

117TH CONGRESS
2D SESSION

S. 5282

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2022

Mr. BENNET introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Affordable and Secure Food Act of 2022”.

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

Sec. 1. Short title; table of contents.

TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Temporary Status for Certified Agricultural Workers

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

Subtitle B—Optional Earned Residence for Long-Term Workers

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

Subtitle C—General Provisions

- Sec. 121. Definitions.
- Sec. 122. Rulemaking; fees.
- Sec. 123. Background checks.
- Sec. 124. Protection for children.
- Sec. 125. Limitation on removal.
- Sec. 126. Documentation of agricultural work history.
- Sec. 127. Employer protections.
- Sec. 128. Correction of social security records; 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 Farm Worker Housing

- Sec. 220. Short title.
- Sec. 221. New farm worker housing.
- Sec. 222. Loan and grant limitations.
- Sec. 223. Operating assistance subsidies.
- Sec. 224. Rental assistance contract authority.
- Sec. 225. Eligibility for rural housing vouchers.
- Sec. 226. Permanent establishment of housing preservation and revitalization program.
- Sec. 227. Amount of voucher assistance.

- Sec. 228. Funding for multifamily technical improvements.
- Sec. 229. Plan for preserving affordability of rental projects.
- Sec. 230. Covered housing programs.
- Sec. 231. Eligibility of certified workers.

Subtitle C—Foreign Labor Recruiter Accountability

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

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; 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—

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

6 (B) on the date of the introduction of this
7 Act—

8 (i) is inadmissible or deportable from
9 the United States; or

10 (ii) is under a grant of deferred en-
11 forced departure, has been paroled into the
12 United States, or has temporary protected
13 status under section 244 of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1254a);

15 (C) subject to section 104, has been con-
16 tinuously present in the United States since the
17 date of the introduction of this Act and until
18 the date on which the alien is granted certified
19 agricultural worker status; and

20 (D) is not otherwise ineligible for certified
21 agricultural worker status as provided in sub-
22 section (b).

23 (2) DEPENDENT SPOUSE AND CHILDREN.—The
24 Secretary may grant certified agricultural dependent
25 status to the spouse or child of an alien granted cer-

1 tified agricultural worker status under paragraph
2 (1) if the spouse or child is not ineligible for cer-
3 tified agricultural dependent status as provided in
4 subsection (b).

5 (b) GROUNDS FOR INELIGIBILITY.—

6 (1) GROUNDS OF INADMISSIBILITY.—Except as
7 provided in paragraph (3), an alien is ineligible for
8 certified agricultural worker or certified agricultural
9 dependent status if the Secretary determines that
10 the alien is inadmissible under section 212(a) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1182(a)), except that in determining inadmis-
13 sibility—

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

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

22 (C) paragraphs (6)(B) and (9)(A) of such
23 section 212(a) shall not apply unless the rel-
24 evant conduct began on or after the date of fil-

1 ing of the application for certified agricultural
2 worker status.

3 (2) ADDITIONAL CRIMINAL BARS.—Except as
4 provided in paragraph (3), an alien is ineligible for
5 certified agricultural worker status or certified agri-
6 cultural dependent status if the Secretary deter-
7 mines that (other than any offense under State law
8 for which an essential element is the alien’s immi-
9 gration status, simple possession of cannabis or can-
10 nabis-related paraphernalia, any offense involving
11 cannabis or cannabis-related paraphernalia which is
12 no longer prosecutable in the State in which the con-
13 viction was entered, any offense involving civil dis-
14 obedience without violence, and any minor traffic of-
15 fense) the alien has been convicted of—

16 (A) any felony offense;

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

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

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

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

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

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

15 (B) subparagraphs (A) and (D) of section
16 212(a)(2) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(a)(2)), unless inadmis-
18 sibility is based on a conviction that would oth-
19 erwise render the alien ineligible under subpara-
20 graph (A), (B), or (D) of paragraph (2).

21 (c) APPLICATION.—

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

1 on which the interim final rule is published in the
2 Federal Register pursuant to section 122(a).

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

10 (3) SUBMISSION OF APPLICATIONS.—

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

21 (B) FARM SERVICE AGENCY OFFICES.—

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

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

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

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

24 (A) may apply for advance parole, which
25 shall be granted upon demonstrating a legiti-

1 mate need to travel outside the United States
2 for a temporary purpose;

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

8 (C) may not be considered unlawfully
9 present under section 212(a)(9)(B) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1182(a)(9)(B)); and

12 (D) may not be considered an unauthor-
13 ized alien (as defined in section 274A(h)(3) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1324a(h)(3))).

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

1 (7) PROCESSING FEE.—A principal alien, his or
2 her spouse, or his or her child who submits an appli-
3 cation for certified agricultural worker status under
4 this subtitle shall pay a \$250 processing fee, which
5 shall be deposited into the Immigration Examina-
6 tions Fee Account pursuant to section 286(m) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1356(m)).

9 (d) ADJUDICATION AND DECISION.—

10 (1) IN GENERAL.—Subject to section 123, the
11 Secretary shall render a decision on an application
12 for certified agricultural worker status not later than
13 180 days after the date the application is filed.

14 (2) NOTICE.—Before denying an application for
15 certified agricultural worker status, the Secretary
16 shall provide the alien with—

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

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

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

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

5 (e) ALTERNATIVE H-2A STATUS.—An alien who has
6 not met the required period of agricultural labor or serv-
7 ices under subsection (a)(1)(A), but is otherwise eligible
8 for certified agricultural worker status under such sub-
9 section, shall be eligible for classification as a non-
10 immigrant described in section 101(a)(15)(H)(ii)(a) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1101(a)(15)(H)(ii)(a)) upon approval of a petition sub-
13 mitted by a sponsoring employer, if the alien has per-
14 formed at least 690 hours (or 120 work days) of agricul-
15 tural labor or services during the 3-year period preceding
16 the date of the introduction of this Act. The Secretary
17 shall create a procedure to provide for such classification
18 without requiring the alien to depart the United States
19 and obtain a visa abroad.

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

21 (a) IN GENERAL.—

22 (1) APPROVAL.—Upon approval of an applica-
23 tion for certified agricultural worker status, or an
24 extension of such status pursuant to section 103, the
25 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 immigrant or non-
9 immigrant classification for which the alien may be
10 eligible.

11 (c) PUBLIC BENEFITS, TAX BENEFITS, AND
12 HEALTH CARE SUBSIDIES.—Aliens granted certified agri-
13 cultural worker or certified agricultural dependent sta-
14 tus—

15 (1) shall be considered lawfully present in the
16 United States for all purposes for the duration of
17 their status;

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

23 (3) are entitled to the premium assistance tax
24 credit authorized under section 36B of the Internal
25 Revenue Code of 1986 (26 U.S.C. 36B);

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

5 (5) shall not be subject to the rules applicable
6 to individuals not lawfully present set forth in sec-
7 tion 5000A(d)(3) of the Internal Revenue Code of
8 1986 (26 U.S.C. 5000A(d)(3)).

9 (d) REVOCATION OF STATUS.—

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

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

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

25 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

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

9 (A) except as provided in section 126(e),
10 has performed agricultural labor or services in
11 the United States for at least 690 hours (or
12 120 work days) for each of the prior 5 years in
13 which the alien held certified agricultural work-
14 er status; and

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

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

24 (3) WAIVER FOR LATE FILINGS.—The Sec-
25 retary may waive an alien’s failure to timely file be-

1 fore the expiration of the 120-day period described
2 in paragraph (1) if the alien demonstrates that the
3 delay was due to extraordinary circumstances be-
4 yond the alien's control or for other good cause.

5 (b) STATUS FOR WORKERS WITH PENDING APPLICA-
6 TIONS.—

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

14 (2) DOCUMENTATION OF EMPLOYMENT AU-
15 THORIZATION.—As soon as practicable after receipt
16 of an application to extend certified agricultural
17 worker status under subsection (a), the Secretary
18 shall issue a document to the alien acknowledging
19 the receipt of such application. An employer of the
20 worker may not refuse to accept such document as
21 evidence of employment authorization under section
22 274A(b)(1)(C) of the Immigration and Nationality
23 Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-
24 ministrative decision on the application.

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

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

7 (2) at least 90 days to contest ineligibility or
8 submit additional evidence.

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

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

16 (b) TREATMENT OF CERTAIN BREAKS IN PRES-
17 ENCE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graphs (2) and (3), an alien shall be considered to
20 have failed to maintain continuous presence in the
21 United States under this subtitle if the alien de-
22 parted the United States for any period exceeding
23 90 days, or for any periods, in the aggregate, ex-
24 ceeding 180 days.

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

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

16 **SEC. 105. EMPLOYER OBLIGATIONS.**

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

22 (b) CIVIL PENALTIES.—

23 (1) IN GENERAL.—If the Secretary determines,
24 after notice and an opportunity for a hearing, that
25 an employer of an alien with certified agricultural

1 worker status has knowingly failed to provide the
2 record of employment required under subsection (a),
3 or has provided a false statement of material fact in
4 such a record, the employer shall be subject to a civil
5 penalty in an amount not to exceed \$400 per viola-
6 tion.

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

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

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

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

23 (b) ADMISSIBILITY IN IMMIGRATION COURT.—Each
24 record of an alien’s application for certified agricultural
25 worker status under this subtitle, application to extend

1 such status, revocation of such status, and each record
 2 created pursuant to the administrative review process
 3 under subsection (a) is admissible in immigration court,
 4 and shall be included in the administrative record.

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

12 **Subtitle B—Optional Earned**
 13 **Residence for Long-Term Workers**

14 **SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-**
 15 **TERM AGRICULTURAL WORKERS.**

16 (a) REQUIREMENTS FOR ADJUSTMENT OF STA-
 17 TUS.—

18 (1) PRINCIPAL ALIENS.—The Secretary may
 19 adjust the status of an alien from that of a certified
 20 agricultural worker to that of a lawful permanent
 21 resident if the alien submits a completed application,
 22 including the required processing and penalty fees,
 23 and the Secretary determines that—

24 (A) except as provided in section 126(e),
 25 the alien performed agricultural labor or serv-

1 ices for not less than 690 hours (or 120 work
2 days) each year for at least 10 years and for at
3 least 4 years while in certified agricultural
4 worker status; and

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

8 (2) DEPENDENT ALIENS.—

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

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

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

21 (B) PROTECTIONS FOR SPOUSES AND
22 CHILDREN.—The Secretary of Homeland Secu-
23 rity shall establish procedures to allow the
24 spouse or child of a certified agricultural work-

1 er to self-petition for lawful permanent resi-
2 dence under this subtitle in cases involving—

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

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

10 (3) DOCUMENTATION OF WORK HISTORY.—

11 (A) IN GENERAL.—An applicant for ad-
12 justment of status under this section shall not
13 be required to resubmit evidence of work his-
14 tory that has been previously submitted to the
15 Secretary in connection with an approved exten-
16 sion of certified agricultural worker status.

17 (B) PRESUMPTION OF COMPLIANCE.—The
18 Secretary shall presume that the work require-
19 ment has been met if the applicant attests,
20 under penalty of perjury, that he or she—

21 (i) has satisfied the requirement;

22 (ii) demonstrates presence in the
23 United States during the most recent 10-
24 year period; and

1 (iii) presents documentation dem-
2 onstrating compliance with the work re-
3 quirement while the applicant was in cer-
4 tified agricultural worker status.

5 (b) PENALTY FEE.—In addition to any processing
6 fee that the Secretary may assess in accordance with sec-
7 tion 122(b), a principal alien seeking adjustment of status
8 under this subtitle shall pay a \$750 penalty fee, which
9 shall be deposited into the Immigration Examinations Fee
10 Account pursuant to section 286(m) of the Immigration
11 and Nationality Act (8 U.S.C. 1356(m)).

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

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

22 (2) may not be detained by the Secretary or re-
23 moved from the United States unless the Secretary
24 makes a prima facie determination that such alien

1 is, or has become, ineligible for adjustment of status
2 under subsection (a);

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

6 (4) may not be considered an unauthorized
7 alien (as defined in section 274A(h)(3) of the Immi-
8 gration and Nationality Act (8 U.S.C.
9 1324a(h)(3))).

10 (d) EVIDENCE OF APPLICATION FILING.—As soon as
11 practicable after receiving an application for adjustment
12 of status under this subtitle, the Secretary shall provide
13 the applicant with a document acknowledging the receipt
14 of such application. Such document shall serve as interim
15 proof of the alien’s authorization to accept employment
16 in the United States and shall be accepted by an employer
17 as evidence of employment authorization under section
18 274A(b)(1)(C) of the Immigration and Nationality Act (8
19 U.S.C. 1324a(b)(1)(C)), pending a final administrative
20 decision on the application.

21 (e) WITHDRAWAL OF APPLICATION.—The Secretary
22 shall, upon receipt of a request to withdraw an application
23 for adjustment of status under this subtitle, cease proc-
24 essing of the application, and close the case. Withdrawal
25 of the application shall not prejudice any future applica-

1 tion filed by the applicant for any immigration benefit
2 under this Act or under the Immigration and Nationality
3 Act (8 U.S.C. 1101 et seq.).

4 **SEC. 112. PAYMENT OF TAXES.**

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

8 (b) COMPLIANCE.—An alien may demonstrate com-
9 pliance with subsection (a) by submitting such documenta-
10 tion as the Secretary, in consultation with the Secretary
11 of the Treasury, may require by regulation.

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

13 (a) IN GENERAL.—Subject to the requirements of
14 section 123, the Secretary shall render a decision on an
15 application for adjustment of status under this subtitle not
16 later than 180 days after the date on which the application
17 is filed.

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

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

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

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

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

9 **Subtitle C—General Provisions**

10 **SEC. 121. DEFINITIONS.**

11 In this title:

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided, any term used in this title that is used in the
14 immigration laws shall have the meaning given such
15 term in the immigration laws (as such term is de-
16 fined in section 101 of the Immigration and Nation-
17 ality Act (8 U.S.C. 1101)).

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

20 (A) agricultural labor or services (as such
21 term is used in section 101(a)(15)(H)(ii) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1101(a)(15)(H)(ii))), without regard to whether
24 the labor or services are of a seasonal or tem-
25 porary nature; and

1 (B) agricultural employment (as such term
2 is defined in section 3 of the Migrant and Sea-
3 sonal Agricultural Worker Protection Act (29
4 U.S.C. 1802)), and including employment with
5 any agricultural cooperative, without regard to
6 whether the specific service or activity is tem-
7 porary or seasonal.

8 (3) APPLICABLE FEDERAL TAX LIABILITY.—
9 The term “applicable Federal tax liability” means all
10 Federal income taxes assessed in accordance with
11 section 6203 of the Internal Revenue Code of 1986
12 beginning on the date on which the applicant was
13 authorized to work in the United States as a cer-
14 tified agricultural worker.

15 (4) APPROPRIATE UNITED STATES DISTRICT
16 COURT.—The term “appropriate United States dis-
17 trict court” means the United States District Court
18 for the District of Columbia or the United States
19 district court with jurisdiction over the alien’s prin-
20 cipal place of residence.

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

24 (6) CONVICTED OR CONVICTION.—The term
25 “convicted” or “conviction” does not include a judg-

1 ment that has been expunged or set aside, that re-
2 sulted in a rehabilitative disposition, or the equiva-
3 lent.

4 (7) EMPLOYER.—The term “employer” means
5 any person or entity, including any labor contractor
6 or any agricultural association, that employs workers
7 in agricultural labor or services.

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

10 (A) a qualified farm labor organization or
11 an association of employers designated by the
12 Secretary; or

13 (B) any other entity that the Secretary
14 designates as having substantial experience,
15 demonstrated competence, and a history of
16 long-term involvement in the preparation and
17 submission of application for adjustment of sta-
18 tus under title II of the Immigration and Na-
19 tionality Act (8 U.S.C. 1151 et seq.).

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

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

1 **SEC. 122. RULEMAKING; FEES.**

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

12 (b) **FEES.**—

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

17 (2) **FEE WAIVER; INSTALLMENTS.**—

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

20 (i) request a waiver of any fee that
21 the Secretary may assess under this title if
22 the alien demonstrates to the satisfaction
23 of the Secretary that the alien is unable to
24 pay the prescribed fee; or

1 (ii) pay any fee or penalty that the
2 Secretary may assess under this title in in-
3 stallments.

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

9 **SEC. 123. BACKGROUND CHECKS.**

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

20 (b) BACKGROUND CHECKS.—The Secretary shall use
21 biometric, biographic, and other data that the Secretary
22 determines appropriate to conduct security and law en-
23 forcement background checks and to determine whether
24 there is any criminal, national security, or other factor
25 that would render the alien ineligible for status under this

1 title. An alien may not be granted any such status under
2 this title unless security and law enforcement background
3 checks are completed to the satisfaction of the Secretary.

4 **SEC. 124. PROTECTION FOR CHILDREN.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), for purposes of eligibility for certified agricultural de-
7 pendent status or lawful permanent resident status under
8 this title, a determination of whether an alien is a child
9 shall be made using the age of the alien on the date on
10 which the initial application for certified agricultural
11 worker status is filed with the Secretary of Homeland Se-
12 curity.

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

17 **SEC. 125. LIMITATION ON REMOVAL.**

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

24 (b) ALIENS IN REMOVAL PROCEEDINGS.—Notwith-
25 standing any other provision of the law, the Attorney Gen-

1 eral shall (upon motion by the Secretary with the consent
2 of the alien, or motion by the alien) terminate removal
3 proceedings, without prejudice, against an alien who ap-
4 pears to be prima facie eligible for status under this title,
5 and provide such alien a reasonable opportunity to apply
6 for such status.

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

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

1 (1) with advance permission to return to the
2 United States granted by the Secretary under this
3 title; or

4 (2) after having been granted certified agricul-
5 tural worker status or lawful permanent resident
6 status under this title.

7 **SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HIS-**
8 **TORY.**

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

18 (b) **EVIDENCE.**—An alien may meet the burden of
19 proof under subsection (a) by producing sufficient evi-
20 dence to show the extent of such employment as a matter
21 of just and reasonable inference. Such evidence may in-
22 clude—

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

- 1 (2) employment records maintained by collective
2 bargaining associations;
- 3 (3) tax records or other government records;
- 4 (4) sworn affidavits from individuals who have
5 direct knowledge of the alien's work history; or
- 6 (5) any other documentation designated by the
7 Secretary for such purpose.

8 (c) EXCEPTIONS FOR EXTRAORDINARY CIR-
9 CUMSTANCES.—

10 (1) IMPACT OF COVID-19.—

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

22 (B) LIMITATION.—The exception described
23 in subparagraph (A) shall apply only to agricul-
24 tural labor or services required to be performed
25 during the period that—

1 (i) begins on the first day of the pub-
2 lic health emergency described in subpara-
3 graph (A); and

4 (ii) ends 90 days after the date on
5 which such public health emergency termi-
6 nates.

7 (2) EXTRAORDINARY CIRCUMSTANCES.—In de-
8 termining whether an alien has met the requirement
9 under section 103(a)(1)(A) or 111(a)(1)(A), the Sec-
10 retary may credit the alien with not more than 690
11 hours (or 120 work days) of agricultural labor or
12 services in the United States if the alien was unable
13 to perform the required agricultural labor or services
14 due to—

15 (A) pregnancy, parental leave, illness, dis-
16 ease, disabling injury, or physical limitation of
17 the alien;

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

20 (C) severe weather conditions that pre-
21 vented the alien from engaging in agricultural
22 labor or services;

23 (D) reduced hours of employment or other
24 restrictions associated with a public health
25 emergency declared by the Secretary of Health

1 and Human Services under section 319 of the
2 Public Health Service Act (42 U.S.C. 247d); or

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

5 (i) the termination was without just
6 cause; and

7 (ii) the alien was unable to find alter-
8 native agricultural employment after a rea-
9 sonable job search.

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

16 (4) HARDSHIP WAIVER.—

17 (A) IN GENERAL.—As part of the rule-
18 making described in section 122(a), the Sec-
19 retary shall establish procedures allowing for a
20 partial waiver of the requirement under section
21 111(a)(1)(A) for a certified agricultural worker
22 if such worker—

23 (i) has continuously maintained cer-
24 tified agricultural worker status since the
25 date such status was initially granted;

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

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

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

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

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

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

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

1 ration of the application period described in section
2 101(c), and with respect to an alien who applies for cer-
3 tified agricultural status, for the duration of the period
4 during which the alien's application is pending final deter-
5 mination.

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

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

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

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

7 **SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS;**
8 **CONFORMING AMENDMENTS.**

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

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

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

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

17 “(D) who is granted certified agricultural work-
18 er status, certified agricultural dependent status, or
19 lawful permanent resident status under title I of the
20 Affordable and Secure Food Act of 2022,”; and

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

1 which the alien was granted status under title I of
2 the Affordable and Secure Food Act of 2022.”.

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

7 (c) CONFORMING AMENDMENTS.—

8 (1) SOCIAL SECURITY ACT.—Section 210(a)(1)
9 of the Social Security Act (42 U.S.C. 410(a)(1)) is
10 amended by inserting before the semicolon the fol-
11 lowing: “(other than aliens granted certified agricul-
12 tural worker status or certified agricultural depend-
13 ent status under title I of the Affordable and Secure
14 Food Act of 2022”.

15 (2) INTERNAL REVENUE CODE OF 1986.—Sec-
16 tion 3121(b)(1) of the Internal Revenue Code of
17 1986 is amended by inserting before the semicolon
18 the following: “(other than aliens granted certified
19 agricultural worker status or certified agricultural
20 dependent status under title I of the Affordable and
21 Secure Food Act of 2022”.

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

1 (d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECU-
2 RITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the
3 Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended
4 by adding at the end the following:

5 “(iv) The Commissioner of Social Se-
6 curity shall, to the extent practicable, co-
7 ordinate with the Secretary of the Depart-
8 ment of Homeland Security to implement
9 an automated system for the Commissioner
10 to assign social security account numbers
11 to aliens granted certified agricultural
12 worker status or certified agricultural de-
13 pendent status under title I of the Afford-
14 able and Secure Food Act of 2022. An
15 alien who is granted such status, and who
16 was not previously assigned a social secu-
17 rity account number, shall request assign-
18 ment of a social security account number
19 and a social security card from the Com-
20 missioner through such system. The Sec-
21 retary shall collect and provide to the Com-
22 missioner such information as the Commis-
23 sioner deems necessary for the Commis-
24 sioner to assign a social security account
25 number, which information may be used by

1 the Commissioner for any purpose for
2 which the Commissioner is otherwise au-
3 thorized under Federal law. The Commis-
4 sioner may maintain, use, and disclose
5 such information only as permitted by the
6 Privacy Act and other Federal law.”.

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

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

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

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

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

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

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

7 (3) for national security purposes; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (2) the Secretary of Agriculture, in consultation
24 with the Secretary of Homeland Security and the
25 Secretary of Labor, shall disseminate to agricultural

1 employers a document containing the information
2 described in subsection (b) for posting at employer
3 worksites.

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

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

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

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

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

16 **SEC. 133. REPORTS TO CONGRESS.**

17 Not later than 180 days after the publication of the
18 final rule under section 122(a), and annually thereafter
19 for the following 10 years, the Secretary shall submit a
20 report to the Committee on the Judiciary of the Senate
21 and the Committee on the Judiciary of the House of Rep-
22 resentatives that identifies, for the previous fiscal year—

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

1 A, and the number of dependent spouses and chil-
2 dren included in such applications;

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

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

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

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

23 (6) the number of principal aliens who were
24 granted lawful permanent resident status under sub-

1 title B, and the number of spouses and children who
2 were granted such status as dependents;

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

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

11 **SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
12 **CANTS.**

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

18 (b) **ELIGIBLE NONPROFIT ORGANIZATION.**—In this
19 section, the term “eligible nonprofit organization” means
20 an organization described in section 501(c)(3) of the In-
21 ternal Revenue Code of 1986 (excluding a recipient of
22 funds under title X of the Economic Opportunity Act of
23 1964 (42 U.S.C. 2996 et seq.)) that has demonstrated
24 qualifications, experience, and expertise in providing qual-
25 ity 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 shall
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 2023 through 2025.

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 1 year after
25 the date of the enactment of this Act, the Secretary

1 of Homeland Security, in consultation with the Sec-
2 retary of Labor, the Secretary of Agriculture, the
3 Secretary of State, and United States Digital Serv-
4 ice, shall ensure the establishment of an electronic
5 platform through which a petition for an H-2A
6 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 (3) REPORTS TO CONGRESS.—Not later than 6
5 months after the date of the enactment of this Act,
6 and every 3 months thereafter until the H-2A work-
7 er electronic platform is established pursuant to
8 paragraph (1), the Secretary of Homeland Security
9 shall submit a report to the Committee on the Judi-
10 ciary of the Senate and the Committee on the Judi-
11 ciary of the House of Representatives that outlines
12 the status of the electronic platform development.

13 (b) ONLINE JOB REGISTRY.—The Secretary of Labor
14 shall maintain a national, publicly accessible online job
15 registry and database of all job orders submitted by H-
16 2A employers. The registry and database shall—

17 (1) be searchable using relevant criteria, includ-
18 ing the types of jobs needed to be filled, the date(s)
19 and location(s) of need, and the employer(s) named
20 in the job order;

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

1 (3) provide for public access of job orders ap-
2 proved under section 218(h)(2) of the Immigration
3 and Nationality Act (8 U.S.C. 1188(h)(2)).

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

5 Section 218 of the Immigration and Nationality Act
6 (8 U.S.C. 1188) is amended to read as follows:

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

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

12 “(1) there are not sufficient United States
13 workers who are able, willing and qualified, and who
14 will be available at the time and place needed, to
15 perform the agricultural labor or services described
16 in the petition; and

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

21 “(b) H-2A PETITION REQUIREMENTS.—An em-
22 ployer filing a petition for an H-2A worker to perform
23 agricultural labor or services shall attest to and dem-
24 onstrate compliance, as and when appropriate, with all ap-

1 plicable requirements under this section, including the fol-
2 lowing:

3 “(1) NEED FOR LABOR OR SERVICES.—The em-
4 ployer has described the need for agricultural labor
5 or services in a job order that includes a description
6 of the nature and location of the work to be per-
7 formed, the material terms and conditions of em-
8 ployment, the anticipated period or periods (expected
9 start and end dates) for which the workers will be
10 needed, the number of job opportunities in which the
11 employer seeks to employ the workers, and any other
12 requirement for a job order.

13 “(2) NONDISPLACEMENT OF UNITED STATES
14 WORKERS.—The employer has not and will not dis-
15 place United States workers employed by the em-
16 ployer during the period of employment of the H-
17 2A worker and during the 60-day period imme-
18 diately preceding such period of employment in the
19 job for which the employer seeks approval to employ
20 the H-2A worker.

21 “(3) STRIKE OR LOCKOUT.—Each place of em-
22 ployment described in the petition is not, at the time
23 of filing the petition and until the petition is ap-
24 proved, subject to a strike or lockout in the course
25 of a labor dispute.

1 “(4) RECRUITMENT OF UNITED STATES WORK-
2 ERS.—The employer shall engage in the recruitment
3 of United States workers as described in subsection
4 (c) and shall hire such workers who are able, willing
5 and qualified, and who will be available at the time
6 and place needed, to perform the agricultural labor
7 or services described in the petition. The employer
8 may reject a United States worker only for lawful,
9 job-related reasons.

10 “(5) WAGES, BENEFITS, AND WORKING CONDI-
11 TIONS.—The employer shall offer and provide, at a
12 minimum, the wages, benefits, and working condi-
13 tions required by this section to the H-2A worker
14 and all workers who are similarly employed. The em-
15 ployer—

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

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

23 “(6) WORKERS’ COMPENSATION.—If the job op-
24 portunity is not covered by or is exempt from the
25 State workers’ compensation law, the employer shall

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

6 “(7) COMPLIANCE WITH APPLICABLE LAWS.—
7 The employer shall comply with all applicable Fed-
8 eral, State and local laws and regulations.

9 “(8) COMPLIANCE WITH WORKER PROTEC-
10 TIONS.—The employer shall comply with section 204
11 of the Affordable and Secure Food Act of 2022.

12 “(9) COMPLIANCE WITH FOREIGN LABOR RE-
13 CRUITMENT LAWS.—The employer shall comply with
14 subtitle C of title II of the Affordable and Secure
15 Food Act of 2022.

16 “(c) RECRUITING REQUIREMENTS.—

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

20 “(A) JOB ORDER.—As provided in sub-
21 section (h)(1), the employer shall complete a
22 job order for posting on the electronic job reg-
23 istry maintained by the Secretary of Labor and
24 for distribution by the appropriate State work-
25 force agency. Such posting shall remain on the

1 job registry as an active job order through the
2 period described in paragraph (2)(B).

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

6 “(i) make reasonable efforts to con-
7 tact any United States worker who the em-
8 ployer or agricultural producer for whom
9 the employer is supplying labor employed
10 in the previous year in the same occupa-
11 tion and area of intended employment for
12 which an H-2A worker is sought (exclud-
13 ing workers who were terminated for cause
14 or abandoned the worksite); and

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

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

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

3 “(2) PERIOD OF RECRUITMENT.—

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

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

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

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

1 “(II) the date on which—

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

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

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

18 “(iii) EXCEPTION.—Notwithstanding
19 clause (i), the employer may offer a job op-
20 portunity to an H-2A worker instead of an
21 alien granted certified agricultural worker
22 status under title I of the Affordable and
23 Secure Food Act of 2022 if the H-2A
24 worker was employed by the employer in
25 each of 3 years during the 4-year period

1 immediately preceding the date of the en-
2 actment of such Act.

3 “(3) RECRUITMENT REPORT.—

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

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

20 “(d) WAGE REQUIREMENTS.—

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

1 “(A) the agreed-upon collective bargaining
2 wage;

3 “(B) the adverse effect wage rate (or any
4 successor wage established under paragraph
5 (7));

6 “(C) the prevailing wage (hourly wage or
7 piece rate); or

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

9 “(2) ADVERSE EFFECT WAGE RATE DETER-
10 MINATIONS.—

11 “(A) IN GENERAL.—Except as provided
12 under subparagraph (B), the applicable adverse
13 effect wage rate for each State and classifica-
14 tion for a calendar year shall be the annual av-
15 erage hourly gross wage for all hired agricul-
16 tural workers in the State, as reported by the
17 Secretary of Agriculture and the Secretary of
18 Labor based on a wage survey conducted by
19 such secretaries under subparagraph (C). If
20 such wage is not reported, the applicable wage
21 shall be the State or regional annual gross aver-
22 age hourly wage for all hired agricultural work-
23 ers based on the Agricultural Labor Wage sur-
24 vey conducted pursuant to subparagraph (C).

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

3 “(i) WAGE FREEZE FOR CALENDAR
4 YEAR 2023.—For calendar year 2023, the
5 adverse effect wage rate for each State
6 classification under this subsection shall be
7 the adverse effect wage rate that was in ef-
8 fect for H-2A workers in the applicable
9 State on the date of the introduction of the
10 Affordable and Secure Food Act of 2022.

11 “(ii) CALENDAR YEARS 2024 THROUGH
12 2034.—For each of calendar years 2024
13 through 2034, the adverse effect wage rate
14 for each State classification under this
15 subsection shall be the wage calculated
16 under subparagraph (A), except that such
17 wage may not—

18 “(I) be more than 1.25 percent
19 lower than the wage in effect for H-
20 2A workers in the applicable State
21 classification in the immediately pre-
22 ceding calendar year;

23 “(II) except as provided in clause
24 (III), be more than 3 percent higher
25 than the wage in effect for H-2A

1 workers in the applicable State classi-
2 fication in the immediately preceding
3 calendar year; and

4 “(III) if the application of clause
5 (II) results in a wage that is lower
6 than 110 percent of the applicable
7 Federal or State minimum wage, be
8 more than 4 percent higher than the
9 wage in effect for H-2A workers in
10 the applicable State classification in
11 the immediately preceding calendar
12 year.

13 “(iii) CALENDAR YEARS AFTER
14 2034.—For any calendar year after 2034,
15 the applicable wage rate described in para-
16 graph (1)(B) shall be the wage rate estab-
17 lished pursuant to paragraph (7)(D). Until
18 such wage rate is effective, the adverse ef-
19 fect wage rate for each State classification
20 under this subsection shall be the wage cal-
21 culated under subparagraph (A), except
22 that such wage may not be more than 0.5
23 percent lower or 3 percent higher than the
24 wage in effect for H-2A workers in the ap-

1 plicable State classification in the imme-
2 diately preceding calendar year.

3 “(C) WAGE SURVEYS AND DATA.—

4 “ (i) AGRICULTURAL LABOR SUR-
5 VEY.—The Secretary of Labor, in carrying
6 out the responsibilities in setting the ad-
7 verse effect wage rate under subparagraph
8 (A), shall rely on statistically valid data
9 from the Department of Agriculture Na-
10 tional Agricultural Statistics Service’s an-
11 nual findings from the Agricultural Labor
12 Survey (commonly referred to as the
13 ‘Farm Labor Survey’).

14 “(ii) FORM; DATA.—The Secretary of
15 Agriculture shall conduct the Agricultural
16 Labor Survey in the form of a quarterly
17 survey of the number of hired agricultural
18 workers, the number of hours worked, and
19 the total gross wages paid by type of work-
20 er, including field workers, livestock work-
21 ers, and supervisors or managers,
22 disaggregated by occupational groups and
23 other workers (who may be classified by
24 the Standard Occupational Classification
25 system).

1 “(iii) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There is authorized to be appro-
3 priated to the Secretary of Agriculture and
4 the Secretary of Labor, such sums as may
5 be necessary for the purposes of carrying
6 out this subsection.

7 “(3) PUBLICATION; WAGES IN EFFECT.—

8 “(A) PUBLICATION.—Before the first day
9 of each calendar year, the Secretary of Labor
10 shall publish the applicable adverse effect wage
11 rate (or successor wage rate, if any), and pre-
12 vailing wage, if available, for each State and oc-
13 cupational classification through notice in the
14 Federal Register.

15 “(B) JOB ORDERS IN EFFECT.—Except as
16 provided in subparagraph (C), publication by
17 the Secretary of Labor of an updated adverse
18 effect wage rate or prevailing wage for a State
19 and occupational classification shall not affect
20 the wage rate guaranteed in any approved job
21 order for which work has commenced at the
22 time of publication.

23 “(C) EXCEPTION FOR YEAR-ROUND
24 JOBS.—If the Secretary of Labor publishes an
25 updated adverse effect wage rate or prevailing

1 wage for a State and occupational classification
2 concerning a petition described in subsection
3 (i), and the updated wage is higher than the
4 wage rate guaranteed in the work contract, the
5 employer shall pay the updated wage not later
6 than 14 days after publication of the updated
7 wage in the Federal Register.

8 “(4) PRODUCTIVITY STANDARD REQUIRE-
9 MENTS.—If an employer requires 1 or more min-
10 imum productivity standards as a condition of job
11 retention, such standards shall be specified in the
12 job order and shall be no more than those normally
13 required (at the time of the first petition for H-2A
14 workers) by other employers for the activity in the
15 area of intended employment, unless the Secretary
16 of Labor approves a higher minimum standard re-
17 sulting from material changes in production meth-
18 ods.

19 “(5) GUARANTEE OF EMPLOYMENT.—

20 “(A) OFFER TO WORKER.—The employer
21 shall guarantee the worker employment for the
22 hourly equivalent of at least 80 percent of the
23 work days of the total period of employment,
24 beginning with the first work day after the ar-
25 rival of the worker at the place of employment

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

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

24 “(C) ABANDONMENT OF EMPLOYMENT;
25 TERMINATION FOR CAUSE.—If the worker vol-

1 untarily abandons employment without good
2 cause before the end of the contract period, or
3 is terminated for cause, the worker is not enti-
4 tled to the guarantee of employment described
5 in subparagraph (A).

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

24 “(6) WAGE STANDARDS AFTER 2034.—

1 “(A) STUDY OF ADVERSE EFFECT WAGE
2 RATE.—Beginning in fiscal year 2031, the Sec-
3 retary of Agriculture and the Secretary of
4 Labor shall jointly conduct a study that ad-
5 dresses—

6 “(i) whether the employment of H–2A
7 workers has depressed the wages of United
8 States farm workers;

9 “(ii) whether an adverse effect wage
10 rate is necessary to protect the wages of
11 United States farm workers in occupations
12 in which H–2A workers are employed;

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

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

23 “(v) recommendations for future wage
24 protection under this section.

1 “(B) FINAL REPORT.—Not later than Oc-
2 tober 1, 2032, the Secretary of Agriculture and
3 the Secretary of Labor shall jointly prepare and
4 submit a report to Congress setting forth the
5 findings of the study conducted under subpara-
6 graph (A) and recommendations for future
7 wage protections under this section.

8 “(C) CONSULTATION.—In conducting the
9 study under subparagraph (A) and preparing
10 the report under subparagraph (B), the Sec-
11 retary of Agriculture and the Secretary of
12 Labor shall consult with representatives of agri-
13 cultural employers and an equal number of rep-
14 resentatives of agricultural workers, at the na-
15 tional, State and local level.

16 “(D) WAGE DETERMINATION AFTER
17 2034.—Upon publication of the report described
18 in subparagraph (B), the Secretary of Labor, in
19 consultation with the Secretary of Agriculture,
20 shall make a rule to establish a process for an-
21 nually determining the wage rate for purposes
22 of paragraph (1)(B) for fiscal years after 2034.
23 Such process shall be designed to ensure that
24 the employment of H-2A workers does not un-

1 determine the wages and working conditions of
2 similarly employed United States workers.

3 “(e) HOUSING REQUIREMENTS.—Employers shall
4 furnish housing in accordance with regulations established
5 by the Secretary of Labor. Such regulations shall be con-
6 sistent with the following:

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

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

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

6 “(4) TIMING OF INSPECTION.—

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

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

17 “(i) an employer to request inspection
18 of housing up to 60 days before the date
19 on which the employer will file a petition
20 under this section; and

21 “(ii) annual inspection of housing for
22 workers who are engaged in agricultural
23 employment that is not of a seasonal or
24 temporary nature.

25 “(f) TRANSPORTATION REQUIREMENTS.—

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

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

21 “(3) TRANSPORTATION BETWEEN LIVING QUAR-
22 TERS AND PLACE OF EMPLOYMENT.—The employer
23 shall provide transportation for a worker between
24 housing provided or secured by the employer and the

1 employer's place of employment at no cost to the
2 worker.

3 “(4) LIMITATION.—

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

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

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

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

23 “(g) HEAT ILLNESS PREVENTION PLAN.—

24 “(1) IN GENERAL.—The employer shall main-
25 tain a reasonable plan that describes the employer's

1 procedures for the prevention of heat illness, includ-
2 ing appropriate training, access to water and shade,
3 the provision of breaks, and the protocols for emer-
4 gency response. Such plan shall—

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

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

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

17 “(3) TEMPLATE.—Not later than 1 year after
18 the date of the enactment of the Affordable and Se-
19 cure Food Act of 2022, the Secretary of Labor, act-
20 ing through the Assistant Secretary of Labor for Oc-
21 cupational Safety and Health, shall publish, on the
22 website of the Occupational Safety and Health Ad-
23 ministration, a template for a Heat Illness Preven-
24 tion Plan, which employers could use, at their dis-
25 cretion, to help them develop such a plan.

1 “(h) H-2A PETITION PROCEDURES.—

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

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

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

24 “(C) PETITIONS INVOLVING STAGGERED
25 ENTRY.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), an employer may file
3 a petition involving employment in the
4 same occupational classification and same
5 area of intended employment with multiple
6 start dates if—

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

10 “(II) the multiple start dates
11 share a common end date;

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

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

20 “(ii) LABOR CONTRACTORS.—A labor
21 contractor may not file a petition described
22 in clause (i).

23 “(2) LABOR CERTIFICATION.—

24 “(A) REVIEW OF JOB ORDER.—

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

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

24 “(iii) EMERGENCY PROCEDURES.—
25 The Secretary of Labor shall establish

1 emergency procedures for the curing of de-
2 ficiencies that cannot be resolved during
3 the period described in clause (i).

4 “(B) APPROVAL OF JOB ORDER.—

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

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

20 “(C) REVIEW OF INFORMATION FOR DEFI-
21 CIENCIES.—Not later than 7 business days
22 after the approval of the job order, the Sec-
23 retary of Labor shall review the information
24 necessary to make a labor certification and no-
25 tify the employer through the electronic plat-

1 form if such information does not meet the
2 standards for approval. Such notification shall
3 include a description of any deficiency, and the
4 employer shall be provided 5 business days to
5 cure such deficiency.

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

13 “(E) EXPEDITED ADMINISTRATIVE AP-
14 PEALS OF CERTAIN DETERMINATIONS.—The
15 Secretary of Labor shall by regulation establish
16 a procedure for an employer to request the ex-
17 pedited review of a denial of a labor certifi-
18 cation under this section, or the revocation of
19 such a certification. Such procedure shall re-
20 quire the Secretary to expeditiously, but no
21 later than 72 hours after expedited review is re-
22 quested, issue a de novo determination on a
23 labor certification that was denied in whole or
24 in part because of the availability of able, will-
25 ing and qualified workers if the employer dem-

1 onstrates, consistent with subsection (c)(3)(B),
2 that such workers are not actually available at
3 the time or place such labor or services are re-
4 quired.

5 “(3) PETITION DECISION.—

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

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

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

24 “(D) POST-CERTIFICATION AMEND-
25 MENTS.—The Secretary of Labor shall provide

1 a process for amending a request for labor cer-
2 tification in conjunction with an H-2A petition,
3 subsequent to certification by the Secretary of
4 Labor, in cases in which the requested amend-
5 ment does not materially change the petition
6 (including the job order).

7 “(4) ROLES OF AGRICULTURAL ASSOCIA-
8 TIONS.—

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

20 “(B) ASSOCIATION’S VIOLATION DOES NOT
21 NECESSARILY DISQUALIFY MEMBERS.—

22 “(i) If an association representing ag-
23 ricultural producers as a joint employer is
24 determined to have committed an act that
25 results in the denial of a petition with re-

1 spect to the association, the denial shall
2 apply only to the association and does not
3 apply to any individual producer member
4 of the association unless the Secretary of
5 Labor determines that the member partici-
6 pated in, had knowledge of, or reason to
7 know of, the violation.

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

24 “(5) SPECIAL PROCEDURES.—For occupations
25 with established special procedures that were in

1 place on the date of the enactment of the Affordable
2 and Secure Food Act of 2022, the Secretary of
3 Labor, in consultation with the Secretary of Agri-
4 culture and Secretary of Homeland Security, may by
5 regulation establish alternate procedures that rea-
6 sonably modify program requirements under this
7 section, when the Secretary determines that such
8 modifications are required due to the unique nature
9 of the work involved.

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

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

16 “(1) IN GENERAL.—Notwithstanding the re-
17 quirement under section 101(a)(15)(H)(ii)(a) that
18 the agricultural labor or services performed by an
19 H–2A worker be of a temporary or seasonal nature,
20 the Secretary of Homeland Security may, consistent
21 with the provisions of this subsection, approve a pe-
22 tition from a fixed site farm employer for an H–2A
23 worker to perform agricultural services or labor that
24 is not of a temporary or seasonal nature.

25 “(2) NUMERICAL LIMITATIONS.—

1 “(A) FIRST 3 FISCAL YEARS.—The total
2 number of aliens who may be issued visas or
3 otherwise provided H–2A nonimmigrant status
4 under paragraph (1) for the first fiscal year
5 during which the first visa is issued under such
6 paragraph and for each of the following 2 fiscal
7 years may not exceed 26,000.

8 “(B) FISCAL YEARS 4 THROUGH 10.—

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

19 “(ii) ANNUAL ADJUSTMENTS.—For
20 each fiscal year referred to in clause (i),
21 the Secretary of Agriculture and the Sec-
22 retary of Labor, in consultation with the
23 Secretary of Homeland Security, shall es-
24 tablish the numerical limitation referred to
25 in clause (i). Such numerical limitation

1 may not be lower than 26,000 and may
2 not vary by more than 15 percent com-
3 pared to the numerical limitation applica-
4 ble to the immediately preceding fiscal
5 year. In establishing such numerical limita-
6 tion, the Secretaries shall consider appro-
7 priate factors, including—

8 “(I) a demonstrated shortage of
9 agricultural workers;

10 “(II) the level of unemployment
11 and underemployment of agricultural
12 workers during the preceding fiscal
13 year;

14 “(III) the number of H-2A work-
15 ers sought by employers, including the
16 number of petitions filed for H-2A
17 workers during the preceding fiscal
18 year to engage in agricultural labor or
19 services not of a temporary or sea-
20 sonal nature;

21 “(IV) the number of such H-2A
22 workers issued a visa in the most re-
23 cent fiscal year who remain in the
24 United States in compliance with the
25 terms of such visa;

1 “(V) the estimated number of
2 United States workers, including
3 workers who obtained certified agri-
4 cultural worker status under title I of
5 the Affordable and Secure Food Act
6 of 2022, who worked during the pre-
7 ceding fiscal year in agricultural labor
8 or services not of a temporary or sea-
9 sonal nature;

10 “(VI) the number of such United
11 States workers who accepted jobs of-
12 fered by employers using the online
13 job registry during the preceding fis-
14 cal year;

15 “(VII) any growth or contraction
16 of the United States agricultural in-
17 dustry that has increased or decreased
18 the demand for agricultural workers;
19 and

20 “(VIII) any changes in the real
21 wages paid to agricultural workers in
22 the United States as an indication of
23 a shortage or surplus of agricultural
24 labor.

1 “(iii) ANNUAL REPORT.—The Sec-
2 retary of Agriculture and the Secretary of
3 Labor shall submit an annual report con-
4 taining the information described in clause
5 (ii) to—

6 “(I) the Committee on Agri-
7 culture, Nutrition, and Forestry of
8 the Senate;

9 “(II) the Committee on Health,
10 Education, Labor, and Pensions of
11 the Senate;

12 “(III) the Committee on Home-
13 land Security and Governmental Af-
14 fairs of the Senate;

15 “(IV) the Committee on the Ju-
16 diciary of the Senate;

17 “(V) the Committee on Agri-
18 culture of the House of Representa-
19 tives;

20 “(VI) the Committee on Edu-
21 cation and Labor of the House of
22 Representatives;

23 “(VII) the Committee on Home-
24 land Security of the House of Rep-
25 resentatives; and

1 “(VIII) the Committee on the
2 Judiciary of the House of Representa-
3 tives.

4 “(C) SUBSEQUENT FISCAL YEARS.—For
5 each of the fiscal years following the fiscal
6 years referred to in subparagraph (B), the Sec-
7 retary of Agriculture and the Secretary of
8 Labor, in consultation with the Secretary of
9 Homeland Security, shall jointly determine,
10 after considering appropriate factors, including
11 the factors listed in subclauses (I) through
12 (VIII) of subparagraph (B)(ii), whether to es-
13 tablish or to no longer maintain a numerical
14 limitation for such fiscal year. If a numerical
15 limitation is established for such fiscal year—

16 “(i) such numerical limitation may
17 not be lower than the number of aliens ad-
18 mitted under this subsection during the
19 fiscal year immediately preceding the fiscal
20 year for which the numerical limitation is
21 to be established; and

22 “(ii) the total number of aliens who
23 may be issued visas or otherwise provided
24 H-2A nonimmigrant status under para-

1 graph (1) for that fiscal year may not ex-
2 ceed such numerical limitation.

3 “(D) AUTOMATIC ADJUSTMENT FOR SIG-
4 NIFICANT LABOR SHORTAGES.—Not later than
5 the last day of the third fiscal year during
6 which the first visa is issued under paragraph
7 (1), the Secretary of Agriculture and the Sec-
8 retary of Labor, in consultation with the Sec-
9 retary of Homeland Security, shall jointly es-
10 tablish, by regulation, procedures for imme-
11 diately adjusting a numerical limitation imposed
12 under subparagraph (B) or (C) to account for
13 significant labor shortages. Such regulations
14 shall take into account the factors set forth in
15 subparagraph (B)(ii).

16 “(3) ALLOCATION OF VISAS.—

17 “(A) BI-ANNUAL ALLOCATION.—The an-
18 nual allocation of visas described in paragraph
19 (2) shall be evenly allocated between two halves
20 of the fiscal year unless the Secretary of Home-
21 land Security, in consultation with the Sec-
22 retary of Agriculture and Secretary of Labor,
23 determines that an alternative allocation would
24 better accommodate demand for visas. Any un-
25 used visas in the first half of the fiscal year

1 shall be added to the allocation for the subse-
2 quent half of the same fiscal year.

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

5 “(i) IN GENERAL.—Of the visa num-
6 bers made available in each half of the fis-
7 cal year pursuant to subparagraph (A), 50
8 percent of such visas shall be reserved for
9 employers filing petitions seeking H-2A
10 workers to engage in agricultural labor or
11 services in the dairy industry.

12 “(ii) EXCEPTION.—If, after 4 months
13 have elapsed in one half of the fiscal year,
14 the Secretary of Homeland Security deter-
15 mines that application of clause (i) will re-
16 sult in visas going unused during that half
17 of the fiscal year, clause (i) shall not apply
18 to visas under this paragraph during the
19 remainder of such calendar half.

20 “(C) RESERVE FOR SMALL FARMER LABOR
21 OR SERVICES.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), of the visas made avail-
24 able during each 6 month period of a fiscal
25 year pursuant to subparagraph (A), 20

1 percent shall be reserved for employers (ex-
2 cluding employers eligible for a reserve
3 under subparagraph (B)) with fewer than
4 50 domestic employees that file a petition
5 seeking H-2A workers to engage in agri-
6 cultural labor or services.

7 “(ii) EXCEPTION.—If, after 4 months
8 have elapsed in $\frac{1}{2}$ of the fiscal year, the
9 Secretary of Homeland Security deter-
10 mines that the application of clause (i) will
11 result in visas going unused during that 6-
12 month period, clause (i) shall not apply to
13 visas under this paragraph during the re-
14 mainder of such 6-month period.

15 “(D) LIMITED ALLOCATION FOR CERTAIN
16 SPECIAL PROCEDURES INDUSTRIES.—

17 “(i) IN GENERAL.—Notwithstanding
18 the numerical limitations under paragraph
19 (2), up to 550 aliens may be issued visas
20 or otherwise provided H-2A nonimmigrant
21 status under paragraph (1) in a fiscal year
22 for range sheep or goat herding.

23 “(ii) LIMITATION.—The total number
24 of aliens in the United States in valid H-

1 2A status under clause (i) at any one time
2 may not exceed 550.

3 “(iii) CLARIFICATION.—Any visas
4 issued under this subparagraph may not be
5 considered for purposes of the annual ad-
6 justments under subparagraphs (B) and
7 (C) of paragraph (2).

8 “(4) ANNUAL ROUND TRIP HOME.—

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

20 “(B) LIMITATION.—The cost of travel
21 under subparagraph (A) need not exceed the
22 lesser of—

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

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

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

16 “(6) WORKPLACE SAFETY PLAN FOR YEAR-
17 ROUND EMPLOYEES.—

18 “(A) IN GENERAL.—If an employer is
19 seeking to employ a worker in agricultural labor
20 or services pursuant to this subsection, the em-
21 ployer shall report all work-related incidents in
22 accordance with the requirements under section
23 1904.39 of title 29, Code of Federal Regula-
24 tions, and maintain an effective worksite safety
25 and compliance plan to prevent workplace acci-

1 dents and otherwise ensure safety. Such plan
2 shall—

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

7 “(ii) be posted at a conspicuous loca-
8 tion at the worksite and provided to em-
9 ployees prior to the commencement of
10 labor or services.

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

17 “(i) require workers (other than the
18 employer’s family members) whose posi-
19 tions require contact with animals to com-
20 plete animal care training, including ani-
21 mal handling and job-specific animal care;

22 “(ii) protect against sexual harass-
23 ment and violence, resolve complaints in-
24 volving harassment or violence, and protect

1 against retaliation against workers report-
2 ing harassment or violence; and

3 “(iii) contain other provisions nec-
4 essary for ensuring workplace safety, as
5 determined by the Secretary of Labor, in
6 consultation with the Secretary of Agri-
7 culture.

8 “(C) CLARIFICATION.—Nothing in this
9 paragraph is intended—

10 “(i) to apply to persons or entities
11 that are not seeking to employ workers
12 under this section; or

13 “(ii) to limit any other Federal or
14 State authority to promulgate, enforce, or
15 maintain health and safety standards re-
16 lated to the dairy industry.

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

19 “(1) DISQUALIFICATION.—An alien shall be in-
20 eligible for admission to the United States as an H-
21 2A worker pursuant to a petition filed under this
22 section if the alien was admitted to the United
23 States as an H-2A worker within the past 5 years
24 of the date the petition was filed and—

1 “(A) violated a material provision of this
2 section, including the requirement to promptly
3 depart the United States when the alien’s au-
4 thorized period of admission has expired, unless
5 the alien has good cause for such failure to de-
6 part; or

7 “(B) otherwise violated a term or condition
8 of admission into the United States as an H-
9 2A worker.

10 “(2) VISA VALIDITY.—A visa issued to an H-
11 2A worker shall be valid for 3 years and shall allow
12 for multiple entries during the approved period of
13 admission.

14 “(3) PERIOD OF AUTHORIZED STAY; ADMIS-
15 SION.—

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

23 “(B) REQUIREMENT TO REMAIN OUTSIDE
24 THE UNITED STATES.—In the case of an H-2A
25 worker whose maximum continuous period of

1 authorized stay (including any extensions) has
2 expired, the alien may not again be eligible for
3 such stay until the alien remains outside the
4 United States for a cumulative period of at
5 least 45 days.

6 “(C) EXCEPTIONS.—The Secretary of
7 Homeland Security shall deduct absences from
8 the United States that take place during an H–
9 2A worker’s period of authorized stay from the
10 period that the alien is required to remain out-
11 side the United States under subparagraph (B),
12 if the alien or the alien’s employer requests
13 such a deduction, and provides clear and con-
14 vincing proof that the alien qualifies for such a
15 deduction. Such proof shall consist of evidence
16 including, but not limited to, arrival and depart-
17 ure records, copies of tax returns, and records
18 of employment abroad.

19 “(D) ADMISSION.—In addition to the max-
20 imum continuous period of authorized stay, an
21 H–2A worker’s authorized period of admission
22 shall include an additional period of 10 days
23 prior to the beginning of the period of employ-
24 ment for the purpose of traveling to the place
25 of employment and 45 days at the end of the

1 period of employment for the purpose of trav-
2 eling home or seeking an extension of status
3 based on a subsequent offer of employment if
4 the worker has not reached the maximum con-
5 tinuous period of authorized stay under sub-
6 paragraph (A) (subject to the exceptions in sub-
7 paragraph (C)).

8 “(4) CONTINUING H-2A WORKERS.—

9 “(A) SUCCESSIVE EMPLOYMENT.—An H-
10 2A worker is authorized to start new or concur-
11 rent employment upon the filing of a nonfrivo-
12 lous H-2A petition, or as of the requested start
13 date, whichever is later if—

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

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

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

5 “(i) is the beneficiary of an approved
6 petition, filed under section 204(a)(1)(E)
7 or (F) for preference status under section
8 203(b)(3)(A)(iii); and

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

12 may apply for, and the Secretary of Homeland
13 Security may grant, an extension of such non-
14 immigrant status until the Secretary of Home-
15 land Security issues a final administrative deci-
16 sion on the alien’s application for adjustment of
17 status or the Secretary of State issues a final
18 decision on the alien’s application for an immi-
19 grant visa.

20 “(5) ABANDONMENT OF EMPLOYMENT.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), an H–2A worker who aban-
23 dons the employment which was the basis for
24 the worker’s authorized stay, without good
25 cause, shall be considered to have failed to

1 maintain H-2A status and shall depart the
2 United States or be subject to removal under
3 section 237(a)(1)(C)(i).

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

13 “(k) REQUIRED DISCLOSURES.—

14 “(1) DISCLOSURE OF WORK CONTRACT.—Not
15 later than the time at which an H-2A worker ap-
16 plies for a visa, or not later than the date on which
17 work commences for a worker in corresponding em-
18 ployment, the employer shall provide such worker
19 with a copy of the work contract, which shall include
20 all of the provisions under this section, or, in the ab-
21 sence of such a contract, a copy of the job order and
22 the certification described in subparagraphs (B) and
23 (D) of subsection (h)(2), which shall be deemed to
24 be the work contract. An H-2A worker moving from
25 one H-2A employer to a subsequent H-2A employer

1 shall be provided with a copy of the new employment
2 contract no later than the time at which an offer of
3 employment is made by the subsequent employer.

4 “(2) HOURS AND EARNINGS STATEMENTS.—

5 The employer shall furnish to H–2A workers, on or
6 before each payday, in one or more written state-
7 ments—

8 “(A) the H–2A worker’s total earnings for
9 the pay period;

10 “(B) the H–2A worker’s hourly rate of
11 pay, piece rate of pay, or both;

12 “(C) the hours of employment offered to
13 the H–2A worker and the hours of employment
14 actually worked by the H–2A worker;

15 “(D) if piece rates of pay are used, the
16 units produced daily by the H–2A worker;

17 “(E) an itemization of the deductions
18 made from the H–2A worker’s wages; and

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

21 “(3) NOTICE OF WORKER RIGHTS.—The em-
22 ployer shall post and maintain, in a conspicuous lo-
23 cation at the place of employment, a poster provided
24 by the Secretary of Labor in English, and, to the ex-
25 tent necessary, any language common to a signifi-

1 cant portion of the workers if they are not fluent in
2 English, which sets out the rights and protections
3 for workers employed pursuant to this section.

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

6 “(1) LABOR CONTRACTORS.—

7 “(A) SURETY BOND.—An employer that is
8 a labor contractor who seeks to employ H-2A
9 workers shall maintain a surety bond in an
10 amount required under subparagraph (B). Such
11 bond shall be payable to the Secretary of Labor
12 or pursuant to the resolution of a civil or crimi-
13 nal proceeding, for the payment of wages and
14 benefits, including any assessment of interest,
15 owed to an H-2A worker or a similarly em-
16 ployed worker, or a worker who has been re-
17 jected or displaced in violation of this section.

18 “(B) AMOUNT OF BOND.—The Secretary
19 of Labor shall annually publish in the Federal
20 Register a schedule of required bond amounts
21 that are determined by such Secretary to be
22 sufficient for labor contractors to discharge fi-
23 nancial obligations under this section based on
24 the number of workers the labor contractor

1 seeks to employ and the wages such workers are
2 required to be paid.

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

11 “(2) FOREIGN LABOR RECRUITING.—If the em-
12 ployer has retained the services of a foreign labor re-
13 cruter, the employer shall use a foreign labor re-
14 cruter registered under section 251 of the Afford-
15 able and Secure Food Act of 2022.

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

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

14 “(m) ENFORCEMENT AUTHORITY.—

15 “(1) IN GENERAL.—The Secretary of Labor is
16 authorized to take such actions against employers,
17 including issuing subpoenas, imposing appropriate
18 penalties, and seeking monetary and injunctive relief
19 and specific performance of contractual obligations,
20 as may be necessary to ensure compliance with the
21 requirements of this section and with the applicable
22 terms and conditions of employment. The Solicitor
23 of Labor may appear on behalf of and represent the
24 Secretary of Labor in any civil litigation brought
25 under this chapter, but all such litigation shall be

1 subject to the direction and control of the Attorney
2 General.

3 “(2) COMPLAINT PROCESS.—

4 “(A) PROCESS.—The Secretary of Labor
5 shall establish a process for the receipt, inves-
6 tigation, and disposition of complaints alleging
7 failure of an employer to comply with the re-
8 quirements under this section and with the ap-
9 plicable terms and conditions of employment.

10 “(B) FILING.—A complaint referred to in
11 subparagraph (A) may be filed not later than 2
12 years after the date of the conduct that is the
13 subject of the complaint.

14 “(C) COMPLAINT NOT EXCLUSIVE.—A
15 complaint filed under this paragraph is not an
16 exclusive remedy and the filing of such a com-
17 plaint does not waive any rights or remedies of
18 the aggrieved party under this law or other
19 laws.

20 “(D) DECISION AND REMEDIES.—If the
21 Secretary of Labor finds, after notice and op-
22 portunity for a hearing, that the employer failed
23 to comply with the requirements of this section
24 or the terms and conditions of employment, the
25 Secretary of Labor may require payment of un-

1 paid wages, unpaid benefits, fees assessed in
2 violation of this section, damages, and civil
3 money penalties. The Secretary is also author-
4 ized to impose other administrative remedies,
5 including disqualification of the employer from
6 utilizing the H-2A program for a period of up
7 to 5 years in the event of willful or multiple
8 material violations. The Secretary is authorized
9 to permanently disqualify an employer from uti-
10 lizing the H-2A program upon a subsequent
11 finding involving willful or multiple material
12 violations.

13 “(E) DISPOSITION OF PENALTIES.—Civil
14 penalties collected under this paragraph shall be
15 deposited into the H-2A Labor Certification
16 Fee Account established under section 203 of
17 the Affordable and Secure Food Act of 2022.

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

22 “(A) under any other law, including any
23 law affecting migrant and seasonal agricultural
24 workers; or

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

1 “(4) RETALIATION PROHIBITED.—It is a viola-
2 tion of this subsection for any person to intimidate,
3 threaten, restrain, coerce, blacklist, discharge, or in
4 any other manner discriminate against, or to cause
5 any person to intimidate, threaten, restrain, coerce,
6 blacklist, or in any manner discriminate against, an
7 employee, including a former employee or an appli-
8 cant for employment, because the employee—

9 “(A) has disclosed information to the em-
10 ployer, or to any other person, that the em-
11 ployee reasonably believes evidences a violation
12 under this section, or any rule or regulation re-
13 lating to this section;

14 “(B) has filed a complaint concerning the
15 employer’s compliance with the requirements
16 under this section or any rule or regulation per-
17 taining to this section;

18 “(C) cooperates or seeks to cooperate in an
19 investigation or other proceeding concerning the
20 employer’s compliance with the requirements
21 under this section or any rule or regulation per-
22 taining to this section; or

23 “(D) has taken steps to exercise or assert
24 any right or protection under the provisions of
25 this section, or any rule or regulation pertaining

1 to this section, or any other relevant Federal,
2 State, or local law.

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

14 “(n) DEFINITIONS.—In this section:

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

20 “(2) H-2A WORKER.—The term ‘H-2A worker’
21 means a nonimmigrant described in section
22 101(a)(15)(H)(ii)(a).

23 “(3) JOB ORDER.—The term ‘job order’ means
24 the document containing the material terms and
25 conditions of employment, including obligations and

1 assurances required under this section or any other
2 law.

3 “(4) ONLINE JOB REGISTRY.—The term ‘online
4 job registry’ means the online job registry of the
5 Secretary of Labor required under section 201(b) of
6 the Affordable and Secure Food Act of 2022 (or
7 similar successor registry).

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

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

15 “(A) a citizen or national of the United
16 States;

17 “(B) an alien who is lawfully admitted for
18 permanent residence, is admitted as a refugee
19 under section 207, is granted asylum under sec-
20 tion 208, or is an immigrant otherwise author-
21 ized to be employed in the United States;

22 “(C) an alien granted certified agricultural
23 worker status under title I of the Affordable
24 and Secure Food Act of 2022; or

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

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

6 “(1) FEES.—

7 “(A) IN GENERAL.—The Secretary of
8 Homeland Security shall impose a fee to proc-
9 ess petitions under this section. Such fee shall
10 be set at a level that is sufficient to recover the
11 reasonable costs of processing the petition, in-
12 cluding the reasonable costs of providing labor
13 certification by the Secretary of Labor.

14 “(B) DISTRIBUTION.—Fees collected
15 under subparagraph (A) shall be deposited as
16 offsetting receipts into the immigration exami-
17 nations fee account in section 286(m), except
18 that the portion of fees assessed for the Sec-
19 retary of Labor shall be deposited into the H-
20 2A Labor Certification Fee Account established
21 pursuant to section 203(c) of the Affordable
22 and Secure Food Act of 2022.

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

1 “(A) recruiting United States workers for
2 labor or services which might otherwise be per-
3 formed by H-2A workers, including by ensuring
4 that State workforce agencies are sufficiently
5 funded to fulfill their functions under this sec-
6 tion;

7 “(B) enabling the Secretary of Labor to
8 make determinations and certifications under
9 this section and under section 212(a)(5)(A)(i);

10 “(C) monitoring and enforcing the terms
11 and conditions under which H-2A workers (and
12 United States workers employed by the same
13 employers) are employed in the United States;
14 and

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

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

19 (a) RESPONSIBILITIES OF THE SECRETARY OF
20 LABOR.—With respect to the administration of the H-2A
21 nonimmigrant visa program (referred to in this section as
22 the “H-2A program”), the Secretary of Labor shall be
23 responsible for—

24 (1) consulting with State workforce agencies
25 to—

1 (A) review and process job orders;

2 (B) facilitate the recruitment and referral
3 of able, willing and qualified United States
4 workers who will be available at the time and
5 place needed;

6 (C) determine prevailing wages and prac-
7 tices; and

8 (D) conduct timely inspections to ensure
9 compliance with applicable Federal, State, or
10 local housing standards and Federal regulations
11 for H-2A housing;

12 (2) determining whether the employer has met
13 the conditions for approval of the H-2A non-
14 immigrant visa petition described in section 218 of
15 the Immigration and Nationality Act (8 U.S.C.
16 1188);

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

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

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

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

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

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

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

18 (1) adjudicating petitions for the admission of
19 nonimmigrants described in section
20 101(a)(15)(H)(2)(a) (referred to in this title as “H-
21 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; 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 (8 U.S.C. 1188(m)(2)(E)); and

8 (B) collected as a fee under section
9 218(o)(1)(B) of such Act (8 U.S.C.
10 1188(o)(1)(B)).

11 (2) USE OF FUNDS.—

12 (A) IN GENERAL.—Except as otherwise
13 provided in this paragraph, amounts deposited
14 into the H-2A Labor Certification Fee Account
15 shall be available (except as otherwise provided
16 in this paragraph) without fiscal year limitation
17 and without the requirement for specification in
18 appropriations Acts to the Secretary of Labor
19 for use, directly or through grants, contracts, or
20 other arrangements, in such amounts as the
21 Secretary of Labor determines are necessary for
22 the costs of Federal and State administration in
23 carrying out activities in connection with labor
24 certification under section 218 of the Immigra-
25 tion and Nationality Act (8 U.S.C. 1188).

1 (B) EXAMPLES OF APPROVED COSTS.—

2 Costs authorized under subparagraph (A) may
3 include—

4 (i) personnel salaries and benefits;

5 (ii) equipment and infrastructure for
6 adjudication and customer service proc-
7 esses;

8 (iii) the operation and maintenance of
9 an on-line job registry; and

10 (iv) program integrity activities.

11 (C) CONSIDERATIONS.—In determining
12 what amounts to transfer to States for State
13 administration in carrying out activities in con-
14 nection with labor certification under section
15 218 of the Immigration and Nationality Act,
16 the Secretary shall—

17 (i) consider the number of H-2A
18 workers employed in such State; and

19 (ii) adjust the amount transferred to
20 such State based on the proportion of H-
21 2A workers employed in such State.

22 (D) AUDITS; CRIMINAL INVESTIGATIONS.—

23 Ten percent of the amounts deposited into the
24 H-2A Labor Certification Fee Account pursu-
25 ant to paragraph (1) shall be available to the

1 Office of Inspector General of the Department
2 of Labor to conduct audits and criminal inves-
3 tigations relating to foreign labor certification
4 programs.

5 (3) ADDITIONAL FUNDS.—Amounts available
6 under paragraph (1) shall be available in addition to
7 any other funds appropriated or made available to
8 the Department of Labor under other laws, includ-
9 ing section 218(o)(2) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1188(o)(2)).

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

12 (a) EQUALITY OF TREATMENT.—H-2A workers may
13 not be denied any right or remedy under any Federal,
14 State, or local labor or employment law applicable to
15 United States workers engaged in agricultural employ-
16 ment.

17 (b) APPLICABILITY OF OTHER LAWS.—

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

23 (2) WAIVER OF RIGHTS PROHIBITED.—Agree-
24 ments by H-2A workers to waive or modify any
25 rights or protections under this Act or section 218

1 of the Immigration and Nationality Act, as amended
2 by section 202, shall be considered void or contrary
3 to public policy except as provided in a collective
4 bargaining agreement with a bona fide labor organi-
5 zation.

6 (3) FRIVOLOUS LAWSUITS PROHIBITED.—A
7 legal representative of an H-2A worker who seeks to
8 enforce rights guaranteed under this Act or under
9 section 218 of the Immigration and Nationality Act,
10 as amended by section 202, shall comply with Rules
11 8 and 11 of the Federal Rules of Civil Procedure.

12 (4) DEMAND LETTER PROHIBITIONS.—A legal
13 representative of an H-2A worker, or a class of
14 workers, may not send a demand letter to the em-
15 ployer of such worker, or class of workers, regarding
16 a violation of the Migrant and Seasonal Agricultural
17 Worker Protection Act (29 U.S.C. 1801 et seq.) and
18 demanding a monetary payment without a good
19 faith basis that there are sufficient facts to support
20 such an allegation.

21 (5) THIRD-PARTY LAWSUITS.—All named plain-
22 tiffs in a lawsuit against the employer of an H-2A
23 worker shall be a real party in interest and may not
24 be a third party who is not an H-2A worker, except

1 as otherwise expressly permitted under this Act or
2 any other law.

3 (6) MEDIATION.—

4 (A) FREE MEDIATION SERVICES.—The
5 Federal Mediation and Conciliation Service
6 shall be available to assist in resolving disputes
7 arising under this section between H-2A work-
8 ers and agricultural employers without charge
9 to the parties.

10 (B) LAWSUITS.—If an H-2A worker files
11 a civil lawsuit alleging 1 or more violations of
12 the Migrant and Seasonal Agricultural Worker
13 Protection Act (29 U.S.C. 1801 et seq.), not
14 later than 60 days after filing proof of service
15 of the complaint, a party to the lawsuit may file
16 a request with the Federal Mediation and Con-
17 ciliation Service to assist the parties in reaching
18 a satisfactory resolution of all issues involving
19 all parties to the dispute.

20 (C) NOTICE.—Upon filing a request under
21 subparagraph (B) and giving of notice to the
22 parties, the parties shall attempt mediation
23 within the period specified in subparagraph
24 (D), except that nothing in this paragraph shall
25 limit the ability of a court to order preliminary

1 injunctive relief to protect health and safety or
2 to otherwise prevent irreparable harm.

3 (D) 90-DAY LIMIT.—The Federal Medi-
4 ation and Conciliation Service may conduct me-
5 diation or other nonbinding dispute resolution
6 activities for a period not to exceed 90 days be-
7 ginning on the date on which the Federal Medi-
8 ation and Conciliation Service receives a request
9 for assistance under subparagraph (B) unless
10 the parties agree to an extension of such period.

11 (E) AUTHORIZATION OF APPROPRIA-
12 TIONS.—

13 (i) IN GENERAL.—Subject to clause
14 (ii), there is authorized to be appropriated
15 to the Federal Mediation and Conciliation
16 Service \$5,600,000 for fiscal year 2023
17 and \$4,600,000 for each of the following
18 fiscal years to carry out this subparagraph.

19 (ii) MEDIATION.—Notwithstanding
20 any other provision of law, the Director of
21 the Federal Mediation and Conciliation
22 Service is authorized—

23 (I) to conduct the mediation or
24 other dispute resolution activities from

1 any other account containing amounts
2 available to the Director; and

3 (II) to reimburse such account
4 with amounts appropriated pursuant
5 to clause (i).

6 (F) PRIVATE MEDIATION.—If all parties
7 agree, a private mediator may be employed as
8 an alternative to the Federal Mediation and
9 Conciliation Service.

10 (c) FARM LABOR CONTRACTOR REQUIREMENTS.—

11 (1) SURETY BONDS.—

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

16 “(e) A farm labor contractor shall maintain a surety
17 bond in an amount determined by the Secretary to be suf-
18 ficient for ensuring the ability of the farm labor contractor
19 to discharge its financial obligations, including payment
20 of wages and benefits to employees. Such a bond shall be
21 available to satisfy any amounts ordered to be paid by the
22 Secretary or by court order for failure to comply with the
23 obligations of this Act. The Secretary of Labor shall annu-
24 ally publish in the Federal Register a schedule of required
25 bond amounts that are determined by such Secretary to

1 be sufficient for farm labor contractors to discharge finan-
 2 cial obligations based on the number of workers to be cov-
 3 ered.”.

4 (B) REGISTRATION DETERMINATIONS.—

5 Section 103(a) of the Migrant and Seasonal Ag-
 6 ricultural Worker Protection Act (29 U.S.C.
 7 1813(a)), is amended—

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

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

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

14 (iv) by adding at the end the fol-
 15 lowing:

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

18 “(8) has been disqualified by the Secretary of
 19 Labor from importing nonimmigrants described in
 20 section 101(a)(15)(H)(ii) of the Immigration and
 21 Nationality Act.”.

22 (2) SUCCESSORS IN INTEREST.—

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

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

3 (ii) in paragraph (5), by striking the
4 period at the end and inserting “; and”;
5 and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(6) a declaration, subscribed and sworn to by
9 the applicant, stating whether the applicant has a
10 familial, contractual, or employment relationship
11 with, or shares vehicles, facilities, property, or em-
12 ployees with, a person who has been refused
13 issuance or renewal of a certificate, or has had a
14 certificate suspended or revoked, pursuant to section
15 103.”.

16 (B) REBUTTABLE PRESUMPTION.—Section
17 103 of the Migrant and Seasonal Agricultural
18 Worker Protection Act (29 U.S.C. 1813), as
19 amended by this Act, is further amended by in-
20 serting after subsection (a) the following new
21 subsection (and by redesignating the subse-
22 quent subsections accordingly):

23 “(b)(1) There shall be a rebuttable presumption that
24 an applicant for issuance or renewal of a certificate is not

1 the real party in interest in the application if the appli-
 2 cant—

3 “(A) is the immediate family member of any
 4 person who has been refused issuance or renewal of
 5 a certificate, or has had a certificate suspended or
 6 revoked; and

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

12 “(2) An applicant described in paragraph (1) bears
 13 the burden of demonstrating to the Secretary’s satisfac-
 14 tion that the applicant is the real party in interest in the
 15 application.”.

16 (d) CONFORMING AMENDMENT.—Section 3(8)(B) of
 17 the Migrant and Seasonal Agricultural Worker Protection
 18 Act (29 U.S.C. 1802(8)(B)) is amended to read as follows:

19 “(B) The term ‘migrant agricultural worker’
 20 does not include any immediate family member of an
 21 agricultural employer or a farm labor contractor.”.

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

23 (a) IN GENERAL.—Not later than 3 years after the
 24 date of the enactment of this Act, and every 3 years there-
 25 after, the Secretary of Labor and the Secretary of Agri-

1 culture shall submit a report to the Committee on the Ju-
2 diciary of the Senate and the Committee on the Judiciary
3 of the House of Representatives that addresses—

4 (1) whether, and the manner in which, the em-
5 ployment of H-2A workers in the United States has
6 impacted the wages, working conditions, or job op-
7 portunities of United States farm workers;

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

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

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

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

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

5 (7) the number and percentage of farm workers
6 in the United States whose incomes are below the
7 poverty line;

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

13 (9) whether any changes are warranted in the
14 current methodologies for calculating the adverse ef-
15 fect wage rate and the prevailing wage; and

16 (10) recommendations for future wage protec-
17 tion for United States farm workers.

18 (b) INTERVIEWS.—In gathering information for the
19 report required by subsection (a), the Secretary of Labor
20 and the Secretary of Agriculture shall interview equal
21 numbers of representatives of agricultural employers and
22 agricultural workers, both locally and nationally.

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

24 (a) ESTABLISHMENT OF PILOT PROGRAM.—

25 (1) IN GENERAL.—

1 (A) RULEMAKING.—Not later than 18
2 months after the date of the enactment of this
3 Act, the Secretary of Homeland Security, in
4 consultation with the Secretary of Labor and
5 the Secretary of Agriculture, shall promulgate
6 regulations establishing a 6-year pilot program
7 to facilitate the free movement and employment
8 of temporary or seasonal H-2A workers to per-
9 form agricultural labor or services for agricul-
10 tural employers registered with the Secretary of
11 Agriculture.

12 (B) PROGRAM REQUIREMENTS.—Notwith-
13 standing the requirements under section 218 of
14 the Immigration and Nationality Act (8 U.S.C.
15 1188), the regulations promulgated pursuant to
16 subparagraph (A) shall establish the require-
17 ments for the pilot program in accordance with
18 subsection (b).

19 (C) DEFINED TERMS.—In this section:

20 (i) PORTABLE H-2A WORKER.—The
21 term “portable H-2A worker” means an
22 H-2A worker described in subparagraph
23 (A).

24 (ii) PORTABLE H-2A STATUS.—The
25 term “portable H-2A status” means the

1 immigration status of a portable H-2A
2 worker.

3 (2) ONLINE PLATFORM.—

4 (A) ESTABLISHMENT.—The Secretary of
5 Homeland Security, in consultation with the
6 Secretary of Labor and the Secretary of Agri-
7 culture, shall establish and maintain an online
8 electronic platform to connect portable H-2A
9 workers with registered agricultural employers
10 seeking workers to perform temporary or sea-
11 sonal agricultural labor or services.

12 (B) POSTING OF JOB OPPORTUNITIES.—
13 Employers shall post information regarding
14 available job opportunities on the platform es-
15 tablished pursuant to subparagraph (A), which
16 shall include—

17 (i) a description of the nature and lo-
18 cation of the work to be performed;

19 (ii) the anticipated period or periods
20 during which workers are needed; and

21 (iii) the terms and conditions of em-
22 ployment.

23 (C) SEARCH CRITERIA.—The platform es-
24 tablished pursuant to subparagraph (A) shall
25 allow portable H-2A workers to search for

1 available job opportunities using relevant cri-
 2 teria, including the types of jobs needed to be
 3 filled and the dates and locations workers are
 4 needed by an employer.

5 (3) LIMITATION.—Notwithstanding the
 6 issuance of the regulation described in paragraph
 7 (1), the Secretary of State may not issue a portable
 8 H–2A visa and the Secretary of Homeland Security
 9 may not confer portable H–2A status on any alien
 10 until the Secretary of Homeland Security, in con-
 11 sultation with the Secretary of Labor and the Sec-
 12 retary of Agriculture, determines that—

13 (A) a sufficient number of employers have
 14 been designated as registered agricultural em-
 15 ployers pursuant to subsection (b)(1); and

16 (B) the employers referred to in subpara-
 17 graph (A) have sufficient job opportunities to
 18 employ a reasonable number of portable H–2A
 19 workers to initiate the pilot program.

20 (b) PILOT PROGRAM ELEMENTS.—

21 (1) REGISTERED AGRICULTURAL EMPLOY-
 22 ERS.—

23 (A) DESIGNATION.—Agricultural employ-
 24 ers shall be provided the ability to seek designa-
 25 tion as registered agricultural employers. Rea-

1 sonable fees may be assessed commensurate
2 with the cost of processing applications for des-
3 ignation. A designation shall be valid for a pe-
4 riod of up to 3 years unless revoked for failure
5 to comply with program requirements. Reg-
6 istered employers that comply with program re-
7 quirements may apply to renew such designa-
8 tion for additional periods of up to 3 years for
9 the duration of the pilot program established
10 pursuant to subsection (a).

11 (B) LIMITATIONS.—Registered agricultural
12 employers—

13 (i) may employ aliens with portable
14 H-2A status without filing a petition; and

15 (ii) shall pay such aliens not less than
16 the wage required under section 218(d) of
17 the Immigration and Nationality Act, as
18 amended by section 202.

19 (C) WORKERS' COMPENSATION.—If a job
20 opportunity is not covered by, or is exempt
21 from, the applicable State workers' compensa-
22 tion law, a registered agricultural employer
23 shall provide to portable H-2A workers, at no
24 cost to such workers, insurance covering injury
25 and disease arising out of, and in the course of,

1 the worker's employment, which will provide
2 benefits that are at least equal to the benefits
3 provided under the applicable State workers'
4 compensation law.

5 (2) DESIGNATED WORKERS.—

6 (A) IN GENERAL.—Individuals who were
7 previously admitted to the United States in H-
8 2A status, and have maintained such status
9 during the period of their admission, may apply
10 for portable H-2A status. Portable H-2A work-
11 ers shall be subject to the provisions regarding
12 visa validity and periods of authorized stay and
13 admission applicable to H-2A workers de-
14 scribed in paragraphs (2) and (3) of section
15 218(j) of the Immigration and Nationality Act,
16 as added by section 202.

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

19 (i) INITIAL OFFER OF EMPLOYMENT
20 REQUIRED.—An alien may not be granted
21 portable H-2A status without an initial
22 valid offer of employment from a registered
23 agricultural employer to perform tem-
24 porary or agricultural labor or services.

25 (ii) NUMERICAL LIMITATIONS.—

1 (I) IN GENERAL.—Subject to
2 subclause (II), the total number of
3 aliens who may simultaneously hold
4 valid portable H-2A status may not
5 exceed 10,000.

6 (II) FURTHER LIMITATION.—The
7 Secretary of Homeland Security may
8 further limit the total number of
9 aliens who may be granted portable
10 H-2A status if the Secretary deter-
11 mines that there are an insufficient
12 number of registered agricultural em-
13 ployers or job opportunities to support
14 the employment of the number of
15 portable H-2A workers authorized
16 under subclause (I).

17 (C) SCOPE OF EMPLOYMENT.—A portable
18 H-2A worker, during the period of his or her
19 admission, may perform temporary or seasonal
20 agricultural labor or services for any employer
21 in the United States that is designated as a
22 registered agricultural employer pursuant to
23 paragraph (1). An employment arrangement
24 under this section may be terminated by the

1 portable H-2A worker or the registered agricul-
2 tural employer at any time.

3 (D) MAINTENANCE OF STATUS.—

4 (i) TRANSFER TO NEW EMPLOY-
5 MENT.—If a portable H-2A worker desires
6 to maintain portable H-2A status after the
7 conclusion of such worker’s employment
8 with a registered agricultural employer,
9 such worker shall secure new employment
10 with another registered agricultural em-
11 ployer not later than 60 days after the last
12 day of employment with the previous em-
13 ployer.

14 (ii) MAINTENANCE OF STATUS.—A
15 portable H-2A worker who does not secure
16 new employment with a registered agricul-
17 tural employer during the 60-day period
18 referred to in clause (i)—

19 (I) shall be considered to have
20 failed to maintain portable H-2A sta-
21 tus; and

22 (II) shall depart the United
23 States or be subject to removal under
24 section 237(a)(1)(C)(i) of the Immi-

1 gration and Nationality Act (8 U.S.C.
2 1227(a)(1)(C)(i)).

3 (3) ENFORCEMENT.—

4 (A) IN GENERAL.—The Secretary of Labor
5 shall conduct investigations and random audits
6 of employers to ensure compliance with the em-
7 ployment-related requirements under this sec-
8 tion, in accordance with section 218(m) of the
9 Immigration and Nationality Act, as added by
10 section 202.

11 (B) PENALTIES.—The Secretary of Labor
12 is authorized to collect reasonable civil penalties
13 for violations of this section, which may be ex-
14 pended by the Secretary for the administration
15 and enforcement of this section.

16 (4) ELIGIBILITY FOR SERVICES.—Section 305
17 of the Immigration Reform and Control Act of 1986
18 (8 U.S.C. 1101 note) is amended by striking “other
19 employment rights as provided in the worker’s spe-
20 cific contract under which the nonimmigrant was ad-
21 mitted” and inserting “employment-related rights”.

22 (c) REPORT.—Not later than 30 months after the
23 commencement of the pilot program established pursuant
24 to subsection (a), the Secretary of Homeland Security, in
25 consultation with the Secretary of Labor and the Sec-

1 retary of Agriculture, shall submit a report to the Com-
2 mittee on the Judiciary of the Senate and the Committee
3 on the Judiciary of the House of Representatives that in-
4 cludes—

5 (1) the number of employers designated as reg-
6 istered agricultural employers, disaggregated by geo-
7 graphic region, farm size, and the number of job op-
8 portunities offered by such employers;

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

11 (3) the number of individuals granted portable
12 H-2A status during each fiscal year and the number
13 of such individuals who maintained portable H-2A
14 status during all or a portion of the 3-year period
15 of the pilot program;

16 (4) an assessment of the impact of the pilot
17 program on the wages and working conditions of
18 United States farm workers;

19 (5) the results of a survey of individuals grant-
20 ed portable H-2A status that describes their experi-
21 ences with and their feedback regarding the pilot
22 program;

23 (6) the results of a survey of registered agricul-
24 tural employers that describes their experiences with
25 and their feedback regarding the pilot program;

1 (7) an assessment regarding whether the pilot
2 program should be continued and any recommenda-
3 tions for improving the pilot program; and

4 (8) findings and recommendations regarding ef-
5 fective recruitment mechanisms, including the use of
6 new technology—

7 (A) to match workers with employers; and

8 (B) to ensure compliance with applicable
9 labor and employment laws and regulations.

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

11 (a) **WORLDWIDE LEVEL.**—Section 201(d)(1)(A) of
12 the Immigration and Nationality Act (8 U.S.C.
13 1151(d)(1)(A)) is amended by striking “140,000” and in-
14 serting “200,000”.

15 (b) **VISAS FOR FARM WORKERS.**—Section 203(b) of
16 the Immigration and Nationality Act (8 U.S.C. 1153(b))
17 is amended—

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

20 (2) in paragraph (2)(A) by striking “28.6 per-
21 cent of such worldwide level” and inserting
22 “40,040”;

23 (3) in paragraph (3)—

24 (A) in subparagraph (A)—

1 (i) in the matter before clause (i), by
2 striking “28.6 percent of such worldwide
3 level” and inserting “100,040”; and

4 (ii) by amending clause (iii) to read as
5 follows:

6 “(iii) OTHER WORKERS.—Other quali-
7 fied immigrants who, at the time of peti-
8 tioning for classification under this para-
9 graph—

10 “(I) are capable of performing
11 unskilled labor, not of a temporary or
12 seasonal nature, for which qualified
13 workers are not available in the
14 United States; or

15 “(II) can demonstrate employ-
16 ment in the United States as an H-
17 2A nonimmigrant worker for at least
18 100 days in each of at least 10 years
19 or for at least 1,000 days within the
20 preceding 10-year period.”;

21 (B) by amending subparagraph (B) to read
22 as follows:

23 “(B) VISAS ALLOCATED FOR OTHER
24 WORKERS.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clauses (ii) and (iii), 60,000 of the
3 visas made available under this paragraph
4 shall be reserved for qualified immigrants
5 described in subparagraph (A)(iii).

6 “(ii) PREFERENCE FOR AGRICUL-
7 TURAL WORKERS.—Subject to clause (iii),
8 not fewer than 50,000 of the visas de-
9 scribed in clause (i) shall be reserved for—

10 “(I) qualified immigrants de-
11 scribed in subparagraph (A)(iii)(I)
12 who will be performing agricultural
13 labor or services in the United States;
14 and

15 “(II) qualified immigrants de-
16 scribed in subparagraph (A)(iii)(II).

17 “(iii) EXCEPTION.—If because of the
18 application of clause (ii), the total number
19 of visas available under this paragraph for
20 a calendar quarter exceeds the number of
21 qualified immigrants who otherwise may be
22 issued such a visa, clause (ii) shall not
23 apply to visas under this paragraph during
24 the remainder of such calendar quarter.

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

5 (C) by amending subparagraph (C) by
6 striking “An immigrant visa” and inserting
7 “Except for qualified immigrants petitioning for
8 classification under subparagraph (A)(iii)(II),
9 an immigrant visa”;

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

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

15 (c) WESTERN HEMISPHERE PROCEDURES.—The
16 Secretary of Homeland Security, in consultation with the
17 Secretary of Labor and the Secretary of State, may—

18 (1) identify countries in the Western Hemi-
19 sphere with large flows of migration outside of nor-
20 mal trade and travel routes to the United States;
21 and

22 (2) develop tools and resources and establish
23 procedures to connect prospective workers described
24 in section 203(b)(3)(A)(iii) of the Immigration and
25 Nationality Act (8 U.S.C. 1153(b)(3)(A)(iii)) from

1 such countries to United States employers seeking
 2 temporary workers to perform agricultural labor or
 3 services.

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

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

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

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

17 This subtitle may be cited as the “Strategy and In-
 18 vestment in Rural Housing Preservation Act of 2022”.

19 **SEC. 221. NEW FARM WORKER HOUSING.**

20 Section 513(e) of the Housing Act of 1949 (42
 21 U.S.C. 1483(e)) is amended by adding at the end the fol-
 22 lowing:

23 “(e) FUNDING FOR FARM WORKER HOUSING.—

24 “(1) SECTION 514 FARM WORKER HOUSING
 25 LOANS.—

1 “(A) INSURANCE AUTHORITY.—The Sec-
2 retary of Agriculture, to the extent approved in
3 appropriation Acts, may insure loans under sec-
4 tion 514 totaling not more than \$20,000,000
5 during each of the fiscal years 2023 through
6 2032.

7 “(B) AUTHORIZATION OF APPROPRIA-
8 TIONS.—There is authorized to be appropriated
9 \$75,000,000 for each of the fiscal years 2023
10 through 2032 for the cost (as such term is de-
11 fined in section 502(5) of the Congressional
12 Budget Act of 1974 (2 U.S.C. 661a(5))) of
13 loans insured pursuant to subparagraph (A).

14 “(2) SECTION 516 GRANTS FOR FARMWORKER
15 HOUSING.—There is authorized to be appropriated
16 \$30,000,000 for each of the fiscal years 2023
17 through 2032 for financial assistance authorized
18 under section 516.

19 “(3) SECTION 521 HOUSING ASSISTANCE.—
20 There is authorized to be appropriated \$26,800,000
21 for each of the fiscal years 2023 through 2032 for—

22 “(A) rental assistance agreements entered
23 into or renewed pursuant to section 521(a)(2);
24 or

1 “(B) agreements entered into in lieu of
2 debt forgiveness or payments for eligible house-
3 holds authorized under section 502(c)(5)(D).

4 “(4) ADMINISTRATIVE EXPENSES.—There is
5 authorized to be appropriated 5 percent of any
6 amounts made available for the housing assistance
7 program under this section for any fiscal year, which
8 shall be used for administrative expenses for such
9 program.”.

10 **SEC. 222. LOAN AND GRANT LIMITATIONS.**

11 Section 514 of the Housing Act of 1949 (42 U.S.C.
12 1484) is amended by inserting after subsection (c) the fol-
13 lowing:

14 “(d) PER PROJECT LIMITATIONS ON ASSISTANCE.—
15 If the Secretary, in making available assistance in any
16 area under this section or section 516, establishes a limita-
17 tion on the amount of assistance available per project, the
18 limitation on a grant or loan award per project shall not
19 be less than \$5,000,000.”.

20 **SEC. 223. OPERATING ASSISTANCE SUBSIDIES.**

21 Section 521(a)(5) of the Housing Act of 1949 (42
22 U.S.C. 1490a(a)(5)) is amended—

23 (1) in subparagraph (A) by striking “migrant
24 farmworkers” and inserting “migrant farm workers
25 or domestic farm labor legally admitted to the

1 United States and authorized to work in agri-
2 culture”;

3 (2) in subparagraph (B)—

4 (A) by striking “In any fiscal year” and
5 inserting the following:

6 “(i) HOUSING FOR MIGRANT FARM
7 WORKERS.—In any fiscal year”;

8 (B) by inserting “providing housing for mi-
9 grant farm workers” after “any project”; and

10 (C) by adding at the end the following:

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

23 “(I) such project was unoccupied
24 or underutilized before making units
25 available to such farm labor; and

1 “(II) a grant under this section
2 will not displace any farm worker who
3 is a United States worker.”; and

4 (3) in subparagraph (D)—

5 (A) by redesignating clauses (i) and (ii) as
6 clause (ii) and (iii), respectively; and

7 (B) by inserting before clause (ii), as re-
8 designated, the following:

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

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

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

17 (1) in paragraph (1)—

18 (A) by redesignating subparagraphs (B)
19 and (C) as paragraphs (C) and (D), respec-
20 tively; and

21 (B) by inserting after subparagraph (A)
22 the following:

23 “(B) upon the request of an owner of a project
24 financed under section 514 or 515, the Secretary is
25 authorized to enter into renewal of such agreements

1 for a period equal to the shorter of 20 years or the
2 term of the loan, subject to amounts made available
3 for such purpose in appropriations Acts;” and

4 (2) by adding at the end the following:

5 “(3) If any rental assistance contract authority be-
6 comes available because of the termination of assistance
7 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 on 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 in accordance
21 with subparagraph (A), the Secretary shall use such
22 remaining authority to provide such assistance on
23 behalf of eligible families residing in other rental
24 projects originally financed under section 515 or
25 under sections 514 and 516.”.

1 **SEC. 225. ELIGIBILITY FOR RURAL HOUSING VOUCHERS.**

2 Section 542 of the Housing Act of 1949 (42 U.S.C.
3 1490r) is amended by adding at the end the following:

4 “(c) **ELIGIBILITY OF HOUSEHOLDS IN SECTIONS**
5 **514, 515, AND 516 PROJECTS.**—The Secretary, in con-
6 sultation with the Under Secretary of Agriculture for
7 Rural Development, may provide rural housing vouchers
8 under this section for any low-income household (including
9 households not receiving rental assistance) residing in a
10 property financed with a loan made or insured under sec-
11 tion 514 or 515 which has been prepaid without restric-
12 tions imposed by the Secretary pursuant to section
13 502(c)(5)(G)(ii)(I), has been foreclosed, or has matured
14 after September 30, 2005, or residing in a property as-
15 sisted under section 514 or 516 that is owned by a non-
16 profit organization or public agency.”.

17 **SEC. 226. PERMANENT ESTABLISHMENT OF HOUSING PRES-**
18 **ERVATION AND REVITALIZATION PROGRAM.**

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

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

23 “(a) **ESTABLISHMENT.**—The Secretary shall carry
24 out a program that preserves and revitalizes multifamily
25 rental housing projects financed under section 515 or
26 under sections 514 and 516.

1 “(b) NOTICE OF MATURING LOANS.—

2 “(1) TO OWNERS.—The Secretary shall provide
3 annual written notice to each owner of a property fi-
4 nanced under section 515 or under sections 514 and
5 516 that will mature during the 4-year period begin-
6 ning on the date on which such notice is provided.

7 Such notice shall set forth—

8 “(A) the options and financial incentives
9 that are available to facilitate the extension of
10 the loan term; or

11 “(B) the option to decouple a rental assist-
12 ance contract pursuant to subsection (f).

13 “(2) TO TENANTS.—

14 “(A) IN GENERAL.—Not later than 2 years
15 before the date of maturity of a loan authorized
16 under section 515 or under sections 514 and
17 516 for real property, the owner of such prop-
18 erty who received a notice pursuant to para-
19 graph (1) shall provide written notice to each
20 household residing in such property to inform
21 the household of—

22 “(i) the date of the loan maturity;

23 “(ii) the possible actions that may
24 happen with respect to the property on or
25 after such date; and

1 “(iii) how to protect their right to re-
2 side in federally assisted housing after
3 such date.

4 “(B) LANGUAGE.—Each notice provided
5 under subparagraph (A)—

6 “(i) shall be written in plain English;
7 and

8 “(ii) shall be translated to other lan-
9 guages if the relevant property is located
10 in an area in which a significant number
11 of residents speak such other languages.

12 “(C) NOTICE TEMPLATE.—Not later than
13 1 year after the date of the enactment of this
14 Act, the Under Secretary of Agriculture for
15 Rural Development, in consultation with the
16 Secretary of Housing and Urban Development,
17 should publish a template of a notice that own-
18 ers may use to provide the information required
19 under this paragraph to their tenants.

20 “(c) LOAN RESTRUCTURING.—Under the program
21 carried out under this section, the Secretary may restruc-
22 ture such existing housing loans as the Secretary considers
23 appropriate to ensure that such projects have sufficient
24 resources to preserve the projects to provide safe and af-

1 affordable housing for low-income residents and farm labor-
2 ers by—

3 “(1) reducing or eliminating interest;

4 “(2) deferring loan payments;

5 “(3) subordinating, reducing, or reamortizing
6 loan debt; and

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

11 “(d) RENEWAL OF RENTAL ASSISTANCE.—If the
12 Secretary offers to restructure a loan pursuant to sub-
13 section (c), the Secretary shall offer to renew the rental
14 assistance contract under section 521(a)(2) for a 20-year
15 term, subject to annual appropriations, if the property
16 owner agrees to bring the property up to such standards
17 that will ensure its maintenance as decent, safe, and sani-
18 tary housing for the full term of the rental assistance con-
19 tract.

20 “(e) RESTRICTIVE USE AGREEMENTS.—

21 “(1) REQUIREMENT.—As part of the preserva-
22 tion and revitalization agreement for a project, the
23 Secretary shall obtain a restrictive use agreement
24 that obligates the owner to operate the project in ac-
25 cordance with the provisions under this title.

1 “(2) TERM.—

2 “(A) NO EXTENSION OF RENTAL ASSIST-
3 ANCE CONTRACT.—Unless the Secretary enters
4 into a 20-year extension of the rental assistance
5 contract for the project, the term of the restric-
6 tive use agreement for the project shall be equal
7 to the term of the restructured loan for the
8 project.

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

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

20 “(f) DECOUPLING OF RENTAL ASSISTANCE.—

21 “(1) RENEWAL OF RENTAL ASSISTANCE CON-
22 TRACT.—If the Secretary determines that a matur-
23 ing loan for a project cannot reasonably be restruc-
24 tured in accordance with subsection (c) and the
25 project was operating with rental assistance under

1 section 521, the Secretary may renew the rental as-
2 sistance contract, notwithstanding any provision of
3 section 521, for a term, subject to annual appropria-
4 tions, of at least 10 years but not more than 20
5 years.

6 “(2) RENTS.—Any agreement to extend the
7 term of the rental assistance contract under section
8 521 for a project shall obligate the owner to con-
9 tinue to maintain the project as decent, safe and
10 sanitary housing and to operate the development in
11 accordance with this title, except that rents shall be
12 based on the lesser of—

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

14 or

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

20 “(g) MULTIFAMILY HOUSING TRANSFER TECHNICAL
21 ASSISTANCE.—Under the program under this section, the
22 Secretary may provide grants to qualified nonprofit orga-
23 nizations and public housing agencies to provide technical
24 assistance, including financial and legal services, to bor-
25 rowers under loans under this title for multifamily housing

1 to facilitate the acquisition of such multifamily housing
2 properties in areas where the Secretary determines there
3 is a risk of loss of affordable housing.

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

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

21 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
22 is authorized to be appropriated for the program under
23 this section \$100,000,000 for each of the fiscal years 2023
24 through 2027.”.

1 **SEC. 227. AMOUNT OF VOUCHER ASSISTANCE.**

2 Notwithstanding any other provision of law, the
3 amount of the monthly assistance payment for the house-
4 hold on whose behalf a rural housing voucher is provided
5 pursuant to section 542 of the Housing Act of 1949 (42
6 U.S.C. 1490r), shall be determined in accordance with
7 subsection (a) of such section 542.

8 **SEC. 228. FUNDING FOR MULTIFAMILY TECHNICAL IM-**
9 **PROVEMENTS.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is
11 authorized to be appropriated to the Department of Agri-
12 culture \$50,000,000 for fiscal year 2023, which shall be
13 used to improve the technology of the Department of Agri-
14 culture that is used to process loans for multifamily hous-
15 ing and otherwise managing such housing.

16 (b) **AVAILABILITY OF FUNDS.**—The improvements
17 authorized under subsection (a) shall be made during the
18 5-year period beginning upon the date that the amounts
19 appropriated under such subsection are available. Such
20 amounts shall remain available until the last day of such
21 5-year period.

22 **SEC. 229. PLAN FOR PRESERVING AFFORDABILITY OF**
23 **RENTAL PROJECTS.**

24 (a) **PLAN.**—Not later than 6 months after the date
25 of the enactment of this Act, the Secretary of Agriculture
26 (referred to in this section as the “Secretary”) shall sub-

1 mit a written plan to Congress for preserving the afford-
2 ability for low-income families of rental projects for which
3 loans were made under section 514 or 515 of the Housing
4 Act of 1949 (42 U.S.C. 1484 and 1485) and avoiding the
5 displacement of tenant households. Such plan shall—

6 (1) set forth specific performance goals and
7 measures;

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

10 (3) set forth specific measurements by which
11 progress towards achievement of each goal can be
12 measured;

13 (4) provide for detailed reporting on outcomes;
14 and

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

17 (b) CONSULTATION.—

18 (1) IN GENERAL.—Not less frequently than
19 quarterly, the Secretary shall consult with the indi-
20 viduals described in paragraph (2) to assist the Sec-
21 retary—

22 (A) in preserving the properties described
23 in subsection (a) through the housing preserva-
24 tion and revitalization program authorized

1 under section 545 of the Housing Act of 1949,
2 as added by section 226; and

3 (B) in implementing the plan required
4 under subsection (a).

5 (2) CONSULTEES.—The individuals described in
6 this paragraph are—

7 (A) a State Director of Rural Development
8 for the Department of Agriculture;

9 (B) the Administrator for Rural Housing
10 Service of the Department of Agriculture;

11 (C) 2 representatives of for-profit devel-
12 opers or owners of multifamily rural rental
13 housing;

14 (D) 2 representatives of nonprofit devel-
15 opers or owners of multifamily rural rental
16 housing;

17 (E) 2 representatives of State housing fi-
18 nance agencies;

19 (F) 2 representatives of tenants of multi-
20 family rural rental housing;

21 (G) 1 representative of a community devel-
22 opment financial institution that is involved in
23 preserving the affordability of housing assisted
24 under sections 514, 515, and 516 of the Hous-

1 ing Act of 1949 (42 U.S.C. 1484, 1485, and
2 1486);

3 (H) 1 representative of a nonprofit organi-
4 zation that operates nationally and has actively
5 participated in the preservation of housing as-
6 sisted by the Rural Housing Service by con-
7 ducting research regarding, and providing fi-
8 nancing and technical assistance for, preserving
9 the affordability of such housing;

10 (I) 1 representative of low-income housing
11 tax credit investors;

12 (J) 1 representative of regulated financial
13 institutions that finance affordable multifamily
14 rural rental housing developments; and

15 (K) 2 representatives from nonprofit orga-
16 nizations representing farm workers, including
17 one organization representing farm worker
18 women.

19 (3) CONDUCT OF CONSULTATIONS.—In con-
20 sulting with the individuals described in paragraph
21 (2), the Secretary may request that such individ-
22 uals—

23 (A) assist the Rural Housing Service of
24 the Department of Agriculture to improve esti-
25 mates of the size, scope, and condition of the

1 rental housing portfolio of the Service, includ-
2 ing the time frames for maturity of mortgages
3 and costs for preserving the portfolio as afford-
4 able housing;

5 (B) review current policies and procedures
6 of the Rural Housing Service regarding—

7 (i) the preservation of affordable rent-
8 al housing financed under sections 514,
9 515, 516, and 538 of the Housing Act of
10 1949 (42 U.S.C. 1484, 1485, 1486, and
11 1490);

12 (ii) the housing preservation and revi-
13 talization program authorized under sec-
14 tion 545 of such Act, as added by section
15 226; and

16 (iii) the rental assistance program;

17 (C) make recommendations regarding im-
18 provements and modifications to the policies
19 and procedures referred to in subparagraph
20 (B); and

21 (D) provide ongoing review of Rural Hous-
22 ing Service program results.

23 (4) TRAVEL COSTS.—Any amounts made avail-
24 able for administrative costs of the Department of
25 Agriculture may be used for costs of travel by indi-

1 individuals described in paragraph (2) to carry out the
2 activities described in paragraph (3).

3 **SEC. 230. COVERED HOUSING PROGRAMS.**

4 Section 41411(a)(3) of the Violence Against Women
5 Act of 1994 (34 U.S.C. 12491(a)(3)) is amended—

6 (1) in subparagraph (O), by striking “and” at
7 the end;

8 (2) by redesignating subparagraph (P) as sub-
9 paragraph (Q); and

10 (3) by inserting after subparagraph (O) the fol-
11 lowing:

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

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

19 Section 214(a) of the Housing and Community De-
20 velopment Act of 1980 (42 U.S.C. 1436a(a)) is amend-
21 ed—

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

24 (2) by redesignating paragraph (7) as para-
25 graph (8); and

1 (3) by inserting after paragraph (6) the fol-
2 lowing:

3 “(7) an alien granted certified agricultural
4 worker or certified agricultural dependent status
5 under title I of the Affordable and Secure Food Act
6 of 2022, but solely for financial assistance made
7 available pursuant to section 521 or 542 of the
8 Housing Act of 1949 (42 U.S.C. 1490a and 1490r);
9 or”.

10 **Subtitle C—Foreign Labor** 11 **Recruiter Accountability**

12 **SEC. 251. DEFINITIONS.**

13 In this subtitle:

14 (1) FOREIGN LABOR RECRUITER.—The term
15 “foreign labor recruiter” means any person who per-
16 forms foreign labor recruiting activity in exchange
17 for money or other valuable consideration paid or
18 promised to be paid, to recruit individuals to work
19 as nonimmigrant workers described in section
20 101(a)(15)(H)(ii)(a) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), including
22 any person who performs foreign labor recruiting ac-
23 tivity wholly outside of the United States. Such term
24 does not include any entity of the United States
25 Government or an employer, or employee of an em-

1 ployer, who engages in foreign labor recruiting activ-
2 ity solely to find employees for that employer's own
3 use, and without the participation of any other for-
4 eign labor recruiter.

5 (2) FOREIGN LABOR RECRUITING ACTIVITY.—

6 The term “foreign labor recruiting activity” means
7 recruiting, soliciting, or related activities with re-
8 spect to an individual who resides outside of the
9 United States in furtherance of employment in the
10 United States, including when such activity occurs
11 wholly outside of the United States.

12 (3) PERSON.—The term “person” means any

13 natural person or any corporation, company, firm,
14 partnership, joint stock company or association or
15 other organization or entity (whether organized
16 under law or not), including municipal corporations.

17 (4) RECRUITMENT FEES.—The term “recruit-

18 ment fees” has the meaning given to such term
19 under section 22.1702 of title 22 of the Code of
20 Federal Regulations, as in effect on the date of en-
21 actment of this Act.

22 **SEC. 252. REGISTRATION OF FOREIGN LABOR RECRUITERS.**

23 (a) IN GENERAL.—Not later than 1 year after the

24 date of the enactment of this Act, the Secretary of Labor,

25 in consultation with the Secretary of State and the Sec-

1 retary of Homeland Security, shall establish procedures
2 for the electronic registration of foreign labor recruiters
3 engaged in the recruitment of nonimmigrant workers de-
4 scribed in section 101(a)(15)(H)(ii)(a) of the Immigration
5 and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) to
6 perform agricultural labor or services in the United States.

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

9 (1) require the applicant to submit a sworn dec-
10 laration—

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

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

16 (C) including such other relevant informa-
17 tion as the Secretary of Labor and the Sec-
18 retary of State may require;

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

21 (3) include a process, which shall include the
22 placement of personnel at each United States diplo-
23 matic mission in accordance with subsection (g)(2),
24 to receive information from the public regarding for-
25 eign labor recruiters who have allegedly engaged in

1 a foreign labor recruiting activity that is prohibited
2 under this subtitle;

3 (4) include procedures for the receipt and proc-
4 essing of complaints against foreign labor recruiters
5 and for remedies, including the revocation of a reg-
6 istration or the assessment of fines upon a deter-
7 mination by the Secretary of Labor that the foreign
8 labor recruiter has violated the requirements under
9 this subtitle;

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

14 (6) allow the Secretary of Labor and the Sec-
15 retary of State to consult with other appropriate
16 Federal agencies to determine whether any reason
17 exists to deny registration to a foreign labor re-
18 cruiter or revoke such registration.

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

22 (1) PROHIBITED FEES.—The foreign labor re-
23 cruiter, including any agent or employee of such for-
24 eign labor recruiter, shall not assess any recruitment

1 fees on a worker for any foreign labor recruiting ac-
2 tivity.

3 (2) PROHIBITION ON FALSE AND MISLEADING
4 INFORMATION.—The foreign labor recruiter shall not
5 knowingly provide materially false or misleading in-
6 formation to any worker concerning any matter re-
7 quired to be disclosed under this subtitle.

8 (3) REQUIRED DISCLOSURES.—The foreign
9 labor recruiter shall ascertain and disclose to the
10 worker in writing in English and in the primary lan-
11 guage of the worker at the time of the worker's re-
12 cruitment, the following information:

13 (A) The identity and address of the em-
14 ployer and the identity and address of the per-
15 son conducting the recruiting on behalf of the
16 employer, including each subcontractor or agent
17 involved in such recruiting.

18 (B) A copy of the approved job order or
19 work contract under section 218 of the Immi-
20 gration and Nationality Act (8 U.S.C. 1188),
21 including all assurances and terms and condi-
22 tions of employment.

23 (C) A statement, in a form specified by the
24 Secretary—

1 (i) describing the general terms and
2 conditions associated with obtaining an H-
3 2A nonimmigrant visa and maintaining H-
4 2A nonimmigrant status;

5 (ii) affirming the prohibition on the
6 assessment of fees described in paragraph
7 (1), and explaining that such fees, if paid
8 by the employer, may not be passed on to
9 the worker;

10 (iii) describing the protections af-
11 farded the worker under this subtitle, in-
12 cluding procedures for reporting violations
13 to the Secretary of State, filing a com-
14 plaint with the Secretary of Labor, or fil-
15 ing a civil action; and

16 (iv) describing the protections af-
17 farded the worker by section 202 of the
18 William Wilberforce Trafficking Victims
19 Protection Reauthorization Act of 2008 (8
20 U.S.C. 1375b), including the telephone
21 number for the national human trafficking
22 resource center hotline number.

23 (4) BOND.—The foreign labor recruiter shall
24 agree to maintain a bond sufficient to ensure the
25 ability of the foreign labor recruiter to discharge its

1 responsibilities and ensure protection of workers,
2 and to forfeit such bond in an amount determined
3 by the Secretary under subsections (b)(1)(C)(ii) or
4 (c)(2)(C) of section 253 for failure to comply with
5 the provisions under this subtitle.

6 (5) COOPERATION IN INVESTIGATION.—The
7 foreign labor recruiter shall agree to cooperate in
8 any investigation under section 253 by the Secretary
9 or other appropriate authorities.

10 (6) NO RETALIATION.—The foreign labor re-
11 cruitor shall agree to refrain from intimidating,
12 threatening, restraining, coercing, discharging,
13 blacklisting or in any other manner discriminating
14 or retaliating against any worker or their family
15 members (including a former worker or an applicant
16 for employment) because such worker disclosed in-
17 formation to any person based on a reason to believe
18 that the foreign labor recruiter, or any agent or sub-
19 contractee of such foreign labor recruiter, is engag-
20 ing or has engaged in a foreign labor recruiting ac-
21 tivity that does not comply with this subtitle.

22 (7) EMPLOYEES, AGENTS, AND
23 SUBCONTRACTEES.—The foreign labor recruiter
24 shall consent to be liable for the conduct of any
25 agents or subcontractees of any level in relation to

1 the foreign labor recruiting activity of the agent or
2 subcontractee to the same extent as if the foreign
3 labor recruiter had engaged in such conduct.

4 (8) ENFORCEMENT.—If the foreign labor re-
5 cruiter is conducting foreign labor recruiting activity
6 wholly outside the United States, such foreign labor
7 recruiter shall—

8 (A) establish a registered agent in the
9 United States who is authorized to accept serv-
10 ice of process on behalf of the foreign labor re-
11 cruiter for the purpose of any administrative
12 proceeding under this title or in any civil action
13 in any Federal or State court, if such service is
14 made in accordance with the appropriate Fed-
15 eral or State rules for service of process, as ap-
16 plicable; and

17 (B) as a condition of registration, consent
18 to the jurisdiction of any Federal or State court
19 in a State where recruited workers are placed.

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

23 (e) APPLICATION FEE.—The Secretary of Labor
24 shall require a foreign labor recruiter that submits an ap-
25 plication for registration under this section to pay a rea-

1 sonable fee, sufficient to cover the full costs of carrying
2 out the registration activities under this subtitle.

3 (f) NOTIFICATION.—

4 (1) EMPLOYER NOTIFICATION.—

5 (A) IN GENERAL.—Not less frequently
6 than once every year, an employer of H-2A
7 workers shall provide the Secretary with the
8 names and addresses of all foreign labor re-
9 cruiters engaged to perform foreign labor re-
10 cruiting activity on behalf of the employer,
11 whether the foreign labor recruiter is to receive
12 any economic compensation for such services,
13 and, if so, the identity of the person or entity
14 who is paying for the services.

15 (B) AGREEMENT TO COOPERATE.—In ad-
16 dition to the requirements of subparagraph (A),
17 the employer shall—

18 (i) provide to the Secretary the iden-
19 tity of any foreign labor recruiter whom
20 the employer has reason to believe is en-
21 gaging in foreign labor recruiting activities
22 that do not comply with this subtitle; and

23 (ii) promptly respond to any request
24 by the Secretary for information regarding
25 the identity of a foreign labor recruiter

1 with whom the employer has a contract or
2 other agreement.

3 (2) FOREIGN LABOR RECRUITER NOTIFICA-
4 TION.—A registered foreign labor recruiter shall no-
5 tify the Secretary, not less frequently than once
6 every year, of the identity of any subcontractee,
7 agent, or foreign labor recruiter employee involved in
8 any foreign labor recruiting activity for, or on behalf
9 of, the foreign labor recruiter.

10 (g) ADDITIONAL RESPONSIBILITIES OF THE SEC-
11 RETARY OF STATE.—

12 (1) LISTS.—The Secretary of State, in con-
13 sultation with the Secretary of Labor shall maintain
14 and make publicly available in written form and on
15 the websites of United States embassies in the offi-
16 cial language of that country, and on websites main-
17 tained by the Secretary of Labor, regularly updated
18 lists—

19 (A) of foreign labor recruiters who hold
20 valid registrations under this section, includ-
21 ing—

22 (i) the name and address of the for-
23 eign labor recruiter;

24 (ii) the countries in which such re-
25 cruiters conduct recruitment;

1 (iii) the employers for whom recruit-
2 ing is conducted;

3 (iv) the occupations that are the sub-
4 ject of recruitment;

5 (v) the States where recruited workers
6 are employed; and

7 (vi) the name and address of the reg-
8 istered agent in the United States who is
9 authorized to accept service of process on
10 behalf of the foreign labor recruiter; and

11 (B) of foreign labor recruiters whose reg-
12 istration the Secretary has revoked.

13 (2) PERSONNEL.—The Secretary of State shall
14 ensure that each United States diplomatic mission is
15 staffed with a person who shall be responsible for re-
16 ceiving information from members of the public re-
17 garding potential violations of the requirements ap-
18 plicable to registered foreign labor recruiters and en-
19 suring that such information is conveyed to the Sec-
20 retary of Labor for evaluation and initiation of an
21 enforcement action, if appropriate.

22 (3) VISA APPLICATION PROCEDURES.—The Sec-
23 retary of State shall ensure that consular officers
24 issuing visas to nonimmigrants under section

1 101(a)(1)(H)(ii)(a) of the Immigration and Nation-
2 ality Act (8 U.S.C. 11001(a)(1)(H)(ii)(a))—

3 (A) provide to and review with the appli-
4 cant, in the applicant’s language (or a language
5 the applicant understands), a copy of the infor-
6 mation and resources pamphlet required by sec-
7 tion 202 of the William Wilberforce Trafficking
8 Victims Protection Reauthorization Act of 2008
9 (8 U.S.C. 1375b);

10 (B) ensure that the applicant has a copy of
11 the approved job offer or work contract;

12 (C) note in the visa application file wheth-
13 er the foreign labor recruiter has a valid reg-
14 istration under this section; and

15 (D) if the foreign labor recruiter holds a
16 valid registration, review and include in the visa
17 application file, the foreign labor recruiter’s dis-
18 closures required by subsection (c)(3).

19 (4) DATA.—The Secretary of State shall make
20 publicly available online, on an annual basis, data
21 disclosing the gender, country of origin (and State,
22 county, or province, if available), age, wage, level of
23 training, and occupational classification,
24 disaggregated by State, of nonimmigrant workers
25 described in section 101(a)(15)(H)(ii)(a) of the Im-

1 migration and Nationality Act (8 U.S.C.
2 1101(a)(15)(H)(ii)(a)).

3 **SEC. 253. ENFORCEMENT.**

4 (a) DENIAL OR REVOCATION OF REGISTRATION.—

5 (1) GROUNDS FOR DENIAL OR REVOCATION.—

6 The Secretary of Labor shall deny an application for
7 registration, or revoke a registration, if the Sec-
8 retary determines that the foreign labor recruiter, or
9 any agent or subcontractee of such foreign labor re-
10 cruiter—

11 (A) knowingly made a material misrepre-
12 sentation in the registration application;

13 (B) materially failed to comply with one or
14 more of the attestations provided under section
15 252(c); or

16 (C) is not the real party in interest.

17 (2) NOTICE.—Before denying an application for
18 registration or revoking a registration under this
19 subsection, the Secretary of Labor shall provide
20 written notice of the intent to deny or revoke the
21 registration to the foreign labor recruiter. Such no-
22 tice 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 of Labor’s
7 satisfaction, that the foreign labor recruiter—

8 (A) has not violated any requirement
9 under this subtitle during the 5-year period im-
10 mediately preceding the date on which an appli-
11 cation for registration was filed; and

12 (B) has taken sufficient steps to prevent
13 future violations of this subtitle.

14 (b) ADMINISTRATIVE ENFORCEMENT.—

15 (1) COMPLAINT PROCESS.—

16 (A) FILING.—A complaint may be filed
17 with the Secretary of Labor, in accordance with
18 the procedures established under section
19 252(b)(4) not later than 2 years after the ear-
20 lier of—

21 (i) the date on which the last action
22 constituting the conduct that is the subject
23 of the complaint took place; or

1 (ii) the date on which the aggrieved
2 party had actual knowledge of such con-
3 duct.

4 (B) DECISION AND PENALTIES.—If the
5 Secretary of Labor determines, after notice and
6 an opportunity for a hearing, that a foreign
7 labor recruiter failed to comply with any of the
8 requirements under this subtitle, the Secretary
9 of Labor may—

10 (i) levy a fine against the foreign
11 labor recruiter in an amount not more
12 than—

13 (I) \$10,000 per violation; and

14 (II) \$25,000 per violation, upon
15 the third violation;

16 (ii) order the forfeiture (or partial for-
17 feiture) of the bond and release of as much
18 of the bond as the Secretary determines is
19 necessary for the worker to recover prohib-
20 ited recruitment fees;

21 (iii) refuse to issue or renew a reg-
22 istration, or revoke a registration; or

23 (iv) disqualify the foreign labor re-
24 cruiter from registration for a period of up
25 to 5 years, or in the case of a subsequent

1 finding involving willful or multiple mate-
2 rial violations, permanently disqualify the
3 foreign labor recruiter from registration.

4 (2) AUTHORITY TO ENSURE COMPLIANCE.—The
5 Secretary of Labor is authorized to take other such
6 actions, including issuing subpoenas and seeking ap-
7 propriate injunctive relief, as may be necessary to
8 assure compliance with the terms and conditions of
9 this subtitle.

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

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

17 (B) in the absence of a complaint.

18 (c) CIVIL ACTION.—

19 (1) IN GENERAL.—The Secretary of Labor or
20 any person aggrieved by a violation of this subtitle
21 may bring a civil action against any foreign labor re-
22 cruitor, or any employer that does not meet the re-
23 quirements under subsection (d)(1), in any court of
24 competent jurisdiction—

1 (A) to seek remedial action, including in-
2 junctive relief; and

3 (B) for damages in accordance with the
4 provisions of this subsection.

5 (2) AWARD FOR CIVIL ACTION FILED BY AN IN-
6 DIVIDUAL.—

7 (A) IN GENERAL.—If a court finds, in a
8 civil action filed by an individual under para-
9 graph (1), that the defendant has violated any
10 provision of this subtitle, the court may
11 award—

12 (i) damages, up to and including an
13 amount equal to the amount of actual
14 damages, and statutory damages of up to
15 \$1,000 per plaintiff per violation, or other
16 equitable relief, except that with respect to
17 statutory damages—

18 (I) multiple infractions of a sin-
19 gle provision of this subtitle (or of a
20 regulation under this subtitle) shall
21 constitute only one violation for pur-
22 poses of this subsection to determine
23 the amount of statutory damages due
24 a plaintiff; and

1 (II) if such complaint is certified
2 as a class action the court may
3 award—

4 (aa) damages up to an
5 amount equal to the amount of
6 actual damages; and

7 (bb) statutory damages of
8 not more than the lesser of up to
9 \$1,000 per class member per vio-
10 lation, or up to \$500,000; and
11 other equitable relief;

12 (ii) reasonable attorneys' fees and
13 costs; and

14 (iii) such other and further relief as
15 necessary to effectuate the purposes of this
16 subtitle.

17 (B) CRITERIA.—In determining the
18 amount of statutory damages to be awarded
19 under subparagraph (A), the court may con-
20 sider whether an attempt was made to resolve
21 the issues in dispute before the resort to litiga-
22 tion.

23 (C) BOND.—To satisfy the damages, fees,
24 and costs found owing under this paragraph,
25 the Secretary shall release as much of the bond

1 held pursuant to section 252(c)(4) as is nec-
2 essary.

3 (3) SUMS RECOVERED IN ACTIONS BY THE SEC-
4 RETARY OF LABOR.—

5 (A) ESTABLISHMENT OF ACCOUNT.—

6 There is established in the general fund of the
7 Treasury a separate account, which shall be
8 known as the “H–2A Foreign Labor Recruiter
9 Compensation Account”. Notwithstanding any
10 other provisions of law, there shall be deposited,
11 as offsetting receipts into such account, all
12 sums recovered in an action by the Secretary of
13 Labor under this subsection.

14 (B) USE OF FUNDS.—Amounts deposited
15 into the H–2A Foreign Labor Recruiter Com-
16 pensation Account shall be paid directly to each
17 worker affected by a violation under this sub-
18 title. Any such sums not paid to a worker be-
19 cause of inability to do so within a period of 5
20 years following the date such funds are depos-
21 ited into the account shall remain available to
22 the Secretary until expended. The Secretary
23 may transfer all or a portion of such remaining
24 sums to appropriate agencies to support the en-
25 forcement of the laws prohibiting the trafficking

1 and exploitation of persons or programs that
2 aid trafficking victims.

3 (d) EMPLOYER SAFE HARBOR.—

4 (1) IN GENERAL.—An employer that hires
5 workers referred by a foreign labor recruiter with a
6 valid registration at the time of hiring shall not be
7 held jointly liable for a violation committed solely by
8 a foreign labor recruiter under this subtitle—

9 (A) in any administrative action initiated
10 by the Secretary concerning such violation; or

11 (B) in any Federal or State civil court ac-
12 tion filed against the foreign labor recruiter by
13 or on behalf of such workers or other aggrieved
14 party under this subtitle.

15 (2) RULE OF CONSTRUCTION.—Nothing in this
16 subtitle may be construed to prohibit an aggrieved
17 party or parties from bringing a civil action for vio-
18 lations of this subtitle or any other Federal or State
19 law against any employer who hired workers referred
20 by a foreign labor recruiter—

21 (A) without a valid registration at the time
22 of hire; or

23 (B) with a valid registration if the em-
24 ployer knew or learned of the violation and

1 failed to report such violation to the Secretary
2 of Labor.

3 (e) PAROLE TO PURSUE RELIEF.—If other immigra-
4 tion relief is not available, the Secretary of Homeland Se-
5 curity may grant parole to permit an individual to remain
6 legally in the United States for time sufficient to fully and
7 effectively participate in all legal proceedings related to
8 any action taken pursuant to subsection (b) or (c) or sec-
9 tion 202, 204, or 206.

10 (f) WAIVER OF RIGHTS.—Agreements by employees
11 purporting to waive or to modify their rights under this
12 subtitle shall be void as contrary to public policy.

13 (g) LIABILITY FOR AGENTS.—Foreign labor recruit-
14 ers shall be subject to the provisions of this section for
15 violations committed by the foreign labor recruiter's
16 agents or subcontractees of any level in relation to their
17 foreign labor recruiting activity to the same extent as if
18 the foreign labor recruiter had committed such a violation.

19 **SEC. 254. AUTHORIZATION OF APPROPRIATIONS.**

20 There is authorized to be appropriated such sums as
21 may be necessary for the Secretary of Labor and the Sec-
22 retary of State to carry out the provisions of this subtitle.

1 **TITLE** **III—ELECTRONIC**
 2 **VERIFICATION OF EMPLOY-**
 3 **MENT 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 Affordable and Secure Food Act of 2022),
 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 legitimate inquiries made
4 by persons or entities seeking to verify the iden-
5 tity and employment authorization of individ-
6 uals that such persons or entities have hired, or
7 to recruit or refer for a fee, for employment in
8 the United 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.—

15 “(A) IN GENERAL.—The System shall pro-
16 vide confirmation or a tentative nonconfirma-
17 tion of an individual’s identity and employment
18 authorization as soon as practicable, but not
19 later than 3 calendar days after the initial in-
20 quiry.

21 “(B) EXTENSION OF TIME PERIOD.—If a
22 person or other entity attempts in good faith to
23 make an inquiry through the System during a
24 period in which the System is offline due to a
25 technical issue, a natural disaster, or another

1 reason, the System shall provide the confirma-
2 tion or nonconfirmation required under sub-
3 paragraph (A) as soon as practicable after the
4 System becomes fully operational.

5 “(3) GENERAL DESIGN AND OPERATION OF
6 SYSTEM.—The Secretary shall design and operate
7 the System—

8 “(A) using responsive web design and
9 other technology approaches to maximize its
10 ease of use and accessibility for users on a vari-
11 ety of electronic devices and screen sizes, and in
12 remote locations;

13 “(B) to maximize the accuracy of re-
14 sponses to inquiries submitted by persons or en-
15 tities;

16 “(C) to maximize the reliability of the Sys-
17 tem and to register each instance when the Sys-
18 tem is unable to receive inquiries;

19 “(D) to maintain and safeguard the pri-
20 vacy and security of the personally identifiable
21 information maintained by or submitted to the
22 System, in accordance with applicable law;

23 “(E) to provide direct notification of an in-
24 quiry to an individual with respect to whom the
25 inquiry is made, including the results of such

1 inquiry, and information related to the process
2 for challenging the results, in cases in which the
3 individual has established a user account as de-
4 scribed in paragraph (4)(B) or an electronic
5 mail or messaging address for the individual is
6 submitted by the person or entity at the time
7 the inquiry is made; and

8 “(F) to maintain appropriate administra-
9 tive, technical, and physical safeguards to pre-
10 vent misuse of the System and unfair immigra-
11 tion-related employment practices.

12 “(4) MEASURES TO PREVENT IDENTITY THEFT
13 AND OTHER FORMS OF FRAUD.—To prevent identity
14 theft and other forms of fraud, the Secretary shall
15 design and operate the System with the following at-
16 tributes:

17 “(A) PHOTO MATCHING TOOL.—The Sys-
18 tem shall display a digital photograph of the in-
19 dividual, if available, that corresponds to the
20 document presented by an individual to estab-
21 lish identity and employment authorization so
22 that the person or entity that makes an inquiry
23 can compare the photograph displayed by the
24 System to the photograph on the document pre-
25 sented by the individual. The individual may

1 not be deemed ineligible for employment solely
2 for failure to match using the photo matching
3 tool. The verification of an individual's employ-
4 ment eligibility shall be made based on the to-
5 tality of the information available.

6 “(B) INDIVIDUAL MONITORING AND SUS-
7 PENSION OF IDENTIFYING INFORMATION.—The
8 System shall enable individuals to establish user
9 accounts, after authentication of an individual's
10 identity, that would allow each individual—

11 “(i) to confirm the individual's own
12 employment authorization;

13 “(ii) to receive electronic notification
14 when the individual's Social Security ac-
15 count number or other personally identi-
16 fying information has been submitted to
17 the System;

18 “(iii) to monitor the use history of the
19 individual's personally identifying informa-
20 tion in the System, including the identities
21 of all persons or entities that have sub-
22 mitted such identifying information to the
23 System, the date of each query run, and
24 the System response for each query run;

1 “(iv) to suspend or limit the use of
2 the individual’s Social Security account
3 number or other personally identifying in-
4 formation for purposes of the System; and

5 “(v) to provide notice to the Depart-
6 ment of Homeland Security of any sus-
7 pected identity fraud or other improper use
8 of personally identifying information.

9 “(C) BLOCKING MISUSED SOCIAL SECU-
10 RITY ACCOUNT NUMBERS.—

11 “(i) IN GENERAL.—The Secretary, in
12 consultation with the Commissioner of So-
13 cial Security (referred to in this section as
14 the ‘Commissioner’), shall issue, after pub-
15 lication in the Federal Register and an op-
16 portunity for public comment, a final rule
17 establishing a process by which Social Se-
18 curity account numbers that have been
19 identified to be subject to unusual multiple
20 use in the System or that are otherwise
21 suspected or determined to have been com-
22 promised by identity fraud or other misuse,
23 will be blocked from use in the System un-
24 less an individual using such a number es-
25 tablishes, through secure and fair proce-

1 dures, that the individual is the legitimate
2 holder of such number.

3 “(ii) CONTINUATION OF EXISTING
4 SELF LOCK SYSTEM.—During the period in
5 which the Commissioner of Social Security
6 is developing the process required under
7 clause (i), the Commissioner shall maintain
8 the Self Lock system that permits individ-
9 uals to prevent unauthorized users from
10 using their Social Security account num-
11 bers to confirm employment authorization
12 through E-Verify.

13 “(iii) NOTICE.—If the Secretary
14 blocks or suspends a Social Security ac-
15 count number pursuant to this subpara-
16 graph, the Secretary shall provide notice to
17 the persons or entities that have made in-
18 quiries to the System using such account
19 number that the identity and employment
20 authorization of the individual who pro-
21 vided such account number must be re-
22 verified.

23 “(D) ADDITIONAL IDENTITY AUTHENTICA-
24 TION TOOL.—The Secretary shall develop addi-
25 tional security measures to adequately verify

1 the identity of an individual whose identity may
2 not be verified using the photo matching tool
3 described in subparagraph (A). Such additional
4 security measures shall be—

5 “(i) kept up to date with technological
6 advances;

7 “(ii) designed to provide a high level
8 of certainty with respect to identity au-
9 thentication; and

10 “(iii) designed to safeguard the indi-
11 vidual’s privacy and civil liberties.

12 “(E) CHILD-LOCK PILOT PROGRAM.—The
13 Secretary, in consultation with the Commis-
14 sioner, shall establish a reliable, secure pro-
15 gram, on a limited, pilot basis, for suspending
16 or limiting the use of the Social Security ac-
17 count number or other personally identifying in-
18 formation of children for purposes of the Sys-
19 tem.

20 “(5) RESPONSIBILITIES OF THE COMMISSIONER
21 OF SOCIAL SECURITY.—The Commissioner—

22 “(A) in consultation with the Secretary,
23 shall establish a reliable, secure method that,
24 within the periods specified in paragraph (2)
25 and subsection (b)(4)(D)(i)(II), compares the

1 name and Social Security account number pro-
2 vided in an inquiry against such information
3 maintained by the Commissioner in order to
4 validate (or not validate)—

5 “(i) the information provided by the
6 person or entity with respect to an indi-
7 vidual whose identity and employment au-
8 thorization the person or entity seeks to
9 confirm;

10 “(ii) the correspondence of the name
11 and number; and

12 “(iii) whether the individual has pre-
13 sented a Social Security account number
14 that is not valid for employment;

15 “(B) may not disclose or release Social Se-
16 curity information (other than such confirma-
17 tion or nonconfirmation) under the System ex-
18 cept as provided under this section;

19 “(C) shall coordinate and provide the De-
20 partment of Homeland Security with access to
21 the Social Security Administration’s systems
22 that are necessary to resolve tentative noncon-
23 firmations without direct Social Security Ad-
24 ministration involvement; and

1 “(D) shall establish electronic or call-in
2 resolution systems.

3 “(6) RESPONSIBILITIES OF THE SECRETARY OF
4 HOMELAND SECURITY.—

5 “(A) IN GENERAL.—The Secretary shall
6 establish a reliable, secure method that, within
7 the time periods specified in paragraph (2) and
8 subsection (b)(4)(D)(i)(II), compares the name
9 and identification or other authorization num-
10 ber (or any other information determined rel-
11 evant by the Secretary) that are provided in an
12 inquiry against such information maintained or
13 accessed by the Secretary in order to validate
14 (or not validate)—

15 “(i) the information provided;

16 “(ii) the correspondence of the name
17 and number; and

18 “(iii) whether the individual is author-
19 ized to be employed in the United States.

20 “(B) TRAINING.—The Secretary shall pro-
21 vide and regularly update required training and
22 training materials on the use of the System for
23 persons and entities making inquiries.

24 “(C) AUDIT.—The Secretary shall provide
25 for periodic auditing of the System to detect

1 and prevent misuse, discrimination, fraud, and
2 identity theft, to protect privacy and assess
3 System accuracy, and to preserve the integrity
4 and security of the information in the System.

5 “(D) NOTICE OF SYSTEM CHANGES.—The
6 Secretary shall provide appropriate notification
7 to persons and entities registered in the System
8 of any change made by the Secretary or the
9 Commissioner related to permitted and prohib-
10 ited documents, and use of the System.

11 “(7) RESPONSIBILITIES OF THE SECRETARY OF
12 STATE.—As part of the System, the Secretary of
13 State shall—

14 “(A) provide to the Secretary with access
15 to passport and visa information as needed to
16 confirm that—

17 “(i) a passport or passport card pre-
18 sented under subsection (b)(3)(A)(i) con-
19 firms the employment authorization and
20 identity of the individual presenting such
21 document;

22 “(ii) a passport, passport card, or visa
23 photograph matches the Secretary of
24 State’s records; and

1 “(B) provide such assistance as the Sec-
2 retary may request to resolve tentative noncon-
3 firmations or final nonconfirmations relating to
4 information described in subparagraph (A).

5 “(8) UPDATING INFORMATION.—The Commis-
6 sioner, the Secretary, and the Secretary of State
7 shall—

8 “(A) update records in their custody in a
9 manner that promotes maximum accuracy of
10 the System; and

11 “(B) provide a process for the prompt cor-
12 rection of erroneous information, including in-
13 stances in which it is brought to their attention
14 through the tentative nonconfirmation review
15 process under subsection (b)(4)(D).

16 “(9) MANDATORY AND VOLUNTARY SYSTEM
17 USERS.—

18 “(A) MANDATORY USERS.—Except as oth-
19 erwise provided under Federal or State law, in-
20 cluding sections 302 and 303 of the Affordable
21 and Secure Food Act of 2022, nothing in this
22 section may be construed to require the use of
23 the System by any person or entity hiring, re-
24 cruiting, or referring for a fee, an individual for
25 employment in the United States.

1 “(B) VOLUNTARY USERS.—Beginning
2 after the date that is 30 days after the date on
3 which final rules are published under section
4 309(a) of the Affordable and Secure Food Act
5 of 2022, a person or entity may use the System
6 on a voluntary basis to seek verification of the
7 identity and employment authorization of indi-
8 viduals who the person or entity is hiring, re-
9 cruiting, or referring for a fee for employment
10 in the United States.

11 “(C) PROCESS FOR NON-USERS.—The em-
12 ployment verification process for any person or
13 entity hiring, recruiting, or referring for a fee,
14 an individual for employment in the United
15 States shall be governed by section 274A(b) un-
16 less the person or entity—

17 “(i) is required by Federal or State
18 law to use the System; or

19 “(ii) has opted to use the System vol-
20 untarily in accordance with subparagraph
21 (B).

22 “(10) NO FEE FOR USE OR INCLUSION.—The
23 Secretary may not charge a fee to any individual,
24 person, or entity to use the System or to be included
25 in the System.

1 “(11) SYSTEM SAFEGUARDS.—

2 “(A) REQUIREMENT TO DEVELOP.—The
3 Secretary, in consultation with the Commis-
4 sioner, the Secretary of State, and other appro-
5 priate Federal officials, shall—

6 “(i) develop policies and procedures to
7 ensure protection of the privacy and secu-
8 rity of personally identifiable information
9 and identifiers contained in the records
10 accessed or maintained by the System; and

11 “(ii) develop and deploy appropriate
12 privacy and security training for Federal
13 employees accessing the records under the
14 System.

15 “(B) PRIVACY AUDITS.—

16 “(i) IN GENERAL.—The Secretary,
17 acting through the Chief Privacy Officer of
18 the Department of Homeland Security,
19 shall conduct regular privacy audits of the
20 policies and procedures established pursu-
21 ant to subparagraph (A), including—

22 “(I) any collection, use, dissemi-
23 nation, and maintenance of personally
24 identifiable information; and

1 “(II) any associated information
2 technology systems.

3 “(ii) **REVIEWS.**—The Chief Privacy
4 Officer shall—

5 “(I) review the results of the au-
6 dits conducted pursuant to clause (i);
7 and

8 “(II) recommend to the Secretary
9 any changes that may be necessary to
10 improve the privacy protections of the
11 System.

12 “(C) **PRIVACY AND ACCURACY CERTIFI-**
13 **CATION.**—The Inspector General of the Depart-
14 ment of Homeland Security shall certify to the
15 Secretary, the Committee on the Judiciary of
16 the Senate, and the Committee on the Judiciary
17 of the House of Representatives that—

18 “(i) the System appropriately protects
19 the privacy and security of personally iden-
20 tifiable information and identifiers con-
21 tained in the records accessed or main-
22 tained by the System;

23 “(ii) during 2 consecutive years begin-
24 ning after the date of the enactment of the
25 Affordable and Secure Food Act of 2022,

1 the System’s error rate is not higher than
2 the error rate of the System during the
3 preceding year; and

4 “(iii) specific steps are being taken to
5 continue to reduce such error rate.

6 “(D) ACCURACY AUDITS.—Beginning on
7 November 30 of the fiscal year beginning after
8 the fiscal year during which the certification
9 was submitted pursuant to subparagraph (C),
10 and annually thereafter, the Inspector General
11 of the Department of Homeland Security shall
12 submit a report to the Secretary, the Com-
13 mittee on the Judiciary of the Senate, and the
14 Committee on the Judiciary of the House of
15 Representatives that—

16 “(i) describes in detail—

17 “(I) the error rate of the System
18 during the previous fiscal year; and

19 “(II) the methodology employed
20 to prepare the report; and

21 “(ii) includes recommendations for
22 how the System’s error rate may be re-
23 duced.

24 “(b) NEW HIRES, RECRUITMENT, AND REFERRAL.—

25 Notwithstanding section 274A(b), the requirements re-

1 referred to in paragraphs (1)(B) and (3) of section 274A(a)
2 are, in the case of a person or entity that uses the System
3 for the hiring, recruiting, or referring for a fee, an indi-
4 vidual for employment in the United States, the following:

5 “(1) INDIVIDUAL ATTESTATION OF EMPLOY-
6 MENT AUTHORIZATION.—During the period begin-
7 ning on the date on which an offer of employment
8 is accepted and ending on the date of hire, the indi-
9 vidual shall attest, under penalty of perjury on a
10 form designated by the Secretary, that the individual
11 is authorized to be employed in the United States by
12 providing on such form—

13 “(A) the individual’s name and date of
14 birth;

15 “(B) the individual’s Social Security ac-
16 count number (unless the individual has applied
17 for and not yet been issued such a number);

18 “(C) whether the individual is—

19 “(i) a citizen or national of the United
20 States;

21 “(ii) an alien lawfully admitted for
22 permanent residence; or

23 “(iii) an alien who is otherwise au-
24 thorized by the Secretary to be employed
25 in the United States; and

1 “(D) if the individual does not attest to
2 United States citizenship or nationality, such
3 identification or other authorization number es-
4 tablished by the Department of Homeland Se-
5 curity for the alien as the Secretary may speci-
6 fy.

7 “(2) EMPLOYER ATTESTATION AFTER EXAM-
8 INATION OF DOCUMENTS.—Not later than 3 busi-
9 ness days after the date of hire, the individual or en-
10 tity shall attest, under penalty of perjury on the
11 form designated under paragraph (1), the
12 verification that the individual is not an unauthor-
13 ized alien by—

14 “(A) obtaining from the individual the in-
15 formation described in paragraph (1) and re-
16 cording such information on the form;

17 “(B) examining—

18 “(i) a document described in para-
19 graph (3)(A); or

20 “(ii) a document described in para-
21 graph (3)(B) and a document described in
22 paragraph (3)(C); and

23 “(C) attesting that the information re-
24 corded on the form is consistent with the docu-
25 ments examined.

1 “(3) ACCEPTABLE DOCUMENTS.—

2 “(A) DOCUMENTS ESTABLISHING EMPLOY-
3 MENT AUTHORIZATION AND IDENTITY.—A doc-
4 ument described in this subparagraph is an in-
5 dividual’s—

6 “(i) United States passport or pass-
7 port card;

8 “(ii) permanent resident card that
9 contains a photograph;

10 “(iii) foreign passport containing tem-
11 porary evidence of lawful permanent resi-
12 dence in the form of an official I-551 (or
13 successor) stamp from the Department of
14 Homeland Security or a printed notation
15 on a machine-readable immigrant visa;

16 “(iv) unexpired employment author-
17 ization document that contains a photo-
18 graph;

19 “(v) in the case of a nonimmigrant
20 alien authorized to engage in employment
21 for a specific employer incident to status,
22 a foreign passport with Form I-94, Form
23 I-94A, or other documentation as des-
24 ignated by the Secretary specifying the
25 alien’s nonimmigrant status as long as

1 such status has not yet expired and the
2 proposed employment is not in conflict
3 with any restrictions or limitations identi-
4 fied in the documentation;

5 “(vi) passport from the Federated
6 States of Micronesia or the Republic of the
7 Marshall Islands with Form I-94, Form I-
8 94A, or other documentation as designated
9 by the Secretary, indicating nonimmigrant
10 admission under the Compact of Free As-
11 sociation Between the United States and
12 the Federated States of Micronesia or the
13 Republic of the Marshall Islands; or

14 “(vii) another document designated by
15 the Secretary, by notice published in the
16 Federal Register, if the document—

17 “(I) contains a photograph of the
18 individual, biometric identification
19 data, and other personal identifying
20 information relating to the individual;

21 “(II) is evidence of authorization
22 for employment in the United States;
23 and

1 “(III) contains security features
2 to make it resistant to tampering,
3 counterfeiting, and fraudulent use.

4 “(B) DOCUMENTS ESTABLISHING IDEN-
5 TITY.—A document described in this subpara-
6 graph is—

7 “(i) an individual’s driver’s license or
8 identification card if the license or card—

9 “(I) was issued by a State or an
10 outlying possession of the United
11 States;

12 “(II) contains a photograph and
13 personal identifying information relat-
14 ing to the individual; and

15 “(III) meets the requirements
16 under section 202 of the REAL ID
17 Act of 2005 (division B of Public Law
18 109–13; 49 U.S.C. 30301 note) and
19 complies with the travel rules under
20 the Western Hemisphere Travel Ini-
21 tiative;

22 “(ii) an individual’s unexpired United
23 States military identification card;

24 “(iii) an individual’s unexpired Native
25 American tribal identification document

1 issued by a tribal entity recognized by the
2 Bureau of Indian Affairs; or

3 “(iv) a document establishing identity
4 that the Secretary determines, by notice
5 published in the Federal Register, to be ac-
6 ceptable for purposes of this subparagraph,
7 if such documentation contains—

8 “(I) a photograph of the indi-
9 vidual and other personal identifying
10 information relating to the individual;
11 and

12 “(II) security features to make it
13 resistant to tampering, counterfeiting,
14 and fraudulent use.

15 “(C) DOCUMENTS ESTABLISHING EMPLOY-
16 MENT AUTHORIZATION.—A document described
17 in this subparagraph is—

18 “(i) an individual’s Social Security ac-
19 count number card (other than such a card
20 which specifies on its face that the
21 issuance of the card does not authorize em-
22 ployment in the United States); or

23 “(ii) a document establishing employ-
24 ment authorization that the Secretary de-
25 termines, by notice published in the Fed-

1 eral Register, to be acceptable for purposes
2 of this subparagraph if such documenta-
3 tion contains security features to make it
4 resistant to tampering, counterfeiting, and
5 fraudulent use.

6 “(D) AUTHORITY TO PROHIBIT USE OF
7 CERTAIN DOCUMENTS.—If the Secretary deter-
8 mines that any document or class of documents
9 described in subparagraph (A), (B), or (C) does
10 not reliably establish identity or employment
11 authorization or is being used fraudulently to
12 an unacceptable degree, the Secretary, by notice
13 published in the Federal Register, may prohibit
14 or place conditions on the use of such document
15 or class of documents for purposes of this sec-
16 tion.

17 “(E) AUTHORITY TO WAIVE PHOTOGRAPH
18 REQUIREMENT.—The Secretary, in the sole dis-
19 cretion of the Secretary, may confirm the iden-
20 tity of an individual who submits a document
21 described in subparagraph (B)(iv) that does not
22 contain a photograph of the individual under
23 exceptional circumstances, including the individ-
24 ual’s religious beliefs.

1 “(4) USE OF THE SYSTEM TO SCREEN IDEN-
2 TITY AND EMPLOYMENT AUTHORIZATION.—

3 “(A) IN GENERAL.—A person or entity
4 that uses the System for the hiring, recruiting,
5 or referring for a fee an individual for employ-
6 ment in the United States, during the period
7 described in subparagraph (B), shall submit an
8 inquiry through the System to seek confirma-
9 tion of the identity and employment authoriza-
10 tion of the individual.

11 “(B) CONFIRMATION PERIOD.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), and subject to sub-
14 section (d), the confirmation period shall
15 begin on the date of hire and end on the
16 date that is 3 business days after the date
17 of hire, or such other reasonable period as
18 the Secretary may prescribe.

19 “(ii) SPECIAL RULE.—The confirma-
20 tion period of an alien who is authorized to
21 be employed in the United States and pro-
22 vides evidence from the Social Security Ad-
23 ministration that the alien has applied for
24 a Social Security account number shall end

1 3 business days after the alien receives
2 such Social Security account number.

3 “(C) CONFIRMATION.—A person or entity
4 receiving confirmation of an individual’s iden-
5 tity and employment authorization shall record
6 such confirmation on the form designated by
7 the Secretary for purposes of paragraph (1).

8 “(D) TENTATIVE NONCONFIRMATION.—

9 “(i) IN GENERAL.—In cases of ten-
10 tative nonconfirmation, the Secretary, in
11 consultation with the Commissioner, shall
12 provide a process for—

13 “(I) an individual to contest the
14 tentative nonconfirmation not later
15 than 10 business days after the date
16 of the receipt of the notice described
17 in clause (ii); and

18 “(II) the Secretary to issue a
19 confirmation or final nonconfirmation
20 of an individual’s identity and employ-
21 ment authorization not later than 30
22 days after the Secretary receives no-
23 tice from the individual contesting a
24 tentative nonconfirmation.

1 “(ii) NOTICE.—Not later than 3 busi-
2 ness days after receiving a tentative non-
3 confirmation of an individual’s identity or
4 employment authorization in the System, a
5 person or entity shall—

6 “(I) provide such individual with
7 written notification—

8 “(aa) in a language under-
9 stood by the individual;

10 “(bb) on a form designated
11 by the Secretary; and

12 “(cc) that includes a de-
13 scription of the individual’s right
14 to contest the tentative noncon-
15 firmation; and

16 “(II) attest, under penalty of
17 perjury, that the person or entity pro-
18 vided (or attempted to provide) such
19 notice to the individual, who shall ac-
20 knowledge receipt of such notice in a
21 manner specified by the Secretary.

22 “(iii) NO CONTEST.—

23 “(I) IN GENERAL.—A tentative
24 nonconfirmation shall become final if,

1 upon receiving the notice described in
2 clause (ii), the individual—

3 “(aa) refuses to acknowledge
4 receipt of such notice;

5 “(bb) acknowledges in writ-
6 ing, in a manner specified by the
7 Secretary, that the individual will
8 not contest the tentative noncon-
9 firmation; or

10 “(cc) fails to contest the
11 tentative nonconfirmation within
12 the 10-business-day period begin-
13 ning on the date the individual
14 received such notice.

15 “(II) RECORD OF NO CON-
16 TEST.—The person or entity shall—

17 “(aa) indicate in the System
18 that the individual refused to ac-
19 knowledge receipt of, or did not
20 contest, the tentative noncon-
21 firmation; and

22 “(bb) specify the reason that
23 the tentative nonconfirmation be-
24 came final under subclause (I).

1 “(III) EFFECT OF FAILURE TO
2 CONTEST.—An individual’s failure to
3 contest a tentative nonconfirmation
4 shall not be considered an admission
5 of any fact with respect to any viola-
6 tion of this Act or any other provision
7 of law.

8 “(iv) CONTEST.—

9 “(I) IN GENERAL.—An individual
10 may contest a tentative nonconfirma-
11 tion by using the tentative noncon-
12 firmation review process under clause
13 (i), not later than 10 business days
14 after receiving the notice described in
15 clause (ii). Except as provided in
16 clause (iii), the nonconfirmation shall
17 remain tentative until a confirmation
18 or final nonconfirmation is provided
19 by the System.

20 “(II) PROHIBITION ON TERMI-
21 NATION.—A person or entity may not
22 terminate employment or take any ad-
23 verse employment action against an
24 individual for failure to obtain con-
25 firmation of the individual’s identity

1 and employment authorization until
2 the person or entity receives a notice
3 of final nonconfirmation from the Sys-
4 tem. Nothing in this subclause may be
5 construed to prohibit an employer
6 from terminating the employment of
7 the individual for any other lawful
8 reason.

9 “(III) CONFIRMATION OR FINAL
10 NONCONFIRMATION.—The Secretary,
11 in consultation with the Commis-
12 sioner, shall issue notice of a con-
13 firmation or final nonconfirmation of
14 the individual’s identity and employ-
15 ment authorization not later than 30
16 days after the date on which the Sec-
17 retary receives notice from the indi-
18 vidual contesting the tentative non-
19 confirmation.

20 “(IV) CONTINUANCE.—If the rel-
21 evant data needed to confirm the
22 identity of an individual is not main-
23 tained by the Department of Home-
24 land Security, the Social Security Ad-
25 ministration, or the Department of

1 State, or if the employee is unable to
2 contact the Department of Homeland
3 Security or the Social Security Ad-
4 ministration, the Secretary, in the sole
5 discretion of the Secretary, may place
6 the case in continuance.

7 “(E) FINAL NONCONFIRMATION.—

8 “(i) NOTICE.—If a person or entity
9 receives a final nonconfirmation of an indi-
10 vidual’s identity or employment authoriza-
11 tion, the person or entity, not later than 5
12 business days after receiving such final
13 nonconfirmation, shall—

14 “(I) notify such individual of the
15 final nonconfirmation in writing, on a
16 form designated by the Secretary,
17 which shall include information re-
18 garding the individual’s right to ap-
19 peal the final nonconfirmation in ac-
20 cordance with subparagraph (F); and

21 “(II) attest, under penalty of
22 perjury, that the person or entity pro-
23 vided (or attempted to provide) the
24 notice to the individual, who shall ac-

1 knowledge receipt of such notice in a
2 manner designated by the Secretary.

3 “(ii) TERMINATION OR NOTIFICATION
4 OF CONTINUED EMPLOYMENT.—If a per-
5 son or entity receives a final nonconfirma-
6 tion regarding an individual, the person or
7 entity may terminate employment of the
8 individual. If the person or entity does not
9 terminate such employment pending appeal
10 of the final nonconfirmation, the person or
11 entity shall notify the Secretary of such
12 fact through the System. Failure to notify
13 the Secretary in accordance with this
14 clause shall be deemed a violation of sec-
15 tion 274A(a)(1)(A).

16 “(iii) PRESUMPTION OF VIOLATION
17 FOR CONTINUED EMPLOYMENT.—If a per-
18 son or entity continues to employ an indi-
19 vidual after receipt of a final nonconfirma-
20 tion, and an appeal of the nonconfirmation
21 is not pending, there shall be a rebuttable
22 presumption that the person or entity has
23 violated paragraphs (1)(A) and (2) of sec-
24 tion 274A(a).

1 “(F) APPEAL OF FINAL NONCONFIRMA-
2 TION.—

3 “(i) ADMINISTRATIVE APPEAL.—The
4 Secretary, in consultation with the Com-
5 missioner and the Assistant Attorney Gen-
6 eral for Civil Rights, shall develop a proc-
7 ess by which an individual may seek ad-
8 ministrative review of a final nonconfirma-
9 tion. Such process shall—

10 “(I) permit the individual to sub-
11 mit additional evidence establishing
12 identity or employment authorization;

13 “(II) ensure prompt resolution of
14 an appeal, including a response to the
15 appeal in all circumstances within 60
16 days; and

17 “(III) permit the Secretary to
18 impose a civil money penalty equal to
19 not more than \$500 on any individual
20 who files a frivolous appeal or files an
21 appeal for purposes of delay.

22 “(ii) COMPENSATION FOR LOST
23 WAGES RESULTING FROM GOVERNMENT
24 ERROR OR OMISSION.—

1 “(I) IN GENERAL.—If, upon con-
2 sideration of an appeal of a final non-
3 confirmation, the Secretary deter-
4 mines that the final nonconfirmation
5 was issued in error, the Secretary
6 shall further determine whether the
7 final nonconfirmation was the result
8 of government error or omission. If
9 the Secretary determines that the
10 final nonconfirmation was solely the
11 result of Government error or omis-
12 sion and the individual was termi-
13 nated from employment, the Secretary
14 shall compensate the individual for
15 lost wages.

16 “(II) CALCULATION OF LOST
17 WAGES.—Lost wages shall be cal-
18 culated based on the wage rate and
19 work schedule that were in effect
20 prior to the individual’s termination.
21 The individual shall be compensated
22 for lost wages beginning on the first
23 scheduled work day after employment
24 was terminated and ending 90 days
25 after completion of the administrative

1 review process described in this sub-
2 paragraph or the day the individual is
3 reinstated or obtains other employ-
4 ment, whichever occurs first.

5 “(III) LIMITATION ON COM-
6 PENSATION.—Compensation for lost
7 wages may not be awarded for any pe-
8 riod during which the individual was
9 not authorized for employment in the
10 United States.

11 “(IV) SOURCE OF FUNDS.—
12 There is established in the general
13 fund of the Treasury, a separate ac-
14 count, which shall be known as the
15 ‘Electronic Verification Compensation
16 Account’. Monetary penalties collected
17 pursuant to subsections (f) and (g)
18 shall be deposited in the Electronic
19 Verification Compensation Account
20 and shall remain available for pur-
21 poses of providing compensation for
22 lost wages under this clause.

23 “(iii) JUDICIAL REVIEW.—Not later
24 than 30 days after the dismissal of an ap-
25 peal under this subparagraph, an indi-

1 vidual may seek judicial review of such dis-
2 missal in the United States District Court
3 in the jurisdiction in which the employer
4 resides or conducts business.

5 “(5) RETENTION OF VERIFICATION RECORDS.—

6 “(A) IN GENERAL.—After completing the
7 form designated by the Secretary under para-
8 graph (1) with respect to an individual, a per-
9 son or entity shall retain such form in paper,
10 microfiche, microfilm, electronic, or other for-
11 mat deemed acceptable by the Secretary, and
12 make such form available for inspection by offi-
13 cers of the Department of Homeland Security,
14 the Department of Justice, or the Department
15 of Labor during the period beginning on the
16 date the verification is completed and ending on
17 the later of—

18 “(i) the date that is 3 years after the
19 date hire; or

20 “(ii) the date that is 1 year after the
21 date on which such individual’s employ-
22 ment is terminated.

23 “(B) COPYING OF DOCUMENTATION PER-
24 MITTED.—Notwithstanding any other provision
25 of law, a person or entity may, for the purpose

1 of complying with the requirements under this
2 section—

3 “(i) copy a document presented by an
4 individual pursuant to this subsection; and

5 “(ii) retain such copy.

6 “(c) REVERIFICATION OF PREVIOUSLY HIRED INDI-
7 VIDUALS.—

8 “(1) MANDATORY REVERIFICATION.—A person
9 or entity that uses the System for the hiring, re-
10 cruiting, or referring for a fee an individual for em-
11 ployment in the United States shall submit an in-
12 quiry through the System to verify the identity and
13 employment authorization of—

14 “(A) an individual with a limited period of
15 employment authorization, when such employ-
16 ment authorization expires;

17 “(B) an individual, not later than 10 days
18 after receiving a notification from the Secretary
19 requiring the verification of such individual pur-
20 suant to subsection (a)(4)(C); and

21 “(C) an individual employed by an em-
22 ployer required to participate in the E-Verify
23 Program described in section 403(a) of the Ille-
24 gal Immigration Reform and Immigrant Re-
25 sponsibility Act of 1996 (8 U.S.C. 1324a note)

1 by reason of any Federal, State, or local law,
2 Executive order, rule, regulation, or delegation
3 of authority, including employers required to
4 participate in such program by reason of Fed-
5 eral acquisition laws (and regulations promul-
6 gated under such laws, including the Federal
7 Acquisition Regulation).

8 “(2) REVERIFICATION PROCEDURES.—The
9 verification procedures under subsection (b) shall
10 apply to reverifications under this subsection, except
11 that employers shall—

12 “(A) use a form designated by the Sec-
13 retary for purposes of this paragraph; and

14 “(B) retain the form in paper, microfiche,
15 microfilm, electronic, or other format approved
16 by the Secretary, and make the form available
17 for inspection by officers of the Department of
18 Homeland Security, the Department of Justice,
19 or the Department of Labor during the period
20 beginning on the date the reverification com-
21 mences and ending on the later of—

22 “(i) the date that is 3 years after the
23 date of reverification; or

1 “(ii) the date that is 1 year after the
2 date on which the individual’s employment
3 is terminated.

4 “(d) GOOD FAITH COMPLIANCE.—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, a person or entity that uses
7 the System is considered to have complied with the
8 requirements under this section notwithstanding a
9 technical failure of the System, or other technical or
10 procedural failure to meet such requirement if there
11 was a good faith attempt to comply with such re-
12 quirement.

13 “(2) EXCEPTION FOR FAILURE TO CORRECT
14 AFTER NOTICE.—Paragraph (1) shall not apply if—

15 “(A) the failure of the person or entity to
16 meet a requirement under this section is not de-
17 minimis;

18 “(B) the Secretary has provided notice to
19 the person or entity of such failure, including
20 an explanation as to why such failure is not de-
21 minimis;

22 “(C) the person or entity has been pro-
23 vided a period of not less than 30 days (begin-
24 ning after the date of the notice) to correct
25 such failure; and

1 “(D) the person or entity has not corrected
2 such failure voluntarily within such period.

3 “(3) EXCEPTION FOR PATTERN OR PRACTICE
4 VIOLATORS.—Paragraph (1) shall not apply to a
5 person or entity that has engaged or is engaging in
6 a pattern or practice of violations of paragraph
7 (1)(A) or (2) of section 274A(a).

8 “(4) DEFENSE.—A person or entity that uses
9 the System for the hiring, recruiting, or referring for
10 a fee an individual for employment in the United
11 States—

12 “(A) shall not be liable to a job applicant,
13 an employee, the Federal Government, or a
14 State or local government, under Federal,
15 State, or local criminal or civil law, for any em-
16 ployment-related action taken with respect to
17 an employee in good-faith reliance on informa-
18 tion provided by the System; and

19 “(B) shall be deemed to have established
20 compliance with its obligations under this sec-
21 tion, absent a showing by the Secretary, by
22 clear and convincing evidence, that the em-
23 ployer had knowledge that an employee is an
24 unauthorized alien.

25 “(e) LIMITATIONS.—

1 “(1) NO NATIONAL IDENTIFICATION CARD.—
2 Nothing in this section may be construed to author-
3 ize, directly or indirectly, the issuance or use of na-
4 tional identification cards or the establishment of a
5 national identification card.

6 “(2) USE OF RECORDS.—Notwithstanding any
7 other provision of law, nothing in this section may
8 be construed to permit or allow any department, bu-
9 reau, or other agency of the United States Govern-
10 ment to utilize any information, database, or other
11 records assembled under this section for any purpose
12 other than the verification of identity and employ-
13 ment authorization of an individual or to ensure the
14 secure, appropriate, and non-discriminatory use of
15 the System.

16 “(f) PENALTIES.—

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the provisions of sub-
19 sections (e) through (g) of section 274A shall apply
20 with respect to compliance with the provisions under
21 this section and penalties for noncompliance for per-
22 sons or entities that use the System.

23 “(2) CEASE AND DESIST ORDER WITH CIVIL
24 MONEY PENALTIES FOR HIRING, RECRUITING, AND
25 REFERRAL VIOLATIONS.—Notwithstanding the civil

1 money penalties set forth in section 274A(e)(4), with
2 respect to a violation of paragraph (1)(A) or (2) of
3 section 274A(a) by a person or entity that is subject
4 to the provisions under this section that has hired,
5 recruited, or referred for a fee, an individual for em-
6 ployment in the United States, a cease and desist
7 order—

8 “(A) shall require the person or entity to
9 pay a civil penalty in an amount, subject to
10 subsection (d), that is equal to—

11 “(i) not less than \$2,500 and not
12 more than \$5,000 for each unauthorized
13 alien with respect to whom a violation of
14 either such subsection occurred;

15 “(ii) not less than \$5,000 and not
16 more than \$10,000 for each such alien in
17 the case of a person or entity previously
18 subject to 1 order under this paragraph; or

19 “(iii) not less than \$10,000 and not
20 more than \$25,000 for each such alien in
21 the case of a person or entity previously
22 subject to more than 1 order under this
23 paragraph; and

24 “(B) may require the person or entity to
25 take other appropriate remedial action.

1 “(3) ORDER FOR CIVIL MONEY PENALTY FOR
2 VERIFICATION VIOLATIONS.—Notwithstanding para-
3 graphs (4) and (5) of section 274A(e) and any other
4 Federal law relating to civil monetary penalties, any
5 person or entity that is required to comply with the
6 provisions of this section that violates section
7 274A(a)(1)(B) shall be required to pay a civil pen-
8 alty in an amount, subject to paragraphs (5), (6),
9 and (7), that is equal to not less than \$1,000 and
10 not more than \$25,000 for each individual with re-
11 spect to whom such violation occurred.

12 “(4) SYSTEM USE VIOLATION.—Failure by a
13 person or entity to utilize the System as required by
14 law or providing information to the System that the
15 person or entity knows or reasonably believes to be
16 false, shall be treated as a violation of section
17 274A(a)(1)(A).

18 “(5) EXEMPTION FROM PENALTY FOR GOOD
19 FAITH VIOLATION.—

20 “(A) IN GENERAL.—A person or entity
21 that uses the System is presumed to have acted
22 with knowledge for purposes of paragraphs
23 (1)(A) and (2) of section 274A(a) if the person
24 or entity fails to make an inquiry to verify the

1 identity and employment authorization of the
2 individual through the System.

3 “(B) GOOD FAITH EXEMPTION.—In the
4 case of imposition of a civil penalty under para-
5 graph (2)(A) with respect to a violation of para-
6 graph (1)(A) or (2) of section 274A(a) for hir-
7 ing or continuation of employment or recruit-
8 ment or referral by a person or entity, and in
9 the case of imposition of a civil penalty under
10 paragraph (3) for a violation of section
11 274A(a)(1)(B) for hiring or recruitment or re-
12 ferral by a person or entity, the penalty other-
13 wise imposed may be waived or reduced if the
14 person or entity establishes that the person or
15 entity acted in good faith.

16 “(6) PENALTY ADJUSTMENT FACTORS.—For
17 purposes of paragraphs (2)(A) and (3), when assess-
18 ing the level of civil money penalties for a particular
19 case, in addition to the good faith of the person or
20 entity being charged, due consideration shall be
21 given to factors such as the size of the business, the
22 seriousness of the violation, whether or not the indi-
23 vidual was an unauthorized alien, and the history of
24 previous violations, which factors may be aggra-

1 vating, mitigating, or neutral depending on the facts
2 of each case.

3 “(7) CRIMINAL PENALTY.—Notwithstanding
4 section 274A(f)(1) and the provisions of any other
5 Federal law relating to fine levels, any person or en-
6 tity required to comply with the provisions under
7 this section that engages in a pattern or practice of
8 violations of paragraph (1) or (2) of section
9 274A(a)—

10 “(A) shall be fined not more than \$5,000
11 for each unauthorized alien with respect to
12 whom such a violation occurs;

13 “(B) shall be imprisoned for not more than
14 18 months; or

15 “(C) shall be subject to the fine under sub-
16 paragraph (A) and imprisonment under sub-
17 paragraph (B).

18 “(8) ELECTRONIC VERIFICATION COMPENSA-
19 TION ACCOUNT.—Civil money penalties collected
20 pursuant to this subsection shall be deposited in the
21 Electronic Verification Compensation Account for
22 the purpose of compensating individuals for lost
23 wages as a result of a final nonconfirmation issued
24 by the System that was based on government error

1 or omission, in accordance with subsection
2 (b)(4)(F)(ii)(IV).

3 “(9) DEBARMENT.—

4 “(A) IN GENERAL.—If the Secretary deter-
5 mines that a person or entity is a repeat viola-
6 tor of paragraph (1)(A) or (2) of section
7 274A(a) or has been convicted of a crime under
8 section 274A, such person or entity may be con-
9 sidered for debarment from the receipt of Fed-
10 eral contracts, grants, or cooperative agree-
11 ments in accordance with the debarment stand-
12 ards and pursuant to the debarment procedures
13 set forth in the Federal Acquisition Regulation.

14 “(B) NO CONTRACT, GRANT, AGREE-
15 MENT.—If the Secretary or the Attorney Gen-
16 eral determines that a person or entity should
17 be considered for debarment under this para-
18 graph, and such person or entity does not hold
19 a Federal contract, grant or cooperative agree-
20 ment, the Secretary or the Attorney General
21 shall refer the matter to the Administrator of
22 General Services to determine whether to list
23 the person or entity on the List of Parties Ex-
24 cluded from Federal Procurement and Non-

1 procurement Programs, and if so, for what du-
2 ration and under what scope.

3 “(C) CONTRACT, GRANT, AGREEMENT.—If
4 the Secretary or the Attorney General deter-
5 mines that a person or entity should be consid-
6 ered for debarment under this paragraph, and
7 such person or entity holds a Federal contract,
8 grant, or cooperative agreement, the Secretary
9 or the Attorney General—

10 “(i) shall advise all agencies or de-
11 partments holding a contract, grant, or co-
12 operative agreement with the person or en-
13 tity of the Government’s interest in having
14 such person or entity considered for debar-
15 ment; and

16 “(ii) after soliciting and considering
17 the views of all such agencies and depart-
18 ments, may refer the matter to the appro-
19 priate lead agency to determine whether to
20 list the person or entity on the List of Par-
21 ties Excluded from Federal Procurement
22 and Nonprocurement Programs, and if so,
23 for what duration and under what scope.

24 “(D) REVIEW.—Any decision to debar a
25 person or entity in accordance with this sub-

1 section shall be reviewable pursuant to part 9.4
2 of the Federal Acquisition Regulation.

3 “(10) PREEMPTION.—This section preempts
4 any State or local law, ordinance, policy, or rule, in-
5 cluding any criminal or civil fine or penalty struc-
6 ture, relating to the hiring, continued employment,
7 or status verification for employment eligibility pur-
8 poses, of unauthorized aliens, except that a State, lo-
9 cality, municipality, or political subdivision may ex-
10 ercise its authority over business licensing and simi-
11 lar laws as a penalty for failure to use the System
12 as required under this section.

13 “(g) UNFAIR IMMIGRATION-RELATED EMPLOYMENT
14 PRACTICES AND THE SYSTEM.—

15 “(1) IN GENERAL.—In addition to the prohibi-
16 tions on discrimination set forth in section 274B, it
17 is an unfair immigration-related employment prac-
18 tice for a person or entity, in the course of utilizing
19 the System—

20 “(A) to use the System for screening an
21 applicant before the date of hire;

22 “(B) to terminate the employment of an
23 individual or take any adverse employment ac-
24 tion with respect to that individual due to a
25 tentative nonconfirmation issued by the System;

1 “(C) to use the System to screen any indi-
2 vidual for any purpose other than confirmation
3 of identity and employment authorization in ac-
4 cordance with this section;

5 “(D) to use the System to verify the iden-
6 tity and employment authorization of a current
7 employee, including an employee continuing in
8 employment, other than for purposes of
9 reverification authorized under subsection (c);

10 “(E) to use the System to discriminate
11 based on national origin or citizenship status;

12 “(F) to willfully fail to provide an indi-
13 vidual with any notice required under this chap-
14 ter;

15 “(G) to require an individual to make an
16 inquiry under the self-verification procedures
17 described in subsection (a)(4)(B) or to provide
18 the results of such an inquiry as a condition of
19 employment, or hiring, recruiting, or referring;
20 or

21 “(H) to terminate the employment of an
22 individual or take any adverse employment ac-
23 tion with respect to that individual based upon
24 the need to verify the identity and employment

1 authorization of the individual in accordance
2 with subsection (b).

3 “(2) PREEMPLOYMENT SCREENING AND BACK-
4 GROUND CHECK.—Nothing in paragraph (1)(A) may
5 be construed to preclude a preemployment screening
6 or background check that is required or permitted
7 under any other provision of law.

8 “(3) CIVIL MONEY PENALTIES FOR UNFAIR IM-
9 MIGRATION-RELATED EMPLOYMENT PRACTICES IN-
10 VOLVING SYSTEM MISUSE.—Notwithstanding section
11 274B(g)(2)(B)(iv), the penalties that may be im-
12 posed by an administrative law judge with respect to
13 a finding that a person or entity has engaged in an
14 unfair immigration-related employment practice de-
15 scribed in paragraph (1) are—

16 “(A) not less than \$1,000 and not more
17 than \$4,000 for each aggrieved individual;

18 “(B) in the case of a person or entity pre-
19 viously subject to a single order under this
20 paragraph, not less than \$4,000 and not more
21 than \$10,000 for each aggrieved individual; and

22 “(C) in the case of a person or entity pre-
23 viously subject to more than 1 order under this
24 paragraph, not less than \$6,000 and not more
25 than \$20,000 for each aggrieved individual.

1 “(4) ELECTRONIC VERIFICATION COMPENSA-
2 TION ACCOUNT.—

3 “(A) USE OF CIVIL MONETARY PEN-
4 ALTIES.—Civil money penalties collected under
5 this subsection shall be deposited into the Elec-
6 tronic Verification Compensation Account for
7 the purpose of compensating individuals for lost
8 wages as a result of a final nonconfirmation
9 issued by the System that was based on a Gov-
10 ernment error or omission described in sub-
11 section (b)(4)(F)(ii)(IV).

12 “(B) ALTERNATIVE USE OF FUNDS.—Any
13 amounts deposited into the Electronic
14 Verification Compensation Account pursuant to
15 subparagraph (A) that are not used within 5
16 years to compensate individuals under such
17 subparagraph shall be made available to the
18 Secretary and the Attorney General to provide
19 education to employers and employees regard-
20 ing the requirements, obligations, and rights
21 under the System.

22 “(h) CLARIFICATION.—All rights and remedies pro-
23 vided under any Federal, State, or local law relating to
24 workplace rights, including back pay, are available to an
25 employee despite—

1 “(1) the employee’s status as an unauthorized
2 alien during or after the period of employment; or

3 “(2) the employer’s or employee’s failure to
4 comply with the requirements under this section.

5 “(i) DEFINED TERM.—In this section, the term ‘date
6 of hire’ means the date on which employment for pay or
7 other remuneration commences.”.

8 (b) CONFORMING AMENDMENT.—The table of con-
9 tents for the Immigration and Nationality Act (8 U.S.C.
10 1101 note) is amended by inserting after the item relating
11 to section 274D the following:

“Sec. 274E. Requirements for the electronic verification of employment eligi-
bility.”.

12 **SEC. 302. MANDATORY ELECTRONIC VERIFICATION FOR**
13 **THE AGRICULTURAL INDUSTRY.**

14 (a) DEFINED TERM.—In this section, the term “agri-
15 cultural employment” means agricultural labor or services
16 (as defined in section 101(a)(15)(H)(ii) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

18 (b) IN GENERAL.—The requirements for the elec-
19 tronic verification of identity and employment authoriza-
20 tion described in section 274E of the Immigration and Na-
21 tionality Act, as added by section 301, shall apply to a
22 person or entity hiring, recruiting, or referring for a fee
23 an individual for agricultural employment in the United

1 States in accordance with the effective dates set forth in
2 subsection (c).

3 (c) EFFECTIVE DATES.—

4 (1) HIRING.—The requirements described in
5 subsection (b) shall apply to a person or entity hir-
6 ing an individual for agricultural employment in the
7 United States—

8 (A) with respect to employers that, on the
9 date of the enactment of this Act, have 500 or
10 more employees in the United States, beginning
11 on the later of—

12 (i) the date that is 6 months after the
13 date on which the Secretary of Homeland
14 Security makes the certification required
15 under section 274E(a)(11) of the Immigra-
16 tion and Nationality Act, as added by sec-
17 tion 301(a); or

18 (ii) 6 years after the date of the en-
19 actment of this Act;

20 (B) with respect to employers that, on the
21 date of the enactment of this Act, have 100 or
22 more employees in the United States, but fewer
23 than 500 such employees, beginning on the date
24 that is 3 months after the date on which such

1 requirements are applicable to employers de-
2 scribed in subparagraph (A);

3 (C) with respect to employers that, on the
4 date of the enactment of this Act, have 20 or
5 more employees in the United States, but fewer
6 than 100 such employees, beginning on the date
7 that is 6 months after the date on which such
8 requirements are applicable to employers de-
9 scribed in subparagraph (A); and

10 (D) with respect to employers that, on the
11 date of the enactment of this Act, have fewer
12 than 20 employees in the United States, begin-
13 ning on the date that is 9 months after the date
14 on which such requirements are applicable to
15 employers described in subparagraph (A).

16 (2) RECRUITING AND REFERRING FOR A FEE.—

17 The requirements under subsection (b) shall apply to
18 any person or entity recruiting or referring for a fee
19 an individual for agricultural employment in the
20 United States on the date that is 1 year after the
21 completion of the application period described in sec-
22 tion 101(c).

23 (3) TRANSITION RULE.—Except as required
24 under subtitle A of title IV of the Illegal Immigra-
25 tion Reform and Immigrant Responsibility Act of

1 1996 (8 U.S.C. 1324a note), as in effect on the day
2 before the effective date described in section
3 303(a)(4), Executive Order 13465 (8 U.S.C. 1324a
4 note; relating to Government procurement), or any
5 State law requiring persons or entities to use the E-
6 Verify Program described in section 403(a) of the Il-
7 legal Immigration Reform and Immigrant Responsi-
8 bility Act of 1996 (8 U.S.C. 1324a note), as in ef-
9 fect on the day before such effective date, sections
10 274A and 274B of the Immigration and Nationality
11 Act (8 U.S.C. 1324a and 1324b) shall apply to a
12 person or entity hiring, recruiting, or referring an
13 individual for employment in the United States until
14 the applicable effective date under this subsection.

15 (4) E-VERIFY VOLUNTARY USERS AND OTHERS
16 DESIRING EARLY COMPLIANCE.—Nothing in this
17 subsection may be construed to prohibit persons or
18 entities, including persons or entities that have vol-
19 untarily elected to participate in the E-Verify Pro-
20 gram described in section 403(a) of the Illegal Im-
21 migration Reform and Immigrant Responsibility Act
22 of 1996 (8 U.S.C. 1324a note), as in effect on the
23 day before the effective date described in section
24 303(a)(4), from seeking early compliance on a vol-
25 untary basis.

1 (5) DELAYED IMPLEMENTATION.—The Sec-
2 retary of Homeland Security, in consultation with
3 the Secretary of Agriculture, may delay the effective
4 dates described in paragraphs (1) and (2) for a pe-
5 riod not to exceed 180 days if the Secretary deter-
6 mines, based on the most recent report described in
7 section 133 and other relevant data, that a signifi-
8 cant number of applications under section 101 re-
9 main pending.

10 (d) RURAL ACCESS TO ASSISTANCE FOR TENTATIVE
11 NONCONFIRMATION REVIEW PROCESS.—

12 (1) IN GENERAL.—The Secretary of Homeland
13 Security, in coordination with the Secretary of Agri-
14 culture, and in consultation with the Commissioner
15 of Social Security, shall create a process for individ-
16 uals to seek assistance in contesting a tentative non-
17 confirmation (as described in section 274E(b)(4)(D)
18 of the Immigration and Nationality Act, as added by
19 section 301(a), at local offices or service centers of
20 the Department of Agriculture.

21 (2) STAFFING AND RESOURCES.—The Sec-
22 retary of Homeland Security and the Secretary of
23 Agriculture shall ensure that local offices and service
24 centers of the Department of Agriculture are staffed
25 appropriately and have the resources necessary to

1 provide information and support to individuals seek-
2 ing the assistance described in paragraph (1), in-
3 cluding by facilitating communication between such
4 individuals and the Department of Homeland Secu-
5 rity or the Social Security Administration.

6 (3) **RULE OF CONSTRUCTION.**—Nothing in this
7 subsection may be construed to delegate authority or
8 transfer responsibility for reviewing and resolving
9 tentative nonconfirmations from the Secretary of
10 Homeland Security and the Commissioner of Social
11 Security to the Secretary of Agriculture.

12 (e) **DOCUMENT ESTABLISHING EMPLOYMENT AU-**
13 **THORIZATION AND IDENTITY.**—In accordance with section
14 274E(b)(3)(A)(vii) of the Immigration and Nationality
15 Act, as added by section 301(a), and not later than 1 year
16 after the completion of the application period described in
17 section 101(c), the Secretary of Homeland Security shall
18 recognize documentary evidence of certified agricultural
19 worker status described in section 102(a)(2) as valid proof
20 of employment authorization and identity for purposes of
21 section 274E(b)(3)(A) of such Act.

22 **SEC. 303. COORDINATION WITH E-VERIFY PROGRAM.**

23 (a) **REPEAL.**—

24 (1) **IN GENERAL.**—Subtitle A of title IV of the
25 Illegal Immigration Reform and Immigrant Respon-

1 sibility Act of 1996 (8 U.S.C. 1324a note) is re-
2 pealed.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions, in section 1(d) of the Illegal Immigration Re-
5 form and Immigrant Responsibility Act of 1996, is
6 amended by striking the items relating to subtitle A
7 of title IV.

8 (3) REFERENCES.—Any reference in any Fed-
9 eral, State, or local law, Executive order, rule, regu-
10 lation, or delegation of authority, or any document
11 of, or pertaining to, the Department of Homeland
12 Security, Department of Justice, or the Social Secu-
13 rity Administration, to the E-Verify Program de-
14 scribed in section 403(a) of the Illegal Immigration
15 Reform and Immigrant Responsibility Act of 1996
16 (8 U.S.C. 1324a note), or to the employment eligi-
17 bility confirmation system established under section
18 404 of the Illegal Immigration Reform and Immi-
19 grant Responsibility Act of 1996 (8 U.S.C. 1324a
20 note), is deemed to refer to the employment eligi-
21 bility confirmation system established under section
22 274E of the Immigration and Nationality Act, as
23 added by section 301(a).

24 (4) EFFECTIVE DATE.—This subsection, and
25 the amendments made by this subsection, shall take

1 effect on the date that is 30 days after the date on
2 which final rules are published pursuant to section
3 309(a).

4 (b) FORMER E-VERIFY MANDATORY USERS, IN-
5 CLUDING FEDERAL CONTRACTORS.—Beginning on the ef-
6 fective date set forth in subsection (a)(4), the Secretary
7 of Homeland Security shall require employers required to
8 participate in the E-Verify Program described in section
9 403(a) of the Illegal Immigration Reform and Immigrant
10 Responsibility Act of 1996 (8 U.S.C. 1324a note) by rea-
11 son of any Federal, State, or local law, Executive order,
12 rule, regulation, or delegation of authority, including em-
13 ployers required to participate in such program by reason
14 of Federal acquisition laws (and regulations promulgated
15 under those laws, including the Federal Acquisition Regu-
16 lation), to comply with the requirements under section
17 274E of the Immigration and Nationality Act, as added
18 by section 301(a) (and any additional requirements of
19 such Federal acquisition laws and regulation) instead of
20 any requirement to participate in the E-Verify Program.

21 (c) FORMER E-VERIFY VOLUNTARY USERS.—Begin-
22 ning on the effective date set forth in subsection (a)(4),
23 the Secretary of Homeland Security shall provide for the
24 voluntary compliance with the requirements under section
25 274E of the Immigration and Nationality Act, as added

1 by section 301(a), by employers voluntarily electing to par-
2 ticipate in the E-Verify Program described in section
3 403(a) of the Illegal Immigration Reform and Immigrant
4 Responsibility Act of 1996 (8 U.S.C. 1324a note) before
5 such effective date.

6 **SEC. 304. FRAUD AND MISUSE OF DOCUMENTS.**

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

9 (1) in paragraph (1), by striking “identification
10 document,” and inserting “identification document
11 or document intended to establish employment au-
12 thorization,”;

13 (2) in paragraph (2), by striking “identification
14 document” and inserting “identification document or
15 document intended to establish employment author-
16 ization,”; and

17 (3) in the undesignated matter following para-
18 graph (3) by striking “of section 274A(b)” and in-
19 serting “under section 274A(b) or 274E(b)”.

20 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
22 274A of the Immigration and Nationality Act (8 U.S.C.
23 1324a) is amended—

24 (1) in subsection (a)(1)(B)—

1 (A) by striking “subsection (b) or (ii)” and
2 inserting the following: “subsection (b); or
3 “(ii)””; and

4 (B) in clause (ii), by striking “subsection
5 (b).” and inserting “section 274E.”; and

6 (2) in subsection (b), in the matter preceding
7 paragraph (1), by striking “The requirements re-
8 ferred” and inserting “Except as provided in section
9 274E, the requirements referred”.

10 (b) UNFAIR IMMIGRATION-RELATED EMPLOYMENT
11 PRACTICES.—Section 274B(a) of the Immigration and
12 Nationality Act (8 U.S.C. 1324b(a)) is amended—

13 (1) in paragraph (1)(B), by striking “in the
14 case of a protected individual (as defined in para-
15 graph (3)),”;

16 (2) by striking paragraph (3); and

17 (3) by inserting after paragraph (2) the fol-
18 lowing:

19 “(3) MISUSE OF VERIFICATION SYSTEM.—It is
20 an unfair immigration-related employment practice
21 for a person or other entity to misuse the
22 verification system as described in section
23 274E(g).”.

1 **SEC. 306. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
2 **TION PROGRAMS.**

3 (a) FUNDING UNDER AGREEMENT.—Effective for all
4 fiscal years beginning on or after October 1, 2023, the
5 Commissioner of Social Security and the Secretary of
6 Homeland Security shall ensure that an agreement is in
7 place that—

8 (1) provides funds to the Commissioner for the
9 full costs of the responsibilities of the Commissioner
10 with respect to employment eligibility verification,
11 including responsibilities described in this title and
12 in the amendments made by this title, such as—

13 (A) acquiring, installing, and maintaining
14 technological equipment and systems necessary
15 for the fulfillment of such responsibilities, but
16 only that portion of such costs that are attrib-
17 utable exclusively to such responsibilities; and

18 (B) responding to individuals who contest
19 a tentative nonconfirmation or administratively
20 appeal a final nonconfirmation provided with
21 respect to employment eligibility verification;

22 (2) provides the funds required under para-
23 graph (1) annually in advance of the applicable
24 quarter based on an estimating methodology agreed
25 to by the Commissioner and the Secretary (except in
26 such instances where the delayed enactment of an

1 annual appropriation may preclude such quarterly
2 payments); and

3 (3) requires an annual accounting and reconcili-
4 ation of the actual costs incurred and the funds pro-
5 vided under such agreement, which shall be reviewed
6 by the Inspector General of the Social Security Ad-
7 ministration and the Inspector General of the De-
8 partment of Homeland Security.

9 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
10 IN ABSENCE OF TIMELY AGREEMENT.—

11 (1) IN GENERAL.—In any case in which the
12 agreement required under subsection (a) for any fis-
13 cal year beginning on or after October 1, 2023, has
14 not been reached as of October 1 of such fiscal year,
15 the latest agreement described in such subsection
16 shall be deemed in effect on an interim basis for
17 such fiscal year until such time as an agreement re-
18 quired under subsection (a) is subsequently reached,
19 except that the terms of such interim agreement
20 shall be modified to adjust for inflation and any in-
21 crease or decrease in the volume of requests under
22 the employment eligibility verification system.

23 (2) NOTIFICATION REQUIREMENTS.—

24 (A) IN GENERAL.—Not later than October
25 1 of any fiscal year during which an interim

1 agreement applies under paragraph (1), the
2 Commissioner and the Secretary shall notify the
3 Committee on Finance of the Senate, the Com-
4 mittee on the Judiciary of the Senate, the Com-
5 mittee on Appropriations of the Senate, the
6 Committee on Ways and Means of the House of
7 Representatives, the Committee on the Judici-
8 ary of the House of Representatives, and the
9 Committee on Appropriations of the House of
10 Representatives of the failure to reach the
11 agreement required under subsection (a) for
12 such fiscal year.

13 (B) QUARTERLY NOTIFICATIONS.—Until
14 the agreement required under subsection (a)
15 has been reached for a fiscal year, the Commis-
16 sioner and the Secretary, not later than the end
17 of each 90-day period after October 1 of such
18 fiscal year, shall notify the congressional com-
19 mittees referred to in subparagraph (A) of the
20 status of negotiations between the Commis-
21 sioner and the Secretary in order to reach such
22 an agreement.

1 **SEC. 307. REPORT ON THE IMPLEMENTATION OF THE**
2 **ELECTRONIC EMPLOYMENT VERIFICATION**
3 **SYSTEM.**

4 Not later than 2 years after the date on which final
5 rules are published pursuant to section 309(a), and annu-
6 ally thereafter, the Secretary of Homeland Security and
7 the Attorney General shall jointly submit a report to Con-
8 gress that includes—

9 (1) an assessment of the accuracy rates of the
10 responses of the electronic employment verification
11 system established under section 274E of the Immi-
12 gration and Nationality Act, as added by section
13 301(a) (referred to in this section and section 308
14 as the “System”), including tentative and final non-
15 confirmation notices issued to employment-author-
16 ized individuals and confirmation notices issued to
17 individuals who are not employment-authorized;

18 (2) an assessment of any challenges faced by
19 persons or entities (including small employers) in
20 utilizing the System;

21 (3) an assessment of any challenges faced by
22 employment-authorized individuals who are issued
23 tentative or final nonconfirmation notices;

24 (4) an assessment of the incidence of unfair im-
25 migration-related employment practices described in

1 section 274E(g) of the Immigration and Nationality
2 Act, related to the use of the System;

3 (5) an assessment of the photo matching and
4 other identity authentication tools described in sec-
5 tion 274E(a)(4) of the Immigration and Nationality
6 Act, including—

7 (A) the accuracy rates of such tools;

8 (B) the effectiveness of such tools at pre-
9 venting identity fraud and other misuse of iden-
10 tifying information;

11 (C) any challenges faced by persons, enti-
12 ties, or individuals utilizing such tools;

13 (D) operation and maintenance costs asso-
14 ciated with such tools; and

15 (E) the privacy and civil liberties safe-
16 guards associated with such tools;

17 (6) a summary of the activities and findings of
18 the U.S. Citizenship and Immigration Services E-
19 Verify Monitoring and Compliance Branch (referred
20 to in this paragraph as the “Branch”), or any suc-
21 cessor office, including—

22 (A) the number, types and outcomes of au-
23 dits, internal reviews, and other compliance ac-
24 tivities initiated by the Branch in the previous
25 year;

1 (B) the capacity of the Branch to detect
2 and prevent violations of section 274E(g) of the
3 Immigration and Nationality Act; and

4 (C) an assessment of the degree to which
5 persons and entities misuse the System, includ-
6 ing—

7 (i) using the System before an individ-
8 ual's date of hire;

9 (ii) failing to provide required notifi-
10 cations to individuals;

11 (iii) using the System to interfere with
12 or otherwise impede individuals' assertions
13 of their rights under other laws; and

14 (iv) using the System for unauthor-
15 ized purposes; and

16 (7) an assessment of the impact of implementa-
17 tion of the System in the agricultural industry and
18 the use of the verification system in agricultural in-
19 dustry hiring and business practices.

20 **SEC. 308. MODERNIZING AND STREAMLINING THE EMPLOY-**
21 **MENT ELIGIBILITY VERIFICATION PROCESS.**

22 Not later than 1 year after the date of the enactment
23 of this Act, the Secretary of Homeland Security, in con-
24 sultation with the Commissioner of Social Security, shall
25 submit a plan to Congress for modernizing and stream-

1 lining the employment eligibility verification process. Such
2 plan shall include—

3 (1) procedures to allow persons and entities to
4 verify the identity and employment authorization of
5 newly hired individuals where the in-person, physical
6 examination of identity and employment authoriza-
7 tion documents is not practicable;

8 (2) a proposal to create a simplified employ-
9 ment verification process that allows employers that
10 utilize the System—

11 (A) to verify the identity and employment
12 authorization of individuals without having to
13 complete and retain Form I-9, Employment
14 Eligibility Verification, in paper, electronic, or
15 any subsequent replacement form; and

16 (B) to maintain evidence of an inspection
17 of the employee's eligibility to work; and

18 (3) any other proposal that the Secretary deter-
19 mines would simplify the employment eligibility
20 verification process without compromising the integ-
21 rity or security of the System.

22 **SEC. 309. RULEMAKING; PAPERWORK REDUCTION ACT.**

23 (a) RULEMAKING.—

24 (1) PROPOSED RULES.—Not later than 270
25 days before the end of the application period de-

1 scribed in section 101(c), the Secretary of Homeland
2 Security shall promulgate and publish in the Federal
3 Register proposed rules implementing this title and
4 the amendments made by this title.

5 (2) FINAL RULES.—The Secretary shall finalize
6 the rules promulgated pursuant to paragraph (1)
7 not later than 180 days after the date on which they
8 are published in the Federal Register.

9 (b) PAPERWORK REDUCTION ACT.—

10 (1) IN GENERAL.—The requirements under
11 chapter 35 of title 44, United States Code, (com-
12 monly known as the “Paperwork Reduction Act”)
13 shall apply to any action to implement this title or
14 the amendments made by this title.

15 (2) ELECTRONIC FORMS.—All forms designated
16 or established by the Secretary that are necessary to
17 implement this title and the amendments made by
18 this title—

19 (A) shall be made available in paper or
20 electronic formats; and

21 (B) shall be designed in such a manner to
22 facilitate electronic completion, storage, and
23 transmittal.

○