAL.—A tentative  
10 nonconfirmation shall become final if,  
11 upon receiving the notice described in  
12 clause (ii), the individual—

13 “(aa) refuses to acknowledge  
14 receipt of such notice;

15 “(bb) acknowledges in writ-  
16 ing, in a manner specified by the  
17 Secretary, that the individual will  
18 not contest the tentative noncon-  
19 firmation; or

20 “(cc) fails to contest the  
21 tentative nonconfirmation within  
22 the 10-business-day period begin-  
23 ning on the date the individual  
24 received such notice.

1           “(II) RECORD OF NO CON-  
2 TEST.—The person or entity shall in-  
3 dicate in the System that the indi-  
4 vidual did not contest the tentative  
5 nonconfirmation and shall specify the  
6 reason the tentative nonconfirmation  
7 became final under subclause (I).

8           “(III) EFFECT OF FAILURE TO  
9 CONTEST.—An individual’s failure to  
10 contest a tentative nonconfirmation  
11 shall not be considered an admission  
12 of any fact with respect to any viola-  
13 tion of this Act or any other provision  
14 of law.

15           “(iv) CONTEST.—

16           “(I) IN GENERAL.—An individual  
17 may contest a tentative nonconfirma-  
18 tion by using the tentative noncon-  
19 firmation review process under clause  
20 (i), not later than 10 business days  
21 after receiving the notice described in  
22 clause (ii). Except as provided in  
23 clause (iii), the nonconfirmation shall  
24 remain tentative until a confirmation

1 or final nonconfirmation is provided  
2 by the System.

3 “(II) PROHIBITION ON TERMI-  
4 NATION.—In no case shall a person or  
5 entity terminate employment or take  
6 any adverse employment action  
7 against an individual for failure to ob-  
8 tain confirmation of the individual’s  
9 identity and employment authoriza-  
10 tion until the person or entity receives  
11 a notice of final nonconfirmation from  
12 the System. Nothing in this subclause  
13 shall prohibit an employer from termi-  
14 nating the employment of the indi-  
15 vidual for any other lawful reason.

16 “(III) CONFIRMATION OR FINAL  
17 NONCONFIRMATION.—The Secretary,  
18 in consultation with the Commis-  
19 sioner, shall issue notice of a con-  
20 firmation or final nonconfirmation of  
21 the individual’s identity and employ-  
22 ment authorization not later than 30  
23 calendar days after the date the Sec-  
24 retary receives notice from the indi-

1           vidual contesting the tentative non-  
2           confirmation.

3           “(E) FINAL NONCONFIRMATION.—

4           “(i) NOTICE.—If a person or entity  
5           receives a final nonconfirmation of an indi-  
6           vidual’s identity or employment authoriza-  
7           tion, the person or entity shall, not later  
8           than 3 business days after receipt, notify  
9           such individual of the final nonconfirma-  
10          tion in writing, on a form designated by  
11          the Secretary, which shall include informa-  
12          tion regarding the individual’s right to ap-  
13          peal the final nonconfirmation as provided  
14          under subparagraph (F). The person or  
15          entity shall attest, under penalty of per-  
16          jury, that the person or entity provided (or  
17          attempted to provide) the notice to the in-  
18          dividual, and the individual shall acknowl-  
19          edge receipt of such notice in a manner  
20          designated by the Secretary.

21          “(ii) TERMINATION OR NOTIFICATION  
22          OF CONTINUED EMPLOYMENT.—If a per-  
23          son or entity receives a final nonconfirma-  
24          tion regarding an individual, the person or  
25          entity may terminate employment of the

1 individual. If the person or entity does not  
2 terminate such employment pending appeal  
3 of the final nonconfirmation, the person or  
4 entity shall notify the Secretary of such  
5 fact through the System. Failure to notify  
6 the Secretary in accordance with this  
7 clause shall be deemed a violation of sec-  
8 tion 274A(a)(1)(A).

9 “(iii) PRESUMPTION OF VIOLATION  
10 FOR CONTINUED EMPLOYMENT.—If a per-  
11 son or entity continues to employ an indi-  
12 vidual after receipt of a final nonconfirma-  
13 tion, there shall be a rebuttable presump-  
14 tion that the person or entity has violated  
15 paragraphs (1)(A) and (a)(2) of section  
16 274A(a).

17 “(F) APPEAL OF FINAL NONCONFIRMA-  
18 TION.—

19 “(i) ADMINISTRATIVE APPEAL.—The  
20 Secretary, in consultation with the Com-  
21 missioner, shall develop a process by which  
22 an individual may seek administrative re-  
23 view of a final nonconfirmation. Such pro-  
24 cess shall—

1           “(I) permit the individual to sub-  
2           mit additional evidence establishing  
3           identity or employment authorization;

4           “(II) ensure prompt resolution of  
5           an appeal (but in no event shall there  
6           be a failure to respond to an appeal  
7           within 30 days); and

8           “(III) permit the Secretary to  
9           impose a civil money penalty (not to  
10          exceed \$500) on an individual upon  
11          finding that an appeal was frivolous  
12          or filed for purposes of delay.

13          “(ii)    COMPENSATION    FOR    LOST  
14          WAGES    RESULTING    FROM    GOVERNMENT  
15          ERROR    OR    OMISSION.—

16               “(I) IN GENERAL.—If, upon con-  
17               sideration of an appeal of a final non-  
18               confirmation, the Secretary deter-  
19               mines that the final nonconfirmation  
20               was issued in error, the Secretary  
21               shall further determine whether the  
22               final nonconfirmation was the result  
23               of government error or omission. If  
24               the Secretary determines that the  
25               final nonconfirmation was solely the

1 result of government error or omission  
2 and the individual was terminated  
3 from employment, the Secretary shall  
4 compensate the individual for lost  
5 wages.

6 “(II) CALCULATION OF LOST  
7 WAGES.—Lost wages shall be cal-  
8 culated based on the wage rate and  
9 work schedule that were in effect  
10 prior to the individual’s termination.  
11 The individual shall be compensated  
12 for lost wages beginning on the first  
13 scheduled work day after employment  
14 was terminated and ending 90 days  
15 after completion of the administrative  
16 review process described in this sub-  
17 paragraph or the day the individual is  
18 reinstated or obtains other employ-  
19 ment, whichever occurs first.

20 “(III) LIMITATION ON COM-  
21 PENSATION.—No compensation for  
22 lost wages shall be awarded for any  
23 period during which the individual  
24 was not authorized for employment in  
25 the United States.

1                   “(IV) SOURCE OF FUNDS.—

2                   There is established in the general  
3                   fund of the Treasury, a separate ac-  
4                   count which shall be known as the  
5                   ‘Electronic Verification Compensation  
6                   Account’. Fees collected under sub-  
7                   sections (f) and (g) shall be deposited  
8                   in the Electronic Verification Com-  
9                   pensation Account and shall remain  
10                  available for purposes of providing  
11                  compensation for lost wages under  
12                  this subclause.

13                  “(iii) JUDICIAL REVIEW.—Not later  
14                  than 30 days after the dismissal of an ap-  
15                  peal under this subparagraph, an indi-  
16                  vidual may seek judicial review of such dis-  
17                  missal in the United States District Court  
18                  in the jurisdiction in which the employer  
19                  resides or conducts business.

20                  “(5) RETENTION OF VERIFICATION RECORDS.—

21                  “(A) IN GENERAL.—After completing the  
22                  form designated by the Secretary in accordance  
23                  with paragraphs (1) and (2), the person or enti-  
24                  ty shall retain the form in paper, microfiche,  
25                  microfilm, electronic, or other format deemed



1 acceptable by the Secretary, and make it avail-  
2 able for inspection by officers of the Depart-  
3 ment of Homeland Security, the Department of  
4 Justice, or the Department of Labor during the  
5 period beginning on the date the verification is  
6 completed and ending on the later of—

7 “(i) the date that is 3 years after the  
8 date of hire; or

9 “(ii) the date that is 1 year after the  
10 date on which the individual’s employment  
11 is terminated.

12 “(B) COPYING OF DOCUMENTATION PER-  
13 MITTED.—Notwithstanding any other provision  
14 of law, a person or entity may copy a document  
15 presented by an individual pursuant to this sec-  
16 tion and may retain the copy, but only for the  
17 purpose of complying with the requirements of  
18 this section.

19 “(c) REVERIFICATION OF PREVIOUSLY HIRED INDI-  
20 VIDUALS.—

21 “(1) MANDATORY REVERIFICATION.—In the  
22 case of a person or entity that uses the System for  
23 the hiring, recruiting, or referring for a fee an indi-  
24 vidual for employment in the United States, the per-  
25 son or entity shall submit an inquiry using the Sys-

1       tem to verify the identity and employment authoriza-  
2       tion of—

3               “(A) an individual with a limited period of  
4               employment authorization, within 3 business  
5               days before the date on which such employment  
6               authorization expires; and

7               “(B) an individual, not later than 10 days  
8               after receiving a notification from the Secretary  
9               requiring the verification of such individual pur-  
10              suant to subsection (a)(4)(C).

11             “(2) REVERIFICATION PROCEDURES.—The  
12             verification procedures under subsection (b) shall  
13             apply to reverifications under this subsection, except  
14             that employers shall—

15               “(A) use a form designated by the Sec-  
16               retary for purposes of this paragraph; and

17               “(B) retain the form in paper, microfiche,  
18               microfilm, electronic, or other format deemed  
19               acceptable by the Secretary, and make it avail-  
20               able for inspection by officers of the Depart-  
21               ment of Homeland Security, the Department of  
22               Justice, or the Department of Labor during the  
23               period beginning on the date the reverification  
24               commences 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 pro-  
13                  vided in this subsection, a person or entity that uses  
14                  the System is considered to have complied with the  
15                  requirements of this section notwithstanding a tech-  
16                  nical failure of the System, or other technical or pro-  
17                  cedural failure to meet such requirement if there  
18                  was a good faith attempt to comply with the require-  
19                  ment.

20                  “(2) EXCEPTION FOR FAILURE TO CORRECT  
21                  AFTER NOTICE.—Paragraph (1) shall not apply if—

22                          “(A) the failure is not de minimis;

23                          “(B) the Secretary has provided notice to  
24                          the person or entity of the failure, including an  
25                          explanation as to why it is not de minimis;

1           “(C) the person or entity has been pro-  
2           vided a period of not less than 30 days (begin-  
3           ning after the date of the notice) to correct the  
4           failure; 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  
9           person or entity that has engaged or is engaging in  
10          a pattern or practice of violations of paragraph  
11          (1)(A) or (2) of section 274A(a).

12          “(4) DEFENSE.—In the case of a person or en-  
13          tity that uses the System for the hiring, recruiting,  
14          or referring for a fee an individual for employment  
15          in the United States, the person or entity shall not  
16          be 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 obli-  
23          gations under this section, absent a showing by the  
24          Secretary, by clear and convincing evidence, that the

1 employer had knowledge that an employee is an un-  
2 authorized 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  
3 REFERRAL 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  
12 subsection (d), of—

13           “(i) not less than \$2,500 and not  
14 more than \$5,000 for each unauthorized  
15 alien with respect to whom a violation of  
16 either such subsection occurred;

17           “(ii) not less than \$5,000 and not  
18 more than \$10,000 for each such alien in  
19 the case of a person or entity previously  
20 subject to one order under this paragraph;  
21 or

22           “(iii) not less than \$10,000 and not  
23 more than \$25,000 for each such alien in  
24 the case of a person or entity previously

1 subject to more than one order under this  
2 paragraph; and

3 “(B) may require the person or entity to  
4 take such other remedial action as appropriate.

5 “(3) ORDER FOR CIVIL MONEY PENALTY FOR  
6 VIOLATIONS.—With respect to a violation of section  
7 274A(a)(1)(B), the order under this paragraph shall  
8 require the person or entity to pay a civil penalty in  
9 an amount, subject to paragraphs (4), (5), and (6),  
10 of not less than \$1,000 and not more than \$25,000  
11 for each individual with respect to whom such viola-  
12 tion occurred. Failure by a person or entity to utilize  
13 the System as required by law or providing informa-  
14 tion to the System that the person or entity knows  
15 or reasonably believes to be false, shall be treated as  
16 a violation of section 274A(a)(1)(A).

17 “(4) EXEMPTION FROM PENALTY FOR GOOD  
18 FAITH VIOLATION.—

19 “(A) IN GENERAL.—A person or entity  
20 that uses the System is presumed to have acted  
21 with knowledge for purposes of paragraphs  
22 (1)(A) and (2) of section 274A(a) if the person  
23 or entity fails to make an inquiry to verify the  
24 identity and employment authorization of the  
25 individual through the System.

1           “(B) GOOD FAITH EXEMPTION.—In the  
2 case of imposition of a civil penalty under para-  
3 graph (2)(A) with respect to a violation of para-  
4 graph (1)(A) or (2) of section 274A(a) for hir-  
5 ing or continuation of employment or recruit-  
6 ment or referral by a person or entity, and in  
7 the case of imposition of a civil penalty under  
8 paragraph (3) for a violation of section  
9 274A(a)(1)(B) for hiring or recruitment or re-  
10 ferral by a person or entity, the penalty other-  
11 wise imposed may be waived or reduced if the  
12 person or entity establishes that the person or  
13 entity acted in good faith.

14           “(5) MITIGATION ELEMENTS.—For purposes of  
15 paragraphs (2)(A) and (3), when assessing the level  
16 of civil money penalties, in addition to the good faith  
17 of the person or entity being charged, due consider-  
18 ation shall be given to the size of the business, the  
19 seriousness of the violation, whether or not the indi-  
20 vidual was an unauthorized alien, and the history of  
21 previous violations.

22           “(6) CRIMINAL PENALTY.—Notwithstanding  
23 section 274A(f)(1) and the provisions of any other  
24 Federal law relating to fine levels, any person or en-  
25 tity that is required to comply with the provisions of



1 this section and that engages in a pattern or prac-  
2 tice of violations of paragraph (1) or (2) of section  
3 274A(a), shall be fined not more than \$5,000 for  
4 each unauthorized alien with respect to whom such  
5 a violation occurs, imprisoned for not more than 18  
6 months, or both.

7 “(7) ELECTRONIC VERIFICATION COMPENSA-  
8 TION ACCOUNT.—Civil money penalties collected  
9 under this subsection shall be deposited in the Elec-  
10 tronic Verification Compensation Account for the  
11 purpose of compensating individuals for lost wages  
12 as a result of a final nonconfirmation issued by the  
13 System that was based on government error or omis-  
14 sion, as set forth in subsection (b)(4)(F)(ii)(IV).

15 “(8) DEBARMENT.—

16 “(A) IN GENERAL.—If a person or entity  
17 is determined by the Secretary to be a repeat  
18 violator of paragraph (1)(A) or (2) of section  
19 274A(a) or is convicted of a crime under sec-  
20 tion 274A, such person or entity may be consid-  
21 ered for debarment from the receipt of Federal  
22 contracts, grants, or cooperative agreements in  
23 accordance with the debarment standards and  
24 pursuant to the debarment procedures set forth  
25 in the Federal Acquisition Regulation.

1           “(B) NO CONTRACT, GRANT, AGREE-  
2           MENT.—If the Secretary or the Attorney Gen-  
3           eral wishes to have a person or entity consid-  
4           ered for debarment in accordance with this  
5           paragraph, and such a person or entity does not  
6           hold a Federal contract, grant or cooperative  
7           agreement, the Secretary or Attorney General  
8           shall refer the matter to the Administrator of  
9           General Services to determine whether to list  
10          the person or entity on the List of Parties Ex-  
11          cluded from Federal Procurement, and if so, for  
12          what duration and under what scope.

13          “(C) CONTRACT, GRANT, AGREEMENT.—If  
14          the Secretary or the Attorney General wishes to  
15          have a person or entity considered for debar-  
16          ment in accordance with this paragraph, and  
17          such person or entity holds a Federal contract,  
18          grant, or cooperative agreement, the Secretary  
19          or Attorney General shall advise all agencies or  
20          departments holding a contract, grant, or coop-  
21          erative agreement with the person or entity of  
22          the Government’s interest in having the person  
23          or entity considered for debarment, and after  
24          soliciting and considering the views of all such  
25          agencies and departments, the Secretary or At-

1           torney General may refer the matter to the ap-  
2           propriate lead agency to determine whether to  
3           list the person or entity on the List of Parties  
4           Excluded from Federal Procurement, and if so,  
5           for what duration and under what scope.

6           “(D) REVIEW.—Any decision to debar a  
7           person or entity in accordance with this sub-  
8           section shall be reviewable pursuant to part 9.4  
9           of the Federal Acquisition Regulation.

10          “(9) PREEMPTION.—The provisions of this sec-  
11          tion preempt any State or local law, ordinance, pol-  
12          icy, or rule, including any criminal or civil fine or  
13          penalty structure, relating to the hiring, continued  
14          employment, or status verification for employment  
15          eligibility purposes, of unauthorized aliens, except  
16          that a State, locality, municipality, or political sub-  
17          division may exercise its authority over business li-  
18          censing and similar laws as a penalty for failure to  
19          use the System as required under this section.

20          “(g) UNFAIR IMMIGRATION-RELATED EMPLOYMENT  
21          PRACTICES AND THE SYSTEM.—

22          “(1) IN GENERAL.—In addition to the prohibi-  
23          tions on discrimination set forth in section 274B, it  
24          is an unfair immigration-related employment prac-

1        tice for a person or entity, in the course of utilizing  
2        the System—

3                “(A) to use the System for screening an  
4                applicant prior to the date of hire;

5                “(B) to terminate the employment of an  
6                individual or take any adverse employment ac-  
7                tion with respect to that individual due to a  
8                tentative nonconfirmation issued by the System;

9                “(C) to use the System to screen any indi-  
10                vidual for any purpose other than confirmation  
11                of identity and employment authorization as  
12                provided in this section;

13                “(D) to use the System to verify the iden-  
14                tity and employment authorization of a current  
15                employee, including an employee continuing in  
16                employment, other than reverification author-  
17                ized under subsection (c);

18                “(E) to use the System to discriminate  
19                based on national origin or citizenship status;

20                “(F) to willfully fail to provide an indi-  
21                vidual with any notice required under this title;

22                “(G) to require an individual to make an  
23                inquiry under the self-verification procedures  
24                described in subsection (a)(4)(B) or to provide  
25                the results of such an inquiry as a condition of

1 employment, or hiring, recruiting, or referring;  
2 or

3 “(H) to terminate the employment of an  
4 individual or take any adverse employment ac-  
5 tion with respect to that individual based upon  
6 the need to verify the identity and employment  
7 authorization of the individual as required by  
8 subsection (b).

9 “(2) PREEMPLOYMENT SCREENING AND BACK-  
10 GROUND CHECK.—Nothing in paragraph (1)(A)  
11 shall be construed to preclude a preemployment  
12 screening or background check that is required or  
13 permitted under any other provision of law.

14 “(3) CIVIL MONEY PENALTIES FOR DISCRIMINA-  
15 TORY CONDUCT.—Notwithstanding section  
16 274B(g)(2)(B)(iv), the penalties that may be im-  
17 posed by an administrative law judge with respect to  
18 a finding that a person or entity has engaged in an  
19 unfair immigration-related employment practice de-  
20 scribed in paragraph (1) are—

21 “(A) not less than \$1,000 and not more  
22 than \$4,000 for each individual discriminated  
23 against;

24 “(B) in the case of a person or entity pre-  
25 viously subject to a single order under this

1 paragraph, not less than \$4,000 and not more  
2 than \$10,000 for each individual discriminated  
3 against; and

4 “(C) in the case of a person or entity pre-  
5 viously subject to more than one order under  
6 this paragraph, not less than \$6,000 and not  
7 more than \$20,000 for each individual discrimi-  
8 nated against.

9 “(4) ELECTRONIC VERIFICATION COMPENSA-  
10 TION ACCOUNT.—Civil money penalties collected  
11 under this subsection shall be deposited in the Elec-  
12 tronic Verification Compensation Account for the  
13 purpose of compensating individuals for lost wages  
14 as a result of a final nonconfirmation issued by the  
15 System that was based on government error or omis-  
16 sion, as set forth in subsection (b)(4)(F)(ii)(IV).

17 “(h) CLARIFICATION.—All rights and remedies pro-  
18 vided under any Federal, State, or local law relating to  
19 workplace rights, including but not limited to back pay,  
20 are available to an employee despite—

21 “(1) the employee’s status as an unauthorized  
22 alien during or after the period of employment; or

23 “(2) the employer’s or employee’s failure to  
24 comply 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  
3 other remuneration commences.”.

4           (b) CONFORMING AMENDMENT.—The table of con-  
5 tents for the Immigration and Nationality Act is amended  
6 by inserting after the item relating to section 274D the  
7 following:

“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 elec-  
11 tronic verification of identity and employment authoriza-  
12 tion described in section 274E of the Immigration and Na-  
13 tionality Act, as inserted by section 301 of this Act, shall  
14 apply to a person or entity hiring, recruiting, or referring  
15 for a fee an individual for agricultural employment in the  
16 United States in accordance with the effective dates set  
17 forth in 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  
23 or more employees in the United States on the  
24 date of the enactment of this Act, on the date

1 that is 6 months after completion of the appli-  
2 cation period described in section 101(c).

3 (B) With respect to employers having 100  
4 or more employees in the United States (but  
5 less than 500 such employees) on the date of  
6 the enactment of this Act, on the date that is  
7 9 months after completion of the application pe-  
8 riod described in section 101(c).

9 (C) With respect to employers having 20  
10 or more employees in the United States (but  
11 less than 100 such employees) on the date of  
12 the enactment of this Act, on the date that is  
13 12 months after completion of the application  
14 period described in section 101(c).

15 (D) With respect to employers having one  
16 or more employees in the United States, (but  
17 less than 20 such employees) on the date of the  
18 enactment of this Act, on the date that is 15  
19 months after completion of the application pe-  
20 riod described in section 101(c).

21 (2) RECRUITING AND REFERRING FOR A FEE.—  
22 Subsection (a) shall apply to a person or entity re-  
23 cruiting or referring for a fee an individual for agri-  
24 cultural employment in the United States on the



1 date that is 12 months after completion of the appli-  
2 cation period described in section 101(c).

3 (3) TRANSITION RULE.—Except as required  
4 under subtitle A of title IV of the Illegal Immigra-  
5 tion Reform and Immigrant Responsibility Act of  
6 1996 (8 U.S.C. 1324a note) (as in effect on the day  
7 before the effective date described in section  
8 303(a)(4)), Executive Order No. 13465 (8 U.S.C.  
9 1324a note; relating to Government procurement),  
10 or any State law requiring persons or entities to use  
11 the E-Verify Program described in section 403(a) of  
12 the Illegal Immigration Reform and Immigrant Re-  
13 sponsibility Act of 1996 (8 U.S.C. 1324a note) (as  
14 in effect on the day before the effective date de-  
15 scribed in section 303(a)(4)), sections 274A and  
16 274B of the Immigration and Nationality Act (8  
17 U.S.C. 1324a and 1324b) shall apply to a person or  
18 entity hiring, recruiting, or referring an individual  
19 for employment in the United States until the appli-  
20 cable effective date under this subsection.

21 (4) E-VERIFY VOLUNTARY USERS AND OTHERS  
22 DESIRING EARLY COMPLIANCE.—Nothing in this  
23 subsection shall be construed to prohibit persons or  
24 entities, including persons or entities that have vol-  
25 untarily elected to participate in the E-Verify Pro-

1       gram described in section 403(a) of the Illegal Im-  
2       migration Reform and Immigrant Responsibility Act  
3       of 1996 (8 U.S.C. 1324a note) (as in effect on the  
4       day before the effective date described in section  
5       303(a)(4)), from seeking early compliance on a vol-  
6       untary basis.

7               (5) DELAYED IMPLEMENTATION.—The Sec-  
8       retary of Homeland Security, in consultation with  
9       the Secretary of Agriculture, may delay the effective  
10      dates described in paragraphs (1) and (2) for a pe-  
11      riod not to exceed 180 days if the Secretary deter-  
12      mines, based on the most recent report described in  
13      section 133 and other relevant data, that a signifi-  
14      cant number of applications under section 101 re-  
15      main pending.

16      (c) RURAL ACCESS TO ASSISTANCE FOR TENTATIVE  
17      NONCONFIRMATION REVIEW PROCESS.—

18               (1) IN GENERAL.—The Secretary of Homeland  
19      Security shall coordinate with the Secretary of Agri-  
20      culture, in consultation with the Commissioner of  
21      Social Security, to create a process for individuals to  
22      seek assistance in contesting a tentative noncon-  
23      firmation as described in section 274E(b)(4)(D) of  
24      the Immigration and Nationality Act, as inserted by

1 section 301 of this Act, at local offices or service  
2 centers of the U.S. Department of Agriculture.

3 (2) STAFFING AND RESOURCES.—The Sec-  
4 retary of Homeland Security and Secretary of Agri-  
5 culture shall ensure that local offices and service  
6 centers of the U.S. Department of Agriculture are  
7 staffed appropriately and have the resources nec-  
8 essary to provide information and support to individ-  
9 uals seeking the assistance described in paragraph  
10 (1), including by facilitating communication between  
11 such individuals and the Department of Homeland  
12 Security or the Social Security Administration.

13 (3) CLARIFICATION.—Nothing in this sub-  
14 section shall be construed to delegate authority or  
15 transfer responsibility for reviewing and resolving  
16 tentative nonconfirmations from the Secretary of  
17 Homeland Security and the Commissioner of Social  
18 Security to the Secretary of Agriculture.

19 (d) DOCUMENT ESTABLISHING EMPLOYMENT AU-  
20 THORIZATION AND IDENTITY.—In accordance with section  
21 274E(b)(3)(A)(vii) of the Immigration and Nationality  
22 Act, as inserted by section 301 of this Act, and not later  
23 than 12 months after the completion of the application  
24 period described in section 101(c) of this Act, the Sec-  
25 retary of Homeland Security shall recognize documentary

1 evidence of certified agricultural worker status described  
2 in section 102(a)(2) of this Act as valid proof of employ-  
3 ment authorization and identity for purposes of section  
4 274E(b)(3)(A) of the Immigration and Nationality Act,  
5 as inserted by section 301 of this Act.

6 (e) **AGRICULTURAL EMPLOYMENT.**—For purposes of  
7 this section, the term “agricultural employment” means  
8 agricultural labor or services, as defined by section  
9 101(a)(15)(H)(ii) of the Immigration and Nationality Act  
10 (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by this Act.

11 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

12 (a) **REPEAL.**—

13 (1) **IN GENERAL.**—Subtitle A of title IV of the  
14 Illegal Immigration Reform and Immigrant Respon-  
15 sibility Act of 1996 (8 U.S.C. 1324a note) is re-  
16 pealed.

17 (2) **CLERICAL AMENDMENT.**—The table of sec-  
18 tions, in section 1(d) of the Illegal Immigration Re-  
19 form and Immigrant Responsibility Act of 1996, is  
20 amended by striking the items relating to subtitle A  
21 of title IV.

22 (3) **REFERENCES.**—Any reference in any Fed-  
23 eral, State, or local law, Executive order, rule, regu-  
24 lation, or delegation of authority, or any document  
25 of, or pertaining to, the Department of Homeland

1 Security, Department of Justice, or the Social Secu-  
2 rity Administration, to the E-Verify Program de-  
3 scribed in section 403(a) of the Illegal Immigration  
4 Reform and Immigrant Responsibility Act of 1996  
5 (8 U.S.C. 1324a note), or to the employment eligi-  
6 bility confirmation system established under section  
7 404 of the Illegal Immigration Reform and Immi-  
8 grant Responsibility Act of 1996 (8 U.S.C. 1324a  
9 note), is deemed to refer to the employment eligi-  
10 bility confirmation system established under section  
11 274E of the Immigration and Nationality Act, as in-  
12 serted by section 301 of this Act.

13 (4) EFFECTIVE DATE.—This subsection, and  
14 the amendments made by this subsection, shall take  
15 effect on the date that is 30 days after the date on  
16 which final rules are published under section 309(a).

17 (b) FORMER E-VERIFY MANDATORY USERS, IN-  
18 CLUDING FEDERAL CONTRACTORS.—Beginning on the ef-  
19 fective date in subsection (a)(4), the Secretary of Home-  
20 land Security shall require employers required to partici-  
21 pate in the E-Verify Program described in section 403(a)  
22 of the Illegal Immigration Reform and Immigrant Respon-  
23 sibility Act of 1996 (8 U.S.C. 1324a note) by reason of  
24 any Federal, State, or local law, Executive order, rule, reg-  
25 ulation, or delegation of authority, including employers re-

1 quired to participate in such program by reason of Federal  
2 acquisition laws (and regulations promulgated under those  
3 laws, including the Federal Acquisition Regulation), to  
4 comply with the requirements of section 274E of the Im-  
5 migration and Nationality Act, as inserted by section 301  
6 of this Act (and any additional requirements of such Fed-  
7 eral acquisition laws and regulation) in lieu of any require-  
8 ment to participate in the E-Verify Program.

9 (c) FORMER E-VERIFY VOLUNTARY USERS.—Begin-  
10 ning on the effective date in subsection (a)(4), the Sec-  
11 retary of Homeland Security shall provide for the vol-  
12 untary compliance with the requirements of section 274E  
13 of the Immigration and Nationality Act, as inserted by  
14 section 301 of this Act, by employers voluntarily electing  
15 to participate in the E-Verify Program described in sec-  
16 tion 403(a) of the Illegal Immigration Reform and Immi-  
17 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)  
18 before such date.

19 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

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

22 (1) in paragraph (1), by striking “identification  
23 document,” and inserting “identification document  
24 or document meant to establish employment author-  
25 ization,”;

1           (2) in paragraph (2), by striking “identification  
2           document” and inserting “identification document or  
3           document meant to establish employment authoriza-  
4           tion,”; and

5           (3) in the matter following paragraph (3) by in-  
6           serting “or section 274E(b)” after “section  
7           274A(b)”.

8   **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

9           (a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section  
10          274A of the Immigration and Nationality Act (8 U.S.C.  
11          1324a) is amended—

12           (1) in paragraph (1)(B)(ii) of subsection (a), by  
13           striking “subsection (b).” and inserting “section  
14           274B.”; and

15           (2) in the matter preceding paragraph (1) of  
16           subsection (b), by striking “The requirements re-  
17           ferred” and inserting “Except as provided in section  
18           274E, the requirements referred”.

19           (b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT  
20          PRACTICES.—Section 274B(a)(1) of the Immigration and  
21          Nationality Act (8 U.S.C. 1324b(a)(1)) is amended in the  
22          matter preceding subparagraph (A), by inserting “includ-  
23          ing misuse of the verification system as described in sec-  
24          tion 274E(g)” after “referral for a fee,”.

1 **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**  
2 **TION PROGRAMS.**

3 (a) **FUNDING UNDER AGREEMENT.**—Effective for  
4 fiscal years beginning on or after October 1, 2021, the  
5 Commissioner and the Secretary shall ensure that an  
6 agreement is in place which shall—

7 (1) provide funds to the Commissioner for the  
8 full costs of the responsibilities of the Commissioner  
9 with respect to employment eligibility verification,  
10 including under this title and the amendments made  
11 by this title, and including—

12 (A) acquiring, installing, and maintaining  
13 technological equipment and systems necessary  
14 for the fulfillment of such responsibilities, but  
15 only that portion of such costs that are attrib-  
16 utable exclusively to such responsibilities; and

17 (B) responding to individuals who contest  
18 a tentative nonconfirmation or administratively  
19 appeal a final nonconfirmation provided with  
20 respect to employment eligibility verification;

21 (2) provide such funds annually in advance of  
22 the applicable quarter based on an estimating meth-  
23 odology agreed to by the Commissioner and the Sec-  
24 retary (except in such instances where the delayed  
25 enactment of an annual appropriation may preclude  
26 such quarterly payments); and



1           (3) require an annual accounting and reconcili-  
2           ation of the actual costs incurred and the funds pro-  
3           vided under the agreement, which shall be reviewed  
4           by the Inspectors General of the Social Security Ad-  
5           ministration and the Department of Homeland Secu-  
6           rity.

7           (b) CONTINUATION OF EMPLOYMENT VERIFICATION  
8           IN ABSENCE OF TIMELY AGREEMENT.—In any case in  
9           which the agreement required under subsection (a) for any  
10          fiscal year beginning on or after October 1, 2021, has not  
11          been reached as of October 1 of such fiscal year, the latest  
12          agreement described in such subsection shall be deemed  
13          in effect on an interim basis for such fiscal year until such  
14          time as an agreement required under subsection (a) is sub-  
15          sequently reached, except that the terms of such interim  
16          agreement shall be modified to adjust for inflation and any  
17          increase or decrease in the volume of requests under the  
18          employment eligibility verification system. In any case in  
19          which an interim agreement applies for any fiscal year  
20          under this subsection, the Commissioner and the Sec-  
21          retary shall, not later than October 1 of such fiscal year,  
22          notify the Committee on Ways and Means, the Committee  
23          on the Judiciary, and the Committee on Appropriations  
24          of the House of Representatives and the Committee on  
25          Finance, the Committee on the Judiciary, and the Com-

1 mittee on Appropriations of the Senate of the failure to  
2 reach the agreement required under subsection (a) for  
3 such fiscal year. Until such time as the agreement re-  
4 quired under subsection (a) has been reached for such fis-  
5 cal year, the Commissioner and the Secretary shall, not  
6 later than the end of each 90-day period after October  
7 1 of such fiscal year, notify such Committees of the status  
8 of negotiations between the Commissioner and the Sec-  
9 retary in order to reach such an agreement.

10 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE**  
11 **ELECTRONIC EMPLOYMENT VERIFICATION**  
12 **SYSTEM.**

13 Not later than 24 months after the date on which  
14 final rules are published under section 309(a), and annu-  
15 ally thereafter, the Secretary shall submit to Congress a  
16 report that includes the following:

17 (1) An assessment of the accuracy rates of the  
18 responses of the electronic employment verification  
19 system established under section 274E of the Immi-  
20 gration and Nationality Act, as inserted by section  
21 301 of this Act (referred to in this section as the  
22 “System”), including tentative and final noncon-  
23 firmation notices issued to employment-authorized  
24 individuals and confirmation notices issued to indi-  
25 viduals who are not employment-authorized.

1           (2) An assessment of any challenges faced by  
2 persons or entities (including small employers) in  
3 utilizing the System.

4           (3) An assessment of any challenges faced by  
5 employment-authorized individuals who are issued  
6 tentative or final nonconfirmation notices.

7           (4) An assessment of the incidence of unfair  
8 immigration-related employment practices, as de-  
9 scribed in section 274E(g) of the Immigration and  
10 Nationality Act, as inserted by section 301 of this  
11 Act, related to the use of the System.

12           (5) An assessment of the photo matching and  
13 other identity authentication tools, as described in  
14 section 274E(a)(4) of the Immigration and Nation-  
15 ality Act, as inserted by section 301 of this Act, in-  
16 cluding—

17                   (A) an assessment of the accuracy rates of  
18 such tools;

19                   (B) an assessment of the effectiveness of  
20 such tools at preventing identity fraud and  
21 other misuse of identifying information;

22                   (C) an assessment of any challenges faced  
23 by persons, entities, or individuals utilizing such  
24 tools; and

1 (D) an assessment of operation and main-  
2 tenance costs associated with such tools.

3 (6) A summary of the activities and findings of  
4 the U.S. Citizenship and Immigrations Services E-  
5 Verify Monitoring and Compliance Branch, or any  
6 successor office, including—

7 (A) the number, types and outcomes of au-  
8 dits, investigations, and other compliance activi-  
9 ties initiated by the Branch in the previous  
10 year;

11 (B) the capacity of the Branch to detect  
12 and prevent violations of section 274E(g) of the  
13 Immigration and Nationality Act, as inserted by  
14 this Act; and

15 (C) an assessment of the degree to which  
16 persons and entities misuse the System, includ-  
17 ing—

18 (i) use of the System before an indi-  
19 vidual's date of hire;

20 (ii) failure to provide required notifi-  
21 cations to individuals;

22 (iii) use of the System to interfere  
23 with or otherwise impede individuals' as-  
24 sertions of their rights under other laws;  
25 and

1 (iv) use of the System for unauthor-  
2 ized purposes; and

3 (7) An assessment of the impact of implementa-  
4 tion of the System in the agricultural industry and  
5 the use of the verification system in agricultural in-  
6 dustry hiring and business practices.

7 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**  
8 **MENT ELIGIBILITY VERIFICATION PROCESS.**

9 Not later than 12 months after the date of the enact-  
10 ment of this Act, the Secretary, in consultation with the  
11 Commissioner, shall submit to Congress a plan to mod-  
12 ernize and streamline the employment eligibility  
13 verification process that shall include—

14 (1) procedures to allow persons and entities to  
15 verify the identity and employment authorization of  
16 newly hired individuals where the in-person, physical  
17 examination of identity and employment authoriza-  
18 tion documents is not practicable;

19 (2) a proposal to create a simplified employ-  
20 ment verification process that allows employers that  
21 utilize the employment eligibility verification system  
22 established under section 274E of the Immigration  
23 and Nationality Act, as inserted by section 301 of  
24 this Act, to verify the identity and employment au-  
25 thorization of individuals without also having to

1 complete and retain Form I–9, Employment Eligi-  
2 bility Verification, or any subsequent replacement  
3 form; and

4 (3) any other proposal that the Secretary deter-  
5 mines would simplify the employment eligibility  
6 verification process without compromising the integ-  
7 rity or security of the system.

8 **SEC. 309. RULEMAKING AND PAPERWORK REDUCTION ACT.**

9 (a) IN GENERAL.—Not later than 180 days prior to  
10 the end of the application period defined in section 101(c)  
11 of this Act, the Secretary shall publish in the Federal Reg-  
12 ister proposed rules implementing this title and the  
13 amendments made by this title. The Secretary shall final-  
14 ize such rules not later than 180 days after the date of  
15 publication.

16 (b) PAPERWORK REDUCTION ACT.—

17 (1) IN GENERAL.—The requirements under  
18 chapter 35 of title 44, United States Code, (com-  
19 monly known as the “Paperwork Reduction Act”) shall  
20 apply to any action to implement this title or  
21 the amendments made by this title.

22 (2) ELECTRONIC FORMS.—All forms designated  
23 or established by the Secretary that are necessary to  
24 implement this title and the amendments made by  
25 this title shall be made available in paper and elec-

1       tronic formats, and shall be designed in such a man-  
2       ner to facilitate electronic completion, storage, and  
3       transmittal.

4               (3) LIMITATION ON USE OF FORMS.—All forms  
5       designated or established by the Secretary that are  
6       necessary to implement this title, and the amend-  
7       ments made by this title, and any information con-  
8       tained in or appended to such forms, may not be  
9       used for purposes other than for enforcement of this  
10      Act and any other provision of Federal criminal law.  
    Passed the House of Representatives March 18,  
    2021.

Attest:

*Clerk.*

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 1603**

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**AN ACT**

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.