

117TH CONGRESS
2D SESSION

H. R. 7549

To reform the process by which temporary nonagricultural workers' visas are allocated, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 2022

Mr. CASTRO of Texas (for himself, Ms. BARRAGÁN, Mr. ESPALLAT, Ms. SCHAKOWSKY, Mr. MCGOVERN, Ms. SÁNCHEZ, Ms. CHU, Ms. MENG, Ms. NORTON, Mrs. CHERFILUS-McCORMICK, Mr. CARSON, Ms. JAYAPAL, Mr. POCAN, and Ms. TITUS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reform the process by which temporary nonagricultural workers' visas are allocated, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Seasonal Worker Soli-
5 darity Act of 2022”.

6 **SEC. 2. H-2B WORKERS.**

7 (a) IN GENERAL.—The Immigration and Nationality
8 Act (8 U.S.C. 1151 et seq.) is amended by inserting after
9 section 218 the following:

1 **“SEC. 218A. ADMISSION OF H-2B WORKERS.**

2 “(a) NATIONWIDE RECRUITMENT.—

3 “(1) IN GENERAL.—The Secretary of Labor
4 shall require employers to conduct recruitment ac-
5 tivities nationwide and consider, without prejudice,
6 applications from workers and labor organizations in
7 any region, including all of the States and territories
8 of the United States, consistent with the require-
9 ments in section 101(a)(15)(H)(ii)(b) of the Immi-
10 gration and Nationality Act. The Secretary shall co-
11 ordinate with State Workforce Agencies to conduct
12 concerted recruitment in any State or metropolitan
13 statistical areas designated by the Secretary of
14 Labor as a Labor Surplus Area.

15 “(2) DISASTER RESPONSE WORKERS.—

16 “(A) DISASTER RESPONSE ASSISTANCE
17 FOR DISPLACED WORKERS.—State Workforce
18 Agencies shall make available supplemental sup-
19 port and training to any worker authorized to
20 work in the United States who is displaced as
21 a result of a local, State, or nationally declared
22 disaster so that such individual is able to seek
23 employment as a temporary nonagricultural
24 worker.

25 “(B) SUPPLEMENTAL INFORMATION.—

26 Employers seeking to hire temporary non-

1 agricultural workers for disaster response shall
2 submit to the Secretary of Labor a supple-
3 mental worksheet detailing the health and safe-
4 ty training plan and equipment to be provided
5 to temporary nonagricultural workers to ensure
6 health and safety of such workers in impacted
7 geographical areas.

8 “(C) PLAN APPROVAL.—The Secretary of
9 Labor may not issue a labor certification unless
10 the Secretary approves the plan to adequately
11 protect workers in declared disaster areas sub-
12 mitted under this paragraph.

13 “(b) ADVISORY COMMITTEE.—In accordance with the
14 provisions of the Federal Advisory Committee Act, the
15 Secretary of Labor shall establish an advisory committee
16 not later than 5 months after the date of enactment of
17 the Seasonal Worker Solidarity Act of 2022, whose mem-
18 bership shall consist of representatives from the Depart-
19 ment of Labor, State Workforce Agencies, and labor orga-
20 nizations, and organizations advocating for workers in rel-
21 evant industries. The advisory committee shall meet on a
22 periodic basis and shall advise the Secretary of Labor on
23 issues related to improving recruitment of United States
24 workers, including standard setting for nationwide and
25 Labor Surplus Area recruitment efforts and the develop-

1 ment, testing, and implementation of the recruitment plat-
2 form described in subsection (c) and the prevention of dis-
3 crimination in the recruitment, hiring, and treatment of
4 temporary nonagricultural workers. Not later than 18
5 months after the date on which the advisory committee
6 holds its initial meeting, the committee shall submit to the
7 Secretary of Labor and Congress a report on issues re-
8 lated to improving recruitment of United States workers
9 and the development, testing, and implementation of the
10 recruitment platform and the prevention of discrimination
11 in the recruitment, hiring, and treatment of temporary
12 nonagricultural workers.

13 “(c) RECRUITMENT PLATFORM.—

14 “(1) CREATION.—Not later than 1 year after
15 the date of enactment of the Seasonal Worker Soli-
16 darity Act of 2022, the Secretary of Labor shall cre-
17 ate and make available on the Department of Labor
18 website a centralized, national electronic seasonal
19 and temporary job search and worker recruitment
20 platform (in this section referred to as the ‘recruit-
21 ment platform’) for employment opportunities for
22 which employers are seeking authorization to hire
23 H-2B workers.

1 “(2) PURPOSE.—The recruitment platform
2 shall allow applicants to submit applications for
3 available positions electronically to—

4 “(A) facilitate the nationwide recruitment
5 of United States workers; and

6 “(B) provide transparency about United
7 States employment opportunities for job seekers
8 outside of the United States.

9 “(3) NOTIFICATION.—The Secretary of Labor
10 shall create a mechanism by which the public, job
11 seekers, State Workforce Agencies, labor unions, and
12 other organizations are able to receive electronic no-
13 tification within 24 hours when job orders in rel-
14 evant industries and regions are posted to the
15 website.

16 “(4) REGISTRATION.—An employer seeking to
17 recruit temporary nonagricultural workers shall reg-
18 ister on the recruitment platform and job orders on
19 the recruitment platform may only be posted by such
20 registered employers.

21 “(5) ARCHIVES.—Job orders shall remain pub-
22 licly accessible for a period of at least 5 years after
23 the original posting date.

24 “(d) PUBLIC RESPONSE.—The Secretary of Labor
25 shall develop a process for labor organizations, and organi-

1 zations advocating for workers in relevant industries, to
2 publicly challenge an employer’s claim of temporary need,
3 wage rates, job requirements posted to the recruitment
4 platform, or any other employment issue related to tem-
5 porary nonagricultural workers and shall apply appro-
6 priate remedies when violations are found. The Depart-
7 ment of Labor’s decisions shall not be subject to judicial
8 review.

9 “(e) EMPLOYER CERTIFICATION.—When registering
10 on the recruitment platform, an employer shall certify
11 compliance with each of the following:

12 “(1) SAFE AND FAIR WORKPLACE.—

13 “(A) IN GENERAL.—The employer shall, in
14 addition to all other certifications required by
15 the Secretary of Labor meet the following re-
16 quirements:

17 “(i) LEGAL COMPLIANCE.—The em-
18 ployer shall comply with Federal law and
19 any applicable State law, or local law or
20 ordinance, and recognize any labor organi-
21 zation that provides evidence of support
22 from a majority of the workforce.

23 “(ii) WORKERS’ COMPENSATION.—
24 The employer shall provide workers’ com-
25 pensation insurance coverage in compliance

1 with State law covering injury and disease
2 arising out of and in the course of the
3 worker's employment. If the type of em-
4 ployment for which the certification is
5 sought is not covered by or is exempt from
6 the State's workers' compensation law, the
7 employer shall provide, at no cost to the
8 worker, insurance covering injury and dis-
9 ease arising out of and in the course of the
10 worker's employment that shall provide
11 benefits at least equal to those provided
12 under the State workers' compensation law
13 for other comparable employment.

14 “(iii) CONDITIONS OF EMPLOY-
15 MENT.—The employer shall offer United
16 States workers no less than the same bene-
17 fits, wages, and working conditions that
18 the employer is offering, intends to offer,
19 or will provide to H-2B workers, including
20 transportation and housing.

21 “(B) PENALTY.—The Secretary of Labor,
22 in consultation with the National Labor Rela-
23 tions Board shall, within 2 weeks of employer
24 registration, review relevant records to verify
25 employer compliance with this paragraph over

1 the previous 5-year period. An employer, and
2 the employer's successor-in-interest, who fails to
3 comply with this paragraph shall be subject to
4 a 2-year debarment from the H-2B program
5 and the use of the recruitment platform.

6 “(2) POSTING.—

7 “(A) IN GENERAL.—The employer shall
8 submit job orders to the Department of Labor
9 for posting on the recruitment platform. Ap-
10 proved job orders shall be posted for no less
11 than 60 days before the employer applies for an
12 H-2B labor certification, and job orders shall
13 remain active on the recruitment platform until
14 the first date of need. Any United States appli-
15 cant who applies for a job on the recruitment
16 platform may only be rejected for job-related
17 reasons and those found by the Secretary of
18 Labor to have been rejected on any other basis
19 shall be entitled to an appropriate remedy.
20 Each employer shall retain records of all hired
21 workers and rejected applicants for 5 years.

22 “(B) LANGUAGE.—The following are re-
23 quirements with respect to job order postings
24 on the recruitment platform:

1 “(i) In the case of any employer
2 whose workforce is comprised of a signifi-
3 cant portion of workers with limited lit-
4 eracy or English proficiency, such employer
5 shall provide the job orders in oral and
6 written form in English and in any other
7 languages spoken by the employees.

8 “(ii) The Secretary of Labor shall
9 post all approved job orders prepared by
10 employers in English, Spanish, and such
11 other language as the Secretary may deter-
12 mine necessary on their website.

13 “(C) FORMAT.—Each job order shall be
14 posted in a standard format, developed by the
15 Secretary of Labor, which shall include such
16 terms and conditions of employment as the Sec-
17 retary may require, including—

18 “(i) the States and locations in which
19 workers will be employed and information
20 that is searchable and shareable in an elec-
21 tronic format;

22 “(ii) wages, hours, working conditions,
23 worksite, and other benefits of employment
24 that the Secretary of Labor, in consulta-
25 tion with State Workforce Agencies, deter-

1 mines are in compliance with requirements
2 of Federal, State, and local law; and

3 “(iii) official forms submitted by pro-
4 spective H–2B employers to secure labor
5 certification and prevailing wage deter-
6 minations, including any approvals thereof
7 by the Secretary of Labor.

8 “(3) UNION APPLICANTS.—The employer shall
9 consider, before the first date of need, any appli-
10 cants or groups of applicants put forward by United
11 States labor organizations and organizations advo-
12 cating for workers in relevant industries that have
13 qualified members available for posted job orders.
14 The employer shall recognize the union training cre-
15 dentials of members of United States labor unions
16 who come from abroad and such members shall be
17 eligible for H–2B visas that are exempt from numer-
18 ical limitations.

19 “(4) WORKER QUALIFICATIONS.—

20 “(A) IN GENERAL.—The employer shall
21 disclose minimum qualifications for any position
22 and hire workers who meet those minimum
23 qualifications, and shall not impose unnecessary
24 experience or educational requirements of appli-
25 cants, and shall not require criminal back-

1 ground checks, unless otherwise required by law
2 for the specific position.

3 “(B) POSITIONS REQUIRING LITTLE OR NO
4 EXPERIENCE.—In the case that the Secretary
5 of Labor determines that a position is in an Oc-
6 cupational Information Network Job Zone One
7 occupation requiring little or no prior training
8 or experience, the Secretary shall not permit an
9 employer to require prior training or experience
10 for the position.

11 “(5) WAGE RATES.—The salaries paid to H–2B
12 workers shall be set at rates that do not adversely
13 affect the local or national average wages in the oc-
14 cupations of employment or otherwise negatively im-
15 pact the working conditions and benefits of workers
16 in the United States who are similarly employed.

17 “(6) MINIMUM WORK HOURS.—The employer
18 shall guarantee that temporary nonagricultural
19 workers are paid for at least the number of hours
20 stipulated on the job order, and not less than 40
21 hours per week.

22 “(7) TRANSPORTATION AND HOUSING.—The
23 employer shall provide transportation and offer
24 housing for any temporary nonagricultural workers
25 hired to fill posted job orders as follows:

1 “(A) TRANSPORTATION.—

2 “(i) TRANSPORTATION TO AND FROM
3 PLACE OF EMPLOYMENT.—The employer
4 shall provide transportation and subsist-
5 ence for each temporary nonagricultural
6 worker to travel from the worker’s place of
7 permanent residence to the place of em-
8 ployment and back at no cost to the work-
9 er and regardless of whether the worker is
10 dismissed early.

11 “(ii) TRANSPORTATION BETWEEN LIV-
12 ING QUARTERS AND WORKSITE.—The em-
13 ployer shall provide daily round-trip trans-
14 portation between living quarters and
15 worksite at no cost to workers.

16 “(iii) EMPLOYER-PROVIDED TRANS-
17 PORTATION.—All employer-provided trans-
18 portation shall comply with all applicable
19 Federal, State, or local laws and regula-
20 tions, and shall meet all relevant transpor-
21 tation safety standards, driver licensure,
22 and vehicle insurance requirements.

23 “(iv) EMPLOYER-REIMBURSED TRANS-
24 PORTATION.—Notwithstanding clauses (i),
25 (ii), and (iii), in lieu of providing transpor-

1 tation to a temporary nonagricultural
2 worker, an employer may reimburse such a
3 worker for transportation if such reim-
4 bursement is made not later than 5 busi-
5 ness days after the worker’s arrival at the
6 place of employment.

7 “(B) HOUSING.—

8 “(i) OBLIGATION TO PROVIDE HOUS-
9 ING.—The employer shall provide housing
10 at no cost to all temporary nonagricultural
11 workers who seek such housing and H-2B
12 workers. Housing shall meet the following
13 criteria:

14 “(I) HOUSING STANDARDS.—

15 Employer-provided housing may be
16 owned or rented by the employer and
17 shall meet Federal temporary housing
18 regulations and comply with all other
19 applicable Federal, State, or local
20 laws and regulations and meet all rel-
21 evant Occupational Safety and Health
22 Administration standards. The em-
23 ployer shall retain, for at least 5 years
24 after the end of the work contract pe-
25 riod, any records documenting that

1 the employer-provided housing is com-
2 pliant with such laws, regulations, and
3 standards.

4 “(II) HOUSING COSTS AND
5 FEES.—In a case in which the em-
6 ployer provides rented housing, hous-
7 ing fees shall be paid according to the
8 following criteria:

9 “(aa) RENTAL COSTS AND
10 FEES.—Any costs, including
11 charges and fees for rental hous-
12 ing, shall be paid by the employer
13 to the owner or operator of the
14 housing.

15 “(bb) DEPOSIT CHARGES.—
16 Neither employers nor landlords
17 may charge workers for bedding,
18 furnishings, or other similar
19 incidentals related to housing. An
20 employer may require workers to
21 reimburse the employer for dam-
22 age for which the workers are re-
23 sponsible and which is not the re-
24 sult of normal wear and tear re-
25 lated to habitation.

1 “(cc) CHARGES FOR PUBLIC
2 HOUSING.—If the employer se-
3 cures public housing for tem-
4 porary nonagricultural workers
5 under the auspices of a local or
6 State government, the employer
7 shall pay any charges normally
8 required for use of the public
9 housing units directly to the
10 housing’s management.

11 “(ii) FAMILY HOUSING.—Family
12 housing shall be made available to spouses
13 and dependents of temporary non-
14 agricultural workers who request it, and
15 employers should inform temporary non-
16 agricultural workers at the time of hire of
17 the right to make such a request.

18 “(8) RECORDS.—The employer shall maintain
19 certified payroll records, which shall be made avail-
20 able to the Department of Labor, workers and the
21 designees of such workers upon request. Such
22 records shall not be subject to the Freedom of Infor-
23 mation Act and shall be maintained by an employer
24 for five calendar years after the last date of the
25 work contract period. The employer shall issue pay

1 statements in both a paper and electronic format to
2 workers that clearly enumerate wage rates, hours,
3 and all deductions and identify the legal name, busi-
4 ness address, and Federal employer identification
5 number of the employer. H-2B wages shall be paid
6 by the employer who submits the labor certification
7 application.

8 “(9) DIRECT EMPLOYMENT.—A registered em-
9 ployer shall employ temporary nonagricultural work-
10 ers directly and not place H-2B workers under the
11 direct or indirect supervision of a third party em-
12 ployer, agency, or contractor. Subcontracting of H-
13 2B workers is prohibited.

14 “(10) HIRING H-2B WORKERS.—Before hiring
15 H-2B workers and after at least 60 days of domes-
16 tic recruitment on the national recruitment platform,
17 the employer shall—

18 “(A) attest to a shortage of workers in the
19 local surrounding areas and across the United
20 States and maintain records documenting re-
21 cruitment efforts; and

22 “(B) at the time of recruitment and upon
23 hire, provide H-2B workers with a written and
24 oral notice, in a language that the worker un-
25 derstands, that identifies the job classification,

1 describes duties, compensation, hours, all rel-
2 evant terms of employment, housing, and trans-
3 portation and information on applicable labor
4 and employment rights, including the right to
5 form or join a labor organization under the Na-
6 tional Labor Relations Act.

7 “(11) SUPPLY CHAIN DISCLOSURE AND RE-
8 QUIREMENTS.—

9 “(A) IN GENERAL.—The employer shall
10 disclose to the Secretary of Labor through the
11 labor certification process the entire recruit-
12 ment supply chain, including any recruiters or
13 foreign or domestic labor contractors and
14 subagent local recruiters involved in securing
15 workers for job postings and any known fund-
16 ing sources for the work to be provided, includ-
17 ing both public and private contracts.

18 “(B) JOINT AND SEVERAL LIABILITY.—
19 The employer shall be jointly and severally lia-
20 ble for the actions of any recruiters or foreign
21 or domestic labor contractors in the recruitment
22 supply chain involved in or acting on behalf of
23 the employer in securing workers for job post-
24 ings.

1 “(C) WRITTEN VERIFICATIONS.—The em-
2 ployer shall obtain and submit to the Secretary
3 of Labor written certifications from any and all
4 recruiters or foreign or domestic labor contrac-
5 tors in the supply chain that those recruiters or
6 contractors shall—

7 “(i) engage in non-discriminatory hir-
8 ing practices;

9 “(ii) at the time of recruitment and in
10 a language the workers understand, pro-
11 vide workers with posted job orders and
12 terms and conditions of employment;

13 “(iii) not charge fees of any kind, in-
14 cluding fees to acquire passports and other
15 necessary documentation for travel, to any
16 applicant or job seeker through any means,
17 including in the form of loans, deductions,
18 or kickbacks; and

19 “(iv) not engage in any forms of retal-
20 iation, including blacklisting against work-
21 ers or their family members.

22 “(f) PUBLISHED ATTESTATIONS.—Employer attesta-
23 tions and data disclosures made pursuant to this section
24 shall be made publicly available on the national job search

1 and worker recruitment platform immediately upon being
2 entered into the system.

3 “(g) NON-DISCRIMINATION AND WAGE EQUITY.—

4 “(1) APPLICATION REVIEW.—

5 “(A) IN GENERAL.—In order to prevent
6 adverse effects on the wages of United States
7 workers, employers shall offer and pay United
8 States workers and H-2B workers the highest
9 of—

10 “(i) the mean of the wages of workers
11 similarly employed in the area of intended
12 employment or at the national level using
13 the wage component of the Bureau of
14 Labor Statistics Occupational Employment
15 Statistics Survey;

16 “(ii) 200 percent of the Federal min-
17 imum wage;

18 “(iii) any collectively bargained wage
19 and fringe rates for the broad occupational
20 category within each State of employment;

21 “(iv) wage and fringe benefit rates ap-
22 plicable to similar construction, alteration,
23 or repair work in the locality as deter-
24 mined by the Secretary of Labor in accord-
25 ance with subchapter IV of chapter 31 of

1 title 40, United States Code (known as the
2 Davis-Bacon Act); and

3 “(v) any wage and fringe benefit rates
4 for the occupation established by chapter
5 67 of title 41 (known as the McNamara-
6 O’Hara Service Contract of 1965).

7 “(B) OCCUPATION DESIGNATION.—For
8 purposes of this paragraph, the term ‘occupa-
9 tion’ does not include an occupation that is a
10 subset of a Standard Occupational Classifica-
11 tion or a Department of Labor approved Occu-
12 pational Information Network subclassification
13 if such subset or subclassification would result
14 in an average wage that is lower than the aver-
15 age wage in the Standard Occupational Classi-
16 fication from which the subset or subclassifica-
17 tion is derived.

18 “(2) WAGE SURVEYS.—The Secretary of Labor
19 may only consider Federal data sources and may not
20 permit the use of private wage surveys to establish
21 the mean wage for an occupation under paragraph
22 (1)(A)(i). Wage surveys conducted by State or local
23 government agencies may be permitted on an excep-
24 tional basis when there are gaps in Occupational
25 Employment and Wage Statistics survey data.

1 “(3) LABOR CERTIFICATIONS.—Prior to ap-
2 proving a labor certification, the Secretary of Labor
3 shall—

4 “(A) cross reference each employer appli-
5 cant with relevant Department of Labor data-
6 bases, including the Equal Employment Oppor-
7 tunity Commission database, and National
8 Labor Relations Board databases to determine
9 whether a labor dispute or investigation is on-
10 going; and

11 “(B) in the event of an ongoing labor dis-
12 pute or investigation, implement supplemental
13 measures to prevent abuses of temporary non-
14 agricultural workers, including onsite visits,
15 interviewing workers, requiring additional safe-
16 ty measures, and denying certifications when
17 appropriate.

18 “(4) AUDIT.—Every fiscal year, the Secretary
19 of Labor shall conduct random audits of not less
20 than 5 percent of all H-2B employers and not less
21 than 50 percent of all employers employing more
22 than 50 H-2B workers. The Secretary of Labor
23 shall give priority to the audit of employers with a
24 workforce in which at least 15 percent of all workers
25 have H-2B status. The audits shall assess—

1 “(A) whether the employer is engaging in
2 criminal background checks that are not other-
3 wise required by a Federal, State, or local law;

4 “(B) whether experience requirements are
5 reasonable for the indicated Occupational Infor-
6 mation Network level and commensurate with
7 the advertised position, and whether such re-
8 quirements are used to screen out applicants
9 based on their race, age, national origin, dis-
10 ability, genetic information, religious belief, or
11 sex, including sexual orientation or gender iden-
12 tity;

13 “(C) whether an employer’s hiring prac-
14 tices are having a disparate impact on employ-
15 ees;

16 “(D) whether an employer is adhering to
17 the terms of the job order, employment con-
18 tract, or collective bargaining agreement and
19 has paid the promised wage rates listed on the
20 labor certification and petition for an H-2B
21 worker, as well as any other applicable overtime
22 hours, fringe benefits, or bonuses;

23 “(E) whether the employer has engaged in
24 any form of retaliation against workers or their
25 family members;

1 “(F) whether the employer has committed
2 or is being investigated for any other violations
3 of labor and employment law or any other rel-
4 evant laws;

5 “(G) whether housing and transportation
6 provided to temporary nonagricultural workers
7 meets all relevant standards; and

8 “(H) whether recruiters designated by the
9 H-2B employers are in compliance with labor
10 and employment laws or any other relevant
11 laws.

12 “(5) OVERSIGHT.—The Secretary of Labor
13 shall conduct active and ongoing oversight of the re-
14 cruitment platform, registered employers, and the
15 H-2B program to ensure that—

16 “(A) there is no adverse effect on wages
17 and working conditions;

18 “(B) United States workers and H-2B
19 workers receive equal treatment;

20 “(C) any application for labor certification
21 that does not meet the requirements of this sec-
22 tion is denied;

23 “(D) action is taken based on the audits
24 conducted pursuant to paragraph (4), includ-
25 ing—

1 “(i) the initiation of civil or criminal
2 proceedings where appropriate;

3 “(ii) the identification of and public
4 reporting of recurring challenges for
5 women and other protected classes and
6 underrepresented groups seeking tem-
7 porary nonagricultural employment; and

8 “(iii) the initiation process for suspen-
9 sion or permanent debarment of employers
10 where appropriate from all nonimmigrant
11 visa programs.

12 “(6) EQUAL OPPORTUNITY ADVOCATE.—The
13 Secretary of Labor shall create an H–2B Equal Op-
14 portunity Advocate position to investigate, report on,
15 and address any challenges identified under para-
16 graph (4)(B). The Equal Opportunity Advocate shall
17 report to and consult with the Advisory Committee.

18 “(h) VISA ALLOCATION.—

19 “(1) DURATION.—In order to be eligible for the
20 H–2B program, a job order may not exceed a term
21 of 7 months.

22 “(2) QUARTERLY ALLOCATION.—Every quarter
23 of the fiscal year, the Secretary of Homeland Secu-
24 rity shall make available one-fourth of the annual
25 limit of H–2B petitions. Any unused H–2B petition

1 numbers shall roll over to the following quarter in
2 the same fiscal year, but shall not roll over to the
3 following fiscal year.

4 “(3) CAP PER EMPLOYER.—An employer may
5 not employ, directly or indirectly, more than 100 H-
6 2B workers at any time.

7 “(4) LIMITATIONS ON H-2B SHARE OF A WORK-
8 FORCE.—If an employer employs 50 or more work-
9 ers in the United States, the sum of the number of
10 such workers who are H-2B workers may not exceed
11 50 percent of the total number of workers employed.

12 “(5) PROHIBITION ON LABOR CERTIFICATION
13 IN LABOR SURPLUS AREAS OR INDUSTRIES.—The
14 Secretary of Labor may not issue a labor certifi-
15 cation for work to be performed in an area or occu-
16 pation with unemployment rates higher than 6 per-
17 cent or at least 20 percent above the national unem-
18 ployment rate.

19 “(6) PRIORITY.—In a case in which demand for
20 visas exceeds supply in the first 5 filing days of any
21 given quarter, the Secretary of Homeland Security
22 shall give priority in visa issuance to employers
23 that—

24 “(A) pay wages at the 75th percentile or
25 above based on Department of Labor survey

1 data or collectively bargained wages or Davis
2 Bacon wages;

3 “(B) are seeking to employ H–2B workers
4 on worksites located in States with unemploy-
5 ment rates 20 percent or more below the na-
6 tional average;

7 “(C) are hiring returning workers pre-
8 viously employed in H–2B nonimmigrant status
9 or workers from under-represented groups
10 (based on gender or country of origin); or

11 “(D) have less than 15 percent of their
12 workforce in the United States comprised of H–
13 2B workers.

14 “(i) ASSESSMENT.—The Secretary of Labor shall as-
15 sess a fee on each employer to fund the labor certification
16 process at such amount as may be necessary to support
17 effective processing by the Department of Labor, and
18 meaningful investigation and enforcement of worker pro-
19 tections, and may update the fee as necessary to meet the
20 requirement. The Secretary of Homeland Security shall
21 have the authority to assess and periodically update fees
22 on each employer for the processing and adjudication of
23 petitions in order to support effective processing and adju-
24 dication, if and when the Secretary determines that the
25 fees are insufficient for doing so.

1 “(j) LIMITATION ON ASSIGNMENT.—Employers shall
2 not assign H–2B workers to an area of employment other
3 than that stipulated on an employer’s original job order
4 without obtaining the workers’ consent and a new labor
5 certification for a new H–2B petition.

6 “(k) EMPLOYMENT AUTHORIZATIONS.—An H–4
7 nonimmigrant spouse of an H–2B nonimmigrant shall be
8 eligible to apply for employment authorization with the
9 Secretary of Homeland Security but shall be prohibited
10 from accepting employment with the same employer as the
11 principal H–2B nonimmigrant.

12 “(l) EMPLOYER ACCOUNTABILITY.—

13 “(1) USE OF OTHER VISA PROGRAMS.—Within
14 any 2-year period, an employer of H–2B workers
15 may not employ directly or through subcontractors,
16 any workers in the same broad occupational category
17 or industry through any other nonimmigrant visa
18 program except those workers who are employed—
19 authorized through a nonimmigrant visa issued for
20 humanitarian or family purposes. Any employer
21 found to have violated this paragraph shall be sub-
22 ject to a 2-year debarment from employing non-
23 immigrants or using the recruitment platform.

24 “(2) FAIR PAY AND SAFE WORKPLACE.—

1 “(A) IN GENERAL.—In the case that a reg-
2 istered employer is found to have violated pro-
3 gram regulations, including the fair pay and
4 safe workplaces commitment, the established
5 prevailing wage under subsection (j)(2), or the
6 provision on working conditions such registered
7 employer and the principals, subsidiary, owner,
8 or affiliated company of such registered em-
9 ployer shall be subject to a 2-year debarment
10 from employing nonimmigrants or using the re-
11 cruitment platform for the first violation and
12 permanent debarment for subsequent violations.

13 “(B) RELIANCE.—In making a determina-
14 tion under subparagraph (A), the Secretary of
15 Labor or the Secretary of Homeland Security
16 may rely, among other sources, on findings of
17 a Federal, State, or local agency or court that
18 an employer has violated Federal, State, or
19 local employment laws.

20 “(3) OTHER VIOLATIONS.—

21 “(A) IN GENERAL.—Any employer of an
22 H-2B worker, or the successor in interest of
23 that employer, who is determined by the Sec-
24 retary of Labor or the Secretary of Homeland
25 Security to have committed a violation of this

1 section at any time, including a misdemeanor or
2 felony violation, shall be subject to debarment.

3 “(B) RELIANCE.—In making a determina-
4 tion under subparagraph (A), the Secretary of
5 Labor or the Secretary of Homeland Security
6 may rely, among other sources, on findings of
7 a Federal, State, or local agency or court that
8 an employer has violated Federal, State, or
9 local employment laws.

10 “(4) JOINT AND SEVERAL LIABILITY.—Employ-
11 ers shall be jointly and severally liable for the ac-
12 tions of any recruiter and foreign labor contractor of
13 the employer in violation of any H-2B regulation,
14 requirement, or other labor or employment law.

15 “(m) REDRESS FOR WORKERS.—

16 “(1) PRIVATE RIGHT OF ACTION AND FEE
17 SHIFTING.—A temporary nonagricultural worker
18 may bring a civil action before any district court of
19 the United States, or other court having jurisdiction
20 over the parties, against an employer or recruiter
21 who violates any H-2B regulation, requirement, or
22 other labor or employment law, or who retaliates
23 against a worker who exercises the worker’s rights
24 under this section, without respect to the amount in
25 controversy and without regard to the citizenship of

1 the parties and without regard to exhaustion of any
2 alternative administrative remedies. Any such em-
3 ployer shall be liable for back pay, unpaid wages,
4 and other damages, including general, compensatory,
5 and punitive damages, and reasonable attorneys’
6 fees. An employer may not require, as a condition of
7 employment, mandatory arbitration of private
8 claims. A waiver of any right created under this law
9 shall be void and unenforceable. Workers shall be el-
10 igible for status protections and work authorization
11 during the pendency of any such legal action.

12 “(2) LEGAL SERVICES.—H-2B workers shall be
13 eligible to be represented by the Legal Services Cor-
14 poration and service providers that are recipients of
15 Legal Services Corporation funds.

16 “(3) APPOINTMENT OF ATTORNEY AND COM-
17 MENCEMENT OF ACTION.—Upon application by a
18 complainant and in such circumstances as the court
19 may determine just, the court may appoint an attor-
20 ney for such complainant and may authorize the
21 commencement of the action.

22 “(4) STATUTE OF LIMITATIONS.—The com-
23 mencement of a civil action shall be barred unless
24 such action is commenced before the date that is 10
25 years after the cause of action accrues.

1 “(n) INJUNCTION AUTHORITY.—The Attorney Gen-
2 eral may, on his or her own or at the request of the Sec-
3 retary of Labor or the Secretary of Homeland Security,
4 bring a civil action before any district court of the United
5 States to seeking an order of injunction against any em-
6 ployer or recruiter or anyone else in the recruitment chain,
7 whether or not such person or entity is physically located
8 in the United States, who violates any H-2B regulation,
9 requirement, or other labor or employment law, or who
10 retaliates against a worker who exercises the worker’s
11 rights under this section.

12 “(o) REBUTTABLE PRESUMPTION.—There shall be a
13 rebuttable presumption that a worker is the subject of re-
14 taliation if a worker exercises a protected right, assists
15 in a labor agency investigation, or complains about work-
16 ing conditions and is not hired for another posted job for
17 which the worker is qualified within 1 year after the end
18 of the contract in which the worker was engaged when
19 he or she exercised such right or complained about such
20 condition.

21 “(p) NATIONAL ORIGIN.—The Secretary of Home-
22 land Security, in consultation with the Secretary of State,
23 shall—

1 “(1) on the date of enactment of this section,
2 designate all countries as eligible for H–2B recruit-
3 ment;

4 “(2) impose the penalties described under sec-
5 tion 243(d);

6 “(3) disclose reasons and evidence for tempo-
7 rarily designating a country as ineligible after the
8 date of enactment of this section.

9 “(q) VISA FOR ACCEPTED POSITION.—

10 “(1) IN GENERAL.—The Secretary of State
11 shall issue a 7-month visa to a worker for each H–
12 2B position the worker accepts.

13 “(2) CONTROL.—An H–2B worker may self-pe-
14 tition to request a change of status to a new em-
15 ployer with an approved H–2B job order. An H–2B
16 worker who notifies the Department of Homeland
17 Security of intent to change employers shall receive
18 a 60-day grace period in which to secure a new posi-
19 tion.

20 “(3) RECRUITMENT FEES.—Employers shall be
21 responsible for all fees associated with H–2B labor
22 certifications, petitions, and visa applications. Em-
23 ployers may not collect a job placement fee or other
24 compensation (either direct or indirect) at any time,
25 including before or after a labor certification or peti-

1 tion has been approved, as a condition of employ-
2 ment of a temporary nonagricultural worker. Job or-
3 ders shall contain clear language explaining that the
4 worker is not liable for any processing, recruitment,
5 employment, or similar fees and that all such pay-
6 ment is the responsibility of the employer.

7 “(4) UNEMPLOYMENT PERIOD.—A worker may
8 be unemployed for a period of not more than 60
9 days within the validity dates of the worker’s H–2B
10 visa, during which time the worker shall not accrue
11 unlawful presence under section 212(a)(9) and may
12 apply for open positions on the H–2B jobs portal,
13 and shall have priority for hiring before new H–2B
14 applicants.

15 “(r) COUNTRY OF ORIGIN VIOLATIONS.—An H–2B
16 worker who experiences or reports, in the worker’s country
17 of origin, retaliation or other violations of this section by
18 a United States employer, or a recruiter or foreign labor
19 contractor working on behalf of such employer in the re-
20 cruitment chain, shall be eligible for parole and work au-
21 thorization for a period of not less than 2 years in order
22 to return to the United States to seek legal redress.

23 “(s) STATE WORKFORCE AGENCIES.—The Secretary
24 of Labor shall allocate such funds as may be necessary
25 to train State Workforce Agencies on the H–2B program

1 and the recruitment platform so such agencies can assist
2 with efforts to recruit available United States workers, in-
3 cluding through engagement with any and all relevant
4 labor organizations and organizations advocating for
5 workers in relevant industries. In any State with more
6 than 200 approved H-2B labor certifications, the State
7 Workforce Agency shall prepare, in consultation with labor
8 organizations and organizations advocating for workers in
9 relevant industries, an annual plan to identify and address
10 the barriers to employment, such as housing or transpor-
11 tation, that discourage unemployed or underemployed
12 U.S. workers from applying for such jobs.

13 “(t) DEFINITIONS.—In this section:

14 “(1) DISCLOSE.—The term ‘disclose’ means to
15 make a formal or informal communication or trans-
16 mission.

17 “(2) EMPLOY.—The term ‘employ’ has the
18 meaning given such term under section 3(g) of the
19 Fair Labor Standards Act of 1938 (29 U.S.C.
20 203(g)).

21 “(3) H-2B WORKER.—The term ‘H-2B work-
22 er’ means a nonimmigrant authorized or previously
23 authorized to work in the United States pursuant to
24 section 101(a)(15)(H)(ii)(B).

1 “(4) LABOR CONTRACTOR.—The term ‘labor
2 contractor’ means any person, other than an em-
3 ployer, who is contracted to perform any recruitment
4 activity on behalf of an employer, whether domesti-
5 cally or abroad.

6 “(5) LABOR SURPLUS AREA.—The term ‘Labor
7 Surplus Area’ is any area in which the unemploy-
8 ment rate is more than 6 percent or is at least 20
9 percent above the national unemployment rate.

10 “(6) PLACE OF EMPLOYMENT.—The term
11 ‘place of employment’ means the geographic location
12 in which work occurs.

13 “(7) RECRUITER.—The term ‘recruiter’ means
14 any person, other than an employer, who performs
15 any recruitment activity on behalf of an employer,
16 whether domestically or abroad and includes any for-
17 eign governmental or quasi-governmental entity in-
18 volved in this process.

19 “(8) RECRUITMENT.—The term ‘recruitment’
20 means advertising, disseminating information, selec-
21 tion, placement into employment, facilitating con-
22 sular appointments and visa paperwork on behalf of
23 the employer, and housing and transport to and
24 from place of permanent residence for temporary

1 nonagricultural workers. The term applies to both
2 jobseekers and those who are or were employed.

3 “(9) TEMPORARY NONAGRICULTURAL WORK-
4 ER.—The term ‘temporary nonagricultural worker’
5 means an individual who is, has been, or is seeking
6 to be employed in a position posted on the Depart-
7 ment of Labor’s seasonal job search and recruitment
8 platform, regardless of immigration status.

9 “(10) STATE.—The term ‘State’ means any of
10 the States of the United States, the District of Co-
11 lumbia, the United States Virgin Islands, the Com-
12 monwealth of Puerto Rico, Guam, American Samoa,
13 and the Commonwealth of the Northern Mariana Is-
14 lands.

15 “(11) WORKER.—The term ‘worker’ means an
16 individual who is, has been, or is seeking to be em-
17 ployed or otherwise perform work for pay, regardless
18 of immigration status.

19 “(12) WORKSITE.—The term ‘worksite’ means
20 the physical location of the job for which the worker
21 is hired.”.

22 (b) NUMERICAL LIMITATION CONFORMING AMEND-
23 MENTS.—Section 214(g)(10) of the Immigration and Na-
24 tionality Act is amended—

1 (1) by striking “first 6 months” and inserting
2 “every 3 months”; and

3 (2) by striking “33,000” and inserting
4 “16,500”.

5 **SEC. 3. VICTIMS OF SERIOUS LABOR AND EMPLOYMENT**
6 **VIOLATIONS OR CRIME.**

7 (a) PROTECTION FOR VICTIMS OF LABOR AND EM-
8 PLOYMENT VIOLATIONS.—Section 101(a)(15)(U) of the
9 Immigration and Nationality Act (8 U.S.C.
10 1101(a)(15)(U)) is amended—

11 (1) in clause (i)—

12 (A) by striking subclause (I) and inserting
13 the following:

14 “(I) the alien—

15 “(aa) has suffered substantial
16 physical, emotional, or mental abuse
17 or harm as a result of having been a
18 victim of criminal activity described in
19 clause (iii);

20 “(bb) has suffered substantial
21 physical, emotional, or mental abuse
22 or harm related to a violation de-
23 scribed in clause (iv);

24 “(cc) is a victim of criminal ac-
25 tivity described in clause (iii) and

1 would suffer extreme hardship upon
2 removal; or

3 “(dd) has suffered a violation de-
4 scribed in clause (iv) and would suffer
5 extreme hardship upon removal;”;

6 (B) in subclause (II), by inserting “, or a
7 labor or employment violation resulting in a
8 workplace claim described in clause (iv)” before
9 the semicolon at the end;

10 (C) in subclause (III)—

11 (i) by striking “or State judge, to the
12 Service” and inserting “, State, or local
13 judge, to the Department of Homeland Se-
14 curity, to the Equal Employment Oppor-
15 tunity Commission, to the Department of
16 Labor (including the Occupational Safety
17 and Health Administration), to the Na-
18 tional Labor Relations Board, to the head
19 official of a State or local government de-
20 partment of labor, workforce commission,
21 or human relations commission or coun-
22 cil”;

23 (ii) by striking “investigating or pros-
24 ecuting” and inserting “investigating,

1 prosecuting, or seeking civil remedies for”;

2 and

3 (iii) by inserting “, or investigating,

4 prosecuting, or seeking civil remedies for a

5 labor or employment violation related to a

6 workplace claim described in clause (iv)”

7 before the semicolon at the end; and

8 (D) in subclause (IV)—

9 (i) by inserting “(aa)” after “(IV)”;

10 (ii) by inserting “or” after the semi-

11 colon at the end; and

12 (iii) by adding at the end the fol-

13 lowing:

14 “(bb) a workplace claim described in clause (iv)

15 resulting from a labor or employment violation;”;

16 (2) in clause (ii)(II), by striking “and” at the

17 end;

18 (3) in clause (iii), by striking “or” at the end

19 and inserting “and”; and

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

21 “(iv) in the labor or employment violation

22 related to a workplace claim, the alien has filed,

23 is a material witness in, or is likely to be help-

24 ful in the investigation of, a bona fide work-

1 place claim (as defined in section
2 274A(e)(10)(B)(iii)(II)); or”.

3 (b) TEMPORARY PROTECTION FOR INJURED WORK-
4 ERS AND VICTIMS OF CRIME, LABOR, AND EMPLOYMENT
5 VIOLATIONS.—Notwithstanding any other provision of
6 law, the Secretary of Homeland Security may permit an
7 alien to temporarily remain in the United States, shall not
8 remove the alien from the United States during the per-
9 mitted period, and shall provide the alien with the alien
10 employment authorization, if the Secretary determines
11 that the alien—

12 (1) has filed for relief under section
13 101(a)(15)(U) of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a)(15)(U)) or section
15 101(a)(15)(T) of such Act (8 U.S.C.
16 1101(a)(15)(T));

17 (2)(A) has filed, or is a material witness to, a
18 bona fide workplace claim (as defined in section
19 274A(e)(10)(B)(iii)(II) of such Act, as added by sec-
20 tion 3(b) of this Act) or has filed, or is a material
21 witness to, a civil claim arising from criminal activ-
22 ity (as defined in section 274A(e)(10)(B)(iii)(III) of
23 such Act); and

24 (B) has been helpful, is being helpful, or is like-
25 ly to be helpful to—

1 (i) a Federal, State, or local law enforce-
2 ment official;

3 (ii) a Federal, State, or local prosecutor;

4 (iii) a Federal, State, or local judge;

5 (iv) the Department of Homeland Security;

6 (v) the Equal Employment Opportunity
7 Commission;

8 (vi) the Department of Labor, including
9 the Occupational Safety and Health Adminis-
10 tration;

11 (vii) the National Labor Relations Board;

12 (viii) the head official of a State or local
13 government department of labor, workforce
14 commission, or human relations commission or
15 council; or

16 (ix) other Federal, State, or local authori-
17 ties; or

18 (3) has filed a workers' compensation claim or
19 is undergoing treatment for a workplace injury or
20 illness.

21 (c) REQUIREMENTS APPLICABLE TO U VISAS.—Sec-
22 tion 214(p) of the Immigration and Nationality Act (8
23 U.S.C. 1184(p)) is amended—

24 (1) in paragraph (1), by inserting “or inves-
25 tigating, prosecuting, or seeking civil remedies for

1 workplace claims described in section
2 101(a)(15)(U)(iv)” after “section
3 101(a)(15)(U)(iii)” each place such term appears;

4 (2) by striking paragraph (2); and

5 (3) in paragraph (6)—

6 (A) by inserting “or workplace claims de-
7 scribed in section 101(a)(15)(U)(iv)” after “de-
8 scribed in section 101(a)(15)(U)(iii)”;

9 (B) by inserting “or workplace claim”
10 after “prosecution of such criminal activity”.

11 (d) ADJUSTMENT OF STATUS FOR VICTIMS OF
12 CRIMES.—Section 245(m)(1) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1255(m)(1)) is amended by insert-
14 ing “or an investigation or prosecution regarding a work-
15 place claim” after “prosecution”.

16 (e) ADJUSTMENT OF STATUS AND FEES.—Section
17 245(l)(7) of the Immigration and Nationality Act (8
18 U.S.C. 1255(l)(7)) is amended by striking “permit aliens
19 to apply for a waiver of” and inserting “not require the
20 payment of any”.

21 (f) CHANGE OF NONIMMIGRANT CLASSIFICATION.—
22 Section 384(a)(1) of the Illegal Immigration Reform and
23 Immigrant Responsibility Act of 1996 (8 U.S.C.
24 1367(a)(1)) is amended—

1 (1) in subparagraph (E), by striking “physical
2 or mental abuse and the criminal activity” and in-
3 serting “abuse and the criminal activity or work-
4 place claim”;

5 (2) in subparagraph (F), by adding “or” at the
6 end; and

7 (3) by inserting after subparagraph (F) the fol-
8 lowing:

9 “(G) the alien’s employer.”.

10 (g) CONFIDENTIALITY OF INFORMATION.—Section
11 384(b)(2) of the Illegal Immigration Reform and Immi-
12 grant Responsibility Act of 1996 (8 U.S.C. 1367(b)(2))
13 is amended by adding at the end the following:

14 “However, neither the Secretary of Homeland Secu-
15 rity nor the Attorney General may use the informa-
16 tion furnished pursuant to any application under
17 section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27),
18 101(a)(51), 106, 240A(b)(2), or 244(a) of the Immi-
19 gration and Nationality Act (8 U.S.C.
20 1101(a)(15)(T); 1101(a)(15)(U); 1101(a)(27);
21 1101(a)(51); 1105a; 1229b(b)(2); 1254a(a)), or sec-
22 tion 107(b)(1)(E)(i)(II)(bb) of the Victims of Traf-
23 ficking and Violence Protection Act of 2000 (22
24 U.S.C. 7105(b)(1)(E)(i)(II)(bb)), for purposes of
25 initiating or carrying out a removal proceeding.”.

1 **SEC. 4. WHISTLEBLOWER PROTECTIONS.**

2 Section 214(c) of the Immigration and Nationality
3 Act (8 U.S.C. 1184(c)) is amended by adding at the end
4 the following:

5 “(15) WHISTLEBLOWER PROTECTIONS.—

6 “(A) PROHIBITIONS.—A person may not
7 discharge, demote, suspend, threaten, harass,
8 decline to hire, or in any other manner discrimi-
9 nate against a worker in the terms and condi-
10 tions of employment because such worker—

11 “(i) has filed or has information about
12 a potential complaint, instituted or caused
13 to be instituted any proceeding, testified,
14 assisted, or will testify, or cooperated or
15 seeks to cooperate, in an investigation or
16 other proceeding concerning compliance
17 with the requirements under this title or
18 any rule or regulation pertaining to this
19 title or any workplace claim;

20 “(ii) has disclosed information to any
21 other person or entity, that the worker rea-
22 sonably believes evidences a violation of
23 this title or any rule or regulation per-
24 taining to this title, or grounds for any
25 workplace claim;

1 “(iii) has assisted or participated, or
2 has information that may assist, in any
3 manner in a proceeding or in any other ac-
4 tion to carry out the purposes of this title
5 or any workplace claim;

6 “(iv) has furnished information to the
7 Department of Labor, the Department of
8 Homeland Security, the Department of
9 Justice, the Equal Employment Oppor-
10 tunity Commission, the National Labor
11 Relations Board, or any Federal, State, or
12 local regulatory or law enforcement agency
13 relating to a violation of this title or any
14 workplace claim, or has such information
15 to furnish to the relevant agency; or

16 “(v) has objected to, or refused to
17 participate in, any activity, policy, practice,
18 or assigned task that the worker (or other
19 such individual) reasonably believed to be
20 in violation of any provision of this Act or
21 any other Act, or any order, rule, regula-
22 tion, standard, or ban under any Act.

23 “(B) ENFORCEMENT.—

24 “(i) IN GENERAL.—A worker who be-
25 lieves that he or she has suffered a viola-

1 tion of subparagraph (A) may seek relief
2 in accordance with the procedures, notifi-
3 cations, burdens of proof, remedies, and
4 statutes of limitation set forth in section
5 1514A of title 18, United States Code.

6 “(ii) APPEALS.—

7 “(I) JURISDICTION.—Any person
8 adversely affected or aggrieved by an
9 order issued under clause (i) may ob-
10 tain review of the order in the United
11 States Court of Appeals for—

12 “(aa) the circuit in which
13 the violation, with respect to
14 which the order was issued, alleg-
15 edly occurred; or

16 “(bb) the circuit in which
17 the complainant resided on the
18 date of such violation.

19 “(II) REVIEW OF PETITION.—A
20 petition for review under this subpara-
21 graph shall be filed not later than 60
22 days after the date on which the final
23 order was issued by the Secretary of
24 Labor.

1 “(III) APPLICABLE LAW.—A re-
2 view under this subparagraph shall
3 conform to the provisions set forth in
4 chapter 7 of title 5, United States
5 Code.

6 “(IV) STAY OF ORDER.—Unless
7 ordered by the court, the commence-
8 ment of proceedings under this sub-
9 paragraph shall not operate as a stay
10 of the order by the Secretary of
11 Labor.

12 “(C) EDUCATION.—Each person, entity,
13 and institution covered by this Act shall—

14 “(i) prominently communicate to all
15 sectors and ranks of its labor force the
16 rights and responsibilities under this Act;
17 and

18 “(ii) provide associated education and
19 training to all sectors and ranks of its
20 labor force through notifications, postings,
21 mailings, and training classes, supple-
22 mented with publicly accessible online ma-
23 terials on the requirements of, and devel-
24 opments that would affect the implementa-
25 tion of this Act.

1 “(D) NO LIMITATION ON RIGHTS.—Noth-
2 ing in this paragraph may be construed to di-
3 minish the rights, privileges, or remedies of any
4 worker under any Federal or State law, equity,
5 or under any collective bargaining agreement.
6 The rights and remedies set forth in this para-
7 graph may not be waived by any agreement,
8 policy, form, or condition of employment.

9 “(E) DEFINITIONS.—In this paragraph:

10 “(i) DISCLOSE.—The term ‘disclose’
11 means to make a formal or informal com-
12 munication or transmission.

13 “(ii) H-2B WORKER.—The term ‘H-
14 2B worker’ means a nonimmigrant author-
15 ized or previously authorized to work in
16 the United States pursuant to section
17 101(a)(15)(H)(ii)(B).

18 “(iii) MATERIAL WITNESS.—The term
19 ‘material witness’ means an individual who
20 presents a declaration from an attorney in-
21 vestigating, prosecuting, or defending the
22 workplace claim or from the presiding offi-
23 cer overseeing the workplace claim attest-
24 ing that, to the best of the declarant’s
25 knowledge and belief, reasonable cause ex-

1 ists to believe that the testimony of the in-
2 dividual will be relevant to the outcome of
3 the workplace claim.

4 “(iv) PERSON.—The term ‘person’
5 means any individual, partnership, associa-
6 tion, joint stock company, trust, coopera-
7 tive, or corporation.

8 “(v) STATE.—The term ‘State’ means
9 any of the States of the United States, the
10 District of Columbia, the United States
11 Virgin Islands, the Commonwealth of
12 Puerto Rico, and Guam.

13 “(vi) WORKER.—The term ‘worker’
14 means an individual who is, has been, or is
15 seeking to be employed or otherwise per-
16 form work for pay, regardless of immigra-
17 tion status.

18 “(vii) WORKPLACE CLAIM.—The term
19 ‘workplace claim’ means any written or
20 oral claim, charge, complaint, or grievance
21 filed with, communicated to, or submitted
22 to the employer, a Federal, State, or local
23 agency or court, or an employee represent-
24 ative related to workplace injury or illness
25 or to the violation of applicable Federal,

1 State, and local labor laws or labor agree-
2 ments, including laws concerning wages
3 and hours, labor relations, family and med-
4 ical leave, occupational health and safety,
5 civil rights, nondiscrimination, or other
6 terms and conditions of employment.”.

7 **SEC. 5. INVESTIGATION AUTHORITY OF THE SECRETARY**
8 **OF LABOR.**

9 Section 503.7 of title 29, Code of Federal Regula-
10 tions (as in effect on the date of enactment of this Act),
11 shall have the full force and effect of law, except that any
12 authority delegated to the Administrator of the Wage and
13 Hour Division of the Department of Labor shall be
14 deemed to be delegated to the Secretary of Labor.

15 **SEC. 6. LABOR ENFORCEMENT ACTIONS.**

16 (a) REMOVAL PROCEEDINGS.—Section 239(e) of the
17 Immigration and Nationality Act (8 U.S.C. 1229(e)) is
18 amended—

19 (1) in paragraph (1)—

20 (A) by striking “In cases where” and in-
21 serting “If”; and

22 (B) by inserting “or as a result of informa-
23 tion provided to the Department of Homeland
24 Security in retaliation against individuals for
25 exercising or attempting to exercise their em-

1 ployment rights or other legal rights” after
2 “paragraph (2)”; and
3 (2) in paragraph (2), by adding at the end the
4 following:

5 “(C) At a facility about which a workplace
6 claim has been filed or is contemporaneously
7 filed.”.

8 (b) UNLAWFUL EMPLOYMENT OF ALIENS.—Section
9 274A(e) of the Immigration and Nationality Act (8 U.S.C.
10 1324a(e)) is amended by adding at the end the following:

11 “(10) CONDUCT IN ENFORCEMENT ACTIONS.—

12 “(A) ENFORCEMENT ACTION.—If the Sec-
13 retary of Homeland Security undertakes an en-
14 forcement action at a facility about which a
15 workplace claim has been filed or is contem-
16 poraneously filed, or as a result of information
17 provided to the Department of Homeland Secu-
18 rity in retaliation against employees for exer-
19 cising their rights related to a workplace claim,
20 the Secretary shall ensure that—

21 “(i) any aliens arrested or detained
22 who are victims of or material witnesses to
23 workplace claim violations or criminal ac-
24 tivity (as described in subparagraph (T) or
25 (U) of section 101(a)(15)) are not removed

1 from the United States until after the Sec-
2 retary—

3 “(I) notifies the appropriate
4 agency with jurisdiction over such vio-
5 lations or criminal activity; and

6 “(II) provides such agency with
7 the opportunity to interview such
8 aliens; and

9 “(ii) no aliens entitled to a stay of re-
10 moval or abeyance of removal proceedings
11 under this section are removed.

12 “(B) PROTECTIONS FOR VICTIMS OF
13 CRIME, LABOR, AND EMPLOYMENT VIOLA-
14 TIONS.—

15 “(i) STAY OF REMOVAL OR ABEYANCE
16 OF REMOVAL PROCEEDINGS.—An alien
17 against whom removal proceedings have
18 been initiated under chapter 4 of title II,
19 who has filed a workplace claim, who is a
20 material witness in any pending or antici-
21 pated proceeding involving a bona fide
22 workplace claim or civil claim arising from
23 criminal activity, or who has filed for relief
24 under section 101(a)(15)(U), shall be enti-
25 tled to a stay of removal or an abeyance of

1 removal proceedings and to employment
2 authorization until the resolution of the
3 workplace claim or the denial of relief
4 under section 101(a)(15)(U) after exhaus-
5 tion of administrative or judicial appeals,
6 whichever is later.

7 “(ii) DURATION.—Any stay of re-
8 moval or abeyance of removal proceedings
9 and employment authorization issued pur-
10 suant to clause (i) shall remain valid until
11 the resolution of the workplace claim or
12 the denial of relief under section
13 101(a)(15)(U) after the exhaustion of ad-
14 ministrative or judicial appeals, and shall
15 be extended by the Secretary of Homeland
16 Security for a period of not longer than 10
17 additional years upon determining that—

18 “(I) such relief would enable the
19 alien asserting a workplace claim or
20 civil claim arising from criminal activ-
21 ity, or assisting in investigation or
22 prosecution of criminal activity, to
23 pursue the matter to resolution, ac-
24 cording to any agency administering

1 any statute underlying these claims or
2 any other credible evidence;

3 “(II) the deterrent goals of any
4 statute underlying a workplace claim,
5 criminal activity, or civil claim arising
6 from criminal activity would be
7 served, according to any agency ad-
8 ministering such a statute or any
9 other credible evidence; or

10 “(III) such extension would oth-
11 erwise further the interests of justice.

12 “(iii) DEFINITIONS.—In this para-
13 graph:

14 “(I) MATERIAL WITNESS.—Not-
15 withstanding any other provision of
16 law, the term ‘material witness’ means
17 an individual who presents a declara-
18 tion from an attorney investigating,
19 prosecuting, or defending the claim or
20 from the presiding officer overseeing
21 the claim attesting that, to the best of
22 the declarant’s knowledge and belief,
23 reasonable cause exists to believe that
24 the testimony of the individual will be

1 relevant to the outcome of the work-
2 place claim.

3 “(II) WORKPLACE CLAIM.—The
4 term ‘workplace claim’ means any
5 written or oral claim, charge, com-
6 plaint, or grievance filed with, commu-
7 nicated to, or submitted to the em-
8 ployer, a Federal, State, or local agen-
9 cy or court, or an employee represent-
10 ative related to the workplace injury
11 or illness or to the violation of appli-
12 cable Federal, State, and local labor
13 laws, including laws concerning wages
14 and hours, labor relations, family and
15 medical leave, occupational health and
16 safety, civil rights, or nondiscrimina-
17 tion.

18 “(III) CIVIL CLAIM ARISING
19 FROM CRIMINAL ACTIVITY.—The term
20 ‘civil claim arising from criminal ac-
21 tivity’ means any written or oral
22 claim, charge, complaint, or grievance
23 filed with, communicated to, or sub-
24 mitted to a Federal, State, or local
25 agency or court related to the viola-

1 tion of applicable Federal, State, and
2 local laws arising from criminal activ-
3 ity described in section
4 101(a)(15)(U)(iii).”.

5 (c) CONTINUED APPLICATION OF WORKFORCE AND
6 LABOR PROTECTION REMEDIES.—Section 274A(e) of the
7 Immigration and Nationality Act (8 U.S.C. 1324a(e)), as
8 amended by subsection (b), is further amended by adding
9 at the end the following:

10 “(11) RIGHTS, REMEDIES, AND RELIEF.—Not-
11 withstanding an employee’s status as an unauthor-
12 ized noncitizen during the time of relevant employ-
13 ment or during the back pay period or the failure of
14 the employer or employee to comply with the re-
15 quirements under this section or with any other pro-
16 vision of Federal law relating to the unlawful em-
17 ployment of noncitizens—

18 “(A) all rights, remedies, and relief pro-
19 vided under any Federal, State, or local law re-
20 lating to workplace rights, including reinstatement
21 and back pay, are available to such em-
22 ployee; and

23 “(B) a court may not prohibit such an em-
24 ployee from pursuing other causes of action giv-
25 ing rise to liability in a civil action.”.

1 **SEC. 7. H-2B WORKER GRANTS.**

2 (a) TECHNICAL TRAINING GRANTS.—

3 (1) IN GENERAL.—Not later than 3 months
4 after the date of enactment of this Act, and annually
5 thereafter, the Secretary of Homeland Security shall
6 award funds to qualified nonprofit, nongovernmental
7 organizations and labor organizations to assist H-
8 2B workers with applications for adjustment of sta-
9 tus.

10 (2) APPLICATION.—To be eligible to receive a
11 grant under this subsection, a labor organization or
12 qualified nonprofit, nongovernmental organization
13 shall submit to the Secretary of Homeland Security
14 an application at such time, in such manner, and
15 containing such information as the Secretary may
16 require.

17 (3) USE OF FUNDS.—Funds received pursuant
18 to this subsection shall only be used to assist H-2B
19 workers with applications for adjustment of status.

20 (b) KNOW YOUR RIGHTS GRANTS.—

21 (1) IN GENERAL.—Not later than a year after
22 the date of enactment of this Act, and each year
23 thereafter, the Secretary of Labor shall award 3-
24 year grants to qualified nonprofit, nongovernmental
25 organizations and labor organizations to—

1 (A) train H-2B workers on their rights be-
2 fore such workers begin employment; and

3 (B) conduct surveys after such employ-
4 ment ends to document treatment and condi-
5 tions of such workers.

6 (2) APPLICATION.—To be eligible to receive a
7 grant under this subsection, a labor organization or
8 qualified nonprofit, nongovernmental organization
9 shall submit to the Secretary of Labor an applica-
10 tion at such time, in such manner, and containing
11 such information as the Secretary may require.

12 (3) USE OF FUNDS.—Funds received pursuant
13 to this subsection shall only be used to provide infor-
14 mation to H-2B workers with respect to the rights
15 of such workers.

16 **SEC. 8. ADJUSTMENT OF STATUS FOR LONG-TERM H-2B**
17 **WORKERS.**

18 (a) REQUIREMENTS FOR ADJUSTMENT OF STA-
19 TUS.—The Secretary of Homeland Security shall adjust
20 the status of an alien from that of an alien admitted pur-
21 suant to section 101(a)(15)(H)(ii)(B) to that of a lawful
22 permanent resident if the alien submits a completed appli-
23 cation, including such processing fees as the Secretary of
24 Homeland Security may require, and the Secretary of
25 Homeland Security determines that—

1 (1) the applicant has completed not less than
2 18 months of employment as an H-2B worker with-
3 in a 10-year period;

4 (2) the applicant has not become ineligible for
5 H-2B worker status under section 218A of the Im-
6 migration and Nationality Act, as added by this Act;
7 and

8 (3) the applicant meets the requirements set
9 forth by the Secretary of Labor and the Secretary
10 of Homeland Security, except that the applicant may
11 not be required to acquire a permanent labor certifi-
12 cation from the Secretary of Labor under section
13 212(a)(5)(A) of the Immigration and Nationality
14 Act (8 U.S.C. 1182(a)(5)(A)).

15 (b) DEPENDENT ALIENS.—The spouse and each
16 child of an alien described in paragraph (1) whose status
17 has been adjusted to that of a lawful permanent resident
18 may be granted lawful permanent residence and shall be
19 exempt from the numerical limitations.

20 (c) NUMERICAL LIMITATION.—Not later than 6
21 months after the date of enactment of this Act, the world-
22 wide level of immigrants admitted under this section shall
23 not exceed 40,040 for each fiscal year, and may not equal
24 less than one-third of the H-2B visas issued each fiscal
25 year, unless an insufficient number of applications for ad-

1 justment to lawful permanent status have been filed under
2 this section.

3 (d) EFFECT OF PENDING APPLICATION.—During the
4 period beginning on the date on which an alien applies
5 for adjustment of status under this subtitle, and ending
6 on the date on which the Secretary of Homeland Security
7 makes a final administrative decision regarding such ap-
8 plication, the alien and any dependents included on the
9 application—

10 (1) may apply for advance parole, which shall
11 be granted upon demonstrating a legitimate need to
12 travel outside the United States for a temporary
13 purpose;

14 (2) may not be detained by the Secretary of
15 Homeland Security or removed from the United
16 States unless the USCIS makes a prima facie deter-
17 mination that such alien is, or has become, ineligible
18 for adjustment of status under subsection (a);

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

22 (4) may not be considered an unauthorized
23 alien (as defined in section 274A(h)(3) of the Immi-
24 gration and Nationality Act (8 U.S.C.
25 1324a(h)(3))).

1 (e) RETROACTIVE ELIGIBILITY AND NUMERICAL EX-
2 EMPTION.—Any nonimmigrant who has accrued 36
3 months of H-2B employment over the 10 years prior to
4 the date of enactment of this Act shall be eligible to sub-
5 mit within 2 years after such date an application for ad-
6 justment of status to that of a lawful permanent resident,
7 and such adjustment shall be exempt from all employ-
8 ment-based numerical and per-country limits.

9 (f) CONFORMING AMENDMENTS.—

10 (1) IN GENERAL.—Section 101(a)(15)(H)(ii)(b)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1101(a)(15)(H)(ii)(b)) is amended by striking
13 “which he has no intention of abandoning”.

14 (2) NO EVIDENCE.—Section 214(h) of the Im-
15 migration and Nationality Act (8 U.S.C. 1184(h)) is
16 amended by inserting “or (H)(ii)(b)” after
17 “(H)(i)(b)”.

18 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated for fiscal
20 year 2022 and each fiscal year thereafter such sums as
21 may be necessary for the purposes of carrying out this
22 Act and the amendments made by this Act, including—

23 (1) recruiting United States workers for labor
24 or services which might otherwise be performed by
25 H-2B workers, including by ensuring that State

1 workforce agencies are sufficiently funded to fulfill
2 their functions under the H-2B program;

3 (2) enabling the Secretary of Labor to issue rel-
4 evant grants, make determinations and certifications
5 under the H-2B program in accordance with this
6 Act and the Immigration and Nationality Act (8
7 U.S.C. 1101 et seq.), including the operation of the
8 publicly accessible online job registry and database
9 of job orders described in section 5(b) of this Act;

10 (3) processing visas for workers engaged in
11 labor disputes and for victims of workplace and
12 other crimes; and

13 (4) monitoring the terms and conditions under
14 which H-2B workers (and United States workers
15 employed by the same employers) are employed in
16 the United States.

17 **SEC. 10. RULEMAKING.**

18 Not later than 180 days after the date of enactment
19 of this Act, the Secretary of Labor and the Secretary of
20 Homeland Security shall make rules to carry out this Act
21 and the amendments made by this Act.

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