AMENDMENT TO H.R. 6136
OFFERED BY MR. GOODLATTE OF VIRGINIA

Add at the end of division B the following:

TITLE VI—AGRICULTURAL WORKER REFORM

SEC. 6101. SHORT TITLE.
This title may be cited as—
(1) the “Agricultural Guestworker Act”; or
(2) the “AG Act”.

SEC. 6102. H–2C TEMPORARY AGRICULTURAL WORK VISA PROGRAM.

(a) IN GENERAL.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking “; or (iii)” and inserting “, or (c) who is coming temporarily to the United States to perform agricultural labor or services; or (iii)”.

(b) DEFINITION.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:
“(53) The term ‘agricultural labor or services’ has the meaning given such term by the Secretary of Agriculture in regulations and includes—
“(A) agricultural labor as defined in section 3121(g) of the Internal Revenue Code of 1986;

“(B) agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f));

“(C) the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state;

“(D) all activities required for the preparation, processing or manufacturing of a product of agriculture (as such term is defined in such section 3(f)), or fish or shellfish, for further distribution;

“(E) forestry-related activities; and

“(F) aquaculture activities,

except that in regard to labor or services consisting of meat or poultry processing, the term ‘agricultural labor or services’ only includes the killing of animals and the breakdown of their carcasses.”.

SEC. 6103. ADMISSION OF TEMPORARY H–2C WORKERS.

(a) Procedure for Admission.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:
“SEC. 218A. ADMISSION OF TEMPORARY H–2C WORKERS.

“(a) DEFINITIONS.—In this section and section 218B:

“(1) DISPLACE.—The term ‘displace’ means to lay off a United States worker from the job for which H–2C workers are sought.

“(2) JOB.—The term ‘job’ refers to all positions with an employer that—

“(A) involve essentially the same responsibilities;

“(B) are held by workers with substantially equivalent qualifications and experience; and

“(C) are located in the same place or places of employment.

“(3) EMPLOYER.—The term ‘employer’ includes a single or joint employer, including an association acting as a joint employer with its members, who hires workers to perform agricultural labor or services.

“(4) FORESTRY-RELATED ACTIVITIES.—The term ‘forestry-related activities’ includes tree planting, timber harvesting, logging operations, brush clearing, vegetation management, herbicide application, the maintenance of rights-of-way (including for roads, trails, and utilities), regardless of whether
such right-of-way is on forest land, and the harvesting of pine straw.


“(6) LAY OFF.—

“(A) IN GENERAL.—The term ‘lay off’—

“(i) means to cause a worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in paragraph (4) of subsection (b)); and

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar position with the same employer at equivalent or higher wages and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.
“(B) CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee’s rights under a collective bargaining agreement or other employment contract.

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

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

“(B) an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, or is granted asylum under section 208.

“(8) SPECIAL PROCEDURES INDUSTRY.—The term ‘special procedures industry’ includes sheep-herding, goat herding, and the range production of livestock, itinerant commercial beekeeping and pollination, itinerant animal shearing, and custom combining and harvesting.

“(b) PETITION.—An employer that seeks to employ aliens as H–2C workers under this section shall file with the Secretary of Homeland Security a petition attesting to the following:

“(1) OFFER OF EMPLOYMENT.—The employer will offer employment to the aliens on a contractual basis as H–2C workers under this section for a spe-
cific period of time during which the aliens may not
work on an at-will basis (as provided for in section
218B), and such contract shall only be required to
include a description of each place of employment,
period of employment, wages and other benefits to
be provided, and the duties of the positions.

“(2) Temporary Labor or Services.—

“(A) In General.—The employer is seek-
ing to employ a specific number of H–2C work-
ers on a temporary basis and will provide com-
pensation to such workers at a wage rate no
less than that set forth in subsection (j)(2).

“(B) Definition.—For purposes of this
paragraph, a worker is employed on a tem-
porary basis if the employer intends to employ
the worker for no longer than the time period
set forth in subsection (m)(1) (subject to the
exceptions in subsection (m)(3)).

“(3) Benefits, Wages, and Working Condi-
tions.—The employer will provide, at a minimum,
the benefits, wages, and working conditions required
by subsection (k) to all workers employed in the job
for which the H–2C workers are sought.

“(4) Nondisplacement of United States
workers.—The employer did not displace and will
not displace United States workers employed by the employer during the period of employment of the H–2C workers and during the 30-day period immediately preceding such period of employment in the job for which the employer seeks approval to employ H–2C workers.

“(5) Recruitment.—

“(A) In General.—The employer—

“(i) conducted adequate recruitment before filing the petition; and

“(ii) was unsuccessful in locating sufficient numbers of willing and qualified United States workers for the job for which the H–2C workers are sought.

“(B) Other Requirements.—The recruitment requirement under subparagraph (A) is satisfied if the employer places a local job order with the State workforce agency serving each place of employment, except that nothing in this subparagraph shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations. The State workforce agency shall post the job order on its official agency website for a minimum of 30 days and not later than 3 days after receipt
using the employment statistics system authorized under section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2). The Secretary of Labor shall include links to the official Web sites of all State workforce agencies on a single webpage of the official Web site of the Department of Labor.

“(C) END OF RECRUITMENT REQUIREMENT.—The requirement to recruit United States workers for a job shall terminate on the first day that work begins for the H–2C workers.

“(6) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job for which the H–2C workers are sought to any eligible United States workers who—

“(A) apply;

“(B) are qualified for the job; and

“(C) will be available at the time, at each place, and for the duration, of need.

This requirement shall not apply to United States workers who apply for the job on or after the first day that work begins for the H–2C workers.

“(7) PROVISION OF INSURANCE.—If the job for which the H–2C workers are sought is not covered
by State workers’ compensation law, the employer will provide, at no cost to the workers unless State law provides otherwise, insurance covering injury and disease arising out of, and in the course of, the workers’ employment, which will provide benefits at least equal to those provided under the State workers’ compensation law for comparable employment.

“(8) STRIKE OR LOCKOUT.—The job that is the subject of the petition is not vacant because the former workers in that job are on strike or locked out in the course of a labor dispute.

“(c) LIST.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall maintain a list of the petitions filed under this subsection, which shall—

“(A) be sorted by employer; and

“(B) include the number of H–2C workers sought, the wage rate, the period of employment, each place of employment, and the date of need for each alien.

“(2) AVAILABILITY.—The Secretary of Homeland Security shall make the list available for public examination.

“(d) PETITIONING FOR ADMISSION.—
“(1) Consideration of Petitions.—For petitions filed and considered under this subsection—

“(A) the Secretary of Homeland Security may not require such petition to be filed more than 28 days before the first date the employer requires the labor or services of H–2C workers;

“(B) within the appropriate time period under subparagraph (C) or (D), the Secretary of Homeland Security shall—

“(i) approve the petition;

“(ii) reject the petition; or

“(iii) determine that the petition is incomplete or obviously inaccurate or that the employer has not complied with the requirements of subsection (b)(5)(A)(i) (which the Secretary can ascertain by verifying whether the employer has placed a local job order as provided for in subsection (b)(5)(B));

“(C) if the Secretary determines that the petition is incomplete or obviously inaccurate, or that the employer has not complied with the requirements of subsection (b)(5)(A)(i) (which the Secretary can ascertain by verifying whether the employer has placed a local job order as
provided for in subsection (b)(5)(B)), the Secretary shall—

“(i) within 5 business days of receipt of the petition, notify the petitioner of the deficiencies to be corrected by means ensuring same or next day delivery; and

“(ii) within 5 business days of receipt of the corrected petition, approve or reject the petition and provide the petitioner with notice of such action by means ensuring same or next day delivery; and

“(D) if the Secretary does not determine that the petition is incomplete or obviously inaccurate, the Secretary shall not later than 10 business days after the date on which such petition was filed, either approve or reject the petition and provide the petitioner with notice of such action by means ensuring same or next day delivery.

“(2) ACCESS.—By filing an H–2C petition, the petitioner and each employer (if the petitioner is an association that is a joint employer of workers who perform agricultural labor or services) consent to allow access to each place of employment to the Department of Agriculture and the Department of
Homeland Security for the purpose of investigations and audits to determine compliance with the immigration laws (as defined in section 101(a)(17)).

“(3) CONFIDENTIALITY OF INFORMATION.—No information contained in a non-fraudulent petition filed by an employer pursuant to subsection (b) which is not otherwise available to the Secretary of Homeland Security may be used—

“(A) in a civil or criminal prosecution or investigation of the petitioning employer under section 274A or the Internal Revenue Code of 1986 for unlawful employment of an alien who is the beneficiary of such petition; or

“(B) for the purpose of initiating or proceeding with removal proceedings with respect to an alien who is the beneficiary of such petition, except in the case of an alien with respect to whom a petition is denied.

“(e) ROLES OF AGRICULTURAL ASSOCIATIONS.—

“(1) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint employer of workers who perform agricultural labor or services, H–2C workers may be transferred among its members to perform the agricultural labor or serv-
ices on a temporary basis for which the petition was approved.

“(2) TREATMENT OF VIOLATIONS.—

“(A) INDIVIDUAL MEMBER.—If an individual member of an association that is a joint employer commits a violation described in paragraph (2) or (3) of subsection (h) or subsection (i)(1), the Secretary of Agriculture shall invoke penalties pursuant to subsections (h) and (i) against only that member of the association unless the Secretary of Agriculture determines that the association participated in, had knowledge of, or had reason to know of the violation.

“(B) ASSOCIATION OF AGRICULTURAL EMPLOYERS.—If an association that is a joint employer commits a violation described in subsections (h)(2) and (3) or (i)(1), the Secretary of Agriculture shall invoke penalties pursuant to subsections (h) and (i) against only the association and not any individual members of the association, unless the Secretary determines that the member participated in the violation.

“(f) EXPEDITED ADMINISTRATIVE APPEALS.—The Secretary of Homeland Security shall promulgate regulations to provide for an expedited procedure for the review
of a denial of a petition under this section by the Secretary. At the petitioner’s request, the review shall include a de novo administrative hearing at which new evidence may be introduced.

“(g) Fees.—The Secretary of Homeland Security shall require, as a condition of approving the petition, the payment of a fee to recover the reasonable cost of processing the petition.

“(h) Enforcement.—

“(1) Investigations and Audits.—The Secretary of Agriculture shall be responsible for conducting investigations and audits, including random audits, of employers to ensure compliance with the requirements of the H–2C program. All monetary fines levied against employers shall be paid to the Department of Agriculture and used to enhance the Department of Agriculture’s investigative and auditing abilities to ensure compliance by employers with their obligations under this section.

“(2) Violations.—If the Secretary of Agriculture finds, after notice and opportunity for a hearing, a failure to fulfill an attestation required by this subsection, or a material misrepresentation of a material fact in a petition under this subsection, the Secretary—
“(A) may impose such administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate; and

“(B) may disqualify the employer from the employment of H–2C workers for a period of 1 year.

“(3) WILLFUL VIOLATIONS.—If the Secretary of Agriculture finds, after notice and opportunity for a hearing, a willful failure to fulfill an attestation required by this subsection, or a willful misrepresentation of a material fact in a petition under this subsection, the Secretary—

“(A) may impose such administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation, or not to exceed $15,000 per violation if in the course of such failure or misrepresentation the employer displaced one or more United States workers employed by the employer during the period of employment of H–2C workers or during the 30-day period immediately preceding such period of employment) in the job the H–2C workers are performing as the Secretary determines to be appropriate;
“(B) may disqualify the employer from the employment of H–2C workers for a period of 2 years;

“(C) may, for a subsequent failure to fulfill an attestation required by this subsection, or a misrepresentation of a material fact in a petition under this subsection, disqualify the employer from the employment of H–2C workers for a period of 5 years; and

“(D) may, for a subsequent willful failure to fulfill an attestation required by this subsection, or a willful misrepresentation of a material fact in a petition under this subsection, permanently disqualify the employer from the employment of H–2C workers.

“(i) Failure To Pay Wages Or Required Benefits.—

“(1) In General.—If the Secretary of Agriculture finds, after notice and opportunity for a hearing, that the employer has failed to provide the benefits, wages, and working conditions that the employer has attested that it would provide under this subsection, the Secretary shall require payment of back wages, or such other required benefits, due any
United States workers or H–2C workers employed
by the employer.

“(2) AMOUNT.—The back wages or other re-
quired benefits described in paragraph (1)—

“(A) shall be equal to the difference be-
tween the amount that should have been paid
and the amount that was paid to such workers;
and

“(B) shall be distributed to the workers to
whom such wages or benefits are due.

“(j) MINIMUM WAGES, BENEFITS, AND WORKING
CONDITIONS.—

“(1) PREFERENTIAL TREATMENT OF H–2C
WORKERS PROHIBITED.—

“(A) IN GENERAL.—Each employer seek-
ing to hire United States workers for the job
the H–2C workers will perform shall offer such
United States workers not less than the same
benefits, wages, and working conditions that the
employer will provide to the H–2C workers, ex-
cept that if an employer chooses to provide H–
2C workers with housing or a housing allow-
ance, the employer need not offer housing or a
housing allowance to such United States work-
ers. No job offer may impose on United States
workers any restrictions or obligations which
will not be imposed on H–2C workers.
```
(B) INTERPRETATION.—Every interpreta-
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
```
“(A) IN GENERAL.—Each employer petitioning for H–2C workers under this subsection (other than in the case of workers who will perform agricultural labor or services consisting of meat or poultry processing) will offer the H–2C workers, during the period of authorized employment as H–2C workers, wages that are at least the greatest of—

“(i) the applicable State or local minimum wage;

“(ii) 115 percent of the Federal minimum wage; or

“(iii) the actual wage level paid by the employer to all other individuals in the job.

“(B) SPECIAL RULES.—

“(i) ALTERNATE WAGE PAYMENT SYSTEMS.—An employer can utilize a piece rate or other alternative wage payment system so long as the employer guarantees each worker a wage rate that equals or exceeds the amount required under subparagraph (A) for the total hours worked in each pay period. Compensation from a piece rate or other alternative wage payment system shall include time spent dur-
ing rest breaks, moving from job to job, clean up, or any other nonproductive time, provided that such time does not exceed 20 percent of the total hours in the work day.

“(ii) MEAT OR POULTRY PROCESSING.—Each employer petitioning for H–2C workers under this subsection who will perform agricultural labor or services consisting of meat or poultry processing will offer the H–2C workers, during the period of authorized employment as H–2C workers, wages that are at least the greatest of—

“(I) the applicable State or local minimum wage;

“(II) 150 percent of the Federal minimum wage;

“(III) the prevailing wage level for the occupational classification in the area of employment; or

“(IV) the actual wage level paid by the employer to all other individuals in the job.

“(3) EMPLOYMENT GUARANTEE.—

“(A) IN GENERAL.—
“(i) REQUIREMENT.—Each employer petitioning for workers under this subsection shall guarantee to offer the H–2C workers and United States workers performing the same job employment for the hourly equivalent of not less than 50 percent of the work hours set forth in the work contract.

“(ii) FAILURE TO MEET GUARANTEE.—If an employer affords the United States workers or the H–2C workers less employment than that required under this subparagraph, the employer shall pay such workers the amount which the workers would have earned if the workers had worked for the guaranteed number of hours.

“(B) CALCULATION OF HOURS.—Any hours which workers fail to work, up to a maximum of the number of hours specified in the work contract for a work day, when the workers have been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the work contract in a work
day) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) LIMITATION.—If the workers abandon employment before the end of the work contract period, or are terminated for cause, the workers are not entitled to the 50 percent guarantee described in subparagraph (A).

“(D) TERMINATION OF EMPLOYMENT.—

“(i) IN GENERAL.—If, before the expiration of the period of employment specified in the work contract, the services of the workers are no longer required due to any form of natural disaster, including flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease, pest infestation, regulatory action, or any other reason beyond the control of the employer before the employment guarantee in subparagraph (A) is fulfilled, the employer may terminate the workers’ employment.

“(ii) REQUIREMENTS.—If a worker’s employment is terminated under clause (i), the employer shall—
“(I) fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed during the period beginning on the first work day and ending on the date on which such employment is terminated;

“(II) make efforts to transfer the worker to other comparable employment acceptable to the worker; and

“(III) not later than 72 hours after termination, notify the Secretary of Agriculture of such termination and stating the nature of the contract impossibility.

“(k) NONDELEGATION.—The Department of Agriculture and the Department of Homeland Security shall not delegate their investigatory, enforcement, or administrative functions relating to this section or section 218B to other agencies or departments of the Federal Government.

“(l) COMPLIANCE WITH BIO-SECURITY PROTOCOLS.—Except in the case of an imminent threat to health or safety, any personnel from a Federal agency or Federal grantee seeking to determine the compliance of an employer with the requirements of this section or section
218B shall, when visiting such employer’s place of employ-
ment, make their presence known to the employer and
sign-in in accordance with reasonable bio-security proto-
cols before proceeding to any other area of the place of
employment.

“(m) LIMITATION ON H–2C WORKERS’ STAY IN STA-
TUS.—

“(1) MAXIMUM PERIOD.—The maximum con-
tinuous period of authorized stay as an H–2C work-
er (including any extensions) is 36 months.

“(2) REQUIREMENT TO REMAIN OUTSIDE THE
UNITED STATES.—In the case of H–2C workers
whose maximum continuous period of authorized
status as H–2C workers (including any extensions)
have expired, the aliens may not again be eligible to
be H–2C workers until they remain outside the
United States for a continuous period equal to at
least the lesser of \(\frac{1}{12}\) of the duration of their pre-
vious period of authorized status an H–2C workers
or 60 days.

“(3) EXCEPTIONS.—

“(A) The Secretary of Homeland Security
shall deduct absences from the United States
that take place during an H–2C worker’s period
of authorized status from the period that the
alien is required to remain outside the United States under paragraph (2), if the alien or the alien’s employer requests such a deduction, and provides clear and convincing proof that the alien qualifies for such a deduction. Such proof shall consist of evidence such as arrival and departure records, copies of tax returns, and records of employment abroad.

“(B) There is no maximum continuous period of authorized status as set forth in paragraph (1) or a requirement to remain outside the United States as set forth in paragraph (2) for H–2C workers employed as a sheepherder, goatherder, in the range production of livestock, or who return to the workers’ permanent residence outside the United States each day.

“(n) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—In addition to the maximum continuous period of authorized status, workers’ authorized period of admission shall include—

“(A) a period of not more than 7 days prior to the beginning of authorized employment as H–2C workers for the purpose of travel to the place of employment; and
“(B) a period of not more than 14 days
after the conclusion of their authorized employ-
ment for the purpose of departure from the
United States or a period of not more than 30
days following the employment for the purpose
of seeking a subsequent offer of employment by
an employer pursuant to a petition under this
section (or pursuant to at-will employment
under section 218B during such times as that
section is in effect) if they have not reached
their maximum continuous period of authorized
employment under subsection (m) (subject to
the exceptions in subsection (m)(3)) unless they
accept subsequent offers of employment as H–
2C workers or are otherwise lawfully present.

“(2) Failure to depart.—H–2C workers
who do not depart the United States within the peri-
ods referred to in paragraph (1) or, as applicable,
paragraph (3), will be considered to have failed to
maintain nonimmigrant status as H–2C workers and
shall be subject to removal under section
237(a)(1)(C)(i). Such aliens shall be considered to
be inadmissible pursuant to section 212(a)(9)(B)(i)
for having been unlawfully present, with the aliens
considered to have been unlawfully present for 181
days as of the 15th day following their period of employment for the purpose of departure or as of the 31st day following their period of employment for the purpose of seeking subsequent offers of employment.

“(3) APPLICATION FOR MAXIMUM PERIOD.— Notwithstanding the duration of the work requested by the employer petitioning for the admission of an H–2C worker, if the alien is granted a visa, at the request of the alien, the term of the visa shall be for the maximum period described in subsection (m)(1), except that if such an alien is unable to secure subsequent employment 30 days after the conclusion of their authorized employment, the alien shall be required to depart the United States as described in paragraph (1)(B).

“(o) ABANDONMENT OF EMPLOYMENT.—

“(1) REPORT BY EMPLOYER.—Not later than 72 hours after an employer learns of the abandonment of employment by H–2C workers before the conclusion of their work contracts, the employer shall notify the Secretary of Agriculture and the Secretary of Homeland Security of such abandonment.
“(2) REPLACEMENT OF ALIENS.—An employer may designate eligible aliens to replace H–2C workers who abandon employment notwithstanding the numerical limitation found in section 214(g)(1)(C).

“(p) CHANGE TO H–2C STATUS.—

“(1) WAIVER.—In the case of an alien described in paragraph (2), the Secretary of Homeland Security shall waive the grounds of inadmissibility under paragraphs (5)(A), (6)(A), (6)(C), (7), (9)(B), and (9)(C) of section 212(a), and the grounds of deportability under paragraphs (1)(A) (with respect to the grounds of inadmissibility waived under this paragraph), (1)(B), (1)(C), (3)(A), and (3)(C) of section 237(a), with respect to conduct that occurred prior to the alien first receiving status as an H–2C worker, solely in order to provide the alien with such status.

“(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who—

“(A) was unlawfully present in the United States on June 26, 2018; and

“(B) performed agricultural labor or services in the United States for at least 5.75 hours during each of at least 180 days during the 2-year period ending on June 26, 2018.
“(3) SPECIAL APPROVAL PROCEDURES.—Before an alien described in paragraph (2) can be provided with nonimmigrant status under section 101(a)(15)(H)(ii)(C), the alien must depart the United States for a period during the interval between the date of issuance of final rules carrying out the AG Act and the date that is 12 months after such issuance. If such an alien is the beneficiary of an approved H–2C petition, for the purpose of meeting such requirement to depart the United States before being provided with nonimmigrant status under section 101(a)(15)(H)(ii)(C), the Secretary shall authorize parole for the alien to travel to the United States without a visa and shall issue an appropriate document authorizing such travel. Prior to authorizing parole for the alien, the Secretary shall conduct an in person interview, as appropriate, and a background check to determine that the alien is not inadmissible to the United States under section 212(a) or deportable under section 237(a), except with regard to the grounds of inadmissibility and grounds of deportability waived under paragraph (1).

“(q) TRUST FUND TO ASSURE WORKER RETURN.—
“(1) ESTABLISHMENT.—There is established in
the Treasury of the United States a trust fund (in
this section referred to as the ‘Trust Fund’) for the
purpose of providing a monetary incentive for H–2C
workers to return to their country of origin upon ex-
piration of their visas.

“(2) WITHHOLDING OF WAGES; PAYMENT INTO
THE TRUST FUND.—

“(A) IN GENERAL.—Notwithstanding the
201 et seq.) and State and local wage laws, all
employers of H–2C workers shall withhold from
the wages of all H–2C workers other than those
employed as sheepherders, goatherders, in the
range production of livestock, or who return to
the their permanent residence outside the
United States each day, an amount equivalent
to 10 percent of the gross wages of each worker
in each pay period and, on behalf of each work-
er, transfer such withheld amount to the Trust
Fund.

“(B) JOBS THAT ARE NOT OF A TEM-
PORARY OR SEASONAL NATURE.—Employers of
H–2C workers employed in jobs that are not of
a temporary or seasonal nature, other than
those employed as a sheepherder, goatherder, or
in the range production of livestock, shall also
pay into the Trust Fund an amount equivalent
to the Federal tax on the wages paid to H–2C
workers that the employer would be obligated to
pay under chapters 21 and 23 of the Internal
Revenue Code of 1986 had the H–2C workers
been subject to such chapters.

“(3) DISTRIBUTION OF FUNDS.—

“(A) IN GENERAL.—Except as provided in
subparagraph (B), amounts paid into the Trust
Fund on behalf of an H–2C worker, and held
pursuant to paragraph (2)(A) and interest
earned thereon, shall be transferred from the
Trust Fund to the Secretary of Homeland Se-
curity, who shall distribute them to the worker
if the worker—

“(i) applies to the Secretary of Home-
land Security (or the designee of the Sec-
retary) for payment within 120 days of the
expiration of the alien’s last authorized
stay in the United States as an H–2C
worker, for which they seek amounts from
the Trust Fund;
“(ii) establishes to the satisfaction of
the Secretary of Homeland Security that
they have complied with the terms and
conditions of the H–2C program;
“(iii) once approved by the Secretary
of Homeland Security for payment, phys-
ically appears at a United States embassy
or consulate in the worker’s home country;
and
“(iv) establishes their identity to the
satisfaction of the Secretary of Homeland
Security.
“(B) EXCEPTION.—The Secretary of
Homeland Security shall not distribute any
funds described in subparagraph (A) to a work-
er for any period of employment as an H–2C
worker during which the worker failed to obtain
and maintain health insurance required under
section 6107(b) of the Border Security and Im-
migration Reform Act of 2018.
“(4) ADMINISTRATIVE EXPENSES.—The
amounts paid into the Trust Fund and held pursu-
ant to paragraph (2)(B), and interest earned there-
on, shall be distributed annually to the Secretary of
Agriculture and the Secretary of Homeland Security
in amounts proportionate to the expenses incurred by such officials in the administration and enforcement of the terms of the H–2C program.

“(5) LAW ENFORCEMENT.—Notwithstanding any other provision of law, amounts paid into the Trust Fund under paragraph (2), and interest earned thereon, that are not needed to carry out paragraphs (3) and (4) shall, to the extent provided in advance in appropriations Acts, be made available until expended without fiscal year limitation to the Secretary of Homeland Security to apprehend, detain, and remove aliens inadmissible to or deportable from the United States.

“(6) INVESTMENT OF TRUST FUND.—

“(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary’s judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

“(B) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or re-
demption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

“(C) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Homeland Security) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress in which the report is made.

“(r) PROCEDURES FOR SPECIAL PROCEDURES INDUSTRIES.—

“(1) WORK LOCATIONS.—The Secretary of Homeland Security shall permit an employer in a special procedures industry or that engages in a forestry-related activity that does not operate at a single fixed place of employment to provide, as part of its petition, a list of places of employment, which—

“(A) may include an itinerary; and
“(B) may be subsequently amended at any time by the employer, after notice to the Secretary.

“(2) WAGES.—Notwithstanding subsection (j)(2), the Secretary of Agriculture may establish monthly, weekly, or biweekly wage rates for occupations in a Special Procedures Industry for a State or other geographic area. For an employer in a Special Procedures Industry that typically pays a monthly wage, the Secretary shall require that H–2C workers be paid not less frequently than monthly and at a rate no less than the legally required monthly cash wage in an amount as re-determined annually by the Secretary.

“(3) Allergy Limitation.—An employer engaged in the commercial beekeeping or pollination services industry may require that job applicants be free from bee-related allergies, including allergies to pollen and bee venom.

“(s) Flexibility with Respect to Start Dates.—Upon approval of a petition with regard to jobs that are of a temporary or seasonal nature, the employer may begin the employment of petitioned-for H–2C workers up to ten months after the first date the employer requires the labor or services of H–2C workers.
(t) ADJUSTMENT OF STATUS.—In applying section 245 to an alien who is an H–2C worker who was the beneficiary of a waiver under subsection (p)(1)—

“(1) such alien shall be deemed to have been inspected and admitted into the United States; and

“(2) in determining the alien’s admissibility as an immigrant, paragraphs (5)(A), (6)(A), (6)(C), (7), (9)(B), and (9)(C)(i)(I) of section 212(a) shall not apply with respect to conduct that occurred prior to the alien first receiving status as an H–2C worker.”.

(b) AT-WILL EMPLOYMENT.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218A (as inserted by subsection (a) of this section) the following:

“SEC. 218B. AT-WILL EMPLOYMENT OF TEMPORARY H–2C WORKERS.

“(a) IN GENERAL.—An employer that is designated as a ‘registered agricultural employer’ pursuant to subsection (c) may employ aliens as H–2C workers. However, an H–2C worker may only perform labor or services pursuant to this section if the worker is already lawfully present in the United States as an H–2C worker, having been admitted or otherwise provided nonimmigrant status pursuant to section 218A, and has completed the period
of employment specified in the job offer the worker accept-
ed pursuant to section 218A or the employer has termi-
nated the worker’s employment pursuant to section 218A(j)(3)(D)(i). An H–2C worker who abandons the em-
ployment which was the basis for admission or status pur-
suant to section 218A may not perform labor or services
pursuant to this section until the worker has returned to
their home country, been readmitted as an H–2C worker
pursuant to section 218A and has completed the period
of employment specified in the job offer the worker accept-
ed pursuant to section 218A or the employer has termi-
nated the worker’s employment pursuant to section 218A(j)(3)(D)(i).

“(b) Period of Stay.—H–2C workers performing
at-will labor or services for a registered agricultural em-
ployer are subject to the period of admission, limitation
of stay in status, and requirement to remain outside the
United States contained in subsections (m) and (n) of sec-
tion 218A, except that subsection (m)(3)(A) does not
apply.

“(c) Registered Agricultural Employers.—
The Secretary of Agriculture shall establish a process to
accept and adjudicate applications by employers to be des-
ignated as registered agricultural employers. The Sec-
retary shall require, as a condition of approving the appli-
cation, the payment of a fee to recover the reasonable cost of processing the application. The Secretary shall designate an employer as a registered agricultural employer if the Secretary determines that the employer—

“(1) employs (or plans to employ) individuals who perform agricultural labor or services;

“(2) has not been subject to debarment from receiving temporary agricultural labor certifications pursuant to section 101(a)(15)(H)(ii)(a) within the last three years;

“(3) has not been subject to disqualification from the employment of H–2C workers within the last five years;

“(4) agrees to, if employing H–2C workers pursuant to this section, fulfill the attestations contained in section 218A(b) as if it had submitted a petition making those attestations (excluding subsection (j)(3) of such section) and not to employ H–2C workers who have reached their maximum continuous period of authorized status under section 218A(m) (subject to the exceptions contained in section 218A(m)(3)) or if the workers have complied with the terms of section 218A(m)(2); and

“(5) agrees to notify the Secretary of Agriculture and the Secretary of Homeland Security


each time it employs H–2C workers pursuant to this section within 72 hours of the commencement of employment and within 72 hours of the cessation of employment.

“(d) LENGTH OF DESIGNATION.—An employer’s designation as a registered agricultural employer shall be valid for 3 years, and the Secretary may extend such designation for additional 3-year terms upon the reapplication of the employer. The Secretary shall revoke a designation before the expiration of its 3-year term if the employer is subject to disqualification from the employment of H–2C workers subsequent to being designated as a registered agricultural employer.

“(e) ENFORCEMENT.—The Secretary of Agriculture shall be responsible for conducting investigations and audits, including random audits, of employers to ensure compliance with the requirements of this section. All monetary fines levied against employers shall be paid to the Department of Agriculture and used to enhance the Department of Agriculture’s investigatory and audit abilities to ensure compliance by employers with their obligations under this section and section 218A. The Secretary of Agriculture’s enforcement powers and an employer’s liability described in subsections (h) through (i) of section 218A are applica-
ble to employers employing H–2C workers pursuant to this section.”.

(c) Prohibition on Family Members.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking “him;” at the end and inserting “him, except that no spouse or child may be admitted under clause (ii)(c);”.

(d) Numerical Cap.—Section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) under section 101(a)(15)(H)(ii)(c)—

“(i) may not exceed 40,000 for aliens issued visas or otherwise provided non-immigrant status under such section for the purpose of performing agricultural labor or services consisting or meat or poultry processing;

“(ii) except as otherwise provided under this subparagraph, may not exceed 410,000 for aliens issued visas or otherwise provided non-
immigrant status under such section for the purpose of performing agricultural labor or services other than agricultural labor or services consisting of meat or poultry processing;

“(iii) if the base allocation under clause (ii) is exhausted during any fiscal year the base allocation for that and subsequent fiscal years shall be increased by the lesser of 10 percent or a percentage representing the number of petitioned-for aliens (as a percentage of the base allocation) who would be eligible to be issued visas or otherwise provided nonimmigrant status described in that clause during that fiscal year but for the base allocation being exhausted, and if the increased base allocation is itself exhausted during a subsequent fiscal year, the base allocation for that and subsequent fiscal years shall be further increased by the lesser of 10 percent or a percentage representing the number of petitioned-for aliens (as a percentage of the increased base allocation) who would be eligible to be issued visas or otherwise provided nonimmigrant status described in that clause during that fiscal year but for the increased
base allocation being exhausted (subject to clause (iv));

“(iv) if the base allocation under clause (ii) is not exhausted during any fiscal year, the base allocation under such clause for subsequent fiscal years shall be decreased by the greater of 5 percent or a percentage representing the unutilized portion of the base allocation (as a percentage of the base allocation) during that fiscal year, and if in a subsequent fiscal year the decreased base allocation is itself not exhausted, the base allocation for fiscal years subsequent to that fiscal year shall be further decreased by the greater of 5 percent or a percentage representing the unutilized portion of the decreased base allocation (as a percentage of the decreased base allocation) during that fiscal year (subject to clause (iii) and except that the base allocation shall not fall below 410,000);

“(v) for purposes of clause (ii), the numerical limitations shall not apply to any alien—

“(I) who—
“(aa) was physically present in the United States on June 26, 2018; and

“(bb) performed agricultural labor or services in the United States for at least 5.75 hours during each of at least 180 days during the 2-year period ending on June 26, 2018; or

“(II) who has previously been issued a visa or otherwise provided nonimmigrant status pursuant to subclause (a) or (b) of section 101(a)(15)(H)(ii), but only to the extent that the alien is being petitioned for by an employer pursuant to section 218A(b) who previously employed the alien pursuant to subclause (a) or (b) of section 101(a)(15)(H)(ii) beginning no later than June 26, 2018; and

“(vi) in the case that the Secretary of Agriculture determines, in accordance with subsection (s), that there is a severe shortage of available agricultural workers for a fiscal year, the total number of aliens described in clause (ii) who may be issued visas or otherwise provided nonimmigrant status under this para-
graph during that year shall be increased, in
addition to any increase under clause (iii), by—

“(I) for the first 2 fiscal years after
the effective date of this paragraph, a
number determined appropriate by the
Secretary; and

“(II) for any subsequent fiscal year,
by the lesser of 10 percent or a percentage
representing the number of petitioned-for
aliens (as a percentage of the base alloca-
tion) who would be eligible to be issued
visas or otherwise provided nonimmigrant
status described in that clause during that
fiscal year but for the base allocation or in-
creased base allocation, as appropriate,
being exhausted.”.

(c) Secretary of Agriculture Review of Agri-
cultural Work Needs.—Section 214 of the Immigra-
tion and Nationality Act (8 U.S.C. 1184) is amended by
adding at the end the following:

“(s) Secretary of Agriculture Review of Ag-
ricultural Work Needs.—The Secretary of Agri-
culture shall conduct a review, on a continual basis, of—
“(1) whether there are indicators of a shortage or surplus of workers performing agricultural labor or services;

“(2) the growth or contraction in the United States agricultural industry and whether such growth or contraction has increased or decreased the demand for workers to perform agricultural labor or services;

“(3) the level of unemployment and underemployment of United States workers (as defined in section 218A(a)(7)) in agricultural labor or services;

“(4) the number of H–2C workers (as defined in section 218A(a)(5)) who in the preceding fiscal year had to depart from the United States or be subject to removal under section 237(a)(1)(C)(i) because they could not find additional at-will employment within 30 days pursuant to section 218B; and

“(5) the estimated number of nonimmigrant agricultural workers issued a visa or otherwise provided nonimmigrant status pursuant to section 101(a)(15)(H)(ii)(a) or (c) during preceding fiscal years who remain in the United States out of compliance with the terms of their status.”.

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

(g) Clerical Amendment.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

``Sec. 218B. At-will employment of temporary H–2C workers.”.

SEC. 6104. MEDIATION.

Nonimmigrants having status under section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)) may not bring civil actions for damages against their employers, nor may any other attorneys or individuals bring civil actions for damages on behalf of such nonimmigrants against the nonimmigrants’ employers, unless at least 90 days prior to bringing an action a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute and mediation has been attempted.

SEC. 6105. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION.

Section 3(8)(B)(ii) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802(8)(B)(ii)) is amended by striking “under sections
101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and
Nationality Act.” and inserting “under subclauses (a) and
(c) of section 101(a)(15)(H)(ii), and section 214(c), of the
Immigration and Nationality Act.”.

SEC. 6106. BINDING ARBITRATION.

(a) APPLICABILITY.—H–2C workers may, as a condi-
tion of employment with an employer, be subject to man-
datory binding arbitration and mediation of any grievance relating to the employment relationship. An employer shall provide any such workers with notice of such condition of employment at the time it makes job offers.

(b) ALLOCATION OF COSTS.—Any cost associated with such arbitration and mediation process shall be equally divided between the employer and the H–2C workers, except that each party shall be responsible for the cost of its own counsel, if any.

(c) DEFINITIONS.—As used in this section:

(1) The term “condition of employment” means a term, condition, obligation, or requirement that is part of the job offer, such as the term of employment, job responsibilities, employee conduct standards, and the grievance resolution process, and to which applicants or prospective H–2C workers must consent or accept in order to be hired for the posi-
tion.
(2) The term “H–2C worker” means a non-immigrant described in section 218A(a)(5) of the Immigration and Nationality Act, as added by this title.

SEC. 6107. COVERAGE THROUGH HEALTH EXCHANGES; REQUIRED HEALTH INSURANCE COVERAGE.

(a) Coverage Through Health Exchanges.—In applying section 1312(f)(3) of the Patient Protection and Affordable Care Act (42 U.S.C. 18032(f)(3)), an H–2C worker (as defined in section 218A(a)(5) of the Immigration and Nationality Act, as added by this title) shall not be treated as an individual who is, or is reasonably expected to be, a citizen or national of the United States or an alien lawfully present in the United States.

(b) Requirement Regarding Health Insurance Coverage.—

(1) In General.—Notwithstanding the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and State and local wage laws, not later than 21 days after being issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)), an alien shall, in the case that qualifying health coverage is offered in the State of employment or State of resi-
dence of such alien and the alien is eligible for such coverage, for the period of employment specified in section 218A(b)(1) of the Immigration and Nationality Act, be enrolled under qualifying health coverage.

(2) QUALIFYING HEALTH COVERAGE.—For purposes of paragraph (1), the term “qualifying health coverage means”, with respect to an alien described in such paragraph, the higher of the following levels of coverage applicable to such alien:

(A) At a minimum, catastrophic health insurance coverage that provides coverage of such individual with respect to at least the State of employment and State of residence of the alien.

(B) In the case of an alien whose State of residence or State of employment requires such an alien to maintain coverage under health insurance, such health insurance.

SEC. 6108. ESTABLISHMENT OF AN AGRICULTURAL WORKER EMPLOYMENT POOL.

The Secretary of Agriculture may establish an agricultural worker employment pool and an electronic Internet-based portal to assist H–2C workers (as such term is defined in section 218A of the Immigration and Nationality Act), prospective H–2C workers, and employers to
identify job opportunities in the H–2C program and will-
ing, able, and available workers for the program, respec-
tively, and may charge a fee for the use of such portal.

**SEC. 6109. PREVAILING WAGE.**

Section 212(p) of the Immigration and Nationality Act (8 U.S.C. 1182(p)) is amended—

(1) in paragraph (1), by inserting after “sub-
sections (a)(5)(A), (n)(1)(A)(i)(II), and
(t)(1)(A)(i)(II)” the following: “of this section and
section 218A(j)(2)(B)(ii)”;

(2) in paragraph (3), by inserting after “sub-
sections (a)(5)(A), (n)(1)(A)(i)(II), and
(t)(1)(A)(i)(II)” the following: “of this section and
section 218A(j)(2)(B)(ii)”.

**SEC. 6110. PORTABILITY OF H–2C STATUS.**

Section 214(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(n)(1)) is amended by inserting after
“section 101(a)(15)(H)(i)(b)” the following: “or
101(a)(15)(H)(ii)(c)”.

**SEC. 6111. EFFECTIVE DATES; SUNSET; REGULATIONS.**

(a) **Effective Dates; Regulations.—**

(1) **In General.—**Sections 6102 and 6104
through 6106 of this title, subsections (a) and (e)
through (f) of section 6103 of this title, and the
amendments made by the sections, shall take effect
on the date on which the Secretary issues the rules
under paragraph (3), and the Secretary of Hom-
land Security shall accept petitions pursuant to sec-
tion 218A of the Immigration and Nationality Act,
as inserted by this Act, beginning no later than that
date. Sections 6107 and 6109 of this title shall take
effect on the date of the enactment of this Act.

(2) AT-WILL EMPLOYMENT.—Section 6103(b)
of this title and the amendments made by that sub-
section shall take effect when—

(A) it becomes unlawful for all persons or
other entities to hire, or to recruit or refer for
a fee, for employment in the United States an
individual (as provided in section 274A(a)(1) of
the Immigration and Nationality Act (8 U.S.C.
1324a(a)(1))) without using the verification
system set forth in section 274A(d) of such Act,
as amended by section 7103 of title VII, to seek
verification of the employment eligibility of an
individual; and

(B) such verification system, in providing
confirmation of an individual’s employment eli-
gibility, indicates whether an individual is eligi-
ble to be employed in all occupations or only to
perform agricultural labor or services as a non-
immigrant who has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(C) of the Immigration and Nationality Act.

(3) REGULATIONS.—Notwithstanding any other provision of law, not later than the first day of the seventh month that begins after the date of the enactment of this Act, the Secretary of Homeland Security shall issue final rules, on an interim or other basis, to carry out this title.

(b) OPERATION AND SUNSET OF THE H–2A PROGRAM.—

(1) APPLICATION OF EXISTING REGULATIONS.—The Department of Labor H–2A program regulations published at 73 Federal Register 77110 et seq. (2008) shall be in force for all petitions approved under sections 101(a)(15)(H)(ii)(a) and 218 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(h)(ii)(a); 8 U.S.C. 1188) beginning on the date of the enactment of this Act, except that the following, as in effect on such date, shall remain in effect, and, to the extent that any rule published at 73 Federal Register 77110 et seq. is in conflict, such rule shall have no force and effect:
(A) Paragraph (a) and subparagraphs (1) and (3) of paragraph (b) of section 655.200 of title 20, Code of Federal Regulations.

(B) Section 655.201 of title 20, Code of Federal Regulations, except the paragraphs entitled “Production of Livestock” and “Range”.

(C) Paragraphs (c), (d) and (e) of section 655.210 of title 20, Code of Federal Regulations.

(D) Section 655.230 of title 20, Code of Federal Regulations.

(E) Section 655.235 of title 20, Code of Federal Regulations.

(F) The Special Procedures Labor Certification Process for Employers in the Itinerant Animal Shearing Industry under the H–2A Program in effect under the Training and Employment Guidance Letter No. 17–06, Change 1, Attachment B, Section II, with an effective date of October 1, 2011.

(2) SUNSET.—Beginning on the date that is one year after the date on which employers can file petitions pursuant to section 218A of the Immigration and Nationality Act, as added by section 6103(a) of this title, no new petitions under sections
101(a)(15)(H)(ii)(a) and 218 of the Immigration
2 and Nationality Act (8 U.S.C.
3 1101(a)(15)(H)(ii)(a); 8 U.S.C. 1188) shall be ac-
4 cepted.

SEC. 6112. REPORT ON COMPLIANCE AND VIOLATIONS.

(a) IN GENERAL.—Not later than 1 year after the
first day on which employers can file petitions pursuant

10 to section 218A of the Immigration and Nationality Act,
11 as added by section 6103(a) of this title, the Secretary
12 of Homeland Security, in consultation with the Secretary
13 of Agriculture, shall submit to the Committees on the Ju-
14 diciary of the House of Representatives and the Senate

17 a report on compliance by H–2C workers with the require-
18 ments of this title and the Immigration and Nationality

15 Act, as amended by this title. In the case of a violation

16 of a term or condition of the temporary agricultural work

17 visa program established by this title, the report shall

18 identify the provision or provisions of law violated.

(b) DEFINITION.—As used in this section, the term

“H–2C worker” means a nonimmigrant described in sec-

17 tion 218A(a)(4) of the Immigration and Nationality Act,

22 as added by section 6103(a) of this title.
TITLE VII—LEGAL WORKFORCE ACT

SEC. 7101. SHORT TITLE.
This title may be cited as the “Legal Workforce Act”.

SEC. 7102. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended to read as follows:

“(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.—

“(1) NEW HIRES, RECRUITMENT, AND REFERRAL.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the following:

“(A) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

“(i) ATTESTATION.—During the verification period (as defined in subparagraph (E)), the person or entity shall attest, under penalty of perjury and on a form, including electronic and telephonic formats, designated or established by the
Secretary by regulation not later than 6 months after the date of the enactment of the Legal Workforce Act, that it has verified that the individual is not an unauthorized alien by—

“(I) obtaining from the individual the individual’s social security account number or United States passport number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under subparagraph (B), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

“(II) examining—

“(aa) a document relating to the individual presenting it described in clause (ii); or
“(bb) a document relating to the individual presenting it described in clause (iii) and a document relating to the individual presenting it described in clause (iv).

“(ii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION AND ESTABLISHING IDENTITY.—A document described in this subparagraph is an individual’s—

“(I) unexpired United States passport or passport card;

“(II) unexpired permanent resident card that contains a photograph;

“(III) unexpired employment authorization card that contains a photograph;

“(IV) in the case of a non-immigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I–94 or Form I–94A, or other documentation as designated by the Secretary specifying the alien’s non-
immigrant status as long as the period of status has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified in the documentation;

“(V) passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I–94 or Form I–94A, or other documentation as designated by the Secretary, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; or

“(VI) other document designated by the Secretary of Homeland Security, if the document—

“(aa) contains a photograph of the individual and biometric identification data from the individual and such other personal identifying information relating to the individual as the Secretary of Homeland Security finds, by
regulation, sufficient for purposes of this clause;

“(bb) is evidence of authorization of employment in the United States; and

“(cc) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(iii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

“(iv) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is—

“(I) an individual’s unexpired driver’s license or identification card if it was issued by a State or American Samoa and contains a photograph and information such as name, date of
birth, gender, height, eye color, and
address;

“(II) an individual’s unexpired
U.S. military identification card;

“(III) an individual’s unexpired
Native American tribal identification
document issued by a tribal entity rec-
ognized by the Bureau of Indian Af-
fairs; or

“(IV) in the case of an individual
under 18 years of age, a parent or
legal guardian’s attestation under
penalty of law as to the identity and
age of the individual.

“(v) AUTHORITY TO PROHIBIT USE OF
CERTAIN DOCUMENTS.—If the Secretary of
Homeland Security finds, by regulation,
that any document described in clause (i),
(ii), or (iii) as establishing employment au-
thorization or identity does not reliably es-
establish such authorization or identity or is
being used fraudulently to an unacceptable
degree, the Secretary may prohibit or place
conditions on its use for purposes of this
paragraph.
“(vi) SIGNATURE.—Such attestation may be manifested by either a handwritten or electronic signature.

“(B) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—During the verification period (as defined in subparagraph (E)), the individual shall attest, under penalty of perjury on the form designated or established for purposes of subparagraph (A), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary of Homeland Security to be hired, recruited, or referred for such employment. Such attestation may be manifested by either a handwritten or electronic signature. The individual shall also provide that individual’s social security account number or United States passport number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under this subparagraph, such identification or authorization number established by the Department of Homeland
Security for the alien as the Secretary may specify.

“(C) Retention of Verification Form and Verification.—

“(i) In general.—After completion of such form in accordance with subparagraphs (A) and (B), the person or entity shall—

“(I) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during a period beginning on the date of the recruiting or referral of the individual, or, in the case of the hiring of an individual, the date on which the verification is completed, and ending—

“(aa) in the case of the recruiting or referral of an individual, 3 years after the date of the recruiting or referral; and
“(bb) in the case of the hiring of an individual, the later of 3 years after the date the verification is completed or one year after the date the individual’s employment is terminated; and

“(II) during the verification period (as defined in subparagraph (E)), make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of an individual.

“(ii) CONFIRMATION.—

“(I) CONFIRMATION RECEIVED.—If the person or other entity receives an appropriate confirmation of an individual’s identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final confirmation of such
identity and work eligibility of the individual.

“(II) Tentative nonconfirmation received.—If the person or other entity receives a tentative non-confirmation of an individual’s identity or work eligibility under the verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the non-confirmation within the time period specified, the nonconfirmation shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a final nonconfirmation. If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under subsection (d). The nonconfirmation will remain tentative until a final confirmation or noncon-
confirmation is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure. In no case shall an employer rescind the offer of employment to an individual because of a failure of the individual to have identity and work eligibility confirmed under this subsection until a nonconfirmation becomes final. Nothing in this subclause shall apply to a rescission of the offer of employment for any reason other than because of such a failure.

“(III) Final Confirmation or Nonconfirmation Received.—If a final confirmation or nonconfirmation is provided by the verification system
regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

“(IV) Extension of Time.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry,
and does not have to provide any additional proof concerning such inquiry.

“(V) Consequences of non-confirmation.—

“(aa) Termination or notification of continued employment.—If the person or other entity has received a final nonconfirmation regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

“(bb) Failure to notify.—If the person or entity fails to provide notice with re-
spect to an individual as required under item (aa), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

“(VI) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).

“(D) EFFECTIVE DATES OF NEW PROCEDURES.—

“(i) HIRING.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity hiring an individual for employment in the United States as follows:

“(I) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, on the date that is 6 months
after the date of the enactment of
such Act.

“(II) With respect to employers
having 500 or more employees in the
United States, but less than 10,000
employees in the United States, on
the date of the enactment of the
Legal Workforce Act, on the date that
is 12 months after the date of the en-
actment of such Act.

“(III) With respect to employers
having 20 or more employees in the
United States, but less than 500 em-
ployees in the United States, on the
date of the enactment of the Legal
Workforce Act, on the date that is 18
months after the date of the enact-
ment of such Act.

“(IV) With respect to employers
having 1 or more employees in the
United States, but less than 20 em-
ployees in the United States, on the
date of the enactment of the Legal
Workforce Act, on the date that is 24
months after the date of the enactment of such Act.

“(ii) Recruiting and referring.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity recruiting or referring an individual for employment in the United States on the date that is 12 months after the date of the enactment of the Legal Workforce Act.

“(iii) Agricultural labor or services.—With respect to an employee performing agricultural labor or services, this paragraph shall not apply with respect to the verification of the employee until the date that is 24 months after the date of the enactment of the Legal Workforce Act. An employee described in this clause shall not be counted for purposes of clause (i).

“(iv) Extensions.—Upon request by an employer having 50 or fewer employees, the Secretary shall allow a one-time 6-month extension of the effective date set out in this subparagraph applicable to such employer. Such request shall be made to
the Secretary and shall be made prior to such effective date.

“(v) TRANSITION RULE.—Subject to paragraph (4), the following shall apply to a person or other entity hiring, recruiting, or referring an individual for employment in the United States until the effective date or dates applicable under clauses (i) through (iii):

“(I) This subsection, as in effect before the enactment of the Legal Workforce Act.

“(II) Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 7(c) of the Legal Workforce Act.

“(III) Any other provision of Federal law requiring the person or entity to participate in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect be-
fore the effective date in section 7(c) of the Legal Workforce Act, including Executive Order 13465 (8 U.S.C. 1324a note; relating to Government procurement).

“(E) Verification period defined.—

“(i) In general.—For purposes of this paragraph:

“(I) In the case of recruitment or referral, the term ‘verification period’ means the period ending on the date recruiting or referring commences.

“(II) In the case of hiring, the term ‘verification period’ means the period beginning on the date on which an offer of employment is extended and ending on the date that is three business days after the date of hire, except as provided in clause (iii). The offer of employment may be conditioned in accordance with clause (ii).

“(ii) Job offer may be conditional.—A person or other entity may offer a prospective employee an employment position that is conditioned on final
verification of the identity and employment eligibility of the employee using the procedures established under this paragraph.

“(iii) Special rule.—Notwithstanding clause (i)(II), in the case of an alien who is authorized for employment and who provides evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period ends three business days after the alien receives the social security account number.

“(2) Reverification for individuals with limited work authorization.—

“(A) In general.—Except as provided in subparagraph (B), a person or entity shall make an inquiry, as provided in subsection (d), using the verification system to seek reverification of the identity and employment eligibility of all individuals with a limited period of work authorization employed by the person or entity during the three business days after the date on which the employee’s work authorization expires as follows:
“(i) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, beginning on the date that is 6 months after the date of the enactment of such Act.

“(ii) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 12 months after the date of the enactment of such Act.

“(iii) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 18 months after the date of the enactment of such Act.

“(iv) With respect to employers having 1 or more employees in the United States, but less than 20 employees in the United States, on the date of the enact-
ment of the Legal Workforce Act, begin-
ing on the date that is 24 months after
the date of the enactment of such Act.

“(B) AGRICULTURAL LABOR OR SERV-
ICES.—With respect to an employee performing
agricultural labor or services, or an employee
recruited or referred by a farm labor contractor
(as defined in section 3 of the Migrant and Sea-
sonal Agricultural Worker Protection Act (29
U.S.C. 1801)), subparagraph (A) shall not
apply with respect to the reverification of the
employee until the date that is 24 months after
the date of the enactment of the Legal Work-
force Act. For purposes of the preceding sen-
tence, the term ‘agricultural labor or services’
has the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in section
3121(g) of the Internal Revenue Code of 1986,
agriculture as defined in section 3(f) of the
203(f)), the handling, planting, drying, packing,
packaging, processing, freezing, or grading
prior to delivery for storage of any agricultural
or horticultural commodity in its unmanufac-
tured state, all activities required for the preparation, processing, or manufacturing of a product of agriculture (as such term is defined in such section 3(f)) for further distribution, and activities similar to all the foregoing as they relate to fish or shellfish facilities. An employee described in this subparagraph shall not be counted for purposes of subparagraph (A).

“(C) REVERIFICATION.—Paragraph (1)(C)(ii) shall apply to reverifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the reverification commences and ending on the date that is the later of 3 years after the date of such reverification
or 1 year after the date the individual’s employment is terminated.

“(3) PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A MANDATORY BASIS FOR CERTAIN EMPLOYEES.—

“(i) IN GENERAL.—Not later than the date that is 6 months after the date of the enactment of the Legal Workforce Act, an employer shall make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of any individual described in clause (ii) employed by the employer whose employment eligibility has not been verified under the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

“(ii) INDIVIDUALS DESCRIBED.—An individual described in this clause is any of the following:

“(I) An employee of any unit of a Federal, State, or local government.
“(II) An employee who requires a Federal security clearance working in a Federal, State or local government building, a military base, a nuclear energy site, a weapons site, or an airport or other facility that requires workers to carry a Transportation Worker Identification Credential (TWIC).

“(III) An employee assigned to perform work in the United States under a Federal contract, except that this subclause—

“(aa) is not applicable to individuals who have a clearance under Homeland Security Presidential Directive 12 (HSPD 12 clearance), are administrative or overhead personnel, or are working solely on contracts that provide Commercial Off The Shelf goods or services as set forth by the Federal Acquisition Regulatory Council, unless they are
subject to verification under sub-
clause (II); and

“(bb) only applies to con-
tracts over the simple acquisition
threshold as defined in section
2.101 of title 48, Code of Federal
Regulations.

“(B) ON A MANDATORY BASIS FOR MUL-
TIPLE USERS OF SAME SOCIAL SECURITY AC-
COUNT NUMBER.—In the case of an employer
who is required by this subsection to use the
verification system described in subsection (d),
or has elected voluntarily to use such system,
the employer shall make inquiries to the system
in accordance with the following:

“(i) The Commissioner of Social Secu-
rity shall notify annually employees (at the
employee address listed on the Wage and
Tax Statement) who submit a social secu-
rinty account number to which more than
one employer reports income and for which
there is a pattern of unusual multiple use.
The notification letter shall identify the
number of employers to which income is
being reported as well as sufficient infor-
mation notifying the employee of the process to contact the Social Security Administration Fraud Hotline if the employee believes the employee’s identity may have been stolen. The notice shall not share information protected as private, in order to avoid any recipient of the notice from being in the position to further commit or begin committing identity theft.

“(ii) If the person to whom the social security account number was issued by the Social Security Administration has been identified and confirmed by the Commissioner, and indicates that the social security account number was used without their knowledge, the Secretary and the Commissioner shall lock the social security account number for employment eligibility verification purposes and shall notify the employers of the individuals who wrongfully submitted the social security account number that the employee may not be work eligible.

“(iii) Each employer receiving such notification of an incorrect social security
account number under clause (ii) shall use
the verification system described in sub-
section (d) to check the work eligibility sta-
tus of the applicable employee within 10
business days of receipt of the notification.

“(C) ON A VOLUNTARY BASIS.—Subject to
paragraph (2), and subparagraphs (A) through
(C) of this paragraph, beginning on the date
that is 30 days after the date of the enactment
of the Legal Workforce Act, an employer may
make an inquiry, as provided in subsection (d),
using the verification system to seek verification
of the identity and employment eligibility of any
individual employed by the employer. If an em-
ployer chooses voluntarily to seek verification of
any individual employed by the employer, the
employer shall seek verification of all individ-
uals employed at the same geographic location
or, at the option of the employer, all individuals
employed within the same job category, as the
employee with respect to whom the employer
seeks voluntarily to use the verification system.
An employer’s decision about whether or not
voluntarily to seek verification of its current
workforce under this subparagraph may not be
considered by any government agency in any proceeding, investigation, or review provided for in this Act.

“(D) VERIFICATION.—Paragraph (1)(C)(ii) shall apply to verifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the verification commences and ending on the date that is the later of 3 years after the date of such verification or 1 year after the date the individual’s employment is terminated.

“(4) EARLY COMPLIANCE.—

“(A) Former E-VERIFY required users, including federal contractors.—Notwith-
standing the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary is authorized to commence requiring employers required to participate in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including employers required to participate in such program by reason of Federal acquisition laws (and regulations promulgated under those laws, including the Federal Acquisition Regulation), to commence compliance with the requirements of this subsection (and any additional requirements of such Federal acquisition laws and regulation) in lieu of any requirement to participate in the E–Verify Program.

“(B) Former E–Verify voluntary users and others desiring early compliance.—Notwithstanding the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary shall provide for the voluntary compliance with the requirements of this subsection by employers voluntarily electing to participate
in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) before such date, as well as by other employers seeking voluntary early compliance.

“(5) Copying of documentation permitted.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

“(6) Limitation on use of forms.—A form designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

“(7) Good faith compliance.—

“(A) In general.—Except as otherwise provided in this subsection, a person or entity is considered to have complied with a requirement of this subsection notwithstanding a tech-
nical or procedural failure to meet such require-
ment if there was a good faith attempt to com-
ply with the requirement.

“(B) Exception if failure to correct
after notice.—Subparagraph (A) shall not
apply if—

“(i) the failure is not de minimus;

“(ii) the Secretary of Homeland Secu-
rity has explained to the person or entity
the basis for the failure and why it is not
de minimus;

“(iii) the person or entity has been
provided a period of not less than 30 cal-
endar days (beginning after the date of the
explanation) within which to correct the
failure; and

“(iv) the person or entity has not cor-
rected the failure voluntarily within such
period.

“(C) Exception for pattern or prac-
tice violators.—Subparagraph (A) shall not
apply to a person or entity that has or is engag-
ing in a pattern or practice of violations of sub-
section (a)(1)(A) or (a)(2).
“(8) SINGLE EXTENSION OF DEADLINES UPON CERTIFICATION.—In a case in which the Secretary of Homeland Security has certified to the Congress that the employment eligibility verification system required under subsection (d) will not be fully operational by the date that is 6 months after the date of the enactment of the Legal Workforce Act, each deadline established under this section for an employer to make an inquiry using such system shall be extended by 6 months. No other extension of such a deadline shall be made except as authorized under paragraph (1)(D)(iv).”.

(b) DATE OF HIRE.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following:

“(4) DEFINITION OF DATE OF HIRE.—As used in this section, the term ‘date of hire’ means the date of actual commencement of employment for wages or other remuneration, unless otherwise specified.”.

SEC. 7103. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

Section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) is amended to read as follows:
“(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

“(1) IN GENERAL.—Patterned on the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), the Secretary of Homeland Security shall establish and administer a verification system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

“(A) responds to inquiries made by persons at any time through a toll-free telephone line and other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(B) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

“(2) INITIAL RESPONSE.—The verification system shall provide confirmation or a tentative non-confirmation of an individual’s identity and employment eligibility within 3 working days of the initial
inquiry. If providing confirmation or tentative non-
confirmation, the verification system shall provide an
appropriate code indicating such confirmation or
such nonconfirmation.

“(3) SECONDARY CONFIRMATION PROCESS IN
CASE OF TENTATIVE NONCONFIRMATION.—In cases
of tentative noneconfirmation, the Secretary shall
specify, in consultation with the Commissioner of
Social Security, an available secondary verification
process to confirm the validity of information pro-
vided and to provide a final confirmation or noncon-
firmation not later than 10 working days after the
date on which the notice of the tentative nonecon-
firmation is received by the employee. The Secretary,
in consultation with the Commissioner, may extend
this deadline once on a case-by-case basis for a pe-
period of 10 working days, and if the time is extended,
shall document such extension within the verification
system. The Secretary, in consultation with the
Commissioner, shall notify the employee and em-
ployer of such extension. The Secretary, in consulta-
tion with the Commissioner, shall create a standard
process of such extension and notification and shall
make a description of such process available to the
public. When final confirmation or noneconfirmation
is provided, the verification system shall provide an appropriate code indicating such confirmation or nonconfirmation.

“(4) Design and Operation of System.—

The verification system shall be designed and operated—

“(A) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

“(B) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

“(C) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

“(D) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

“(i) the selective or unauthorized use of the system to verify eligibility; or
“(ii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants;

“(E) to maximize the prevention of identity theft use in the system; and

“(F) to limit the subjects of verification to the following individuals:

“(i) Individuals hired, referred, or recruited, in accordance with paragraph (1) or (4) of subsection (b).

“(ii) Employees and prospective employees, in accordance with paragraph (1), (2), (3), or (4) of subsection (b).

“(iii) Individuals seeking to confirm their own employment eligibility on a voluntary basis.

“(5) RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the
time periods specified under paragraphs (2) and (3),
compares the name and social security account num-
ber provided in an inquiry against such information
maintained by the Commissioner in order to validate
(or not validate) the information provided regarding
an individual whose identity and employment eligi-
bility must be confirmed, the correspondence of the
name and number, and whether the individual has
presented a social security account number that is
not valid for employment. The Commissioner shall
not disclose or release social security information
(other than such confirmation or nonconfirmation)
under the verification system except as provided for
in this section or section 205(c)(2)(I) of the Social
Security Act.

“(6) RESPONSIBILITIES OF SECRETARY OF
HOMELAND SECURITY.—

“(A) IN GENERAL.—As part of the
verification system, the Secretary of Homeland
Security (in consultation with any designee of
the Secretary selected to establish and admin-
ister the verification system), shall establish a
reliable, secure method, which, within the time
periods specified under paragraphs (2) and (3),
compares the name and alien identification or
authorization number (or any other information
as determined relevant by the Secretary) which
are provided in an inquiry against such infor-
mation maintained or accessed by the Secretary
in order to validate (or not validate) the infor-
mation provided, the correspondence of the
name and number, whether the alien is author-
ized to be employed in the United States, or to
the extent that the Secretary determines to be
feasible and appropriate, whether the records
available to the Secretary verify the identity or
status of a national of the United States.

“(B) AGRICULTURAL LABORERS.—The
Secretary of Homeland Security shall ensure
that, by the date that is 24 months after the
date of the enactment of the Legal Workforce
Act, whenever the verification system provides
confirmation of an individual’s employment eli-
gibility, it indicates whether the individual is el-
igible to be employed in all occupations or only
to perform agricultural labor or services as a
nonimmigrant who has been issued a visa or
otherwise provided nonimmigrant status under
“(7) Updating Information.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

“(8) Limitation on Use of the Verification System and Any Related Systems.—

“(A) No National Identification Card.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(B) Critical Infrastructure.—The Secretary may authorize or direct any person or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to use the verification system to the
extent the Secretary determines that such use
will assist in the protection of the critical infra-
structure.

“(9) Remedies.—If an individual alleges that
the individual would not have been dismissed from
a job but for an error of the verification mechanism,
the individual may seek compensation only through
the mechanism of the Federal Tort Claims Act, and
injunctive relief to correct such error. No class ac-
tion may be brought under this paragraph.”.

SEC. 7104. RECRUITMENT, REFERRAL, AND CONTINUATION
OF EMPLOYMENT.

(a) Additional Changes to Rules for Recruitment,
Referral, and Continuation of Employment.—Section 274A(a) of the Immigration and Nation-
ality Act (8 U.S.C. 1324a(a)) is amended—

(1) in paragraph (1)(A), by striking “for a fee”;

(2) in paragraph (1), by amending subpara-
graph (B) to read as follows:

“(B) to hire, continue to employ, or to re-
ruit or refer for employment in the United
States an individual without complying with the
requirements of subsection (b).”; and

(3) in paragraph (2), by striking “after hiring
an alien for employment in accordance with para-
graph (1),” and inserting “after complying with paragraph (1),”.

(b) Definition.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)), as amended by this title, is further amended by adding at the end the following:

“(5) Definition of recruit or refer.—As used in this section, the term ‘refer’ means the act of sending or directing a person who is in the United States or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or non-union individuals who pay union membership dues are included in the definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party. As used in this section, the term ‘recruit’ means the act of soliciting a person who is in the United States, directly or indirectly,
and referring the person to another with the intent
of obtaining employment for that person. Only per-
sons or entities referring for remuneration (whether
on a retainer or contingency basis) are included in
the definition, except that union hiring halls that
refer union members or nonunion individuals who
pay union membership dues are included in this defi-
nition whether or not they receive remuneration, as
are labor service entities or labor service agencies,
whether public, private, for-profit, or nonprofit that
 recruit, dispatch, or otherwise facilitate the hiring of
laborers for any period of time by a third party.”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect on the date that is 1 year
after the date of the enactment of this Act, except that
the amendments made by subsection (a) shall take effect
6 months after the date of the enactment of this Act inso-
far as such amendments relate to continuation of employ-
ment.

SEC. 7105. GOOD FAITH DEFENSE.

Section 274A(a)(3) of the Immigration and Nation-
ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
follows:

“(3) GOOD FAITH DEFENSE.—
“(A) DEFENSE.—An employer (or person or entity that hires, employs, recruits, or refers (as defined in subsection (h)(5)), or is otherwise obligated to comply with this section) who establishes that it has complied in good faith with the requirements of subsection (b)—

“(i) shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good-faith reliance on information provided through the system established under subsection (d); and

“(ii) has established compliance with its obligations under subparagraphs (A) and (B) of paragraph (1) and subsection (b) absent a showing by the Secretary of Homeland Security, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

“(B) MITIGATION ELEMENT.—For purposes of subparagraph (A)(i), if an employer
proves by a preponderance of the evidence that the employer uses a reasonable, secure, and established technology to authenticate the identity of the new employee, that fact shall be taken into account for purposes of determining good faith use of the system established under subsection (d).

“(C) Failure to seek and obtain verification.—Subject to the effective dates and other deadlines applicable under subsection (b), in the case of a person or entity in the United States that hires, or continues to employ, an individual, or recruits or refers an individual for employment, the following requirements apply:

“(i) Failure to seek verification.—

“(I) In general.—If the person or entity has not made an inquiry, under the mechanism established under subsection (d) and in accordance with the timeframes established under subsection (b), seeking verification of the identity and work eligibility of the individual, the de-
fense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

“(II) Special rule for failure of verification mechanism.—If such a person or entity in good faith attempts to make an inquiry in order to qualify for the defense under subparagraph (A) and the verification mechanism has registered that not all inquiries were responded to during the relevant time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

“(ii) Failure to obtain verification.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity and work eligibility under such mechanism within the time period specified under subsection
(d)(2) after the time the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”.

SEC. 7106. PREEMPTION AND STATES’ RIGHTS.

Section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended to read as follows:

“(2) Preemption.—

“(A) Single, national policy.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, insofar as they may now or hereafter relate to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens.

“(B) State enforcement of federal law.—

“(i) Business licensing.—A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the verification sys-
tem described in subsection (d) to verify employment eligibility when and as re-
quired under subsection (b).

“(ii) GENERAL RULES.—A State, at its own cost, may enforce the provisions of this section, but only insofar as such State follows the Federal regulations implement-
ing this section, applies the Federal penalty structure set out in this section, and complies with all Federal rules and guidance concerning implementation of this section. Such State may collect any fines assessed under this section. An employer may not be subject to enforcement, includ-
ing audit and investigation, by both a Fed-

eral agency and a State for the same viola-
tion under this section. Whichever entity, the Federal agency or the State, is first to initiate the enforcement action, has the right of first refusal to proceed with the enforcement action. The Secretary must provide copies of all guidance, training, and field instructions provided to Federal officials implementing the provisions of this section to each State.”.
SEC. 7107. REPEAL.

(a) IN GENERAL.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is repealed.

(b) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is deemed to refer to the employment eligibility confirmation system established under section 274A(d) of the Immigration and Nationality Act, as amended by this title.

(c) EFFECTIVE DATE.—This section shall take effect on the date that is 24 months after the date of the enactment of this Act.

(d) CLERICAL AMENDMENT.—The table of sections, in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

SEC. 7108. PENALTIES.

Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(1)—
(A) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(B) in subparagraph (D), by striking “Service” and inserting “Department of Homeland Security”;

(2) in subsection (e)(4)—

(A) in subparagraph (A), in the matter before clause (i), by inserting “, subject to paragraph (10),” after “in an amount”;

(B) in subparagraph (A)(i), by striking “not less than $250 and not more than $2,000” and inserting “not less than $2,500 and not more than $5,000”;

(C) in subparagraph (A)(ii), by striking “not less than $2,000 and not more than $5,000” and inserting “not less than $5,000 and not more than $10,000”;

(D) in subparagraph (A)(iii), by striking “not less than $3,000 and not more than $10,000” and inserting “not less than $10,000 and not more than $25,000”; and

(E) by moving the margin of the continuation text following subparagraph (B) two ems
to the left and by amending subparagraph (B) to read as follows:

“(B) may require the person or entity to take such other remedial action as is appropriate.”;

(3) in subsection (e)(5)—

(A) in the paragraph heading, strike “PAPERWORK”;

(B) by inserting “, subject to paragraphs (10) through (12),” after “in an amount”;

(C) by striking “$100” and inserting “$1,000”;

(D) by striking “$1,000” and inserting “$25,000”; and

(E) by adding at the end the following:

“Failure by a person or entity to utilize the employment eligibility verification system as required by law, or providing information to the system that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A).”;

(4) by adding at the end of subsection (e) the following:

“(10) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—In the case of imposition of a
civil penalty under paragraph (4)(A) with respect to a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment or recruitment or referral by person or entity and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed may be waived or reduced if the violator establishes that the violator acted in good faith.

“(11) MITIGATION ELEMENT.—For purposes of paragraph (4), the size of the business shall be taken into account when assessing the level of civil money penalty.

“(12) AUTHORITY TO DEBAR EMPLOYERS FOR CERTAIN VIOLATIONS.—

“(A) IN GENERAL.—If a person or entity is determined by the Secretary of Homeland Security to be a repeat violator of paragraph (1)(A) or (2) of subsection (a), or is convicted of a crime under this section, such person or entity may be considered for debarment from the receipt of Federal contracts, grants, or cooperative agreements in accordance with the debarment standards and pursuant to the debar-
ment procedures set forth in the Federal Acquisition Regulation.

“(B) Does not have contract, grant, agreement.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such an person or entity does not hold a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall refer the matter to the Administrator of General Services to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(C) Has contract, grant, agreement.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Govern-
ment’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or Attorney General may refer the matter to any appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(D) Review.—Any decision to debar a person or entity in accordance with this paragraph shall be reviewable pursuant to part 9.4 of the Federal Acquisition Regulation.

“(13) Office for State and Local Government Complaints.—The Secretary of Homeland Security shall establish an office—

“(A) to which State and local government agencies may submit information indicating potential violations of subsection (a), (b), or (g)(1) that were generated in the normal course of law enforcement or the normal course of other official activities in the State or locality;

“(B) that is required to indicate to the complaining State or local agency within five business days of the filing of such a complaint
by identifying whether the Secretary will further investigate the information provided;

“(C) that is required to investigate those complaints filed by State or local government agencies that, on their face, have a substantial probability of validity;

“(D) that is required to notify the complaining State or local agency of the results of any such investigation conducted; and

“(E) that is required to report to the Congress annually the number of complaints received under this paragraph, the States and localities that filed such complaints, and the resolution of the complaints investigated by the Secretary.”; and

(5) by amending paragraph (1) of subsection (f) to read as follows:

“(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of subsection (a)(1) or (2) shall be fined not more than $5,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not more than 18 months, or both, notwithstanding the provisions of any other Federal law relating to fine levels.”.
SEC. 7109. FRAUD AND MISUSE OF DOCUMENTS.

Section 1546(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “identification document,” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”;

and

(2) in paragraph (2), by striking “identification document” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”.

SEC. 7110. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2019, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by this title, including (but not limited to)—
(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 274A(d), but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the employment eligibility verification system established under such section;

(2) provide such funds annually in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Inspectors General of the Social Security Administration and the Department of Homeland Security.

(b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—In any case in which the agreement required under subsection (a) for any
fiscal year beginning on or after October 1, 2019, has not
been reached as of October 1 of such fiscal year, the latest
agreement between the Commissioner and the Secretary
of Homeland Security providing for funding to cover the
costs of the responsibilities of the Commissioner under
section 274A(d) of the Immigration and Nationality Act
(8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
terim basis for such fiscal year until such time as an
agreement required under subsection (a) is subsequently
reached, except that the terms of such interim agreement
shall be modified by the Director of the Office of Manage-
ment and Budget to adjust for inflation and any increase
or decrease in the volume of requests under the employ-
ment eligibility verification system. In any case in which
an interim agreement applies for any fiscal year under this
subsection, the Commissioner and the Secretary shall, not
later than October 1 of such fiscal year, notify the Com-
mmittee on Ways and Means, the Committee on the Judici-
ary, and the Committee on Appropriations of the House
of Representatives and the Committee on Finance, the
Committee on the Judiciary, and the Committee on Ap-
propriations of the Senate of the failure to reach the
agreement required under subsection (a) for such fiscal
year. Until such time as the agreement required under
subsection (a) has been reached for such fiscal year, the
Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

**SEC. 7111. FRAUD PREVENTION.**

(a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT NUMBERS.**—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which social security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by this title, or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.

(b) **ALLOWING SUSPENSION OF USE OF CERTAIN SOCIAL SECURITY ACCOUNT NUMBERS.**—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which
shall provide a reliable, secure method by which victims of identity fraud and other individuals may suspend or limit the use of their social security account number or other identifying information for purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by this title. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

(c) Allowing Parents To Prevent Theft of Their Child’s Identity.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which shall provide a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the employment eligibility verification system established under 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by this title. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.
SEC. 7112. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION PHOTO TOOL.

An employer or entity who uses the photo matching tool, if required by the Secretary as part of the verification system, shall match, either visually, or using facial recognition or other verification technology approved or required by the Secretary, the photo matching tool photograph to the photograph on the identity or employment eligibility document provided by the individual or to the face of the employee submitting the document for employment verification purposes, or both, as determined by the Secretary.

SEC. 7113. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROGRAMS.

Not later than 24 months after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish by regulation not less than 2 Identity Authentication Employment Eligibility Verification pilot programs, each using a separate and distinct technology (the “Authentication Pilots”). The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees which shall be available to any employer that elects to participate
in either of the Authentication Pilots. Any participating
employer may cancel the employer’s participation in the
Authentication Pilot after one year after electing to par-
ticipate without prejudice to future participation. The Sec-
retary shall report to the Committee on the Judiciary of
the House of Representatives and the Committee on the
Judiciary of the Senate the Secretary’s findings on the
Authentication Pilots, including the authentication tech-
nologies chosen, not later than 12 months after com-
mencement of the Authentication Pilots.

SEC. 7114. INSPECTOR GENERAL AUDITS.

(a) In general.—Not later than 1 year after the
date of the enactment of this Act, the Inspector General
of the Social Security Administration shall complete audits
of the following categories in order to uncover evidence
of individuals who are not authorized to work in the
United States:

(1) Workers who dispute wages reported on
their social security account number when they be-
lieve someone else has used such number and name
to report wages.

(2) Children’s social security account numbers
used for work purposes.
(3) Employers whose workers present significant numbers of mismatched social security account numbers or names for wage reporting.

(b) SUBMISSION.—The Inspector General of the Social Security Administration shall submit the audits completed under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate for review of the evidence of individuals who are not authorized to work in the United States. The Chairmen of those Committees shall then determine information to be shared with the Secretary of Homeland Security so that such Secretary can investigate the unauthorized employment demonstrated by such evidence.

TITLE VIII—MISCELLANEOUS IMMIGRATION PROVISIONS

SEC. 8101. AVAILABILITY OF H-2B VISAS.

Section 214(g)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)(A)) is amended by striking “during fiscal year 2013, 2014, or 2015 shall not again be counted toward such limitation during fiscal year 2016” and inserting “during one or more of the prior two fiscal years shall not again be counted toward such limitation during the current fiscal year”.

☐