

118TH CONGRESS  
1ST SESSION

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

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. CRAMER (for himself, Mr. HICKENLOOPER, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, 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 Equal Access to Green  
5 cards for Legal Employment Act of 2023 or the EAGLE  
6 Act of 2023.

1 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**  
2 **STATE.**

3 (a) IN GENERAL.—Section 202(a)(2) of the Immi-  
4 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is  
5 amended to read as follows:

6 “(2) PER COUNTRY LEVELS FOR FAMILY-SPON-  
7 SORED IMMIGRANTS.—Subject to paragraphs (3)  
8 and (4), the total number of immigrant visas made  
9 available to natives of any single foreign state or de-  
10 pendent area under section 203(a) in any fiscal year  
11 may not exceed 15 percent (in the case of a single  
12 foreign state) or 2 percent (in the case of a depend-  
13 ent area) of the total number of such visas made  
14 available under such section in that fiscal year.”.

15 (b) CONFORMING AMENDMENTS.—Section 202 of  
16 such Act (8 U.S.C. 1152) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (3), by striking “both  
19 subsections (a) and (b) of section 203” and in-  
20 serting “section 203(a)”; and

21 (B) by striking paragraph (5); and

22 (2) by amending subsection (e) to read as fol-  
23 lows:

24 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—  
25 If the total number of immigrant visas made available  
26 under section 203(a) to natives of any single foreign state

1 or dependent area will exceed the numerical limitation  
2 specified in subsection (a)(2) in any fiscal year, immigrant  
3 visas shall be allotted to such natives under section 203(a)  
4 (to the extent practicable and otherwise consistent with  
5 this section and section 203) in a manner so that, except  
6 as provided in subsection (a)(4), the proportion of the  
7 visas made available under each of paragraphs (1) through  
8 (4) of section 203(a) is equal to the ratio of the total visas  
9 made available under the respective paragraph to the total  
10 visas made available under section 203(a).”.

11 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the  
12 Chinese Student Protection Act of 1992 (Public Law 102–  
13 404; 8 U.S.C. 1255 note) is amended—

14 (1) in subsection (a), by striking “(as defined  
15 in subsection (e))”;

16 (2) by striking subsection (d); and

17 (3) by redesignating subsection (e) as sub-  
18 section (d).

19 (d) APPLICATION.—The amendments made by this  
20 section shall apply beginning on the date that is the first  
21 day of the second fiscal year beginning after the date of  
22 the enactment of this Act.

23 (e) TRANSITION RULES FOR EMPLOYMENT-BASED  
24 IMMIGRANTS.—Notwithstanding title II of the Immigra-  
25 tion and Nationality Act (8 U.S.C. 1151 et seq.), the fol-

1 lowing transition rules shall apply to employment-based  
2 immigrants, beginning on the date referred to in sub-  
3 section (d):

4 (1) RESERVED VISAS FOR LOWER ADMISSION  
5 STATES.—

6 (A) IN GENERAL.—For the first nine fiscal  
7 years after the date referred to in subsection  
8 (d), immigrant visas under each of paragraphs  
9 (2) and (3) of section 203(b) of the Immigra-  
10 tion and Nationality Act (8 U.S.C. 1153(b))  
11 shall be reserved and allocated to immigrants  
12 who are natives of a foreign state or dependent  
13 area that is not one of the two foreign states  
14 or dependent areas with the highest demand for  
15 immigrant visas as follows:

16 (i) For the first fiscal year after such  
17 date, 30 percent of such visas.

18 (ii) For the second fiscal year after  
19 such date, 25 percent of such visas.

20 (iii) For the third fiscal year after  
21 such date, 20 percent of such visas.

22 (iv) For the fourth fiscal year after  
23 such date, 15 percent of such visas.

24 (v) For the fifth and sixth fiscal years  
25 after such date, 10 percent of such visas.

1                   (vi) For the seventh, eighth, and  
2                   ninth fiscal years after such date, 5 per-  
3                   cent of such visas.

4                   (B) ADDITIONAL RESERVED VISAS FOR  
5                   NEW ARRIVALS.—For each of the first nine fis-  
6                   cal years after the date referred to in subsection  
7                   (d), an additional 5.75 percent of the immi-  
8                   grant visas made available under each of para-  
9                   graphs (2) and (3) of section 203(b) of the Im-  
10                  migration and Nationality Act (8 U.S.C.  
11                  1153(b)) shall be allocated to immigrants who  
12                  are natives of a foreign state or dependent area  
13                  that is not one of the two foreign states or de-  
14                  pendent areas with the highest demand for im-  
15                  migrant visas. Such additional visas shall be al-  
16                  located in the following order of priority:

17                  (i) FAMILY MEMBERS ACCOMPANYING  
18                  OR FOLLOWING TO JOIN.—Visas reserved  
19                  under this subparagraph shall be allocated  
20                  to family members described in section  
21                  203(d) of the Immigration and Nationality  
22                  Act (8 U.S.C. 1153(d)) who are accom-  
23                  panying or following to join a principal  
24                  beneficiary who is in the United States and  
25                  has been granted an immigrant visa or ad-

1           justment of status to lawful permanent  
2           residence under paragraph (2) or (3) of  
3           section 203(b) of the Immigration and Na-  
4           tionality Act (8 U.S.C. 1153(b)).

5           (ii) NEW PRINCIPAL ARRIVALS.—If at  
6           the end of the second quarter of any fiscal  
7           year, the total number of visas reserved  
8           under this subparagraph exceeds the num-  
9           ber of qualified immigrants described in  
10          clause (i), such visas may also be allocated,  
11          for the remainder of the fiscal year, to in-  
12          dividuals (and their family members de-  
13          scribed in section 203(d) of the Immigra-  
14          tion and Nationality Act (8 U.S.C.  
15          1153(d))) who are seeking an immigrant  
16          visa under paragraph (2) or (3) of section  
17          203(b) of the Immigration and Nationality  
18          Act (8 U.S.C. 1153(b)) to enter the United  
19          States as new immigrants, and who have  
20          not resided or worked in the United States  
21          at any point in the four-year period imme-  
22          diately preceding the filing of the immi-  
23          grant visa petition.

24          (iii) OTHER NEW ARRIVALS.—If at  
25          the end of the third quarter of any fiscal

1           year, the total number of visas reserved  
2           under this subparagraph exceeds the num-  
3           ber of qualified immigrants described in  
4           clauses (i) and (ii), such visas may be also  
5           be allocated, for the remainder of the fiscal  
6           year, to other individuals (and their family  
7           members described in section 203(d) of the  
8           Immigration and Nationality Act (8 U.S.C.  
9           1153(d))) who are seeking an immigrant  
10          visa under paragraph (2) or (3) of section  
11          203(b) of the Immigration and Nationality  
12          Act (8 U.S.C. 1153(b)).

13           (2) RESERVED VISAS FOR SHORTAGE OCCUPA-  
14          TIONS.—

15           (A) IN GENERAL.—For each of the first  
16          seven fiscal years after the date referred to in  
17          subsection (d), not fewer than 4,400 of the im-  
18          migrant visas made available under section  
19          203(b)(3) of the Immigration and Nationality  
20          Act (8 U.S.C. 1153(b)(3)), and not reserved  
21          under paragraph (1), shall be allocated to immi-  
22          grants who are seeking admission to the United  
23          States to work in an occupation described in  
24          section 656.5(a) of title 20, Code of Federal  
25          Regulations (or any successor regulation).

1 (B) FAMILY MEMBERS.—Family members  
2 who are accompanying or following to join a  
3 principal beneficiary described in subparagraph  
4 (A) shall be entitled to a visa in the same sta-  
5 tus and in the same order of consideration as  
6 such principal beneficiary, but such visa shall  
7 not be counted against the 4,400 immigrant  
8 visas reserved under such subparagraph.

9 (3) PER-COUNTRY LEVELS.—For each of the  
10 first nine fiscal years after the date referred to in  
11 subsection (d)—

12 (A) not more than 25 percent (in the case  
13 of a single foreign state) or 2 percent (in the  
14 case of a dependent area) of the total number  
15 of visas reserved under paragraph (1) shall be  
16 allocated to immigrants who are natives of any  
17 single foreign state or dependent area; and

18 (B) not more than 85 percent of the immi-  
19 grant visas made available under each of para-  
20 graphs (2) and (3) of section 203(b) of the Im-  
21 migration and Nationality Act (8 U.S.C.  
22 1153(b)) and not reserved under paragraph (1),  
23 may be allocated to immigrants who are native  
24 to any single foreign state or dependent area.



1           (4) SPECIAL RULE TO PREVENT UNUSED  
2 VISAS.—If, at the end of the third quarter of any  
3 fiscal year, the Secretary of State determines that  
4 the application of paragraphs (1) through (3) would  
5 result in visas made available under paragraph (2)  
6 or (3) of section 203(b) of the Immigration and Na-  
7 tionality Act (8 U.S.C. 1153(b)) going unused in  
8 that fiscal year, such visas may be allocated during  
9 the remainder of such fiscal year without regard to  
10 paragraphs (1) through (3).

11           (5) RULES FOR CHARGEABILITY AND DEPEND-  
12 ENTS.—Section 202(b) of the Immigration and Na-  
13 tionality Act (8 U.S.C. 1152(b)) shall apply in deter-  
14 mining the foreign state to which an alien is charge-  
15 able, and section 203(d) of such Act (8 U.S.C.  
16 1153(d)) shall apply in allocating immigrant visas to  
17 family members, for purposes of this subsection.

18           (6) DETERMINATION OF TWO FOREIGN STATES  
19 OR DEPENDENT AREAS WITH HIGHEST DEMAND.—  
20 The two foreign states or dependent areas with the  
21 highest demand for immigrant visas, as referred to  
22 in this subsection, are the two foreign states or de-  
23 pendent areas with the largest aggregate number  
24 beneficiaries of petitions for an immigrant visa  
25 under section 203(b) of the Immigration and Na-

1        tionality Act (8 U.S.C. 1153(b)) that have been ap-  
2        proved, but where an immigrant visa is not yet avail-  
3        able, as determined by the Secretary of State, in  
4        consultation with the Secretary of Homeland Secu-  
5        rity.

6        **SEC. 3. POSTING AVAILABLE POSITIONS THROUGH THE DE-**  
7        **PARTMENT OF LABOR.**

8        (a) DEPARTMENT OF LABOR WEBSITE.—Section  
9        212(n) of the Immigration and Nationality Act (8 U.S.C.  
10        1182(n)) is amended by adding at the end the following:

11        “(6) For purposes of complying with paragraph  
12        (1)(C):

13                “(A) Not later than 180 days after the date of  
14        the enactment of the Equal Access to Green cards  
15        for Legal Employment Act of 2023, the Secretary of  
16        Labor shall establish a searchable internet website  
17        for posting positions in accordance with paragraph  
18        (1)(C) that is available to the public without charge,  
19        except that the Secretary may delay the launch of  
20        such website for a single period identified by the  
21        Secretary by notice in the Federal Register that  
22        shall not exceed 30 days.

23                “(B) The Secretary may work with private com-  
24        panies or nonprofit organizations to develop and op-

1 erate the internet website described in subparagraph  
2 (A).

3 “(C) The Secretary shall promulgate rules,  
4 after notice and a period for comment, to carry out  
5 this paragraph.”.

6 (b) PUBLICATION REQUIREMENT.—The Secretary of  
7 Labor shall submit to Congress, and publish in the Fed-  
8 eral Register and in other appropriate media, a notice of  
9 the date on which the internet website required under sec-  
10 tion 212(n)(6) of the Immigration and Nationality Act,  
11 as established by subsection (a), will be operational.

12 (c) APPLICATION.—The amendment made by sub-  
13 section (a) shall apply beginning on the date that is 90  
14 days after the date described in subsection (b).

15 (d) INTERNET POSTING REQUIREMENT.—Section  
16 212(n)(1)(C) of the Immigration and Nationality Act (8  
17 U.S.C. 1182(n)(1)(C)) is amended—

18 (1) by redesignating clause (ii) as subclause  
19 (II);

20 (2) by striking “(I) has provided” and inserting  
21 the following:

22 “(ii)(I) has provided”; and

23 (3) by inserting before clause (ii), as redesign-  
24 nated by paragraph (2), the following:

1           “(i) except in the case of an employer fil-  
2           ing a petition on behalf of an H–1B non-  
3           immigrant who has already been counted  
4           against the numerical limitations and is not eli-  
5           gible for a full 6-year period, as described in  
6           section 214(g)(7), or on behalf of an H–1B  
7           nonimmigrant authorized to accept employment  
8           under section 214(n), has posted on the inter-  
9           net website described in paragraph (6), for at  
10          least 30 calendar days, a description of each po-  
11          sition for which a nonimmigrant is sought, that  
12          includes—

13                 “(I) the occupational classification,  
14                 and if different the employer’s job title for  
15                 the position, in which each nonimmigrant  
16                 will be employed;

17                 “(II) the education, training, or expe-  
18                 rience qualifications for the position;

19                 “(III) the salary or wage range and  
20                 employee benefits offered;

21                 “(IV) each location at which a non-  
22                 immigrant will be employed; and

23                 “(V) the process for applying for a  
24                 position; and”.

1 **SEC. 4. H-1B EMPLOYER PETITION REQUIREMENTS.**

2 (a) WAGE DETERMINATION INFORMATION.—Section  
3 212(n)(1)(D) of the Immigration and Nationality Act (8  
4 U.S.C. 1182(n)(1)(D)) is amended by inserting “the pre-  
5 vailing wage determination methodology used under sub-  
6 paragraph (A)(i)(II),” after “shall contain”.

7 (b) NEW APPLICATION REQUIREMENTS.—Section  
8 212(n)(1) of the Immigration and Nationality Act (8  
9 U.S.C. 1182(n)(1)) is amended by inserting after subpara-  
10 graph (G) the following:

11 “(H)(i) The employer, or a person or entity act-  
12 ing on the employer’s behalf, has not advertised any  
13 available position specified in the application in an  
14 advertisement that states or indicates that—

15 “(I) such position is only available to an  
16 individual who is or will be an H-1B non-  
17 immigrant; or

18 “(II) an individual who is or will be an H-  
19 1B nonimmigrant shall receive priority or a  
20 preference in the hiring process for such posi-  
21 tion.

22 “(ii) The employer has not primarily recruited  
23 individuals who are or who will be H-1B non-  
24 immigrants to fill such position.

25 “(I) If the employer, in a previous period speci-  
26 fied by the Secretary, employed one or more H-1B

1 nonimmigrants, the employer shall submit to the  
2 Secretary the Internal Revenue Service Form W-2  
3 Wage and Tax Statements filed by the employer  
4 with respect to the H-1B nonimmigrants for such  
5 period.”.

6 (c) ADDITIONAL REQUIREMENT FOR NEW H-1B PE-  
7 TITIONS.—

8 (1) IN GENERAL.—Section 212(n)(1) of the Im-  
9 migration and Nationality Act (8 U.S.C.  
10 1182(n)(1)), as amended by subsection (b), is fur-  
11 ther amended by inserting after subparagraph (I),  
12 the following:

13 “(J)(i) If the employer employs 50 or more em-  
14 ployees in the United States, the sum of the number  
15 of such employees who are H-1B nonimmigrants  
16 plus the number of such employees who are non-  
17 immigrants described in section 101(a)(15)(L) does  
18 not exceed 50 percent of the total number of em-  
19 ployees.

20 “(ii) Any group treated as a single employer  
21 under subsection (b), (c), (m), or (o) of section 414  
22 of the Internal Revenue Code of 1986 shall be treat-  
23 ed as a single employer for purposes of clause (i).”.

24 (2) RULE OF CONSTRUCTION.—Nothing in sub-  
25 paragraph (J) of section 212(n)(1) of the Immigra-

1       tion and Nationality Act (8 U.S.C. 1182(n)(1)), as  
2       added by paragraph (1), may be construed to pro-  
3       hibit renewal applications or change of employer ap-  
4       plications for H-1B nonimmigrants employed by an  
5       employer on the date of the enactment of this Act.

6           (3) APPLICATION.—The amendment made by  
7       this subsection shall apply with respect to an em-  
8       ployer commencing on the date that is 180 days  
9       after the date of the enactment of this Act.

10       (d) LABOR CONDITION APPLICATION FEE.—Section  
11       212(n) of the Immigration and Nationality Act (8 U.S.C.  
12       1182(n)), as amended by section 3(a), is further amended  
13       by adding at the end the following:

14           “(7)(A) The Secretary of Labor shall promulgate a  
15       regulation that requires applicants under this subsection  
16       to pay an administrative fee to cover the average paper-  
17       work processing costs and other administrative costs.

18           “(B)(i) Fees collected under this paragraph shall be  
19       deposited as offsetting receipts within the general fund of  
20       the Treasury in a separate account, which shall be known  
21       as the ‘H-1B Administration, Oversight, Investigation,  
22       and Enforcement Account’ and shall remain available  
23       until expended.

24           “(ii) The Secretary of the Treasury shall refund  
25       amounts in such account to the Secretary of Labor for

1 salaries and related expenses associated with the adminis-  
2 tration, oversight, investigation, and enforcement of the  
3 H-1B nonimmigrant visa program.”.

4 (e) ELIMINATION OF B-1 IN LIEU OF H-1.—Section  
5 214(g) of the Immigration and Nationality Act (8 U.S.C.  
6 1184(g)) is amended by adding at the end the following:

7 “(12)(A) Unless otherwise authorized by law, an alien  
8 normally classifiable under section 101(a)(15)(H)(i) who  
9 seeks admission to the United States to provide services  
10 in a specialty occupation described in paragraph (1) or  
11 (3) of subsection (i) may not be issued a visa or admitted  
12 under section 101(a)(15)(B) for such purpose.

13 “(B) Nothing in this paragraph may be construed to  
14 authorize the admission of an alien under section  
15 101(a)(15)(B) who is coming to the United States for the  
16 purpose of performing skilled or unskilled labor if such  
17 admission is not otherwise authorized by law.”.

18 (f) ENDING MEDIA ABUSE OF H-1B.—Section  
19 214(g) of the Immigration and Nationality Act (8 U.S.C.  
20 1184(g)), as amended by subsection (e), is further amend-  
21 ed by adding at the end the following:

22 “(13) An alien normally classifiable under section  
23 101(a)(15)(I) who seeks admission to the United States  
24 solely as a representative of the foreign press, radio, film,  
25 or other foreign information media, may not be issued a



1 visa or admitted under section 101(a)(15)(H)(i) to engage  
2 in such vocation.”.

3 (g) MEMBERSHIP IN TOTALITARIAN PARTY.—Sec-  
4 tion 214(g) of the Immigration and Nationality Act (8  
5 U.S.C. 1184(g)), as amended by subsections (e) and (f),  
6 is further amended by adding at the end the following:

7 “(14)(A) Except as provided in this paragraph,  
8 an alien who is or has been a member of or affiliated  
9 with the Communist or any other totalitarian party  
10 (or subdivision or affiliate thereof), domestic or for-  
11 eign, may not be issued a visa or admitted under  
12 section 101(a)(15)(H)(i).

13 “(B) Subparagraph (A) shall not apply to an  
14 alien because of membership or affiliation if the  
15 alien establishes to the satisfaction of the consular  
16 officer when applying for a visa (or to the satisfac-  
17 tion of the Secretary of Homeland Security when ap-  
18 plying for admission) under section 101(a)(15)(H)(i)  
19 that the membership or affiliation is or was involun-  
20 tary, or is or was solely when under 16 years of age,  
21 by operation of law, or for purposes of obtaining em-  
22 ployment, food rations, or other essentials of living  
23 and whether necessary for such purposes.

24 “(C) Subparagraph (A) shall not apply to an  
25 alien because of membership or affiliation if the

1 alien establishes to the satisfaction of the consular  
2 officer when applying for a visa (or to the satisfac-  
3 tion of the Secretary of Homeland Security when ap-  
4 plying for admission) under section 101(a)(15)(H)(i)  
5 that—

6 “(i) the membership or affiliation termi-  
7 nated at least—

8 “(I) 2 years before the date of such  
9 application; or

10 “(II) 5 years before the date of such  
11 application, in the case of an alien whose  
12 membership or affiliation was with the  
13 party controlling the government of a for-  
14 eign state that is a totalitarian dictatorship  
15 as of such date; and

16 “(ii) the alien is not a threat to the secu-  
17 rity of the United States.

18 “(D) The Secretary of Homeland Security may,  
19 in the Secretary’s discretion, waive the application of  
20 subparagraph (A) in the case of an alien who is the  
21 parent, spouse, son, daughter, brother, or sister of  
22 a citizen of the United States or a spouse, son, or  
23 daughter of an alien lawfully admitted for perma-  
24 nent residence for humanitarian purposes, to assure  
25 family unity, or when it is otherwise in the public in-

1           terest if the alien is not a threat to the security of  
2           the United States.”.

3   **SEC. 5. INVESTIGATION AND DISPOSITION OF COMPLAINTS**  
4                           **AGAINST H-1B EMPLOYERS.**

5           (a) INVESTIGATION, WORKING CONDITIONS, AND  
6 PENALTIES.—Section 212(n)(2)(C) of the Immigration  
7 and Nationality Act (8 U.S.C. 1182(n)(2)(C)) is amended  
8 by striking clause (iv) and inserting the following:

9           “(iv)(I) An employer that has filed an application  
10 under this subsection violates this clause by taking, failing  
11 to take, or threatening to take or fail to take a personnel  
12 action, or intimidating, threatening, restraining, coercing,  
13 blacklisting, discharging, or discriminating in any other  
14 manner against an employee because the employee—

15                   “(aa) disclosed information that the employee  
16 reasonably believes evidences a violation of this sub-  
17 section or any rule or regulation pertaining to this  
18 subsection; or

19                   “(bb) cooperated or sought to cooperate with  
20 the requirements under this subsection or any rule  
21 or regulation pertaining to this subsection.

22           “(II) An employer that violates this clause shall be  
23 liable to the employee harmed by such violation for lost  
24 wages and benefits.

25           “(III) In this clause, the term ‘employee’ includes—

1           “(aa) a current employee;  
2           “(bb) a former employee; and  
3           “(cc) an applicant for employment.”.

4           (b) INFORMATION SHARING.—Section 212(n)(2)(H)  
5 of the Immigration and Nationality Act (8 U.S.C.  
6 1182(n)(2)(H)) is amended to read as follows:

7           “(H)(i) The Director of U.S. Citizenship and Immi-  
8 gration Services shall provide the Secretary of Labor with  
9 any information contained in the materials submitted by  
10 employers of H–1B nonimmigrants as part of the petition  
11 adjudication process that indicates that the employer is  
12 not complying with visa program requirements for H–1B  
13 nonimmigrants.

14           “(ii) The Secretary may initiate and conduct an in-  
15 vestigation and hearing under this paragraph after receiv-  
16 ing information of noncompliance under this subpara-  
17 graph.”.

18 **SEC. 6. LABOR CONDITION APPLICATIONS.**

19           (a) APPLICATION REVIEW REQUIREMENTS.—Section  
20 212(n)(1) of the Immigration and Nationality Act (8  
21 U.S.C. 1182(n)(1)) is amended, in the undesignated mat-  
22 ter following subparagraph (I), as added by section 4(b)—

23           (1) in the fourth sentence, by inserting “, and  
24 through the internet website of the Department of  
25 Labor, without charge.” after “Washington, D.C.”;

1           (2) in the fifth sentence, by striking “only for  
2           completeness” and inserting “for completeness, clear  
3           indicators of fraud or misrepresentation of material  
4           fact,”;

5           (3) in the sixth sentence, by striking “or obvi-  
6           ously inaccurate” and inserting “, presents clear in-  
7           dicators of fraud or misrepresentation of material  
8           fact, or is obviously inaccurate”; and

9           (4) by adding at the end the following: “If the  
10          Secretary’s review of an application identifies clear  
11          indicators of fraud or misrepresentation of material  
12          fact, the Secretary may conduct an investigation and  
13          hearing in accordance with paragraph (2).”.

14          (b) ENSURING PREVAILING WAGES ARE FOR AREA  
15          OF EMPLOYMENT AND ACTUAL WAGES ARE FOR SIMI-  
16          LARLY EMPLOYED.—Section 212(n)(1)(A) of the Immi-  
17          gration and Nationality Act (8 U.S.C. 1182(n)(1)(A)) is  
18          amended—

19               (1) in clause (i), in the undesignated matter fol-  
20               lowing subclause (II), by striking “and” at the end;

21               (2) in clause (ii), by striking the period at the  
22               end and inserting “, and”; and

23               (3) by adding at the end the following:

24                       “(iii) will ensure that—



1       “(ii)(I) Upon receipt of a complaint under clause (i),  
2 the Secretary may initiate an investigation to determine  
3 whether such a failure or misrepresentation has occurred.

4       “(II) The Secretary may conduct—

5           “(aa) surveys of the degree to which employers  
6       comply with the requirements under this subsection;  
7       and

8           “(bb) subject to subclause (IV), annual compli-  
9       ance audits of any employer that employs H-1B  
10      nonimmigrants during the applicable calendar year.

11      “(III) Subject to subclause (IV), the Secretary  
12 shall—

13           “(aa) conduct annual compliance audits of each  
14      employer that employs more than 100 full-time  
15      equivalent employees who are employed in the  
16      United States if more than 15 percent of such full-  
17      time employees are H-1B nonimmigrants; and

18           “(bb) make available to the public an executive  
19      summary or report describing the general findings of  
20      the audits conducted under this subclause.

21      “(IV) In the case of an employer subject to an annual  
22 compliance audit in which there was no finding of a willful  
23 failure to meet a condition under subparagraph (C)(ii), no  
24 further annual compliance audit shall be conducted with

1 respect to such employer for a period of not less than 4  
2 years, absent evidence of misrepresentation or fraud.”.

3 (d) PENALTIES FOR VIOLATIONS.—Section  
4 212(n)(2)(C) of the Immigration and Nationality Act (8  
5 U.S.C. 1182(n)(2)(C)) is amended—

6 (1) in clause (i)—

7 (A) in the matter preceding subclause (I),  
8 by striking “a condition of paragraph (1)(B),  
9 (1)(E), or (1)(F)” and inserting “a condition of  
10 paragraph (1)(B), (1)(E), (1)(F), (1)(H), or  
11 (1)(I)”; and

12 (B) in subclause (I), by striking “\$1,000”  
13 and inserting “\$3,000”;

14 (2) in clause (ii)(I), by striking “\$5,000” and  
15 inserting “\$15,000”;

16 (3) in clause (iii)(I), by striking “\$35,000” and  
17 inserting “\$100,000”; and

18 (4) in clause (vi)(III), by striking “\$1,000” and  
19 inserting “\$3,000”.

20 (e) INITIATION OF INVESTIGATIONS.—Section  
21 212(n)(2)(G) of the Immigration and Nationality Act (8  
22 U.S.C. 1182(n)(2)(G)) is amended—

23 (1) in clause (i), by striking “In the case of an  
24 investigation” in the second sentence and all that  
25 follows through the period at the end of the clause;



1           (2) in clause (ii), in the first sentence, by strik-  
2           ing “and whose identity” and all that follows  
3           through “failure or failures.” and inserting “the  
4           Secretary of Labor may conduct an investigation  
5           into the employer’s compliance with the require-  
6           ments under this subsection.”;

7           (3) in clause (iii), by striking the second sen-  
8           tence;

9           (4) by striking clauses (iv) and (v);

10          (5) by redesignating clauses (vi), (vii), and (viii)  
11          as clauses (iv), (v), and (vi), respectively;

12          (6) in clause (iv), as so redesignated—

13                (A) by striking “clause (viii)” and insert-  
14                ing “clause (vi)”;

15                (B) by striking “meet a condition de-  
16                scribed in clause (ii)” and inserting “comply  
17                with the requirements under this subsection”;

18          (7) by amending clause (v), as so redesignated,  
19          to read as follows:

20          “(v)(I) The Secretary of Labor shall provide notice  
21          to an employer of the intent to conduct an investigation  
22          under clause (i) or (ii).

23          “(II) The notice shall be provided in such a manner,  
24          and shall contain sufficient detail, to permit the employer

1 to respond to the allegations before an investigation is  
2 commenced.

3 “(III) The Secretary is not required to comply with  
4 this clause if the Secretary determines that such compli-  
5 ance would interfere with an effort by the Secretary to  
6 investigate or secure compliance by the employer with the  
7 requirements of this subsection.

8 “(IV) A determination by the Secretary under this  
9 clause shall not be subject to judicial review.”;

10 (8) in clause (vi), as so redesignated, by strik-  
11 ing “An investigation” in the first sentence and all  
12 that follows through “the determination.” in the sec-  
13 ond sentence and inserting “If the Secretary of  
14 Labor, after an investigation under clause (i) or (ii),  
15 determines that a reasonable basis exists to make a  
16 finding that the employer has failed to comply with  
17 the requirements under this subsection, the Sec-  
18 retary shall provide interested parties with notice of  
19 such determination and an opportunity for a hearing  
20 in accordance with section 556 of title 5, United  
21 States Code, not later than 60 days after the date  
22 of such determination.”; and

23 (9) by adding at the end the following:

24 “(vii) If the Secretary of Labor, after a hearing, finds  
25 that the employer has violated a requirement under this

1 subsection, the Secretary may impose a penalty pursuant  
2 to subparagraph (C).”.

3 **SEC. 7. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED**  
4 **IMMIGRANTS.**

5 (a) ADJUSTMENT OF STATUS FOR EMPLOYMENT-  
6 BASED IMMIGRANTS.—Section 245 of the Immigration  
7 and Nationality Act (8 U.S.C. 1255) is amended by add-  
8 ing at the end the following:

9 “(o) ADJUSTMENT OF STATUS FOR EMPLOYMENT-  
10 BASED IMMIGRANTS.—

11 “(1) IN GENERAL.—Notwithstanding subsection  
12 (a)(3), an alien (including the alien’s spouse or  
13 child, if eligible to receive a visa under section  
14 203(d)), may file an application for adjustment of  
15 status if—

16 “(A) the alien—

17 “(i) is present in the United States  
18 pursuant to a lawful admission as a non-  
19 immigrant, other than a nonimmigrant de-  
20 scribed in subparagraph (B), (C), (D), or  
21 (S) of section 101(a)(15), section 212(l),  
22 or section 217; and

23 “(ii) subject to subsection (k), is not  
24 ineligible for adjustment of status under  
25 subsection (c); and



1 applicants for adjustment of status under  
2 subsection (a).

3 “(ii) LIMITATIONS ON EMPLOYMENT  
4 AUTHORIZATION FOR DEPENDENTS.—A  
5 dependent alien who was neither author-  
6 ized to work nor eligible to request work  
7 authorization at the time an application for  
8 adjustment of status is filed under this  
9 subsection shall not be eligible to receive  
10 work authorization due to the filing of  
11 such application.

12 “(4) CONDITIONS ON ADJUSTMENT OF STATUS  
13 AND EMPLOYMENT AUTHORIZATION FOR PRINCIPAL  
14 ALIENS.—

15 “(A) IN GENERAL.—During the time an  
16 application for adjustment of status under this  
17 subsection is pending and until such time an  
18 immigrant visa becomes available—

19 “(i) the terms and conditions of the  
20 alien’s employment, including duties,  
21 hours, and compensation, must be com-  
22 mensurate with the terms and conditions  
23 applicable to the employer’s similarly situ-  
24 ated United States workers in the area of  
25 employment, or if the employer does not

1 employ and has not recently employed  
2 more than two such workers, the terms  
3 and conditions of such employment must  
4 be commensurate with the terms and con-  
5 ditions applicable to other similarly situ-  
6 ated United States workers in the area of  
7 employment; and

8 “(ii) consistent with section 204(j), if  
9 the alien changes positions or employers,  
10 the new position is in the same or a similar  
11 occupational classification as the job for  
12 which the petition was filed.

13 “(B) SPECIAL FILING PROCEDURES.—An  
14 application for adjustment of status filed by a  
15 principal alien under this subsection shall be ac-  
16 companied by—

17 “(i) a signed letter from the principal  
18 alien’s current or prospective employer at-  
19 testing that the terms and conditions of  
20 the alien’s employment are commensurate  
21 with the terms and conditions of employ-  
22 ment for similarly situated United States  
23 workers in the area of employment; and

24 “(ii) other information deemed nec-  
25 essary by the Secretary of Homeland Secu-

1                   rity to verify compliance with subpara-  
2                   graph (A).

3                   “(C) APPLICATION FOR EMPLOYMENT AU-  
4                   THORIZATION.—

5                   “(i) IN GENERAL.—An application for  
6                   employment authorization filed by a prin-  
7                   cipal applicant for adjustment of status  
8                   under this subsection shall be accompanied  
9                   by a Confirmation of Bona Fide Job Offer  
10                  or Portability (or any form associated with  
11                  section 204(j)) attesting that—

12                  “(I) the job offered in the immi-  
13                  grant visa petition remains a bona  
14                  fide job offer that the alien intends to  
15                  accept upon approval of the adjust-  
16                  ment of status application; or

17                  “(II) the alien has accepted a  
18                  new full-time job in the same or a  
19                  similar occupational classification as  
20                  the job described in the approved im-  
21                  migrant visa petition.

22                  “(ii) VALIDITY.—An employment au-  
23                  thorization document issued to a principal  
24                  alien who has filed an application for ad-

1                   justment of status under this subsection  
2                   shall be valid for three years.

3                   “(iii) RENEWAL.—Any request by a  
4                   principal alien to renew an employment au-  
5                   thorization document associated with such  
6                   alien’s application for adjustment of status  
7                   filed under this subsection shall be accom-  
8                   panied by the evidence described in sub-  
9                   paragraphs (B) and (C)(i).

10                  “(5) DECISION.—

11                   “(A) IN GENERAL.—An adjustment of sta-  
12                  tus application filed under paragraph (1) may  
13                  not be approved—

14                   “(i) until the date on which an immi-  
15                  grant visa becomes available; and

16                   “(ii) if the principal alien has not,  
17                  within the preceding 12 months, filed a  
18                  Confirmation of Bona Fide Job Offer or  
19                  Portability (or any form associated with  
20                  section 204(j)).

21                  “(B) REQUEST FOR EVIDENCE.—If at the  
22                  time an immigrant visa becomes available, a  
23                  Confirmation of Bona Fide Job Offer or Port-  
24                  ability (or any form associated with section  
25                  204(j)) has not been filed by the principal alien



1 within the preceding 12 months, the Secretary  
2 of Homeland Security shall notify the alien and  
3 provide instructions for submitting such form.

4 “(C) NOTICE OF INTENT TO DENY.—If the  
5 most recent Confirmation of Bona Fide Job  
6 Offer or Portability (or any form associated  
7 with section 204(j)) or any prior form indicates  
8 a lack of compliance with paragraph (4)(A), the  
9 Secretary of Homeland Security shall issue a  
10 notice of intent to deny the application for ad-  
11 justment of status and provide the alien the op-  
12 portunity to submit evidence of compliance.

13 “(D) DENIAL.—An application for adjust-  
14 ment of status under this subsection may be de-  
15 nied if the alien fails to—

16 “(i) timely file a Confirmation of  
17 Bona Fide Job Offer or Portability (or any  
18 form associated with section 204(j)) in re-  
19 sponse to a request for evidence issued  
20 under subparagraph (B); or

21 “(ii) establish, by a preponderance of  
22 the evidence, compliance with paragraph  
23 (4)(A).

24 “(6) FEES.—

1           “(A) IN GENERAL.—Notwithstanding any  
2 other provision of law, the Secretary of Home-  
3 land Security shall charge and collect a fee in  
4 the amount of \$2,000 to process each Con-  
5 firmation of Bona Fide Job Offer or Portability  
6 (or any form associated with section 204(j))  
7 filed under this subsection.

8           “(B) DEPOSIT AND USE OF FEES.—Fees  
9 collected under subparagraph (A) shall be de-  
10 posited and used as follows:

11                   “(i) Fifty percent of such fees shall be  
12 deposited in the Immigration Examinations  
13 Fee Account established under section  
14 286(m).

15                   “(ii) Fifty percent of such fees shall  
16 be deposited in the Treasury of the United  
17 States as miscellaneous receipts.

18           “(7) APPLICATION.—

19                   “(A) The provisions of this subsection—

20                           “(i) shall apply beginning on the date  
21 that is one year after the date of the en-  
22 actment of the Equal Access to Green  
23 cards for Legal Employment Act of 2023;  
24 and

1                   “(ii) except as provided in subpara-  
2                   graph (B), shall cease to apply as of the  
3                   date that is nine years after the date of the  
4                   enactment of such Act.

5                   “(B) This subsection shall continue to  
6                   apply with respect to any alien who has filed an  
7                   application for adjustment of status under this  
8                   subsection any time prior to the date on which  
9                   this subsection otherwise ceases to apply.

10                  “(8) CLARIFICATIONS.—For purposes of this  
11                  subsection:

12                   “(A) The term ‘similarly situated United  
13                   States workers’ includes United States workers  
14                   performing similar duties, subject to similar su-  
15                   pervision, and with similar educational back-  
16                   grounds, industry expertise, employment experi-  
17                   ence, levels of responsibility, and skill sets as  
18                   the alien in the same geographic area of em-  
19                   ployment as the alien.

20                   “(B) The duties, hours, and compensation  
21                   of the alien are ‘commensurate’ with those of-  
22                   fered to United States workers in the same area  
23                   of employment if the employer can demonstrate  
24                   that the duties, hours, and compensation are  
25                   consistent with the range of such terms and

1 conditions the employer has offered or would  
2 offer to similarly situated United States em-  
3 ployees.”.

4 (b) CONFORMING AMENDMENT.—Section 245(k) of  
5 the Immigration and Nationality Act (8 U.S.C. 1255(k))  
6 is amended by adding “or (n)” after “pursuant to sub-  
7 section (a)”.