

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

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.

IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN introduced the following bill; which was referred to the Committee on _____

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 2021” or the
6 “EAGLE Act of 2021”.

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 (8 U.S.C. 1255
13 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) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the first day of the second
21 fiscal year beginning after the date of the enactment of
22 this Act, and shall apply to that fiscal year and each sub-
23 sequent fiscal year.

24 (e) TRANSITION RULES FOR EMPLOYMENT-BASED
25 IMMIGRANTS.—Notwithstanding title II of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1151 et seq.), the fol-
2 lowing transition rules shall apply to employment-based
3 immigrants, beginning on the effective date referred to in
4 subsection (d):

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

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

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

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

22 (iii) For the third fiscal year after
23 such effective date, 20 percent of such
24 visas.

1 (iv) For the fourth fiscal year after
2 such effective date, 15 percent of such
3 visas.

4 (v) For the fifth and sixth fiscal years
5 after such effective date, 10 percent of
6 such visas.

7 (vi) For the seventh, eighth, and
8 ninth fiscal years after such effective date,
9 5 percent of such visas.

10 (B) ADDITIONAL RESERVED VISAS FOR
11 NEW ARRIVALS.—For each of the first nine fis-
12 cal years after the effective date referred to in
13 subsection (d), an additional 5.75 percent of the
14 immigrant visas made available under each of
15 paragraphs (2) and (3) of section 203(b) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1153(b)) shall be allocated to immigrants who
18 are natives of a foreign state or dependent area
19 that is not one of the two foreign states or de-
20 pendent areas with the highest demand for im-
21 migrant visas. Such additional visas shall be al-
22 located in the following order of priority:

23 (i) FAMILY MEMBERS ACCOMPANYING
24 OR FOLLOWING TO JOIN.—Visas reserved
25 under this subparagraph shall be allocated

1 to family members described in section
2 203(d) of the Immigration and Nationality
3 Act (8 U.S.C. 1153(d)) who are accom-
4 panying or following to join a principal
5 beneficiary who is in the United States and
6 has been granted an immigrant visa or ad-
7 justment of status to lawful permanent
8 residence under paragraph (2) or (3) of
9 section 203(b) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1153(b)).

11 (ii) NEW PRINCIPAL ARRIVALS.—If at
12 the end of the second quarter of any fiscal
13 year, the total number of visas reserved
14 under this subparagraph exceeds the num-
15 ber of qualified immigrants described in
16 clause (i), such visas may also be allocated,
17 for the remainder of the fiscal year, to in-
18 dividuals (and their family members de-
19 scribed in section 203(d) of the Immigra-
20 tion and Nationality Act (8 U.S.C.
21 1153(d))) who are seeking an immigrant
22 visa under paragraph (2) or (3) of section
23 203(b) of the Immigration and Nationality
24 Act (8 U.S.C. 1153(b)) to enter the United
25 States as new immigrants, and who have

1 not resided or worked in the United States
2 at any point in the four-year period imme-
3 diately preceding the filing of the immi-
4 grant visa petition.

5 (iii) OTHER NEW ARRIVALS.—If at
6 the end of the third 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 clauses (i) and (ii), such visas may be also
11 be allocated, for the remainder of the fiscal
12 year, to other individuals (and their family
13 members described in section 203(d) of the
14 Immigration 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)).

19 (2) RESERVED VISAS FOR SHORTAGE OCCUPA-
20 TIONS.—

21 (A) IN GENERAL.—For each of the first
22 seven fiscal years after the effective date re-
23 ferred to in subsection (d), not fewer than
24 4,400 of the immigrant visas made available
25 under section 203(b)(3) of the Immigration and

1 Nationality Act (8 U.S.C. 1153(b)(3)), and not
2 reserved under paragraph (1), shall be allocated
3 to immigrants who are seeking admission to the
4 United States to work in an occupation de-
5 scribed in section 656.5(a) of title 20, Code of
6 Federal Regulations (or any successor regula-
7 tion).

8 (B) FAMILY MEMBERS.—Family members
9 who are accompanying or following to join a
10 principal beneficiary described in subparagraph
11 (A) shall be entitled to a visa in the same sta-
12 tus and in the same order of consideration as
13 such principal beneficiary, but such visa shall
14 not be counted against the 4,400 immigrant
15 visas reserved under such subparagraph.

16 (3) PER-COUNTRY LEVELS.—For each of the
17 first nine fiscal years after the effective date referred
18 to in subsection (d)—

19 (A) not more than 25 percent (in the case
20 of a single foreign state) or 2 percent (in the
21 case of a dependent area) of the total number
22 of visas reserved under paragraph (1) shall be
23 allocated to immigrants who are natives of any
24 single foreign state or dependent area; and

1 (B) not more than 85 percent of the immi-
2 grant visas made available under each of para-
3 graphs (2) and (3) of section 203(b) of the Im-
4 migration and Nationality Act (8 U.S.C.
5 1153(b)) and not reserved under paragraph (1),
6 may be allocated to immigrants who are native
7 to any single foreign state or dependent area.

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

18 (5) RULES FOR CHARGEABILITY AND DEPEND-
19 ENTS.—Section 202(b) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1152(b)) shall apply in deter-
21 mining the foreign state to which an alien is charge-
22 able, and section 203(d) of such Act (8 U.S.C.
23 1153(d)) shall apply in allocating immigrant visas to
24 family members, for purposes of this subsection.

1 (6) DETERMINATION OF TWO FOREIGN STATES
2 OR DEPENDENT AREAS WITH HIGHEST DEMAND.—
3 The two foreign states or dependent areas with the
4 highest demand for immigrant visas, as referred to
5 in this subsection, are the two foreign states or de-
6 pendent areas with the largest aggregate number
7 beneficiaries of petitions for an immigrant visa
8 under section 203(b) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1153(b)) that have been ap-
10 proved, but where an immigrant visa is not yet avail-
11 able, as determined by the Secretary of State, in
12 consultation with the Secretary of Homeland Secu-
13 rity.

14 **SEC. 3. POSTING AVAILABLE POSITIONS THROUGH THE DE-**
15 **PARTMENT OF LABOR.**

16 (a) DEPARTMENT OF LABOR WEBSITE.—Section
17 212(n) of the Immigration and Nationality Act (8 U.S.C.
18 1182(n)) is amended by adding at the end the following:

19 “(6) For purposes of complying with paragraph
20 (1)(C):

21 “(A) Not later than 180 days after the
22 date of the enactment of the Equal Access to
23 Green cards for Legal Employment Act of
24 2021, the Secretary of Labor shall establish a
25 searchable internet website for posting positions

1 in accordance with paragraph (1)(C) that is
2 available to the public without charge, except
3 that the Secretary may delay the launch of such
4 website for a single period identified by the Sec-
5 retary by notice in the Federal Register that
6 shall not exceed 30 days.

7 “(B) The Secretary may work with private
8 companies or nonprofit organizations to develop
9 and operate the internet website described in
10 subparagraph (A).

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

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

20 (c) APPLICATION.—The amendment made by sub-
21 section (a) shall apply to any application filed on or after
22 the date that is 90 days after the date described in sub-
23 section (b).

1 (d) INTERNET POSTING REQUIREMENT.—Section
2 212(n)(1)(C) of the Immigration and Nationality Act (8
3 U.S.C. 1182(n)(1)(C)) is amended—

4 (1) by redesignating clause (ii) as subclause
5 (II);

6 (2) by striking “(i) has provided” and inserting
7 the following:

8 “(ii)(I) has provided”; and

9 (3) by inserting before clause (ii), as redesignig-
10 nated by paragraph (2), the following:

11 “(i) except in the case of an employer
12 filing a petition on behalf of an H–1B non-
13 immigrant who has already been counted
14 against the numerical limitations and is
15 not eligible for a full 6-year period, as de-
16 scribed in section 214(g)(7), or on behalf
17 of an H–1B nonimmigrant authorized to
18 accept employment under section 214(n),
19 has posted on the internet website de-
20 scribed in paragraph (6), for at least 30
21 calendar days, a description of each posi-
22 tion for which a nonimmigrant is sought,
23 that includes—

24 “(I) the occupational classifica-
25 tion, and if different the employer’s

1 job title for the position, in which the
2 nonimmigrant(s) will be employed;

3 “(II) the education, training, or
4 experience qualifications for the posi-
5 tion;

6 “(III) the salary or wage range
7 and employee benefits offered;

8 “(IV) the location(s) at which the
9 nonimmigrant(s) will be employed;
10 and

11 “(V) the process for applying for
12 a position; and”.

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

14 (a) **WAGE DETERMINATION INFORMATION.**—Section
15 212(n)(1)(D) of the Immigration and Nationality Act (8
16 U.S.C. 1182(n)(1)(D)) is amended by inserting “the pre-
17 vailing wage determination methodology used under sub-
18 paragraph (A)(i)(II),” after “shall contain”.

19 (b) **NEW APPLICATION REQUIREMENTS.**—Section
20 212(n)(1) of the Immigration and Nationality Act (8
21 U.S.C. 1182(n)(1)) is amended by inserting after subpara-
22 graph (G)(ii) the following:

23 “(H)(i) The employer, or a person or enti-
24 ty acting on the employer’s behalf, has not ad-
25 vertised any available position specified in the

1 application in an advertisement that states or
2 indicates that—

3 “(I) such position is only available to
4 an individual who is or will be an H–1B
5 nonimmigrant; or

6 “(II) an individual who is or will be
7 an H–1B nonimmigrant shall receive pri-
8 ority or a preference in the hiring process
9 for such position.

10 “(ii) The employer has not primarily re-
11 cruited individuals who are or who will be H–
12 1B nonimmigrants to fill such position.

13 “(I) If the employer, in a previous period
14 specified by the Secretary, employed one or
15 more H–1B nonimmigrants, the employer shall
16 submit to the Secretary the Internal Revenue
17 Service Form W–2 Wage and Tax Statements
18 filed by the employer with respect to the H–1B
19 nonimmigrants for such period.”.

20 (c) ADDITIONAL REQUIREMENT FOR NEW H–1B PE-
21 TITIONS.—

22 (1) IN GENERAL.—Section 212(n)(1) of the Im-
23 migration and Nationality Act (8 U.S.C.
24 1182(n)(1)), as amended by subsection (b), is fur-

1 ther amended by inserting after subparagraph (I),
2 the following:

3 “(J)(i) If the employer employs 50 or more
4 employees in the United States, the sum of the
5 number of such employees who are H–1B non-
6 immigrants plus the number of such employees
7 who are nonimmigrants described in section
8 101(a)(15)(L) does not exceed 50 percent of
9 the total number of employees.

10 “(ii) Any group treated as a single em-
11 ployer under subsection (b), (c), (m), or (o) of
12 section 414 of the Internal Revenue Code of
13 1986 shall be treated as a single employer for
14 purposes of clause (i).”.

15 (2) RULE OF CONSTRUCTION.—Nothing in sub-
16 paragraph (J) of section 212(n)(1) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1182(n)(1)), as
18 added by paragraph (1), may be construed to pro-
19 hibit renewal applications or change of employer ap-
20 plications for H–1B nonimmigrants employed by an
21 employer on the date of the enactment of this Act.

22 (3) EFFECTIVE DATE.—The amendment made
23 by this subsection shall take effect on the date that
24 is 180 days after the date of the enactment of this
25 Act.

1 (d) LABOR CONDITION APPLICATION FEE.—Section
2 212(n) of the Immigration and Nationality Act (8 U.S.C.
3 1182(n)), as amended by section 3(a), is further amended
4 by adding at the end the following:

5 “(7)(A) The Secretary of Labor shall promul-
6 gate a regulation that requires applicants under this
7 subsection to pay an administrative fee to cover the
8 average paperwork processing costs and other ad-
9 ministrative costs.

10 “(B)(i) Fees collected under this paragraph
11 shall be deposited as offsetting receipts within the
12 general fund of the Treasury in a separate account,
13 which shall be known as the ‘H–1B Administration,
14 Oversight, Investigation, and Enforcement Account’
15 and shall remain available until expended.

16 “(ii) The Secretary of the Treasury shall refund
17 amounts in such account to the Secretary of Labor
18 for salaries and related expenses associated with the
19 administration, oversight, investigation, and enforce-
20 ment of the H–1B nonimmigrant visa program.”.

21 (e) ELIMINATION OF B–1 IN LIEU OF H–1.—Section
22 214(g) of the Immigration and Nationality Act (8 U.S.C.
23 1184(g)) is amended by adding at the end the following:

24 “(12)(A) Unless otherwise authorized by law,
25 an alien normally classifiable under section

1 101(a)(15)(H)(i) who seeks admission to the United
2 States to provide services in a specialty occupation
3 described in paragraph (1) or (3) of subsection (i)
4 may not be issued a visa or admitted under section
5 101(a)(15)(B) for such purpose.

6 “(B) Nothing in this paragraph may be con-
7 strued to authorize the admission of an alien under
8 section 101(a)(15)(B) who is coming to the United
9 States for the purpose of performing skilled or un-
10 skilled labor if such admission is not otherwise au-
11 thorized by law.”.

12 **SEC. 5. INVESTIGATION AND DISPOSITION OF COMPLAINTS**
13 **AGAINST H-1B EMPLOYERS.**

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

18 “(iv)(I) An employer that has filed an
19 application under this subsection violates
20 this clause by taking, failing to take, or
21 threatening to take or fail to take a per-
22 sonnel action, or intimidating, threatening,
23 restraining, coercing, blacklisting, dis-
24 charging, or discriminating in any other

1 manner against an employee because the
2 employee—

3 “(aa) disclosed information that
4 the employee reasonably believes evi-
5 dences a violation of this subsection or
6 any rule or regulation pertaining to
7 this subsection; or

8 “(bb) cooperated or sought to co-
9 operate with the requirements under
10 this subsection or any rule or regula-
11 tion pertaining to this subsection.

12 “(II) An employer that violates this
13 clause shall be liable to the employee
14 harmed by such violation for lost wages
15 and benefits.

16 “(III) In this clause, the term ‘em-
17 ployee’ includes—

18 “(aa) a current employee;

19 “(bb) a former employee; and

20 “(cc) an applicant for employ-
21 ment.”.

22 (b) INFORMATION SHARING.—Section 212(n)(2)(H)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1182(n)(2)(H)) is amended to read as follows:

1 “(H)(i) The Director of U.S. Citizenship
2 and Immigration Services shall provide the Sec-
3 retary of Labor with any information contained
4 in the materials submitted by employers of H-
5 1B nonimmigrants as part of the petition adju-
6 dication process that indicates that the em-
7 ployer is not complying with visa program re-
8 quirements for H-1B nonimmigrants.

9 “(ii) The Secretary may initiate and con-
10 duct an investigation and hearing under this
11 paragraph after receiving information of non-
12 compliance under this subparagraph.”.

13 **SEC. 6. LABOR CONDITION APPLICATIONS.**

14 (a) APPLICATION REVIEW REQUIREMENTS.—Section
15 212(n)(1) of the Immigration and Nationality Act (8
16 U.S.C. 1182(n)(1)) is amended, in the undesignated mat-
17 ter following subparagraph (I), as added by section 4(b)—

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

21 (2) in the fifth sentence, by striking “only for
22 completeness” and inserting “for completeness, clear
23 indicators of fraud or misrepresentation of material
24 fact,”;

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

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

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

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

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

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

20 “(iii) will ensure that—

21 “(I) the actual wages or range
22 identified in clause (i) relate solely to
23 employees having substantially the
24 same duties and responsibilities as the
25 H-1B nonimmigrant in the geo-

1 graphical area of intended employ-
2 ment, considering experience, quali-
3 fications, education, job responsibility
4 and function, specialized knowledge,
5 and other legitimate business factors,
6 except in a geographical area there
7 are no such employees, and

8 “(II) the prevailing wages identi-
9 fied in clause (ii) reflect the best
10 available information for the geo-
11 graphical area within normal com-
12 muting distance of the actual address
13 of employment at which the H-1B
14 nonimmigrant is or will be em-
15 ployed.”.

16 (c) PROCEDURES FOR INVESTIGATION AND DISPOSI-
17 TION.—Section 212(n)(2)(A) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1182(n)(2)(A)) is amended—

19 (1) by striking “(2)(A) Subject” and inserting
20 “(2)(A)(i) Subject”;

21 (2) by striking the fourth sentence; and

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

23 “(ii)(I) Upon receipt of a complaint
24 under clause (i), the Secretary may initiate
25 an investigation to determine whether such

1 a failure or misrepresentation has oc-
2 curred.

3 “(II) The Secretary may conduct—

4 “(aa) surveys of the degree to
5 which employers comply with the re-
6 quirements under this subsection; and

7 “(bb) subject to subclause (IV),
8 annual compliance audits of any em-
9 ployer that employs H-1B non-
10 immigrants during the applicable cal-
11 endar year.

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

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

21 “(bb) make available to the pub-
22 lic an executive summary or report de-
23 scribing the general findings of the
24 audits conducted under this subclause.

1 “(IV) In the case of an employer sub-
2 ject to an annual compliance audit in
3 which there was no finding of a willful fail-
4 ure to meet a condition under subpara-
5 graph (C)(ii), no further annual compli-
6 ance audit shall be conducted with respect
7 to such employer for a period of not less
8 than 4 years, absent evidence of misrepre-
9 sentation or fraud.”.

10 (d) PENALTIES FOR VIOLATIONS.—Section
11 212(n)(2)(C) of the Immigration and Nationality Act (8
12 U.S.C. 1182(n)(2)(C)) is amended—

13 (1) in clause (i)—

14 (A) in the matter preceding subclause (I),
15 by striking “a condition of paragraph (1)(B),
16 (1)(E), or (1)(F)” and inserting “a condition of
17 paragraph (1)(B), (1)(E), (1)(F), (1)(H), or
18 1(I)”; and

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

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

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

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

3 (e) INITIATION OF INVESTIGATIONS.—Section
4 212(n)(2)(G) of the Immigration and Nationality Act (8
5 U.S.C. 1182(n)(2)(G)) is amended—

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

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

15 (3) in clause (iii), by striking the second sen-
16 tence;

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

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

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

21 (A) by striking “clause (viii)” and insert-
22 ing “clause (vi)”;

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

1 (7) by amending clause (v), as so redesignated,
2 to read as follows:

3 “(v)(I) The Secretary of Labor shall
4 provide notice to an employer of the intent
5 to conduct an investigation under clause (i)
6 or (ii).

7 “(II) The notice shall be provided in
8 such a manner, and shall contain sufficient
9 detail, to permit the employer to respond
10 to the allegations before an investigation is
11 commenced.

12 “(III) The Secretary is not required
13 to comply with this clause if the Secretary
14 determines that such compliance would
15 interfere with an effort by the Secretary to
16 investigate or secure compliance by the em-
17 ployer with the requirements of this sub-
18 section.

19 “(IV) A determination by the Sec-
20 retary under this clause shall not be sub-
21 ject to judicial review.”;

22 (8) in clause (vi), as so redesignated, by strik-
23 ing “An investigation” in the first sentence and all
24 that follows through “the determination.” in the sec-
25 ond sentence and inserting “If the Secretary of

1 Labor, after an investigation under clause (i) or (ii),
2 determines that a reasonable basis exists to make a
3 finding that the employer has failed to comply with
4 the requirements under this subsection, the Sec-
5 retary shall provide interested parties with notice of
6 such determination and an opportunity for a hearing
7 in accordance with section 556 of title 5, United
8 States Code, not later than 60 days after the date
9 of such determination.”; and

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

11 “(vii) If the Secretary of Labor, after
12 a hearing, finds that the employer has vio-
13 lated a requirement under this subsection,
14 the Secretary may impose a penalty pursu-
15 ant to subparagraph (C).”.

16 **SEC. 7. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED**
17 **IMMIGRANTS.**

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

22 “(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-
23 BASED IMMIGRANTS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
25 (a)(3), an alien (including the alien’s spouse or

1 child, if eligible to receive a visa under section
2 203(d)), may file an application for adjustment of
3 status if—

4 “(A) the alien—

5 “(i) is present in the United States
6 pursuant to a lawful admission as a non-
7 immigrant, other than a nonimmigrant de-
8 scribed in subparagraph (B), (C), (D), or
9 (S) of section 101(a)(15), section 212(l),
10 or section 217; and

11 “(ii) subject to subsection (k), is not
12 ineligible for adjustment of status under
13 subsection (c); and

14 “(B) not less than 2 years have elapsed
15 since the immigrant visa petition filed by or on
16 behalf of the alien under subparagraph (E) or
17 (F) of section 204(a)(1) was approved.

18 “(2) PROTECTION FOR CHILDREN.—The child
19 of a principal alien who files an application for ad-
20 justment of status under this subsection shall con-
21 tinue to qualify as a child for purposes of the appli-
22 cation, regardless of the child’s age or whether the
23 principal alien is deceased at the time an immigrant
24 visa becomes available.

1 “(3) TRAVEL AND EMPLOYMENT AUTHORIZA-
2 TION.—

3 “(A) ADVANCE PAROLE.—Applicants for
4 adjustment of status under this subsection shall
5 be eligible for advance parole under the same
6 terms and conditions as applicants for adjust-
7 ment of status under subsection (a).

8 “(B) EMPLOYMENT AUTHORIZATION.—

9 “(i) PRINCIPAL ALIEN.—Subject to
10 paragraph (4), a principal applicant for
11 adjustment of status under this subsection
12 shall be eligible for work authorization
13 under the same terms and conditions as
14 applicants for adjustment of status under
15 subsection (a).

16 “(ii) LIMITATIONS ON EMPLOYMENT
17 AUTHORIZATION FOR DEPENDENTS.—A
18 dependent alien who was neither author-
19 ized to work nor eligible to request work
20 authorization at the time an application for
21 adjustment of status is filed under this
22 subsection shall not be eligible to receive
23 work authorization due to the filing of
24 such application.

1 “(4) CONDITIONS ON ADJUSTMENT OF STATUS
2 AND EMPLOYMENT AUTHORIZATION FOR PRINCIPAL
3 ALIENS.—

4 “(A) IN GENERAL.—During the time an
5 application for adjustment of status under this
6 subsection is pending and until such time an
7 immigrant visa becomes available—

8 “(i) the terms and conditions of the
9 alien’s employment, including duties,
10 hours, and compensation, must be com-
11 mensurate with the terms and conditions
12 applicable to the employer’s similarly situ-
13 ated United States workers in the area of
14 employment, or if the employer does not
15 employ and has not recently employed
16 more than two such workers, the terms
17 and conditions of such employment must
18 be commensurate with the terms and con-
19 ditions applicable to other similarly situ-
20 ated United States workers in the area of
21 employment; and

22 “(ii) consistent with section 204(j), if
23 the alien changes positions or employers,
24 the new position is in the same or a similar

1 occupational classification as the job for
2 which the petition was filed.

3 “(B) SPECIAL FILING PROCEDURES.—An
4 application for adjustment of status filed by a
5 principal alien under this subsection shall be ac-
6 companied by—

7 “(i) a signed letter from the principal
8 alien’s current or prospective employer at-
9 testing that the terms and conditions of
10 the alien’s employment are commensurate
11 with the terms and conditions of employ-
12 ment for similarly situated United States
13 workers in the area of employment; and

14 “(ii) other information deemed nec-
15 essary by the Secretary of Homeland Secu-
16 rity to verify compliance with subpara-
17 graph (A).

18 “(C) APPLICATION FOR EMPLOYMENT AU-
19 THORIZATION.—

20 “(i) IN GENERAL.—An application for
21 employment authorization filed by a prin-
22 cipal applicant for adjustment of status
23 under this subsection shall be accompanied
24 by a Confirmation of Bona Fide Job Offer

1 or Portability (Form I-485 Supplement J,
2 or any successor form) attesting that—

3 “(I) the job offered in the immi-
4 grant visa petition remains a bona
5 fide job offer that the alien intends to
6 accept upon approval of the adjust-
7 ment of status application; or

8 “(II) the alien has accepted a
9 new full-time job in the same or a
10 similar occupational classification as
11 the job described in the approved im-
12 migrant visa petition.

13 “(ii) VALIDITY.—An employment au-
14 thorization document issued to a principal
15 alien who has filed an application for ad-
16 justment of status under this subsection
17 shall be valid for three years.

18 “(iii) RENEWAL.—Any request by a
19 principal alien to renew an employment au-
20 thorization document associated with such
21 alien’s application for adjustment of status
22 filed under this subsection shall be accom-
23 panied by the evidence described in sub-
24 paragraphs (B) and (C)(i).

25 “(5) DECISION.—

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

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

6 “(ii) if the principal alien has not,
7 within the preceding 12 months, filed a
8 Confirmation of Bona Fide Job Offer or
9 Portability (Form I-485 Supplement J, or
10 any successor form).

11 “(B) REQUEST FOR EVIDENCE.—If at the
12 time an immigrant visa becomes available, a
13 Confirmation of Bona Fide Job Offer or Port-
14 ability (Form I-485 Supplement J, or any suc-
15 cessor form) has not been filed by the principal
16 alien within the preceding 12 months, the Sec-
17 retary of Homeland Security shall notify the
18 alien and provide instructions for submitting
19 such form.

20 “(C) NOTICE OF INTENT TO DENY.—If the
21 most recent Confirmation of Bona Fide Job
22 Offer or Portability (Form I-485 Supplement
23 J, or any successor form) or any prior form in-
24 dicates a lack of compliance with paragraph
25 (4)(A), the Secretary of Homeland Security

1 shall issue a notice of intent to deny the appli-
2 cation for adjustment of status and provide the
3 alien the opportunity to submit evidence of
4 compliance.

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

8 “(i) timely file a Confirmation of
9 Bona Fide Job Offer or Portability (Form
10 I-485 Supplement J, or any successor
11 form) in response to a request for evidence
12 issued under subparagraph (B); or

13 “(ii) establish, by a preponderance of
14 the evidence, compliance with paragraph
15 (4)(A).

16 “(6) FEES.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of law, the Secretary of Home-
19 land Security shall charge and collect a fee in
20 the amount of \$2,000 to process each Con-
21 firmation of Bona Fide Job Offer or Portability
22 (Form I-485 Supplement J, or any successor
23 form) filed under this subsection.

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

4 “(i) Fifty percent of such fees shall be
5 deposited in the Immigration Examinations
6 Fee Account established under section
7 286(m).

8 “(ii) Fifty percent of such fees shall
9 be deposited in the Treasury of the United
10 States as miscellaneous receipts.

11 “(7) EFFECTIVE DATE.—

12 “(A) The provisions of this subsection—

13 “(i) shall take effect one year after
14 the date of the enactment of the Equal Ac-
15 cess to Green cards for Legal Employment
16 Act of 2021; and

17 “(ii) except as provided in subpara-
18 graph (B), shall cease to have effect as of
19 the date that is nine years after the date
20 of the enactment of such Act.

21 “(B) This subsection shall continue in ef-
22 fect with respect to any alien who has filed an
23 application for adjustment of status under this
24 subsection any time prior to the date on which
25 this subsection otherwise ceases to have effect.

1 “(8) CLARIFICATIONS.—For purposes of this
2 subsection:

3 “(A) The term ‘similarly situated United
4 States workers’ includes United States workers
5 performing similar duties, subject to similar su-
6 pervision, and with similar educational back-
7 grounds, industry expertise, employment experi-
8 ence, levels of responsibility, and skill sets as
9 the alien in the same geographic area of em-
10 ployment as the alien.

11 “(B) The duties, hours, and compensation
12 of the alien are ‘commensurate’ with those of-
13 fered to United States workers in the same area
14 of employment if the employer can demonstrate
15 that the duties, hours, and compensation are
16 consistent with the range of such terms and
17 conditions the employer has offered or would
18 offer to similarly situated United States em-
19 ployees.”.

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