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1ST SESSION

H. R. 1603

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2021

Received; read twice and referred to the Committee on the Judiciary

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 **CULTURAL WORKFORCE FOR**
18 **THE FUTURE**

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

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

23 (a) STREAMLINED H-2A PLATFORM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **“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 CIENCIES.—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 serting 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 cruiterers 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 Immig-
8 rant 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”)
20 shall apply to any action to implement this title or
21 the amendments made by this title.

22 (2) ELECTRONIC FORMS.—All forms designated
23 or established by the Secretary that are necessary to
24 implement this title and the amendments made by
25 this title shall be made available in paper and elec-

1 tronic formats, and shall be designed in such a man-
2 ner to facilitate electronic completion, storage, and
3 transmittal.

4 (3) LIMITATION ON USE OF FORMS.—All forms
5 designated or established by the Secretary that are
6 necessary to implement this title, and the amend-
7 ments made by this title, and any information con-
8 tained in or appended to such forms, may not be
9 used for purposes other than for enforcement of this
10 Act and any other provision of Federal criminal law.
 Passed the House of Representatives March 18,
 2021.

Attest:

CHERYL L. JOHNSON,

Clerk.