

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

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

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**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

## 2

## 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  
8 U.S.C.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 5 ½ 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            applicable 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           national 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 affected,  
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           dermine 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.—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 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           “(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 depar-  
17 ture 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 in-  
20 cludes all of the provisions under this section, or, in  
21 the absence of such a contract, a copy of the job  
22 order and the certification described in subpara-  
23 graphs (B) and (D) of subsection (h)(2)), which  
24 shall be deemed to be the work contract. An H-2A  
25 worker moving from one H-2A employer to a subse-

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

5               “(2) HOURS AND EARNINGS STATEMENTS.—

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

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

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

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

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

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

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

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

1       tent necessary, any language common to a signifi-  
2       cant portion of the workers if they are not fluent in  
3       English, which sets out the rights and protections  
4       for workers employed pursuant to this section.

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

7               “(1) LABOR CONTRACTORS.—

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

19                      “(B) AMOUNT OF BOND.—The Secretary  
20                      of Labor shall annually publish in the Federal  
21                      Register a schedule of required bond amounts  
22                      that are determined by such Secretary to be  
23                      sufficient for labor contractors to discharge fi-  
24                      nancial obligations under this section based on  
25                      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           “(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 subsection (a), the Secretary of Labor and  
20          the Secretary of Agriculture shall interview equal numbers  
21          of representatives of agricultural employers and agricul-  
22          tural 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 of behalf of an eligible unas-  
14 sisted family that—

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

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

20 (B) except for assistance used 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   fordable 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 non-profit 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 non-profit 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 non-profit 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 rental

1 housing portfolio of the Service, including the  
2 time frames for maturity of mortgages and  
3 costs for preserving the portfolio as affordable  
4 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       viduals 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 fforded 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 fforded 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                   “(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 ferred 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 imprisoned for not more than  
14 18 months; or

15 “(C) shall 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 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 Immigrations 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.